

THIS PRINT COVERS CALENDAR ITEM NO. :

**MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Finance and Administration

BRIEF DESCRIPTION:

Authorizing the Executive Director/CEO to advertise a Request for Qualifications for Real Estate Appraisal Services.

SUMMARY:

- The SFMTA, from time to time, requires the services of real estate appraisers to assist with various SFMTA projects.
- In order to expedite this process for future projects, the SFMTA seeks to establish a pool of qualified independent real estate appraisers that are available to provide real property appraisals, such as industrial, commercial, retail, large office building, apartment building, unique special use, vacant land, easements and City-owned parking garages, on an as-needed basis. Many of these appraisers will provide appraisal services for appraisals of property for the Central Subway project.
- The SFMTA has prepared a Request for Qualifications to create a pool of qualified appraisers. The pool will remain effective for the five-year period following the date that the SFMTA creates it.
- Following establishment of the pool, the SFMTA will select pool members for particular projects as the need for independent appraisers arises or solicit proposals from various pool members for particular projects.
- Any appraisal reports funded with Federal funds must also satisfy applicable Federal requirements for such appraisals.
- The accompanying Resolution authorizes the Executive Director/CEO to advertise a Request for Qualifications for Real Estate Appraisal Services.

ENCLOSURES:

1. MTAB Resolution
2. Request for Qualifications

APPROVALS:

DIRECTOR OF DIVISION
PREPARING ITEM

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY

DATE

ADOPTED RESOLUTION _____
BE RETURNED TO Gail Stein, MTA Real Estate, One South Van Ness, 7th Floor
ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

The SFMTA, from time to time, requires the services of real estate appraisers to assist with various SFMTA projects. In order to expedite this process for future projects, the SFMTA seeks to establish a pool of qualified independent real estate appraisers that are available to provide real property appraisals, such as industrial, commercial, retail, large office building, apartment building, unique special use, vacant land, easements and City-owned parking garages, on an as-needed basis. Many of these appraisers will provide appraisal services for the Central Subway project.

The SFMTA has prepared a Request for Qualifications (“RFQ”) to create this pool of qualified appraisers and, at its sole election, to enter into real estate appraisal contracts with selected pool members from time to time. In order to be included as a member of the pool, a respondent to the RFQ must meet the minimum qualifications described in the RFQ. The pool will remain effective for the five-year period following the date that the SFMTA creates it. No pool member is guaranteed a contract with the SFMTA.

Following establishment of the pool, the SFMTA will select pool members for particular projects as the need for independent appraisers arises or solicit proposals from various pool members for particular projects. Pool members may be invited to oral interviews as part of the selection process.

In addition, any appraisal reports funded with Federal funds must also satisfy applicable Federal requirements for such appraisals, which include the project appraisal guidelines described in the regulations issued for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Section 49 Part 24 of the Code of Federal Regulations).

The accompanying Resolution authorizes the Executive Director/CEO to advertise a Request for Qualifications for Real Estate Appraisal Services.

The City Attorney’s Office and the SFMTA Contract Compliance Office have reviewed this calendar item and draft RFQ.

This RFQ will help to ensure financial stability and effective resource utilization (Goal 4 in the SFMTA’s 2008-2012 Strategic Plan) by enabling the SFMTA to obtain quick and reliable appraisals of real property.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The SFMTA, from time to time, needs to retain the services of real estate appraisers to assist with various SFMTA projects; and

WHEREAS, In order to expedite this process for future projects, the SFMTA seeks to establish a pool of qualified independent real estate appraisers that are available to provide real property appraisals, such as industrial, commercial, retail, large office building, apartment building, unique special use, vacant land, easements and City-owned parking garages, on an as-needed basis, including appraisal services for the Central Subway project; and

WHEREAS, The SFMTA has prepared a draft Request for Qualifications to create a pool of qualified appraisers so that the SFMTA may enter into real estate appraisal contracts with selected pool members as the need arises; and

WHEREAS, The pool will remain effective for the five-year period following the date that the MTA creates it; and

WHEREAS, This Request for Qualifications will help to ensure financial stability and effective resource utilization (Goal 4 in the SFMTA's 2008-2012 Strategic Plan) by enabling the SFMTA to obtain quick and reliable appraisals of real property; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO to advertise a Request for Qualifications for Real Estate Appraisal Services.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of _____.

Secretary, Municipal Transportation Agency Board

Enclosure 2

Request for Qualifications to Provide Real Estate Appraisal Services

**City and County of San Francisco
San Francisco Municipal Transportation Agency**

Request for Qualifications to Provide Real Estate Appraisal Services

Issue Date: January __, 2008

Pre-Submission Orientation Meeting: January __, 2008, 10:00AM

Deadline for Submissions: February __, 2008, 4:00PM

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Attachment 1—Form of Agreement for Independent Appraisal

Attachment 2—Disadvantaged Business Enterprise (DBE) Program for Professional and Technical Services

Attachment 3—Attestation of Compliance

Attachment 4—Protest Procedures for the Selection of Appraisers for Federally Assisted Third Party Contracts

Forms (and website links)

A. DBE Forms to be Submitted in Separate Packet as Part of Response

Only one copy of the DBE forms should be submitted with your response in a separate, sealed envelope addressed to André Boursse, Director, SFMTA Contract Compliance Office, One South Van Ness Avenue, 3rd Floor, San Francisco, CA 94103.

- DBE Forms 1, 2, 3, plus if applicable, 4, 5 and Schedule B (copies provided in Attachment 2.)

B. Standard City Forms to be Submitted and Approved Prior to Contract Award

- Vendor Profile Application
<http://www.sfgov.org/site/uploadedfiles/oca/purchasing/forms/vendorprofile/application.doc>
- Vendor Profile Application Instructions
http://www.sfgov.org/site/uploadedfiles/oca/purchasing/forms/vendorprofile/app_instructions.doc
- Commodity Codes for Reference in Filling Out Application
http://www.sfgov.org/site/uploadedfiles/oca/purchasing/forms/vendorprofile/commodity_codes.doc
- IRS Form W-9 <http://www.irs.gov/pub/irs-pdf/fw9.pdf>
- Business Tax Declaration http://www.sfgov.org/site/uploadedfiles/oca/purchasing/forms/p_25a.doc
- HRC Form 12B-101 (Declaration: Nondiscrimination in Contracts and Benefits)
<http://www.sfgov.org/site/uploadedfiles/sfhumanrights/forms/12b101.pdf> (Please see Section VII.E)
- Minimum Compensation Ordinance <http://www.sfgov.org/oca/lwlh.htm>
- Health Care Accountability Ordinance <http://www.sfgov.org/oca/lwlh.htm>
- Insurance http://www.sfgov.org/site/uploadedfiles/oca/purchasing/forms/ins_requirements.doc
Fulfillment of the City's insurance requirements is not required as part of your response. However, fulfillment prior to contract award is required.

I. Introduction

The San Francisco Municipal Transportation Agency (“SFMTA”) of the City and County of San Francisco (the “City”) seeks to establish a pool of qualified independent real estate appraisers that are available to provide real property appraisals for various SFMTA projects on an as-needed basis.

The SFMTA will use this Request for Qualifications (“RFQ”) to create a pool of such qualified appraisers and, at its sole election, to enter into real estate appraisal contracts with selected pool members from time to time. A respondent to this RFQ that meets the minimum qualifications described in Section III below will be included as a member of such pool. The pool will remain effective for *the five-year period following the date that the SFMTA creates it*.

No member of any pool created under this RFQ is guaranteed a contract with the SFMTA. The SFMTA shall have full discretion to determine which member, if any, to select from the pool for appraisal services. In addition, notwithstanding the creation of any pool under this RFQ, the SFMTA reserves the right, at its sole discretion, to engage other parties for real estate appraisal services at any time during the term covered by this RFQ.

II. Scope of Work

This scope of work is intended to be a general guide to the appraisal work that the SFMTA may request from pool members, and is not a complete listing of all services that may be required or desired.

The SFMTA is seeking qualified appraisers to provide independent fee appraisals, as needed, for properties such as industrial, commercial, retail, large office building, apartment building, unique special use, vacant land, easements and City-owned parking garages, as well as any other types of property appraisals that the SFMTA may require during the five-year term of the pool.

The scope of appraisal services under an SFMTA appraisal contract, if any, with a pool member will vary, depending upon the particular needs of that project. All pool members must be available to provide services by March 2008. If the SFMTA elects to enter into a contract for appraisal services with a selected pool member (a “Consultant”), such contract will be based upon the needs of the applicable SFMTA project, will incorporate the rates specified by such Consultant in its response to this RFQ, and will be substantially similar to the Agreement for Independent Appraisal attached hereto as Attachment 1. In addition, any appraisal reports funded with Federal funds must also satisfy applicable Federal requirements for such appraisals, which may include the project appraisal guidelines described in the regulations issued for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Section 49 Part 24 of the Code of Federal Regulations (“49 CFR Part 24”).

A Consultant shall work on a task order basis and pursuant to a written appraisal contract that specifies the scope of work for the task, the due date and the amount to be charged. There is no guarantee of a minimum amount of work or compensation for any member of the pool or that any pool member will be selected for appraisal services.

III. Submission Requirements

A. Time and Place for Submission of Responses

Responses and all related materials must be submitted and received by the SFMTA by **4:00PM on February __, 2008**, at the following address:

**San Francisco Municipal Transportation Agency (SFMTA)
Real Estate Division
One South Van Ness Avenue, 7th Floor
San Francisco, California 94103
Attention: Ms. Gail Stein**

Respondents shall submit an original copy (with original signatures) and eight complete copies of the response and one copy, separately bound, of required HRC Forms (see Table of Contents, Forms, Section A), all within a sealed box or envelope clearly marked **RFQ for Real Estate Appraisal Services**, to the above location. Responses submitted by fax or e-mail will not be accepted. Late submissions will not be considered.

B. Requirements for Consideration

1. **Disadvantaged Business Enterprise Requirement**—Required as part of the response submission

The Disadvantaged Business Enterprise (DBE) participation goal for the contracts that result from this RFQ is **0%**. The SFMTA encourages DBE firms to submit proposals under this RFQ and encourages respondents to include, where feasible, DBE firms in the performance of this project. Please see information in Table of Contents, Forms, Section A, Section V.O below and Attachment 2, and be sure to submit required DBE forms in a separate envelope as part of your response. Required forms: MTA DBE Form No. 1—Consultant/Joint Venture Partner and subconsultant Participation Report; MTA DBE Form No. 2 – Proposer List, MTA DBE Form No. 3—Questionnaire on Recruitment, Hiring, and Training Practices for Consultants; and if applicable, MTA DBE Form 4 – Subconsultant Participation Declaration and MTA DBE Form 5 – Disadvantaged Business Enterprise Acknowledgement Declaration.

2. **Administrative Requirements**—Required in *advance* of the response submission

Please review, complete and submit the forms referenced in Table of Contents, Forms, Section B *prior* to submitting a response. The SFMTA may only consider responses from qualified respondents that, at the time of response submission, have already fulfilled the administrative requirements for doing business with the City. Fulfillment of this requirement will be verified prior to the presentation of responses to the evaluation panel. Responses that fail to meet this requirement may be deemed non-responsive.

C. Format and Content of Responses

Please submit the following information in the order specified below. Three-hole binders, adherence to the following format, and complete, but concise responses, are recommended for ease of review by the evaluation panel.

1. Cover Letter (2 page maximum)

An introductory cover letter should be submitted, including:

- a. Name and address of the responding entity.
- b. Name, address, telephone number, fax number and e-mail address of the person(s) to be used as contact(s). These contact(s) must be authorized to make representations for the respondent.
- c. City Vendor Number, if any, assigned to the respondent. Possession of this number serves as partial verification that the respondent has completed the City's administrative requirements.
- d. Status report on respondent's progress in fulfilling the City's administrative requirements. Fulfillment is defined as completion, submission and approval by applicable City agencies of the forms referenced in Table of Contents, Forms, Section B.
- e. Statement that the respondent is willing to meet all of the terms and conditions in the City's form contract for appraisal services (Attachment 1). Respondents wishing to negotiate changes to such standard contract must refer to the specific portion of the contract to be changed, and show proposed changes (deleted sections with a strikeover and added sections in boldface type). The SFMTA, in its sole discretion, may reject any proposed change to the City's standard contract, and may refuse to award a contract to a pool member if a proposed change is unacceptable to the SFMTA. The addition to the pool by the SFMTA of any respondent who proposes any change to the City's standard contract shall not be deemed as acceptance of the respondent's proposed changes.
- f. Statement that submission of this letter constitutes a representation by the respondent that the respondent is willing and able to perform the commitments contained in the response.
- g. Signature by a person authorized by the respondent to obligate the respondent to perform the commitments contained in the response.

2. Statement of Services (2 page maximum)

Statement of the respondent's specific background and experience in providing real estate appraisal services to governmental organizations and/or related enterprise industries. Please list, and identify work related to, respondent's top three strengths/areas of expertise among the following areas: industrial, commercial, retail, large office building, apartment building, unique special use properties, vacant land, easements and City-owned parking garages. Also identify work related to eminent domain and right of way acquisition. Describe respondent's prior work, if any, with federally-funded appraisals subject to 49 CFR Part 24.

3. Statement of Qualifications

Each respondent must demonstrate that it satisfies the requirements below in order to be eligible to be added to the pool. Respondents that do not meet the Minimum Qualifications will not be considered and their RFQ responses will not be evaluated.

a. *Minimum Qualifications (10 page maximum)*

- (1) California Office of Real Estate Appraisers Appraisal License, Certified General.

- (2) Member of the American Institute of Real Property Appraisers (MAI).
- (3) Minimum two years experience as an expert appraiser in eminent domain actions.
- (4) Qualified “Expert Witness” experience for testimony before a hearing officer or the Superior and Municipal Courts as to the valuation of property rights.
- (5) Experience within the past three years, in San Francisco or the Bay Area, as the primary appraiser for at least three of the following classifications of property: industrial, commercial, retail, office buildings, apartment buildings, special use properties, vacant land, easements.
- (6) Successful implementation of at least three projects substantially similar to the services requested by the SFMTA in this RFQ since January 2003. The lead staff who will be assigned to the SFMTA’s projects must individually have had a similar lead role in two comparable projects since January 2003. Each member of a responding joint venture must separately meet each requirement of a demonstrated skill or experience required of the responding entity.

b. *Statement of Staff Qualifications*

- i. Responses must include a statement of the respondent’s total staff size, as well as the staff size of the local or regional office proposing to perform services. **(1 page maximum)** Provide a further breakdown showing the components of professional and administrative staff by major function. **(1 page maximum)**
- ii. If applicable, include a statement of any joint venture arrangements with other firms with a percentage breakdown of workload. Include within this percentage breakdown, involvement of any Human Rights Commission-certified LBE firms, Federal DBE firms, or State-certified small businesses. Include a brief description of the respondent’s efforts to solicit inclusion by Human Rights Commission-certified firms. See Section VI.O below. **(1 page maximum)**
- iii. Names and contact information of account manager and team members who will be assigned to any SFMTA project. **(1 page maximum)**
- iv. Statement of the qualifications of the key individuals who will be assigned to any SFMTA project, including their applicable experience, education and training. **(2 page maximum per individual)**

c. *Previous Project Description and Sample Appraisal Reports*

1. Responses must include a concise description from inception through completion of one project completed since January 2003 with services similar to the services requested by the SFMTA in this RFQ. **(1 page maximum)**
2. Responses must include two recent narrative appraisals developed by the project manager and team members who will be assigned to any SFMTA project.

4. Rates (2 page maximum)

Each appraisal contract will be a flat rate contract. However, respondents should provide both standard hourly billing rates by staff level and current flat rates for various types of projects, as well as a projected number of hours for each type of project and a statement of intended profit for each type of project. Flat rate contracts are intended to fully compensate respondents for all services. No additional expenses are allowed, including reproduction costs associated with the services, travel, lodging, meals, miscellaneous or any other expenses related to the completion of services. The SFMTA intends to select respondents who will provide the best overall services, and reserves the right to accept an offer that is other than the lowest flat rate offer. The SFMTA will consider rate increases due to inflation.

5. References (1 page maximum)

Respondents should submit three references. Indicate each organization's name and address, reference contact person, phone number, nature of services provided, dates of the projects and the names of respondent's staff who have worked on these projects.

Respondents must provide a list of local government agencies and/or relevant industry clients to which the proposed project team has provided services substantially similar to the services requested in this RFQ since January 2003. At least two of the three references must be from entities other than the City.

IV. Evaluation Criteria

This section describes the guidelines used for analyzing and evaluating the various responses to determine if a respondent will qualify as a member of the pool. It is the SFMTA's intent to add to the pool respondents that will provide the best overall service packages inclusive of fee considerations. *Pool members will remain eligible for consideration and contract negotiation on an as-needed basis for a period of five years after the date that the pool, if any, is created.* No pool member is guaranteed a contract with the SFMTA. As set forth above, this RFQ does not in any way limit the SFMTA's right to solicit contracts for similar or identical services, in its sole and absolute discretion, from parties that are not pool members. The SFMTA reserves the right to reject all responses that are not responsive to this request and the right to elect, in its sole discretion, not to create a pool pursuant to this RFQ.

A. Minimum Qualifications

Responses not meeting the Minimum Qualifications stated in Section III.C.3 above will not be considered and will not be evaluated. Each respondent must clearly state in its response how it meets or exceeds these Minimum Qualifications.

B. Evaluation Criteria and Selection Process (100 points)

Each RFQ response that meets the Minimum Qualifications stated in Section III.C.3 above will be evaluated generally in accordance with the criteria itemized below. Each respondent that receives at least 50 points in subsection (1) below plus at least 20 points in subsection (2) below will become a member of any pool created by the SFMTA pursuant to this RFQ. An evaluation panel will review the responses and, using the Evaluation Criteria outlined in this Section, list the respondents that will be the members of any pool created by the SFMTA pursuant to this RFQ.

1. Respondent Qualifications (70 points)

Per the information presented in response to Sections II and III of this RFQ:

- a. Does the response, including any statements of service and staff qualifications and previous project description, clearly and specifically demonstrate expertise and experience substantially similar to what is requested for the services in this RFQ?
- b. Are the proposed staff members appropriately qualified?
- c. Are the proposed rates reasonable?
- d. Did the respondent adhere to the submission requirements set forth in this RFQ?

If a respondent does not receive a score of 50 or above out of the 70 possible points in this section, then the respondent will not be eligible for the pool.

2. Respondent References (30 points)

Per the information presented from respondent references:

- a. How applicable to the SFMTA's needs is the respondent's experience described in the references?
- b. How did the references rate the respondent's expertise?
- c. How did the references rate the respondent's quality of services, staffing, adherence to schedules, budgets, deadlines and problem-solving ability for previously completed projects similar to the potential projects proposed by the SFMTA?

If a respondent does not receive a score of 20 points or above out of the 30 possible points in this section, then the respondent will not be eligible for the pool.

C. Selection of Consultants from Pool

Following establishment of a pool, if any, pursuant to this RFQ, and as the need for independent appraisers arises, the SFMTA, at its sole and absolute discretion, will select pool members for particular projects or solicit proposals from any or all pool members for particular projects. If the SFMTA solicits proposals from any pool members, then SFMTA Real Estate staff will review such proposals and consider the following factors in selecting a member from the pool for contract negotiations for such project: (1) expertise for the particular project; (2) competitiveness of the proposal (including flat rate proposed); and (3) time availability.

Pool members may be invited to oral interviews as part of the selection process. Interviews may consist of standard questions asked of each of the respondents, and specific questions regarding individual responses. The SFMTA reserves the right to interview any, all, or none of the pool members to negotiate contract awards.

The SFMTA may issue Request(s) for Proposals to pool members to better assess qualifications for a specific scope of service, which may include staffing, scheduling, deliverable and cost considerations.

The selection of any pool member for contract negotiation shall not imply acceptance by the SFMTA of all terms of such member's response to any request for proposals or such member's response to this RFQ, each of which may be subject to further negotiation and approvals. The SFMTA shall not be bound by any terms of such proposal or response unless such terms are included in a written contract between the SFMTA and such pool member. If a satisfactory contract cannot be negotiated in a reasonable time with any pool member, then the SFMTA, in

its sole discretion, shall have the right to terminate negotiations and begin contract negotiations with any other party including, but not limited to, another pool member.

The SFMTA, in its sole discretion, has the right to approve or disapprove any staff person assigned by a pool member for a specific SFMTA contract before and throughout the contract term. The SFMTA reserves the right at any time to approve, disapprove, or modify proposed project plans, timelines and deliverables.

V. Tentative Schedule

A. Pre-Submission Orientation Meeting and Questions

1. Pre-Submission Orientation Meeting

The SFMTA will conduct a pre-submission orientation meeting to answer questions about the RFQ at **10:00AM on January __, 2008 at One South Van Ness Avenue, San Francisco, California 94103.**

2. Questions

To ensure fair and equal access to information about this RFQ, no questions or requests for interpretation will be accepted after the conclusion of the pre-submission orientation meeting. If your firm is unable to attend the pre-submission orientation meeting or you would like to ensure that your questions are addressed at the meeting, e-mail your questions in advance to Gail Stein at Gail.Stein@sfmta.com.

The SFMTA will keep a record of all parties who request and receive copies of this RFQ. Any requests for information or questions concerning this RFQ must be in writing and any substantive replies will be issued as written addenda to all parties who have received a copy of this RFQ from the SFMTA. Questions raised at the pre-submission orientation meeting may be answered orally. If any new substantive information is provided in response to questions raised at the pre-submission orientation meeting, then it will also be memorialized in a written addendum to this RFQ and will be distributed to all parties that received a copy of this RFQ from the SFMTA.

B. Tentative Schedule

The following is a summary of key dates related to this RFQ:

<u>Phase</u>	<u>Date</u>
Issuance of RFQ by SFMTA	January __, 2008
Pre-submission orientation meeting	January __, 2008
Deadline for submission of responses	February __, 2008
Date of pool member determination by SFMTA	March __, 2008

VI. Terms and Conditions for Receipt of Responses

A. Errors and Omissions in RFQ

Respondents are responsible for reviewing all portions of this RFQ. Respondents are to notify SFMTA promptly, in writing, if the respondent discovers any ambiguity, discrepancy, omission or other error in this RFQ. Any such notification should be directed to the SFMTA promptly after discovery, but in no event later than five working days prior to the date for submission of responses. Modifications and clarifications will be made by addenda as provided below.

B. Inquiries Regarding RFQ

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

Gail Stein
San Francisco Municipal Transportation Agency
Real Estate Division
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103
Email: Gail.Stein@sfmta.com

C. Objections to RFQ Terms

Should a respondent object on any ground to any provision or legal requirement set forth in this RFQ, the respondent must, not more than ten (10) calendar days after this RFQ is issued, provide written notice to the SFMTA setting forth with specificity the grounds for the objection. The failure of a respondent to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

D. Addenda to RFQ

The SFMTA may modify this RFQ, prior to the response due date, by issuing written addenda. Addenda will be posted on the City's website at <http://mission.sfgov.org/OCABidPublication/ReviewBids.aspx>. The SFMTA will make reasonable efforts to post notification of modifications in a timely manner. Notwithstanding this provision, the respondent shall be responsible for ensuring that its response reflects any and all addenda issued by the SFMTA prior to the response due date regardless of when the response is submitted. The SFMTA recommends that the respondent call the SFMTA or check the City's website before submitting its response to determine if the respondent is aware of all addenda.

E. Term of Response

Submission of a response signifies that the proposed services and prices are valid for five years from the deadline for submission of responses and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

F. Revision of Response

A respondent may revise a response on the respondent's own initiative at any time before the deadline for submission of responses. The respondent must submit the revised response in the same manner as the original. A revised response must be received on or before the deadline for submission of responses. In no case will a statement of intent to submit a revised response, or commencement of a revision process, extend the deadline for submission of responses for any respondent.

At any time during the response evaluation process, the SFMTA may require a respondent to provide oral or written clarification of its response. The SFMTA reserves the right to make an award without further clarifications of responses received.

G. Errors and Omissions in Response

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

H. Financial Responsibility

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

I. Respondent's Obligations under the Campaign Reform Ordinance

Respondents 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) six 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 respondent 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 respondent 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: (i) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (ii) 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 Qualifications or Proposals, 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:

- a) 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.
- b) 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.
- c) 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, respondents should contact the San Francisco Ethics Commission at (415) 581-2300.

J. Communications Prior to Award of Contracts

It is the policy of the SFMTA that only employees identified in the RFQ as contacts for this competitive solicitation are authorized to respond to comments or inquiries from respondents or potential respondents seeking to influence the contractor selection process or the award of any contracts. This prohibition extends from the date that the RFQ is issued until the SFMTA has determined the list of qualified firms.

All firms and subcontractor(s) responding to this RFQ are hereby notified that they may not contact any SFMTA staff member, other than a person with whom contact is expressly authorized by this RFQ (Gail Stein), for the purpose of influencing the contractor selection process or the award of any contracts from the date the RFQ is issued to the date when the list of qualified firms is determined. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFQ.

All firms and subcontractor(s) responding to this RFQ are hereby notified that any written communications sent to one or more members of the SFMTA Board of Directors concerning a pending contract solicitation shall be distributed by the SFMTA to all members of the SFMTA Board of Directors and the designated staff contact person(s) identified in the RFQ.

Except as expressly authorized in the RFQ, where any person representing a respondent or potential respondent contacts any SFMTA staff for the purpose of influencing the content of the competitive solicitation or the award of any contracts between the date when the RFQ is issued

and the date when the list of qualified firms is determined, the respondent or potential respondent shall be disqualified from the selection process. However, a person who represents a respondent or potential respondent may contact City elected officials and may contact the Executive Director/CEO of the SFMTA if s/he is unable to reach the designated staff contact person(s) identified in the RFQ or wishes to raise concerns about the competitive solicitation.

Additionally, the firms and subcontractor(s) responding to this RFQ will not provide any gifts, meals, transportation, materials or supplies or any items of value or donations to or on behalf of any SFMTA staff member from the date the RFQ is issued to the date when the list of qualified firms is determined.

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 (Attachment 3) certifying compliance with this section of the RFQ will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to the this RFQ. 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 respondent 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.

K. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFQs (or 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.

L. Public Access to Meetings and Records

If a respondent 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 respondent must comply with Chapter 12L. The respondent must include in its response (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to respondent's meetings and records, and (2) a summary of all complaints concerning the respondent'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 respondent shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in respondent's Chapter 12L submissions shall be grounds for rejection of the response and/or termination of any subsequent contract reached on the basis of the response.

M. Reservations of Rights by the City

The issuance of this RFQ does not constitute an agreement by the City or the SFMTA that any contract will actually be entered into by the City or the SFMTA. The City and the SFMTA expressly reserve the right at any time to take any or all of the following actions:

1. Waive or correct any defect or informality in any proposal, response, or response procedure.
2. Reject any or all responses.
3. Reissue a Request for Qualifications or Request for Proposals.
4. Prior to submission deadline for responses, 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 RFQ, or the requirements for contents or format of the responses.
5. Procure any materials, equipment or services specified in this RFQ by any other means.
6. Determine that no project will be pursued.

N. No Waiver

No waiver by the City of any provision of this RFQ shall be implied from any failure by the City to recognize or take action on account of any failure by a respondent to observe any provision of this RFQ.

O. Disadvantaged Business Enterprise (DBE)/Non-discrimination Requirements

The following information is provided to assist respondents in the preparation of proposals. Please see Attachment 2 for a description of the SFMTA's DBE Program, along with all forms required for submittal of proposals.

1. Policy. The SFMTA is committed to a Disadvantaged Business Enterprise (DBE) Program for the participation of DBEs in SFMTA's contracting opportunities in accordance with the federal regulations in 49 CFR Part 26, issued March 4, 1999, as amended from time to time (the "Regulations"). The Regulations are incorporated into the DBE program as though fully set forth herein. It is the policy of SFMTA to ensure nondiscrimination on the basis of race, color, sex or national origin in the award and administration of DOT-assisted contracts. It is the intention of SFMTA to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to SFMTA's construction, procurement and professional services activities.
2. Questions. Questions concerning DBE/Non-Discrimination Requirements may be addressed to:

Mr. André Boursse, Director
MTA Contract Compliance Office
One South Van Ness Avenue, 3rd Floor
San Francisco, CA 94103
Telephone: (415) 701-4362

3. Non-Discrimination in Employment. The SFMTA will evaluate the respondent's response to the Questionnaire on Recruitment, Hiring, and Training Practices (MTA DBE Form No. 3) to determine whether the respondent is in compliance with the Nondiscrimination Requirements.

Should the SFMTA deem it necessary, the SFMTA will seek a written commitment from the respondent to use good faith efforts to provide equal employment opportunities during the term of any contract that results from this RFQ. One measure of such a commitment would be comparing utilization of women and minorities with the relevant labor market in order to improve parity between the composition of the respondent's workforce and the available labor market. The respondent may be required to provide the SFMTA with the relevant data regarding its labor market.

4. DBE Goal

The Contract Compliance Office has established a 0% DBE participation goal for the contracts that result from this RFQ. Respondents are encouraged to include DBEs where feasible in the performance of this project.

The database of certified DBEs is located on the California Unified Certification Program (CUCP) database accessible on the Caltrans Civil Rights webpage at <http://www.dot.ca.gov/ucp/GetLicenseForm.do>.

P. Conflicts of Interest

Any pool member that enters into a contract for appraisal services with the SFMTA will be required to agree to comply fully with and be bound by the applicable provisions of state and local law 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 State of California Government Code. Such pool member 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 SFMTA if it becomes aware of any such fact during the term of the applicable contract.

Any pool members that perform work for the SFMTA 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 SFMTA notifying the respondent that the City has selected the respondent as a member of the pool.

VII. City Contract Requirements

A. Standard Contract Provisions

Respondents, if selected for a contract, will be required to enter into a contract substantially in the form of City's Contract for Appraisal Services (Attachment 1). Failure to timely execute the

contract, or to furnish any and all certificates, bonds or other materials required in the contract, shall be deemed an abandonment of a contract offer. The SFMTA, in its sole discretion, may select another firm and may proceed against the original selectee for damages.

Respondents are urged to pay special attention to the requirements of the Minimum Compensation Ordinance (§44 in the Agreement), the Health Care Accountability Ordinance (§45 in the Agreement), and the First Source Hiring Program (§46 in the Agreement), as set forth in paragraphs B, C and D below.

B. Minimum Compensation Ordinance (MCO)

Respondents, if selected for a contract, 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 §35 in the Agreement.

Note that the gross hourly compensation for covered employees for For-Profit entities is \$10.77; on January 1, 2008, the wage rate shall be \$11.03/hour.

The MCO rate for non-profit corporations and government entities shall be \$10.77 effective January 1, 2008.

Additional information regarding the MCO is available on the City's website at http://www.sfgov.org/site/olse_index.asp?id=27459.

C. Health Care Accountability Ordinance (HCAO)

Respondents, if selected for a contract, will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the City's website at <http://www.sfgov.org/oca/lwlh.htm>.

D. First Source Hiring Program (FSHP)

If the contract is for more than \$50,000, the successful respondent will be required to agree to comply fully with and be bound by the provisions of the First Source Hiring Program ordinance, as set forth in S.F. Administrative Code Chapter 83. 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

City's website at www.sfgov.org/moed/fshp.htm.

E. Nondiscrimination in City Contract – Benefits Ordinance

1. Consultant Shall Not Discriminate. In the performance of this contract, Consultant agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV), against any employee of, any City employee working with, or applicant for employment with Consultant, in any of Consultant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments, or organizations operated by Consultant.
2. Subcontracts. Consultant shall incorporate by reference in all subcontracts, the provisions of Sections 12B.2(a), 12B.2(c)-12B.2(k) and 12C.3 of the San Francisco Administrative Code, and shall require all subcontractors to comply with such provisions. Consultant's failure to comply with the obligations in this subsection shall constitute a material breach of their Agreement with the City.
3. Nondiscrimination in Benefits. Consultant does not as of the date of their Agreement and will not during the term of their Agreement, in any of its operations within the United States, discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.
4. Condition to Contract. As a condition to this Agreement, Consultant shall execute the "Nondiscrimination in Contracts and Benefits" form and secure the approval of the form by the SF Human Rights Commission. (Please see http://www.sfhrc.org/site/sfhumanrights_index.asp for Equal Benefits forms and ordinance.)
5. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapter 12B and 12C of the San Francisco Administrative Code are incorporated by reference and made a part of their Agreement as though fully set forth herein. Consultant shall comply fully with and be bound by all of the revisions that apply to their Agreement under Chapter 12B and 12C of the Administrative Code, including but not limited to remedies provided in such Chapters. Without limiting the foregoing, Consultant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Consultant and/or deducted from any payment due Consultant.

VIII. Protest Procedures

A. Protest of Establishment of Pre-Qualified List

Within five working days of the SFMTA's issuance of a notice of intent to establish a list of pool members, any firm that has submitted a responsive response and believes that the SFMTA has incorrectly determined that another respondent qualifies as a pool member or that the SFMTA has incorrectly determined that such respondent does not qualify as a pool member may submit a written notice of protest. Such notice of protest must be received by the SFMTA on or before the fifth working day after the SFMTA 's issuance of the notice of intent to establish a list of pool members.

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 respondent, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the SFMTA to determine the validity of the protest.

B. Delivery of Protests

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date that the SFMTA received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to:

Gail Stein
San Francisco Municipal Transportation Agency
Real Estate Division
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103
Email: Gail.Stein@sfmta.com

C. Contracts funded with Federal funds

Protest procedures for the selection of appraisers for contracts funded with Federal funds are set forth in Attachment 4 to this RFQ.

ATTACHMENT 1

AGREEMENT FOR INDEPENDENT APPRAISAL

Property: _____
San Francisco, California

Appraiser: _____

Date: _____

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LIST OF EXHIBITS

- Exhibit A – Description of Property
- Exhibit B – Form of Appraisal Report
- Exhibit C – Appraisal Certifications

AGREEMENT FOR INDEPENDENT APPRAISAL

This Agreement for Independent Appraisal (this "Agreement"), dated for reference purposes as of _____, 200__, is between the City and County of San Francisco, a municipal corporation ("City"), through its Municipal Transportation Agency ("SFMTA"), and _____ ("Appraiser" or "Contractor").

The parties agree as follows:

1. Employment of Appraiser

In connection with the SFMTA's appraiser pool program, City agrees to engage Appraiser, and Appraiser agrees to perform the services and work hereinafter described, on the terms and conditions set forth below.

2. Scope of Work

[Insert Job Description]. The scope of work to be performed by Appraiser under this Agreement is as follows:

(a) Inspection of Property. Appraiser shall make a personal inspection of the property, as more particularly [described or shown] in Exhibit A attached hereto (the "Property"), for the purpose of providing the appraisal. Appraiser shall contact the SFMTA's Senior Manager of Real Estate ("Senior Manager") before entering the Property to perform any work.

(b) Valuation. Appraiser shall use methodologies generally recognized by appraisers as necessary to produce credible appraisals and shall take into account any covenants, conditions and restrictions or easements benefiting or burdening the Property and any unusual characteristics of the Property. The appraised value shall be based on the value of fee title [this may change if an easement is valued] to the property and shall address the highest fair market value of the site based on its highest and best use.

(c) Reports. Appraiser shall prepare a written report on or before _____, 200__ as follows: Appraiser shall provide the Senior Manager with four (4) copies of a certified narrative appraisal report (the "Appraisal Report"). The Appraisal Report shall include a final opinion of the fair market value of the Property based on the parameters set forth herein. The final opinion of value must be a specific figure and shall assign specific values to the land. The Appraisal Report shall contain all pertinent information supporting the conclusions, including comparable sales data, photographs, area and property data, maps, plans, and other similar or pertinent documentation, as well as a clear and detailed description of the assumptions and any limiting conditions, qualifications or omissions, and of the method of analysis used in reaching the conclusions. The Appraisal Report shall be delivered in substantially the format outlined in Exhibit B attached hereto and contain duly executed certifications substantially in the form of Exhibit C attached hereto.

(d) **Standards.** Appraiser shall complete the appraisal in accordance with the Uniform Standards of Professional Appraisal Practice and the Code of Professional Ethics of the American Society of Appraisers.

3. Purpose of Appraisal

The purpose of the analysis and appraisal to be performed pursuant to this Agreement is to provide the SFMTA with the _____ of the Property as described in Section 2. Appraiser understands and agrees that City will rely fully on the appraisal for such purpose.

4. Compensation

(a) **Fees.** Appraiser shall receive _____ as full compensation for the work performed hereunder, payable after receipt by the Senior Manager of the Appraisal Report in accordance with the terms of this Agreement. The above amount includes all of Appraiser's allowable costs and profits for the work to be performed hereunder. The above amount also includes the initial consultation, phone consultations during the preparation of the Appraisal Report and a final consultation upon completion of the Appraisal Report with _____.

(b) **Approval of Work.** City shall not incur any charges under this Agreement for the work nor shall any payments become due to Appraiser for the work until the Senior Manager receives the Appraisal Report required under this Agreement and approves it as being in accordance with this Agreement.

(c) **No Interest or Late Charges.** In no event shall City be liable for interest or late charges for any late payments.

(d) **Independent Opinion.** The compensation to be paid to Appraiser for the performance of the work contemplated under this Agreement is not in any way contingent upon the opinions or value conclusions of Appraiser. Furthermore, Appraiser is specifically directed by City not to deliver any opinion of value other than its own independently determined opinions produced by its own investigation, using acceptable professional standards.

5. Method of Payment

Invoices furnished by Appraiser under this Agreement must be in a form acceptable to the City's Controller (the "Controller"). All amounts paid by City to Appraiser shall be subject to audit by City. Payment shall be made by City to Appraiser at the address for notices stated herein, or at such other address as Appraiser shall provide City with written notice of no less than 15 days in advance.

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

This Agreement is subject to the budgetary and fiscal provisions of the City's Charter. Charges will accrue only after the Controller has certified the availability of funds for payment

under this Agreement. Any amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and the period stated in such advance certification.

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

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

7. Effective Date of Agreement; Term

This Agreement shall become effective when the parties have fully executed and delivered this Agreement and the Controller has certified to the availability of funds. The term of this Agreement shall continue until Appraiser completes all work required hereunder or this Agreement is sooner terminated as provided herein. In no event shall the term of this Agreement exceed _____.

8. Qualifications of Appraiser

Appraiser represents and warrants to City that Appraiser is qualified to make the independent appraisal of the Property contemplated hereunder and that it is familiar with recognized appraisal practices and with the standards required for determining values of real property.

9. Personnel

(a) All work performed under this Agreement shall be performed only by personnel under the supervision and in the employment of Appraiser. All personnel engaged in the work shall be fully qualified and shall be authorized, licensed and certified under State and local law to perform such work if authorization, licensing or certification is required.

(b) The responsible personnel for Appraiser shall be _____, _____ M.A.I. Any change in the responsible personnel must have the prior written approval of the Senior Manager.

(c) Appraiser shall not subcontract any work to be performed under this Agreement unless Appraiser first obtains the written approval of the Senior Manager.

10. Incomplete Work

Neither the performance of any work by Appraiser nor City's acceptance of the Appraisal Report shall relieve Appraiser from the obligation to correct any inaccurate or incomplete work. Appraiser shall promptly remedy all inaccurate or incomplete work, on demand, without cost to

City.

11. Ownership of Documents

All documents and reports prepared by Appraiser pursuant to this Agreement, including the Appraisal Report, shall be and remain the property of City and shall be delivered by Appraiser to City upon completion of the work hereunder. Appraiser may retain and use copies of such reports for reference and as documentation of its experience and capabilities.

12. Changes in Scope of Work

City may, from time to time, require changes in the scope of the work to be performed by Appraiser hereunder. Such changes, including any increases or decreases in the amount of Appraiser's compensation, that City and Appraiser may mutually agree to and shall be set forth in written amendments to this Agreement, are subject to the provisions of the City's Charter.

13. Termination

(a) City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause. Termination shall be effective immediately upon Appraiser's receipt of written notice of termination, and thereupon Appraiser shall have no further rights under this Agreement. In the event of such termination, Appraiser shall be paid for any work under this Agreement that has been performed to the satisfaction of the Senior Manager, up to the effective date of termination. Any such payment shall be based upon the percentage of work completed multiplied by the total contract price.

(b) Upon termination of this Agreement, Appraiser shall submit an invoice to City for an amount which it believes to be due and owing to it based upon the formula set forth in subsection a above. Upon City's request, Appraiser shall provide any additional back-up information or documentation to support such invoice. Upon City's approval and payment of the invoice, City shall be under no further obligation to Appraiser monetarily or otherwise.

14. Bankruptcy

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force or effect, and any property or rights of such other party, tangible or otherwise, shall be immediately returned to it.

15. Indemnification

(a) Appraiser shall indemnify and hold harmless City, its officers, agents and employees from and, if requested, shall defend them, against any and all loss, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Appraiser

or loss of or damage to property, arising directly or indirectly from Appraiser's performance of this Agreement, regardless of the negligence of City, and further regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except where such loss, damage, injury, liability or claim is the result of gross negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or contract on Appraiser, its agents, officers or employees. Appraiser specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within the indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Appraiser by City and continues at all times thereafter.

(b) Appraiser shall indemnify and hold City harmless from all loss and liability, including attorney's fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark of any person or persons as a consequence of the use by City, or any of its officers, agents or employees, of any work or services to be supplied in the performance of this Agreement.

(c) Appraiser's obligations hereunder shall survive any termination of this Agreement.

16. Incidental and Consequential Damages

Appraiser shall be responsible for incidental and consequential damages resulting in whole or in part from Appraiser's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights which City may have under applicable law.

17. Liability of City

CITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 4 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

18. Insurance

(a) Without in any way limiting Appraiser's liability pursuant to Section 15 of this Agreement, Appraiser shall maintain in force, during the full term hereof, insurance in the following amounts and coverage:

(i) Workers' Compensation, with Employers' Liability limits not less than One Million Dollars (\$1,000,000) each accident.

(ii) Comprehensive General Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations coverages.

(iii) Comprehensive Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired auto coverage, as applicable.

(iv) Professional Liability insurance with limits not less than One Million Dollars (\$1,000,000) each claim with respect to negligent acts, errors and omissions, and any deductible not to exceed Fifty Thousand Dollars (\$50,000) each claim.

(b) Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance policies shall be endorsed to provide the following:

(i) Name as Additional Insured the City and County of San Francisco, its officers, agents and employees.

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

(c) All policies shall be endorsed to provide:

Thirty (30) days' advance written notice to City of cancellation, non-renewal or reduction in coverage, mailed to the following addresses:

Senior Manager, Real Estate
Municipal Transportation Agency
One South Van Ness Avenue, 7th floor
San Francisco, California 94102

(d) Certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City evidencing the coverage above and shall be furnished to City before commencing any work under this Agreement (including any entry onto the Property), with complete copies of policies upon City request.

(e) Approval of the insurance by City shall not relieve or decrease the liability of Appraiser hereunder.

19. Assignment

The services to be performed by Appraiser hereunder are personal in character. Accordingly, neither this Agreement nor any duties or obligations on the part of Appraiser hereunder shall be assigned or delegated by Appraiser, without the prior written approval of the Executive Director/CEO of the SFMTA.

20. Independent Contractor

Appraiser shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Appraiser performs the work required of Appraiser by the terms of this Agreement. Appraiser shall be liable for any act or acts of its own and its agents, officers and employees. Nothing contained in this Agreement shall be construed as creating the relationship of employer and employee between City and Appraiser or its agents, officers or employees.

21. Conflicts of Interest

Through its execution of this Agreement, Appraiser acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that if it becomes aware of any such fact during the term of this Agreement, Appraiser shall immediately notify the City.

22. Confidential Information of City

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

23. Copyright

No reports or other documents produced in whole or in part under this Agreement shall be the subject of any application for copyright by or on behalf of Appraiser.

24. Audit and Inspection of Records

Appraiser shall maintain and make available to City accurate books and accounting records relative to its activities under this Agreement. Appraiser shall permit City to audit, examine, and make excerpts and transcripts from data and records of Appraiser relating to

carrying out this Agreement. Appraiser shall maintain such data and records in an accessible location and condition for two (2) years after completion or other termination hereof or until a final audit has been resolved, whichever is later.

25. Appraisal Coordination

Appraiser shall coordinate its work hereunder with the Senior Manager or any other agents or contractors of City.

26. Non-Discrimination in City Contracts and Benefits Ordinance

(a) Contractor Shall Not Discriminate. In the performance of this Agreement, Appraiser agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Appraiser, in any of Appraiser's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Appraiser.

(b) Subcontracts. Appraiser shall incorporate by reference in all Subcontracts relating to the work to be performed under this Agreement the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Appraiser's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

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

(d) Condition to Contract. As a condition to this Agreement, Appraiser shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties entering into contracts with City are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Appraiser shall

comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Appraiser understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Appraiser and/or deducted from any payments due Appraiser.

(f) Workforce. Pursuant to City and Municipal Transportation Agency policy, Consultant is encouraged to actively recruit minorities and women for its workforce and take other steps, such as on-the-job training and education, to ensure nondiscrimination in Consultant's employment practices.

27. (only applies to locally funded contracts) Local Business Enterprise Utilization; Liquidated Damages

(a) The LBE Ordinance

Contractor shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

(b) Compliance and Enforcement

(1) Enforcement

If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the

Contractor's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code Section 14B.17.

By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

[If the contract will involve the use of subcontracts, include subparagraphs 2, 3 and 4 below:]

(2) Subcontracting Goals

The LBE subcontracting participation goal for this contract is **[fill in number]** %. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in the HRC Progress Payment Form and the HRC Payment Affidavit. Failure to provide the HRC Progress Payment Form and the HRC Payment Affidavit with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until the HRC Payment Form and the HRC Subcontractor Payment Affidavit are provided by Contractor.

Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the LBE Ordinance, for any purpose inconsistent with the provisions of the LBE Ordinance, its implementing rules and regulations, or this Section.

(3) Subcontract Language Requirements

Contractor shall incorporate the LBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors.

Contractor shall include in all subcontracts with LBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any LBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the LBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of HRC and contract awarding authority to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction.

Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of HRC or the Controller upon request.

(4) Payment of Subcontractors

Contractor shall pay its subcontractors within three working days after receiving payment from the City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount.

Contractor further agrees, within ten working days following receipt of payment from the City, to file the HRC Payment Affidavit with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code Section 14B.17.

27. *(If contract is federally funded)* DBE Provisions

Contractor shall comply with the DBE Provisions included in Attachment 2 of the Request for Qualifications *[or attached to this Agreement]* for any DBE firms performing work under this Agreement.

28. MacBride Principles - Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Appraiser acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

29. Tropical Hardwoods and Virgin Redwood Ban

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwoods, tropical hardwoods wood product, virgin redwood or virgin redwood wood product except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

30. Drug-Free Workplace Policy

Appraiser acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989,

the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City property. Appraiser agrees that any violation of this prohibition by Appraiser, its employees, agents or assigns will be deemed a material breach of this Agreement.

31. Resource Conservation Liquidated Damages

Chapter 5 of the San Francisco Environment Code is incorporated herein by reference. Failure by Appraiser to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

In the event Appraiser fails to comply in good faith with any of the provisions of Chapter 5, Appraiser will be liable for liquidated damages in an amount equal to Appraiser's net profit under this Agreement, or five percent (5%) of the total contract amount, whichever is greater. Appraiser acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be offset against any monies due to Appraiser from any contract with City.

32. Sunshine Ordinance

In accordance with San Francisco Administrative Code Section 67.24(e), contracts, contractors' bids, responses to requests for proposals and all other records of communications between 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 benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this Section will be made available to the public upon request.

33. Taxes

Payment of any taxes, including California Sales and Use Taxes, levied upon this Agreement or the services delivered pursuant hereto, shall be the obligation of Appraiser.

34. Limitations on Contributions

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have

a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

35. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of

the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

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

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

36. Requiring Health Benefits for Covered Employees

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

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

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

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days

after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

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

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

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

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

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

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

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

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

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

37. Notices

Except as otherwise expressly provided herein, any notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person, by sending it first-class mail or certified mail with a return receipt requested, postage prepaid, or overnight courier, addressed as follows:

City: SFMTA Real Estate Unit
One South Van Ness Avenue, 7th Floor
San Francisco, California 94103
Attn: Senior Manager

Appraiser: _____

Notices herein shall be deemed given two (2) days after the date when it shall have been mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is made.

38. Earned Income Credit (EIC) Forms

San Francisco Administrative Code Section 12O requires that employers provide their employees with IRS Form W-5 (Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

(a) Appraiser shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which this Agreement becomes effective (unless Appraiser has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Appraiser; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

(b) Failure to comply with any requirement contained in subsection a of this Section shall constitute a material breach by Appraiser of the terms of this Agreement. If, within thirty (30) days after Appraiser receives written notice of such a breach, Appraiser fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Appraiser fails to commence efforts to cure within such period or thereafter fails to diligently

pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

(c) Any Subcontract entered into by Appraiser shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this Section.

(d) Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

39. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code Section 21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three (3) times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to Ten Thousand Dollars (\$10,000) for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: **(a)** knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; **(b)** knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; **(c)** conspires to defraud the City by getting a false claim allowed or paid by the City; **(d)** knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or **(e)** is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

40. Food Service Waste Reduction

Appraiser agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein. This provision is a material term of this Agreement. By entering into this Agreement, Appraiser agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Appraiser agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Appraiser's failure to comply with this provision.

41. General Provisions

(a) This Agreement may be amended or modified only by a writing signed by City and Appraiser. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) All approvals and determinations of City requested, required or permitted hereunder may be made in the sole and absolute discretion of the Senior Manager, the Director's designated agent or other authorized City official. (d) This instrument (including the exhibits hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (f) Time is of the essence. (g) This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. (h) This Agreement shall be governed by California law and City's Charter. (i) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience.

IN WITNESS WHEREOF, City and Appraiser have executed this Agreement as of the date first above written.

APPRAISER

_____,
a _____

I have read and understood Section 28, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco to do business with corporations that abide by the MacBride Principles.

By: _____

_____, MAI
Its: Owner

CITY

Municipal Transportation Agency

By: _____
Nathaniel P. Ford, Sr.
Executive Director/CEO

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By _____
Deputy City Attorney

EXHIBIT A

DESCRIPTION OF PROPERTY

[Attach legal description, map clearly identifying property or preliminary title report]

EXHIBIT B
FORM OF APPRAISAL REPORT

1. Introduction
 - A. Title Page
 - B. Table of Contents
 - C. Letter of Transmittal

2. Summary
 - A. Purpose of Appraisal
 - B. Definition of Value
 - C. Property Rights to be Appraised
 - D. Summary of Important Facts and Conclusions

3. Factual Data
 - A. Legal Description
 - B. Area, City and Neighborhood Data
 - C. Property Data
 - * Description of Site
 - * Description of Improvements
 - * Description of Equipment
 - * History
 - * Assessed Value
 - * Utilities
 - * Zoning
 - * Amenities

4. Analysis and Conclusions
 - A. Analysis of Highest and Best Use
 - B. Valuation Approaches
 - C. Interpretation and Correlation of Value Estimates
 - D. Statement of Limiting Conditions and Assumptions
 - E. Certificate of Appraiser
 - F. Qualifications of Appraiser

5. Attachments
 - A. Details of Supporting Data
 - B. Photographs
 - C. Maps
 - D. Plot Plan
 - E. Floor Plans
 - F. Other Pertinent Documentation

EXHIBIT C

APPRAISAL CERTIFICATIONS

The appraiser certifies to the City and County of San Francisco that:

1. I have personally inspected the subject property, and all statements and information in this report are true and correct to the best of my knowledge, subject only to the contingencies and limitations set forth herein.
2. I have no present or contemplated future interest in the property described herein. Neither the employment to make the appraisal, nor the compensation for it, is contingent upon the value of the property.
3. This Appraisal Report has been made in conformity with and is subject to [*for federally funded projects* – the requirements of 49 CFR Part 24 (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs) and] the requirements of the Uniform Standards of Professional Appraisal Practice and the Code of Professional Ethics of the American Society of Appraisers.
4. All conclusions and opinions concerning the real property that are set forth in the Appraisal Report were prepared by the undersigned. No change of any item in the Appraisal Report shall be made by anyone other than the appraiser, and the appraiser shall have no responsibility for any such unauthorized change.
5. All contingent and limiting conditions affecting the analyses, opinions and conclusions contained in this report are expressly contained herein.
6. After weighing the factors reported herein to the best of my knowledge and ability, it's my opinion that, on _____, the estimated fair market value of the subject property is _____.

Respectfully submitted,

Name: _____

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the owner and duly authorized representative of the firm of _____ whose address is _____ and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement;
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) and fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement; except as here expressly stated (if any):

(Date)

(Signature)

CITY AND COUNTY OF SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
FOR PROFESSIONAL AND TECHNICAL SERVICES

REQUEST FOR QUALIFICATIONS (RFQ)

TO

PROVIDE REAL ESTATE APPRAISAL SERVICES

CCO NO. 07-985

FTA FUNDED

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

Attachment 2

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REQUIREMENTS
ARCHITECTS, ENGINEERS, PLANNERS, ENVIRONMENTAL SCIENTISTS AND
OTHER PROFESSIONAL SERVICES
FOR FEDERALLY-FUNDED PROJECTS

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DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REQUIREMENTS
ARCHITECTS, ENGINEERS, PLANNERS, ENVIRONMENTAL SCIENTISTS AND
OTHER PROFESSIONAL SERVICES
FOR FEDERALLY-FUNDED PROJECTS

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Disadvantaged Business Enterprise Program Requirements

Architects, Engineers, Planners, Environmental Scientists and Other Professional Services

I. POLICY

The Municipal Transportation Agency ("Agency") of the City and County of San Francisco is committed to a Disadvantaged Business Enterprise (DBE) Program ("Program") for the participation of DBEs in MTA contracting opportunities in accordance with the federal regulations in 49 CFR Part 26, issued March 4, 1999, as amended from time to time (the "Regulations").

It is the policy of MTA to ensure nondiscrimination on the basis of race, color, sex or national origin in the award and administration of DOT-assisted contracts. It is the intention of MTA to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to MTA's construction, procurement and professional services activities.

A. Applicability

Pursuant to 49 CFR Sections 26.3 and 26.21, MTA, a recipient of federal financial assistance from the Federal Transit Administration ("FTA") of the United States Department of Transportation ("DOT"), is required to implement a DBE Program in accordance with the Regulations. The Regulations are incorporated into this Program as though fully set forth herein. This Program applies to all MTA contracts that are funded, in whole or in part, by DOT federal financial assistance.

B. Objectives

The objectives of this program are to:

1. Remove barriers to DBE participation in the bidding, award and administration of MTA contracts;
2. Assist DBEs to develop and compete successfully outside of the Program;
3. Ensure that the Program is narrowly tailored in accordance with 49 CFR Part 26;
4. Ensure that only DBEs meeting the eligibility requirements are allowed to participate as DBEs;

5. Identify business enterprises that are qualified as DBEs and are qualified to provide MTA with required materials, equipment, supplies and services; and to develop a good rapport with the owners, managers and sales representatives of those enterprises;
6. Develop communications programs and procedures which will acquaint prospective DBEs with MTA's contract procedures, activities and requirements and allow DBEs to provide MTA with feedback on existing barriers to participation and effective procedures to eliminate those barriers; and
7. Administer the Program in close coordination with the various divisions within MTA so as to facilitate the successful implementation of this Program.

C. Administration of Program

The Director of Transportation is responsible for adherence to this policy. The Contract Compliance Office (CCO) shall be responsible for the development, implementation and monitoring of this program. All MTA personnel shall adhere to the provisions and the spirit of the program.

D. Prohibited Discrimination

MTA shall not exclude persons from participation in, deny benefits to, or otherwise discriminate against any persons in connection with the award and performance of any contract governed by the Regulations on the basis of race, color, sex or national origin. The City and County of San Francisco also prohibits discrimination on the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status).

MTA shall not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of this program with respect to individuals in the groups or categories or having the characteristics listed above.

MTA will not use quotas in any way in the administration of this DBE program.

E. Equal Opportunity Employment Questionnaire

MTA will evaluate the proposer's response to the Questionnaire on Recruitment, Hiring, And Training Practices, MTA Form No. 3, to determine whether the proposer is responsive to the requirements.

Should responses to the questionnaire indicate evidence of discrimination in the proposer's workforce, MTA will seek a written commitment from the proposer to use good faith efforts to provide equal employment opportunities during the term of the contract. One measure of such a commitment would be comparing utilization of women and minorities with the relevant labor market in order to improve parity between the composition of the proposer's workforce and the available labor market. The proposer may be required to provide MTA with the relevant data regarding its labor market.

II. DEFINITIONS

Any terms used in this Program that are defined in 49 CFR Section 26.5 or elsewhere in the Regulations shall have the meaning set forth in the Regulations. Some of the most common terms are defined below:

A. Disadvantaged Business Enterprise (DBE)

A DBE is a for-profit, small business concern (1) that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. Small Business Concern

A small business concern is an existing small business, as defined by Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121), whose average annual gross receipts (including those of its affiliates) for the previous three years does not exceed \$20.4 million (or as adjusted for inflation by the Secretary of DOT) pursuant to 49 CFR Section 26.65(b).

C. Socially and Economically Disadvantaged Individuals

There is a rebuttable assumption that an individual is both socially and economically disadvantaged if s/he is a citizen or lawfully admitted permanent resident of the United States and is:

1. Black American (including persons having origins in any of the Black racial groups of Africa);
2. Hispanic American (including persons of Central or South American, Cuban, Dominican, Mexican, Puerto Rican, or other Spanish or Portuguese culture or origin, regardless of race);
3. Native American (including persons who are Aleuts, American Indians, Eskimos, or Native Hawaiians);
4. Asian-Pacific American (including persons whose origins are from Brunei, Burma (Myanmar), Cambodia (Kampuchea), China, the Commonwealth of the Northern Marianas Islands, the Federated States of Micronesia, Fiji, Guam, Hong Kong, Indonesia, Japan, Juvalu, Kirbati, Korea, Laos, Macao, Malaysia, Nauru, the Philippines, Samoa, Taiwan, Thailand, Tonga, the U.S. Trust Territories of the Pacific Islands (Republic of Pilau), or Vietnam);

5. Subcontinent Asian American (including persons whose origins are from Bangladesh, Bhutan, India, the Maldives Islands, Nepal, Pakistan, or Sri Lanka);
6. A Woman; or
7. A member of any additional group that is designated as socially and economically disadvantaged by the Small Business Administration.

Additionally, any individual who does not fall within one of the above classifications can demonstrate, by a preponderance of evidence, that he or she is socially and economically disadvantaged. MTA will follow the guidelines in 49 CFR Part 26, Appendix E, on a case-by-case basis to evaluate a claim by such an individual.

An individual cannot be presumed or determined to be economically disadvantaged if he or she has a personal net worth exceeding \$750,000 (excluding the individual's ownership interests in the small business concern and his or her primary residence.)

D. Race-Neutral

A procedure or program that is used to assist all small businesses. For the purposes of this Program, race-neutral includes gender neutrality.

E. Race-Conscious

A measure or program that is specifically focused on assisting only DBEs, including women-owned DBEs.

F. Personal Net Worth

The net values of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

G. Unified Certification Program or California Unified Certification Program (UCP)

Under 49 CFR Section 26.81, all DOT recipients in a state must agree to be bound by a single certification program within their state. Effective January 1, 2002, the UCP went into effect, which created a One Stop Certification process. The UCP eliminated the need for firms to acquire multiple DBE certifications throughout California by the creation of a reciprocity agreement among all UCP member agencies, which receive funding from the United States Department of Transportation. A DBE certification issued to a firm in California will be accepted by all other UCP member agencies. DBE certified firms are placed in the California UCP database maintained by the California Department of Transportation (Caltrans). All UCP member agencies, as well as firms and agencies in

both private and public sectors, use this database to locate DBE businesses.

NOTE: The database of certified DBEs is located on the California Unified Certification Program (CUCP) database accessible on the Caldrons Civil Rights webpage at <http://www.dot.ca.gov/ucp/GetLicenseForm.do>. Businesses can be viewed on individual basis using Firm ID or name. You can view listing of businesses sorted by district, county, NAIC codes, and other categories.

Contact Sheila Evans-Peguese at (415) 701-4436 should you need assistance with accessing the CUCP database

III. DBE PROGRAM PROCEDURES

The Agency has adopted a DBE Program in accordance with the Regulations.

It is the policy of the Agency to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to MTA's construction, procurement and professional services activities. To this end, MTA has developed procedures to remove barriers to DBE participation in the bidding and award process and to assist DBEs to develop and compete successfully outside of the DBE program. In connection with the performance of this contract, the Consultant will cooperate with MTA in meeting these commitments and objectives, as explained more fully below.

A. Consultant Assurances

Pursuant to 49 CFR Section 26.13, the Consultant makes the following assurances and will include these assurances in any agreements it makes with sub consultants in the performance of this contract:

The Consultants or Subconsultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT – assisted contracts. Failure by the Consultant or Subconsultant 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 MTA deems appropriate.

B. Contract Goals

MTA's CCO shall establish contract-specific DBE participation goals on particular prime contracts with subconsulting opportunities to the extent that MTA cannot achieve its annual overall goal with race-neutral measures. The contract-specific goal shall apply to the percentage of participation of DBEs in the total contract work.

IV. DBE PARTICIPATION AND SUBCONTRACTING REQUIREMENTS

A. DBE Participation Goal

A zero (0%) DBE participation goal has been established for this contract. MTA encourages proposer to use good faith efforts to solicit DBEs for this contract if available.

If a goal has been set for this contract, a proposer to be determined responsive, must demonstrate in its submittal that it will meet this goal in the performance of this contract; or if it is unable to meet the goal, the proposer must submit a written report with supporting documentation with its proposal that it performed good faith efforts, prior to submission of the bid or proposal, to meet this goal. A proposer that is not responsive shall be ineligible for award of the contract.

B. DBE Participation

MTA strongly encourages the prime consultant to make every good faith effort to include DBEs to perform meaningful work in all aspects of the project. To accomplish these efforts, the following guidance is provided:

1. Nature of DBE Participation

DBE participation includes contracts (other than employee contracts) with DBEs for any goods or services specifically required for the completion of the work under the Agreement. A DBE may participate as a prime consultant, subconsultant, joint venture partner with a prime consultant, vendor of material or supplies incorporated or expended in the work, or a supplier of other services such as shipping, transportation, testing, equipment rental, insurance services and other support services necessary to fulfill the requirements of the Agreement.

2. Function

A DBE must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work. However, a DBE may contract out a portion of the work if it is considered to be a normal industry practice. If a DBE consultant subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function.

3. Counting the amount of DBE Participation

Pursuant to 49 CFR Section 26.55, DBE participation includes that portion of the contract work actually performed by a certified DBE with its own forces. A DBE may participate as a prime consultant, subconsultant, joint venture partner, or vendor or supplier of materials or services required by the contract.

A DBE's participation can only be counted if it is performing a commercially useful function on the contract as defined in 49 CFR Section 26.55(c). The DBE

must be listed for the type of work for which it has been certified if it is to be counted. A DBE is performing a commercially useful function when it actually performs, manages and supervises a portion of the work involved. There is a rebuttable presumption that if the DBE is not responsible for at least 30% of the work with its own forces, or subcontracts a greater portion of the work than the normal industry standard, it is not performing a commercially useful function.

The Consultant shall determine the amount of DBE participation for each DBE performing work on the contract in terms of both the total value of the work in dollars and the percentage of the total contract bid price. The Consultant shall also determine the total amount of DBE participation for the entire contract. The Consultant shall count DBE participation according to the following guidelines and in accordance with 49 CFR Section 26.55:

a. DBE Prime Consultant

Count the entire dollar amount of the work performed or services provided by the DBE's own forces, including the cost of materials and supplies obtained for the work and the reasonable fees and commissions charged for the services. Do not count any work subcontracted to another firm as DBE participation by the DBE Prime Consultant.

b. DBE Subconsultant

Count the entire amount of the work performed or services provided by the DBE's own forces, including the cost of materials and supplies obtained for the work (except for materials and supplies purchased or leased from the Prime Consultant or supplier) and reasonable fees and commissions charged for the services. Do not count any work subcontracted by a DBE subconsultant to another firm as DBE participation by said DBE subconsultant. If the work has been subcontracted to another DBE, it will be counted as DBE participation by that other DBE.

c. DBE Joint Venture Partner

Count the portion of the work that is performed solely by the DBE's forces or if the work is not clearly delineated between the DBE and the joint venture partner, count the portion of the work equal to the DBE's percentage of ownership interest in the joint venture.

d. Other DBEs

Count the entire amount of fees or commissions charged for assistance in procuring or delivering materials and supplies when purchased from a DBE that is not a manufacturer or regular dealer. Do not count the cost of the materials and supplies.

e. Materials or Supplies

Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

- (1) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.
- (2) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
- (3) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.
- (4) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the material, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

C. Meeting the DBE Participation Goal

By submitting **MTA FORM No. 1 –CONSULTANT/JOINT VENTURE PARTNER AND SUBCONSULTANT PARTICIPATION REPORT**, a proposer certifies that it is committed to using the identified DBEs in the performance of the contract. Detailed instructions for completing this and other required forms are found in Part VII.

D. Submission of Certification for DBEs

1. Proposers and subconsultants must already be certified as DBEs by the UCP on the proposal due date to qualify to meet the DBE subcontracting goals. Firms that wish to be certified as DBEs can obtain DBE certification applications from MTA at the following address:

San Francisco Municipal Transportation Agency (MTA)
Contract Compliance Office
One South Van Ness Avenue, 3rd Floor
San Francisco, California 94103
(415) 701-4443

Completed DBE certification applications can be returned to MTA or another certifying agency. Certification applications can be obtained by downloading from website http://www.dot.ca.gov/hq/bep/business_forms.htm or by calling (415) 701-4436. A list of certifying agencies is provided on the DBE certification application.

Application for certification may be made at any time and once approved will be

good for a period of at least five years unless and until certification has been removed. Project by project certification will not be required; however, if the status of the DBE changes during the certification period, the certification may no longer be valid. In such cases, a newly completed certification application may be submitted to the address indicated above.

To be certified as a bona fide DBE, a firm has the burden of showing, by a preponderance of the evidence, that it meets the DOT definitions and requirements set forth in Part II above.

V. TRAINEES – San Francisco Municipal Transportation Agency (MTA) Employment Training Program

- A. Training Requirements:** MTA requires all consultants to comply with MTA’s Employment Training Program which fosters employment opportunities for economically disadvantaged individuals. Consultants are required to notify the SFMTA of all open, entry-level positions and consider all program referrals fairly and equally. In addition, the City requires consultants to hire a minimum number of professional service trainees in the area of the consultant’s expertise. Trainees shall be obtained through the City’s First Source Hiring Program ‘One Stop Employment Center’, which works with various employment and job training agencies/organizations or other employment referral sources.

Number of Trainees	
Project Fees	To Be Hired
\$0 – \$499,999	0
\$500,000 – \$899,999	1
\$900,000 – \$1,999,999	2
\$2,000,000 – \$4,999,999	3
\$5,000,000 – \$7,999,999	4
\$8,000,000 – \$10,999,999	5
\$11,000,000 – \$13,999,999	6
(> = \$14M, for each additional \$3 million in consultant fees, add one additional trainee)	

- B.** The intent of this Program is to provide technical training and job opportunities in a professional office environment for economically disadvantaged individuals as on-the-job trainees. These training opportunities will be executed through the duration of this contract. In hiring prospective trainee, the Consultant shall comply with the non-discrimination provisions pursuant to local, state and federal laws.
- C.** Trainees shall be obtained through First Source Hiring Program. Outreach should be done to include individuals from the communities that have experienced high rates of unemployment. A list of the designated resources may be obtained from MTA.
- D.** The Employment Training Program is based on the project fee will consist of participation of individuals as on-the-job trainees which are implemented by the Consultant for this project. The individuals will be hired as regular employees of the firms(s) and shall receive any benefits that they may be entitled to under State labor laws.

1. The trainee must be hired in a discipline related to professional services or meaningful support or technical position by the Consultant.
 2. No existing employee may be counted towards meeting the trainee goal. However, the new trainees can be part of the pool of new employees that the Consultant may have to hire anyway for a new project of this magnitude and therefore need not be an “extra” cost to the Consultant or to the City.
 3. The Consultant may utilize trainees on other projects it has within San Francisco Bay Area or trainees can execute work for other projects after the effective date of the Notice to Proceed.
 4. The Consultant is responsible for providing On-The-Job Training (OJT). The Consultant shall hire the trainee on a full-time basis for at least 12 months or on part-time basis for 24 months, offering him/her OJT, which allows the trainee to progress on a career path. The Consultant may hire the trainee(s) for the duration of the project.
 5. The Consultant should submit to MTA for approval a job description and summary of the training program for each trainee, with the proposed rate of pay (commensurate with the job requirements).
 6. The trainee is defined as a socially and economically disadvantaged individual who:
 - a. Is unemployed, has a history of unemployment, or who is currently in a job training program; and
 - b. Will receive training in a non-trade discipline associated with the Professional Engineering Services industry.
 7. The term “socially and economically disadvantaged individual” shall have the meaning, as the term is defined in 49 CFR Section 26.5, and shall also include persons with disabilities.
- E The Consultant shall provide additional office equipment (i.e., computers, desks and chairs) for trainees. The Consultant shall provide travel costs if the individual has to travel 50 miles or more to get to the job.
- F. The Consultant shall design a training program specifically for the trainee. The program shall include, but not be limited to company’s personnel policy procedures manual, benefit package and OJT duties and responsibilities. The trainees are not permitted to work in trade positions performing covered work.
- G. The Consultant can replace a trainee if there is documentation to demonstrate that the trainee did not perform satisfactorily the key requirements as identified in the job descriptions. The Consultant can apply the time accumulated by the original trainee toward satisfying the contract requirement.

- H. The Consultant shall provide MTA within thirty (30) working days of Notice to Proceed, the following information in order to expedite time in securing the appropriate person to participate during the project.
 - a. Indicate number of trainees to be hired. The hiring of trainees can be phased in over a period of time.
 - b. Provide the name and telephone number of Consultant's contact person.
 - c. The Consultant shall provide a job description used to recruit the trainee(s). Indicate specific skills/disciplines for job.
 - d. A college degree is not a requirement for a trainee and the job description should so indicate.
- I. The Consultant shall submit to MTA on a monthly basis a Workforce Information report regarding the status of the trainees.
- J. MTA's Contract Compliance Office will monitor the contract trainee requirements for compliance.
- K. The Consultant agrees that the City may withhold pending and future progress payments should the Consultant not demonstrate good faith efforts toward satisfying the required number of trainee hours.

VI. EVALUATION OF PROPOSALS

A. CCO Evaluation

As stated in Section IV.A, above, a proposer that fails to demonstrate that it achieved the contract-specific DBE participation goal or fails to demonstrate that it made good faith efforts prior to submission of the proposal to meet the goal shall be deemed non-responsive. A proposer found to be non-responsive shall be ineligible for award of the contract.

1. Evaluation of Proposals

After the receipt of proposals, the CCO shall evaluate all proposals with regard to the DBE requirements. Should the CCO determine that additional information is needed to evaluate a proposer's submission, the CCO shall request said proposer or listed DBE to submit the required information, which shall be due within five (5) days of the request.

2. Determination of Amount of DBE Participation

The CCO shall review the total dollar value of the work and the percentage of the total contract bid price reported on the proposer's Consultant/Joint Venture and Subconsultant Participation Report (MTA FORM No. 1) for accuracy and shall compare it to the contract-specific goal, if any, established for the contract.

3. Evaluation of DBE Certification Status

MTA requires that any DBEs listed by proposers for participation in the contract be certified by proposal due date. The CCO shall review the proposer's Consultant/Joint Venture and Subconsultant Participation Report (MTA FORM No. 1) to confirm the certification status of each DBE. MTA will accept current certifications by MTA and other DOT recipients authorized under the CUCP to perform certifications.

4. Good Faith Efforts

If the amount of DBE participation does not meet the DBE goal, the CCO shall review the good faith efforts report submitted by the proposer with its proposal. The CCO shall determine whether, prior to submission of the proposal, the proposer has performed the quality, quantity and intensity of efforts that demonstrate a reasonably active and aggressive attempt to meet the established DBE goal in accordance with 49 CFR Part 26 Appendix A.

A proposer must submit a report explaining the steps taken and the reasons the efforts were not successful to obtain DBE participation. The following is a list of types of actions that the proposer should consider as part of its good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- a.** Soliciting through all reasonable and available means (e.g. attendance at preproposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- b.** Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime consultant might otherwise prefer to perform these work items with its own forces.
- c.** Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- d.** (i) Negotiating in good faith with interested DBEs. It is the proposer's responsibility to make a portion of the work available to DBE subconsultants and suppliers and to select those portions of the work of material needs consistent with the available DBE subconsultants and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(ii) A proposer using good business judgment would consider a number of factors in negotiating with subconsultants, including DBE subconsultants, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime consultant to perform the work of a contract with its own organization does not relieve the proposer of the responsibility to make good faith efforts. Prime consultants are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

e. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The consultant's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the consultant's efforts to meet the project goal.

f. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

g. Effectively using the services of available minority/women community organizations; minority/women consultants' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

B. Recommendation for Award of Contract

1. Evaluation of Proposals

The CCO shall review all of the information submitted by proposers to determine a recommendation to the Director of Transportation for award of the contract to the highest-ranked proposer. The proposer shall cooperate with the CCO if a request for additional information is made during this evaluation process.

2. Proposer's Right to Reconsideration

In the event that the CCO determines that the highest-ranked proposer has not met the contract goal and has not demonstrated good faith efforts to do so prior to bid submission, the CCO will notify the proposer in writing. The notification shall include the reasons for the determination. The notification shall also inform the proposer of its right to submit further written documentation or seek reconsideration from the Department Manager, Office of Civil Rights at BART or another manager in the Civil Rights Office at BART familiar with MTA's Program ("Appellate Official") prior to the time that a recommendation for award of contract is presented to the Agency. The Appellate Official shall provide the proposer with a written decision.

In the event that the Appellate Official finds that the proposer has not met the contract goal or demonstrated good faith efforts, the CCO will deem said proposer

not responsive and evaluate the proposer with the next highest ranking. There shall be no further appeal from the Appellate Official's determination in this regard.

3. CCO's Recommendation for Award

Following the determination of the highest-ranked proposer, the CCO shall prepare a report on the proposer's compliance with the DBE Program requirements at the time contract award is considered. MTA will follow the award of contract and protest procedures described in the Request for Proposals.

C. Successful Proposer

1. Substitution of Subconsultants and Suppliers

The Consultant shall not terminate a DBE subconsultant or supplier for convenience and then perform the work with its own forces. The Consultant must make good faith efforts to substitute another DBE for an original DBE subconsultant or supplier when the original DBE subconsultant or supplier is terminated or fails to complete the work on the contract. The Consultant shall notify MTA in writing of any request to substitute a DBE subconsultant or supplier and provide the CCO with any documentation requested to support the substitution. The CCO must approve the request in writing in order for the substitution to be valid. The substitution may also have to be approved by the Agency's Board of Directors.

2. Addition of Subconsultants and Suppliers

The Consultant shall notify the CCO prior to any addition of a DBE or non-DBE subconsultant or supplier to the project and submit MTA Form No. 4 from each new subconsultant or supplier. Any new DBE subconsultant or supplier approved by the CCO also must submit a MTA Form No. 5.

3. Prompt Payment to Subconsultants

In accordance with MTA's DBE Program, no later than three (3) working days from the date of Consultant's receipt of progress payments by the City, the Consultant shall pay any subconsultants for work that has been satisfactorily performed by said subconsultants, unless the prime consultant notifies the CCO Director in writing within (10) working days prior to receiving payment from the City that there is a bona fide dispute between the prime consultant and the subconsultant. Within five (5) working days of such payment, Consultant shall provide City with a declaration under penalty of perjury that it has promptly paid such subconsultants for the work they have performed. Failure to provide such evidence shall be cause for City to suspend future progress payments to Consultant.

Consultant may withhold retention from subcontractors if City withholds retention from Consultant. Within thirty (30) days of City's payment of retention to

Consultant for satisfactory completion of all work required of a subconsultant, Consultant shall release any retention withheld to the subconsultant. Satisfactory completion shall mean when all the tasks called for in the subcontract have been accomplished and documented as required by City.

If the Consultant does not pay its subconsultant as required under the above paragraph, it shall pay interest to the subconsultant at the legal rate set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure.

4. Reporting Requirements

The Consultant shall maintain records of all DBE participation in the performance of the contract, including subcontracts entered into with certified DBEs and all materials purchased from certified DBEs. The Consultant shall submit DBE participation reports to MTA on a monthly basis, or as otherwise directed by the CCO. The reports shall identify the name and address of each DBE performing work on the project, and show the total dollar amount requested for payment and the total dollar amount actually paid to each DBE. Within thirty (30) days of completion of the contract, or as otherwise directed by the CCO, the Consultant shall submit a final summary DBE report to the CCO.

D. Administrative Remedies

1. Monitoring DBE Participation

The CCO shall monitor and track the actual DBE participation through consultant and subconsultant reports of payments, site visits and other appropriate monitoring. The CCO shall ensure that DBE participation is counted towards contract goals and the overall annual goal in accordance with the Regulations.

The CCO will require prime consultants to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of MTA or DOT. This reporting requirement also extends to any certified DBE subconsultant.

The CCO will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

The CCO will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subconsultants to ensure that the actual amount paid to DBE subconsultants equals or exceeds the dollar amount stated in the schedule of DBE participation.

2. Enforcement Mechanisms

i. Reporting to DOT

MTA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the Program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Section 26.109. Consultant may also be subject to penalties and/or a debarment action under the San Francisco Administrative Code. Failure to comply with the requirements of the DBE Program constitutes a material breach of contract and will be grounds for termination of the contract. Funds may also be withheld under the Contract pending investigation of a complaint of violation of the DBE Program.

ii. Liquidated Damages

If the Consultant fails to meet any or all of the DBE participation goals called for under the Contract, or has failed to demonstrate good-faith efforts to do so, the City will suffer actual damages that will be impractical or extremely difficult to determine. Such damages may include, but are not limited to, potential loss of all or part of the FTA grant, and the cost of development, implementation, administration, and enforcement of the Agency's DBE Program. The liquidated damages shall not be considered a penalty, but rather agreed monetary damages sustained by City because of

Consultant's failure to comply with the DBE requirements. Pursuant to FTA Circular C 4716.1A (July 26, 1988), Chapter I (9), the City may impose liquidated damages on the Consultant and the Consultant shall pay the City the amount set forth below. The City may deduct these liquidated damages from any payments due the Consultant or from any funds retained.

For failure to meet any or all of the DBE participation goals or to demonstrate good-faith efforts to do so, liquidated damages may be imposed in an amount equal to the difference between the DBE participation goals and the actual DBE goal attainment at the time a deficiency is determined, multiplied by the liquidated damage assessment as set forth below.

The Consultant shall pay an amount to be determined for each tenth (0.1%) percentage point below the DBE goals.

(Example: On a contract where there is a 26% DBE participation goal, Consultant achieved only 22.59% DBE participation at Contract closeout and did not demonstrate good faith efforts to meet the goal. The liquidated damages would be 26 minus 22.59, or 3.41 percentage points, multiplied by \$50,000.00 for each .1% point, for a total of (\$1,705,000.00).

E. Confidentiality

MTA will safeguard from disclosure from third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local laws. Notwithstanding any contrary provisions of state or local law, MTA will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the person submitting the information.

VII. SUBMISSION OF FORMS AND INSTRUCTIONS

A. Required Forms

PROPOSERS ARE WARNED that failure to comply with the requirements for submission of forms, within the times prescribed, unless a later time is authorized by the CCO, may RESULT IN REJECTION OF THE PROPOSAL. The following forms are included in the request for proposal:

MTA FORM No. 1	Consultant/Joint Venture Partner and Subconsultant Participation Report	DBE - 18
MTA FORM No. 2	Proposer List	DBE - 19
MTA FORM No. 3	Questionnaire on Recruitment, Hiring, and Training Practices for Consultants	DBE - 20
MTA FORM No. 4	Subconsultant Participation Declaration	DBE - 26, if applicable
MTA FORM No. 5	Disadvantaged Business Enterprise Acknowledgment Declaration	DBE - 27, if applicable
MTA FORM No. 6	Progress Payment Report	DBE - 29
MTA FORM No. 7	Subconsultant Payment Declaration	DBE - 31
MTA FORM No. 8	Declaration - Modification of Professional Service Contracts	DBE - 33
MTA FORM No. 9	Consultant Exit Report and Declaration	DBE - 35
SCHEDULE B	Joint Venture Participation Form	From CCO, if needed

Note: The following instructions are included for the convenience of proposers in preparing their proposals and for consultants to monitor DBE participation appropriately. If there are any conflicts between these instructions and the provisions elsewhere in the specifications or with federal, state, or city statutory requirements, the latter will prevail.

B. TO BE SUBMITTED ON PROPOSAL SUBMISSION DATE:

The following forms must be executed in full and submitted with the proposal package, or as otherwise specified; if not, the proposal may be rejected.

MTA FORM NO. 1 - CONSULTANT/JOINT VENTURE AND SUBCONSULTANT PARTICIPATION REPORT

All proposers are required to complete this form and include the names of the DBEs being used, a description of the work they will perform, the services or supplies which will be provided by each and the dollar value of each DBE transaction.

This completed form must be submitted with the proposal or the proposal shall be rejected.

Proposers whose Consultant/Joint Venture and Subconsultant Participation Report (MTA FORM No. 1) indicates that the DBE goal has not been met shall submit with its proposal a written report with supporting documentation covering all actions taken by the proposer to meet the DBE goal prior to the submittal of the proposal. The proposer should pay close attention to the section on Good Faith Efforts (Part VI.A.4, page 11) prior to completing the written report. If the CCO requires further information following its review of the report, the proposer shall submit such information within five days of the request.

MTA FORM No. 2 – PROPOSERS/BIDDERS LIST

Pursuant to 49 CFR Section 26.11, MTA will create and maintain a “Bidders List” consisting of all firms bidding or quoting on prime contracts and bidding, or quoting on subcontracts on DOT-assisted projects. For every firm, the following information will be included: firm name, firm address, firm status as a DBE or non-DBE, the age of the firm, and the annual gross receipts of the firm.

All proposers shall complete the “Proposers/Bidders List” to the maximum extent feasible, supplying the requested information on **all firms** quoting on this contract (including the proposer submitting the form).

MTA FORM No. 3 – QUESTIONNAIRE ON RECRUITMENT, HIRING, AND TRAINING PRACTICES FOR CONSULTANTS (To be completed by proposers, joint venture partners and subconsultants.).

MTA FORM No. 4 – SUBCONSULTANT PARTICIPATION DECLARATION (to be submitted by the prospective prime consultant and subconsultant, as appropriate):

To confirm and identify the use of DBEs, all proposers or subconsultants, as appropriate, shall submit a completed MTA FORM No. 4 to the Contract Compliance Office with its proposal unless a request for an extension of time is granted by CCO.

Subconsultants using DBEs as lower tier subconsultants, suppliers or service agents shall also submit MTA FORM No. 4 with the proposal unless a request an extension of time is granted by CCO.

MTA FORM No- 5-DISADVANTAGED BUSINESS ENTERPRISE ACKNOWLEDGEMENT DECLARATION (to be submitted by each listed DBE consultant)

Every listed DBE subconsultant or supplier, including lower tier subconsultants, must submit the completed declarations to the proposers. The proposers shall submit the completed declarations and copies of the subconsultants’ or suppliers’ proposal quotations with its proposal to the Contract Compliance Office, unless an extension of time is granted by CCO.

Schedule B - Joint Venture Participation Form

Joint Ventures formed at either the prime consultant level or subconsultant level must submit a Joint Venture Participation Form (Schedule B) plus a joint venture agreement.

To obtain this form, please contact the CCO.

C. CONSULTANT POST-AWARD FORMS

☐ MTA FORM No. 6 - PROGRESS PAYMENT REPORT

This form shall be completed by Consultant, including each joint venture partner, if applicable, and submitted to the Project Manager (copy to CCO) with its monthly progress payment applications after award of Contract. Consultants must provide complete information and documentation on MTA FORM No. 6 for the immediately preceding period for DBE joint venture partners and all subconsultants that are utilized on the Contract.

☐ MTA FORM No. 7 - SUBCONSULTANT PAYMENT DECLARATION

Consultant shall complete MTA FORM No. 7 and submit it to CCO (copy to Project Manager) within five (5) working days following each payment to subconsultants in compliance with prompt payment requirements (see page DBE-14, C-3) Note: This form shall provide evidence that the Consultant has complied with the prompt payment provisions of the Contract.

☐ MTA FORM No. 8 – DECLARATION – AMENDMENTS OF PROFESSIONAL SERVICES CONTRACTS

This form shall be completed when processing all modifications, supplements or change orders that cumulatively increase the original amount of the contract. All prime consultants, individual joint venture partners, subconsultants and any other vendors participating in the modification must be listed.

☐ MTA FORM No. 9 - CONSULTANT EXIT REPORT AND DECLARATION

Consultant, including all joint venture partners, if any, shall complete MTA FORM No. 9 and submit it to the Project Manager (copy to CCO) with its final progress payment application. Consultant must provide complete and accurate information on MTA FORM No. 9 and have it executed by all DBE joint venture partners and all subconsultants.

**MTA FORM NO. 3
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
QUESTIONNAIRE
NONDISCRIMINATION REQUIREMENTS**

Professional or Technical Services

Instructions

1. Please complete and return the attached Nondiscrimination Questionnaire, Workforce Data forms and Participation Form with a copy of your entire proposal directly to the awarding Department.
2. Please complete the questionnaire for the office that will ultimately perform the project work.
3. The questionnaire must be completed by:
 - a. All prime consultants
 - b. All joint venture partners and subconsultants
4. Support firms (e.g., printers, photographers, etc.) need not complete any part of the questionnaire.
5. Approved State or Federal Nondiscrimination Programs may be substituted for those items where the information requested in the questionnaire is identical to that contained in the State or Federal Programs.
6. If the questionnaire(s) is/are not correctly and fully completed, MTA will not consider your proposal. For firms selected as finalists, all DBEs participating in the project must be certified prior to contract award.

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
QUESTIONNAIRE ON RECRUITMENT, HIRING, AND TRAINING PRACTICES FOR
CONSULTANTS**

(Please answer all questions. Use additional sheets if necessary.)

Name of Company: _____

Address: _____

Location of Company Workforce (Check one):

_____ San Francisco

_____ Other Location, provide address:

1. Name, title, telephone number of company official at the establishment who is responsible for recruitment and hiring and who will provide information concerning this matter.

2. Name, title, and telephone number of senior managing official at the establishment if not the person named in the answer to question 1.

3. Describe briefly the basic business activity at the establishment (i.e., identify the product produced or the services performed.)

NOTE: Workforce - The term "minority" refers to the following groups: American Indian or Alaskan Native, Asian or Pacific Islander, African-American, Filipino, and Hispanic.

4. Describe briefly how employees at various levels are hired (see Workforce Breakdown #8).

A. Technicians and/or others.

B. Support Staff (accounting, reception, and clerical).

5. Describe in full, Nondiscrimination programs in the past two years. (Consultants may submit one (1) copy of their Nondiscrimination Program directly to San Francisco MTA Contract Compliance Office, One South Van Ness Avenue, 3rd Flr. San Francisco, CA 94103, (415) 701-4443.

-- Participation in training programs.

--- Participation in apprenticeship programs.

-- Participation in any summer hire program or own program.

-- Paid educational leave or tuition to improve skills and level.

-- Participation in scholarship fund.

-- Participation in clerical training programs.

-- Participation in "other" programs.

6. If minorities and/or women are underutilized explain steps to ensure the firm is not discriminating.

7. Describe joint ventures or subconsulting arrangements in past projects. If there is a company policy on this issue, include it.

8. Complete workforce breakdown. (Separate form, Page DBE-24.)

- 8a. Hires in last 12 months. (Complete separate form, Page DBE-25.)

END OF MTA FORM NO. 3

MTA FORM No. 3
Workforce Data

8. Please fill out this workforce breakdown

Name of firm: _____

Address: _____

EMPLOYEE * CATEGORIES	TOTAL EMPLOYEE		AFRICAN AMERICAN		HISPANIC		ASIAN/ PAC. ISL.		AMER. IND./ ALAK. NTV.		TOTAL MINORITY		PERCENTAGE WHITE		PERCENTAGE MINORITY	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials																
Managers																
Professionals																
Technicians																
Admin. Support																
Trainees																
Others																
Full-time																
Part-time																
TOTAL																

3/30/95

COMPLETED BY Name: _____ Title: _____ Date: _____

* If the list of occupations on the left side of the workforce data form does not match your occupation titles, please modify the data form to indicate occupations peculiar to your organization.

MTA FORM No. 3

WORKFORCE DATA

8a. Hires in last 12 months

Name of firm: _____

Address: _____

EMPLOYEE CATEGORIES	TOTAL EMPLOYEE		AFRICAN AMERICAN		HISPANIC		ASIAN/ PAC. ISL.		AMER. IND./ ALAK. NTV.		TOTAL MINORITY		PERCENTAGE WHITE		PERCENTAGE MINORITY	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials																
Managers																
Professionals																
Technicians																
Admin. Support																
Trainees																
Others																
Full-time																
Part-time																
TOTAL																

3/30/95

COMPLETED BY Name: _____ Title: _____ Date: _____

* If the list of occupations on the left side of the workforce data form does not match your occupation titles, please modify the data form to indicate occupations peculiar to your organization

PROPOSER _____

**PROPOSAL DUE DATE SUBMITTAL
MTA FORM No. 4**

SUBCONSULTANT PARTICIPATION DECLARATION

(To be submitted by the prospective prime consultant or subconsultant, as appropriate, to the Contract Compliance Office with its proposal on proposal submission date.)

_____,
(Name and Title)

declares as follows: That contingent upon award of _____
(Name of Project)
_____ will award subcontracts or pursue
(Name of Prime Consultant)

orders to the following Disadvantaged Business firms: (If the firm is a joint venture, you must attach a copy of the joint venture agreement.)

Name and Address of DBE	DBE Certified	Lic.#	Gender		Ethnicity	Type of Work (Describe)	\$ Amount of Sub-Contract	% of Contract
			M	F				

Total dollar value of DBE work: \$ _____ = _____ % of DBE Participation
Total dollar of Proposal Price \$ _____

I declare under penalty of perjury under the laws of the State of California, that the above information is true and correct.

Owner or Authorized Representative (Signature)
Dated: _____

PROPOSER: _____

PROPOSAL DUE DATE SUBMISSION

MTA FORM No. 5

DISADVANTAGED BUSINESS ENTERPRISE ACKNOWLEDGMENT DECLARATION

Every listed DBE subconsultant or supplier (including lower tier subconsultant) must submit the completed declarations to the Prime Consultant. The Prime Consultant shall submit completed declarations and copies of the subconsultants' or suppliers' proposal quotations directly to the Contract Compliance Office with its proposal on proposal submission date.)

(Owner or Authorized Representative and Title)

declares that _____ will award a
(Name of Prime Consultant)

subcontract in the amount of \$ _____, or a purchase order in the
amount of \$ _____ to _____
(Name of your firm)

License No. _____. Nature of work to be performed by DBE: _____

FORM OF OWNERSHIP FOR DISADVANTAGED BUSINESS ENTERPRISE

Sole Proprietorship _____ Partnership _____ Joint Venture _____ Corporation _____

Limited Liability Partnership _____ Limited Liability Corporation _____

LIST OWNERS

Name _____ Ethnicity* _____ Gender _____ % of Ownership _____

Name _____ Ethnicity* _____ Gender _____ % of Ownership _____

Name _____ Ethnicity* _____ Gender _____ % of Ownership _____

Name _____ Ethnicity* _____ Gender _____ % of Ownership _____

Percentage of DBE Stockholders: _____

*Ethnic Codes: AI/AN = American Indian or Alaskan Native, A/PI = Asian or Pacific Islander,

B = Black, F = Filipino, H = Hispanic, and W = White.

LIST INSURANCE POLICIES AND BONDING ARRANGEMENTS

Name of Policy _____ Party Insured _____

Name of Policy _____ Party Insured _____

Name of Policy _____ Party Insured _____

For Prime Consultants and Subconsultants Only:

List the firm's annual gross receipts for the last three fiscal years:

20_____ \$ _____, 20_____ \$ _____, 20_____ \$ _____

For Suppliers or Manufacturers Only:

List the number of employees for the last three fiscal years:

20_____ Number _____, 20_____ Number _____, 20_____ Number _____

ADDITIONAL SUBCONTRACTING BY SUBCONSULTANTS:

a. _____ We will not subcontract any portion of work to another subconsultant.

b. _____ We will subcontract _____% of our work to _____
(Name of Subconsultant)

in the amount of \$ _____. Indicate owners' ethnicity and gender _____

I declare under penalty of perjury under the laws of the State of California that the above information is true and correct; and that our firm is a certified DBE as defined under the Municipal Railway Department's DBE Program.

Owner/Authorized Representative (Signature)

Name & Title (Please Print)

Address

Telephone No.

POST AWARD SUBMITTAL

**MTA FORM No. 6
PROGRESS PAYMENT REPORT**

To be completed by Consultant and submitted to Project Manager with its monthly progress payment application (transmit and copy to all of the following.)

TRANSMITTAL To: Project Manager Copy: Contract Compliance Office

From: Consultant _____ Date Transmitted: _____

PART 1: Fill in all blanks and check the box below.

Contract Number:	Contract Title:
------------------	-----------------

Reporting Period (Month and Year): _____
Corresponding Progress Payment No.: _____

Note: The information submitted on Parts 1 and 2 of this form is accurate for the progress payment period immediately preceding that of the current payment application attached herewith.

1. Amount of Prime Contract	\$
2. Amount of Change Orders, Amendments and Modifications to Date	\$
3. Total Contract to Date including Change Orders, Amendments and Modifications (Line 1 + Line 2)	\$
4. Amount Invoiced this Reporting Period	\$
5. Total Amount Paid to Date including Retention (excluding Line 4)	\$
6. Amount of Progress Payment Requested to Date (Line 4 + Line 5)	\$
7. Percent Complete (Line 6 ÷ Line 3)	
8. Reporting Period - From (date):	To (date):

Owner/Authorized Representative (Signature)

Name & Title (Please Print) Date

Firm Name

() ()
Telephone Fax

Owner/Authorized Representative

Name & Title (Please Print) Date

Firm Name

() ()
Telephone Fax

PART 2: Provide complete information in the following table for Consultant, each DBE joint venture partner and all subconsultants. Make copies of this sheet as needed. Attach copies of all invoices from subconsultants supporting the information tabulated on this form and Consultant's invoice and Contract Payment Authorization for the immediately preceding progress payment period.

Note: Failure to submit all required information may lead to partial withholding of progress payments. See 49 CFR Sections 26.29, 26.37.

A Name of Firm (List consultant, including each joint venture partner, and all subconsultants, and indicate if firm is a DBE.)	B Portion of Work	C Amount of Subcontract or Purchase Order	D Amount of Change Orders to Date	E Total Amount Subcontract or Purchase Order to Date + Change Orders (C + D)	F Amount Invoiced this Reporting Period	G Amount of Progress Payments Paid to Date	H Percent Completed to Date [F + G] / E
TOTALS							

POST AWARD SUBMITTAL

MTA FORM No. 7

SUBCONSULTANT PAYMENT DECLARATION

(To be completed and submitted by Consultant, including all joint venture partners, if any, and submitted to the Contract Compliance Office within 5 working days following actual payment to subconsultants. Payments to subconsultant shall be made no later than 3 working days following receipt of progress payment from the City).

TRANSMITTAL TO: Contract Compliance Office

COPY TO: Project Manager

From: Prime Consultant: _____ Date Transmitted: _____

Provide the following information for each progress payment received from MTA. Use additional sheets to include complete payment information for all subconsultants and vendors utilized on this Contract including each joint venture partner. Failure to submit all required information may lead to partial withholding of progress payment.

Contract No.: _____ Contract Title: _____

Contract Awarding Department: _____

Progress Payment No.: _____ Period Ending: _____

Amount Received: \$ _____ Date: _____ Warrant/Check No.: _____

JV/Subconsultant/ Vendor Name	Business Address	Amount Paid	Payment Date	Check Number

I/We declare under penalty of perjury under the laws of the State of California that the above information is complete, and that the tabulated amounts paid to date are accurate and correct.

Prime Consultant, including each joint venture partner, must sign this form.

Owner/Authorized Representative (Signature)

Owner/Authorized Representative (Signature)

Name (Please print/type)

Name (Please print/type)

Title (Please print/type) Date

Title (Please print/type) Date

Firm Name

Firm Name

Telephone Fax

Telephone Fax

END OF MTA FORM NO. 7

POST AWARD SUBMITTAL

MTA FORM No. 8

DECLARATION – AMENDMENTS OF PROFESSIONAL SERVICE CONTRACTS

This section is to be completed for all modifications to this contract. All prime consultants, individual joint venture partners, subconsultants and any other vendors participating in the modifications must be listed.

CONTRACT NO.:		CONTRACT MOD NO.:	
CONTRACT TITLE:			
ORIGINAL AMOUNT:	\$	DBE GOAL:	
CONTRACT MODIFICATION AMOUNT:	\$		
CONSULTANT:			
CONTACT PERSON:		PHONE:	
ADDRESS:			
CITY:	STATE:	ZIP CODE:	

JV/P/S: Indicate if consultant is Joint Venture Partner, Prime or Sub.

JV/P/S	NAME	SERVICES PERFORMED	% of Total Mod	MODIFICATION AMOUNT	% DBE

I declare, under penalty of perjury under the laws of the State of California, that the information contained on this form is true and correct.

Owner/Authorized Representative (Signature): _____ Date: _____

Owner/Authorized Representative (Print): _____ Title: _____

POST AWARD SUBMITTAL

MTA FORM 8

DECLARATION – AMENDMENTS TO PROFESSIONAL SERVICE CONTRACTS

Information is needed for each firm listed on Page 1 (prime consultants, joint venture partners, subconsultants and suppliers). Firms that have previously worked on City contracts may already have a vendor number. You may enter the vendor or federal I.D. number instead of completing the rest of the information. Use additional sheets if necessary.

FIRM NAME			
ADDRESS:			
CITY:		FEDERAL I.D. NO.:	VENDOR NO.
STATE:	ZIP:		
PHONE NO.:	FAX NO.:	ETHNIC OWNERSHIP:	
SERVICE:	\$ AMOUNT:		
FIRM NAME			
ADDRESS:			
CITY:		FEDERAL I.D. NO.:	
STATE:	ZIP:		
PHONE NO.:	FAX NO.:	ETHNIC OWNERSHIP:	
SERVICE:	\$ AMOUNT:		
FIRM NAME			
ADDRESS:			
CITY:		FEDERAL I.D. NO.:	
STATE:	ZIP:		
PHONE NO.:	FAX NO.:	ETHNIC OWNERSHIP:	
SERVICE:	\$ AMOUNT:		
FIRM NAME			
ADDRESS:			
CITY:		FEDERAL I.D. NO.:	
STATE:	ZIP:		
PHONE NO.:	FAX NO.:	ETHNIC OWNERSHIP:	
SERVICE:	\$ AMOUNT:		

ETHNIC OWNERSHIP: Asian, Black, Hispanic, Native American, White, Other (please state) _____.

END OF MTA FORM NO. 8

POST AWARD SUBMITTAL

MTA FORM No. 9

CONSULTANT EXIT REPORT AND DECLARATION

To be completed by Consultant, including all joint venture partners if any, and submitted to Resident Engineering (copy to Contract Compliance) with its final progress payment application (transmit and copy to all of the following.)

TRANSMITTAL To: Project Manager Copy: Contract Compliance Office
From: Consultant: _____
Date Transmitted: _____

Consultant must complete MTA Form 9, Page 2 and have it executed by all DBE joint venture partners and all subconsultants.

Reporting Date: _____

I/We declare under penalty of perjury under the laws of the State of California, that the information on Page 2 of this form is complete, that the tabulated amounts paid to date are accurate and correct, and that the tabulated amounts owing will be paid within forty (40) days after the date of MTA's final payment under the Contract.

Consultant, including each joint venture partner, must execute this form.

_____ Owner/Authorized Representative (Signature)	_____ Owner/Authorized Representative (Signature)
_____ Name (Please print/type)	_____ Name (Please print/type)
_____ Title (Please print/type) Date	_____ Title (Please print/type) Date
_____ Firm Name	_____ Firm Name
() () _____ Telephone Fax	() () _____ Telephone Fax

Note: Failure to submit all required information may lead to partial withholds of progress payment. See 49 CFR Sections 26.29, 26.37.

Name of Firm (List Consultant, including each joint venture partner, and all subconsultants, and indicate if the firm is a DBE.)	Portion of Work	Amount of Progress Payments Paid to Date	Amount Owing under the Contract including all Change Orders, Amendments and Modifications	Owner/Authorized Representative Signature (Consultant, including each joint venture partner, and all subconsultants)
TOTALS				

END OF MTA FORM NO. 9

ATTACHMENT 3

ATTESTATION OF COMPLIANCE

To be completed by all Proposing Firms and All Individual Subcontractors

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

Name of Individual Completing this Form: _____

The Form is Submitted on Behalf of Firm: _____

Name of RFQ: **SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY,
REQUEST FOR QUALIFICATIONS TO PROVIDE REAL ESTATE APPRAISAL
SERVICES**

1. I attest that I and all members of the firm listed above will and have complied to date with Section VI (J) of the above RFQ.
 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 VI (J) of the above RFQ, 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 _____

ATTACHMENT 4

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

PROTEST PROCEDURES FOR THE SELECTION OF APPRAISERS FOR FEDERALLY ASSISTED CONTRACTS

DATED: November 2007

1. Policy

In the event that any protests, discrepancies, or legal questions arise during the selection of qualified appraisers pursuant to a Request for Qualifications (RFQ), the Contract Manager shall report unresolved protests to the Executive Director/CEO, who shall review the protest and recommend its resolution to the Municipal Transportation Agency. These procedures shall be included in all RFQs for appraisers.

2. Definitions

Contract Manager (CM) refers to the person with whom contact is expressly authorized by this RFQ under Section VI(B) of the RFQ.

Proposal means the response to the RFQ submitted by potential appraisers.

City means the City and County of San Francisco, acting through the Municipal Transportation Agency.

Chief Financial Officer (CFO) refers to the Chief Financial Officer of the MTA.

Contract Compliance Office (CCO) is the MTA office that administers compliance with federal regulations governing Disadvantaged Business Enterprises, as well as the MTA's program governing Small Business Enterprises.

Days refers to working days of the City and County of San Francisco (unless otherwise indicated).

Executive Director/CEO refers to the Executive Director/CEO of the MTA.

Disadvantaged Business Enterprise (DBE) is a for-profit, small business concern (1) that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one (51%) of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Federal Transit Administration (FTA) is an operating administration of the U.S. Department of Transportation.

Municipal Transportation Agency (MTA or Agency) is the agency of the City and County of San Francisco that is in charge of the construction, management, supervision, maintenance, extension, operation, use and property of the San Francisco Municipal Railway and the Department of Parking and Traffic, and has exclusive authority over contracting, leasing and purchasing by the Municipal Railway and the Department of Parking and Traffic, subject to certain restrictions of the City's Charter. The Agency acts through its Board of Directors or its Executive Director/CEO.

Protest is a complaint by a proposer regarding the selection process that arises prior to selection and is formally communicated to the Executive Director/CEO, as provided below.

Selection shall mean the date of notification by the Municipal Transportation Agency to all respondents to the RFQ of the formation of the pool of qualified appraisers.

Selection Process includes the phase of the RFQ process up to the date of the notification by the Municipal Transportation Agency to all respondents to the RFQ of the formation of the pool of qualified appraisers.

Small Business Enterprise (SBE) refers to a for-profit, small business concern that qualifies for the program by being certified under any of the following programs: the State of California's Small Business Program, the City and County of San Francisco's LBE Program, or the Federal DBE program.

3. Responsibilities:

- 3.1** The CM obtains the response to issues not related to DBE/SBE compliance and coordinates the resolution of all protest issues.
- 3.2** The CCO resolves issues regarding DBE/SBE compliance.
- 3.3** In the event that a protest is not resolved by the CM, the CFO shall review the protest and make a recommendation to the Executive Director/CEO for final action.

4. Implementation

4.1. Submit Protest

A protest describing the nature of the disagreement must be submitted in writing to MTA no later than five (5) days following notification of proposed selection.

Protests shall be addressed to:

Executive Director/CEO
San Francisco Municipal Transportation Agency
One South Van Ness Ave, 7th Floor
San Francisco, CA 94103

with a copy to:

Senior Manager, Real Estate Unit
Finance and Administration Division
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor

4.2 Coordination Efforts

With direction from the Executive Director/CEO, and following the requirements of FTA Circular 4220.1E, the CM shall determine the nature of the disagreement and coordinate resolution efforts.

4.3. DBE or SBE Requirements

If the protest involves meeting DBE or SBE requirements, the CM shall forward a copy of the protest to the Contract Compliance Office for review and recommendations. The CM shall also send a copy to the City Attorney for information.

The CCO shall review DBE or SBE requirements for the project and examine whether the protest has merit. Based on the examination, the CCO shall notify the Director and the CM of its decision. The CM shall provide copies of the decision to the Senior Manager of the Real Estate Unit. The CM shall then inform the protester, in writing, of the decision, responding at least generally to each material issue raised in the protest. The CM's letter to the protester shall state that (a) the protester may contact the CM to discuss the response, and (b) the protester has the right to appeal his decision to the CFO pursuant to Section 4.5.

Regarding the issue of whether a bidder has met its DBE or SBE goal or demonstrated good faith efforts in reaching the contract-specific DBE or SBE goal, if a goal has been set, the CCO's determination will be administratively final except when the CCO has determined that an apparent low bidder has failed to meet its goal or make the required good faith efforts. In that situation, the procedures in Section V.D.3.v of the Agency's DBE or SBE Program apply to requests for reconsideration from the apparent low bidder. Neither the Executive Director/CEO nor the MTA Board of Directors will have jurisdiction to hear administrative appeals or requests for reconsideration of the CCO's decision on good faith efforts.

4.4 Issues Not Related to DBE or SBE Requirements

If the protest concerns complaints regarding discrepancies in the RFQ documents, missing or required documentation, or the selection process, and is not related to DBE or SBE requirements, the CM or designee shall prepare a memorandum to the City Attorney's Office requesting an opinion on the protest. The CM shall attach a copy of the protest and all documentation from the RFQ and any other document deemed necessary by the attorney.

Upon receipt of the memorandum, the City Attorney's Office will investigate and respond with an opinion to the Executive Director/CEO, the CFO and the CM for review and evaluation. The CM shall provide copies of the opinion to the CCO. The CM shall inform the protester in writing of the CM's recommendation, stating the reasons for the recommendation, and responding at least generally to each material issue raised in the protest. The CM's letter to the protester shall state that (a) the protester may contact the CM to discuss the response, and (b) the protester has the right to appeal the decision to the CFO pursuant to Section 4.5.

4.5 Disagreement by Protester

Except as provided in Section 4.3, in the event that the protester disagrees with the recommendations or decisions rendered, the protester may submit a written request to the CFO for review of the decision within five (5) days of receipt of the CM's letter responding to the protest. The CFO shall review the decision and make a recommendation to the Executive Director/CEO for final action. The CM shall inform the protester of the CFO's recommendation,

and whether the Executive Director/CEO concurs with the recommendation.

4.6 Incorporate Legal Opinion/Recommendation

The CM shall incorporate appropriate language reflecting the outcome of the protest in the calendar item and resolution for approval of the contract by the Agency.

4.7 Final Action

The protester shall be notified in writing of the Agency decision regarding the protest and/or award. The action of the Agency is final. Subject to the provisions of Section 4.8, the protester may seek a remedy in State or Federal court, as appropriate, from the final action of the Agency.

4.8 Protest to FTA

FTA may only entertain a protest that alleges that the Agency (1) failed to have written protest procedures; (2) failed to follow its written protest procedures; or (3) failed to review a complaint or protest. A protest to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) days of the date the protester knew or should have known of the violation.

A protester must exhaust all administrative remedies with the Agency before pursuing a protest with FTA.