



Request for Proposals

Accessible Parking Policy Advisory Committee Facilitation

May 4, 2012



Table of Contents

| | |
|---|-----------|
| TABLE OF CONTENTS | I |
| SECTION I: GENERAL INFORMATION | 1 |
| A. INTRODUCTION | 1 |
| B. BACKGROUND | 1 |
| C. BLACKOUT PERIOD | 2 |
| D. SCOPE OF WORK | 3 |
| SECTION II: PROPOSAL INFORMATION | 6 |
| A. PROPOSAL INVITATION | 6 |
| B. SCHEDULE OF ACTIVITIES FOR RESPONDING TO RFP | 6 |
| SECTION III: SUBMISSION REQUIREMENTS | 7 |
| A. PRE-BID QUESTIONS | 7 |
| B. PROPOSER REQUIREMENTS | 7 |
| C. SUBMITTING PROPOSALS | 7 |
| D. FORMAT | 8 |
| 1. <i>Introduction and Executive Summary (1 page)</i> | 8 |
| 2. <i>Functional Proposal (up to 3 pages)</i> | 8 |
| 3. <i>Exceptions</i> | 9 |
| 4. <i>Acknowledgements (1 page)</i> | 9 |
| 5. <i>Cost Proposal (up to 2 pages)</i> | 9 |
| SECTION IV: PROPOSAL EVALUATION AND VENDOR SELECTION | 10 |
| A. MANDATORY REQUIREMENTS | 10 |
| B. CLARIFYING PROPOSAL DURING EVALUATION PERIOD | 10 |
| C. BIDDER SELECTION | 10 |
| SECTION V: CONTRACT AWARD | 11 |
| A. FINANCIAL RESPONSIBILITY | 11 |
| B. RESERVATION OF RIGHTS BY SERCO | 11 |
| APPENDIX A: ATTESTATION OF COMPLIANCE | 13 |
| APPENDIX B: CONTRACT | 14 |

Section I: General Information

A. Introduction

To address parking issues in San Francisco, the San Francisco Municipal Transportation Agency (SFMTA) initiated *SFpark*, its new approach to parking management. The goal of *SFpark* is to use new parking management approaches and technology to manage San Francisco's parking supply and demand in ways that support the SFMTA's overall goals for the transportation system.

The SFMTA believes the current approach to managing accessible on-street parking in California cities is not working. Existing policies do not successfully create access for the disabled and reduce overall parking availability, which causes other transportation issues which affect everyone, including the disabled, in San Francisco.

The SFMTA seeks a professional facilitator to help convene an accessible parking policy advisory committee and guide the group to: agree on the problem, decide whether to pursue solutions, establish goals and criteria for solutions, assess policy options, choose a solution, and identify criteria for an evaluation plan. The SFMTA expects this process to take approximately six months, with an average of two committee meetings per month.

Serco Inc. provides parking management services to SFMTA, and is the Procurement Agent, responsible for managing this RFP and all subsequent procurement. Any contract(s) resulting from this RFP shall be between Serco and the successful proposer(s), and will be subcontracts under Serco's contract with the SFMTA.

All correspondence and inquiries should be directed to the Serco RFP Coordinator:

Mike King

RE: Accessibility Parking Facilitation RFP

sfparkmanager2@serco-na.com

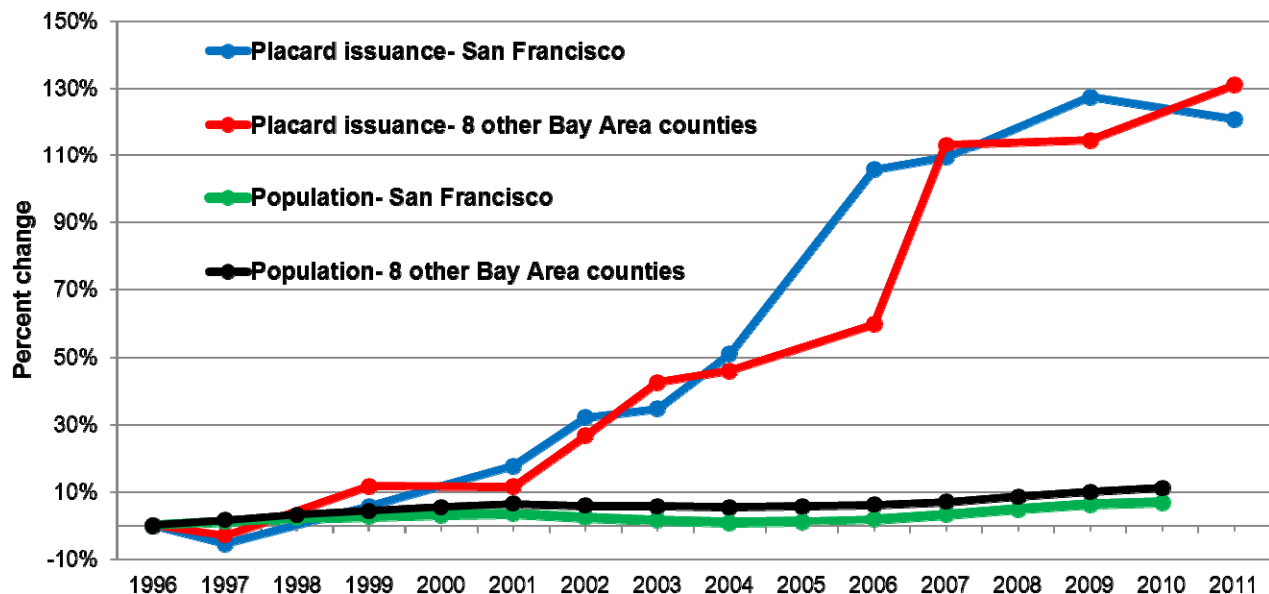
Instructions on how to respond are found in Section III, *Submission Requirements*, below.

B. Background

The SFMTA believes the current approach to managing accessible on-street parking in California cities is not working. Existing policies do not successfully create access for the disabled and reduce overall parking availability, which causes other transportation issues which affect everyone, including the disabled. In San Francisco:

- There are 26,800 metered on-street parking spaces.

- In San Francisco County, 53,500 placards were issued in 2011; while in the surrounding eight Bay Area counties, an additional 416,500 placards were issued.
- Misuse of placards is part of the issue, but only part. Undoubtedly, many disabled parking placards are misused or fraudulently obtained. However, by themselves, the growing number of legitimate placards creates a parking management issue that must be addressed.
- As a result of the current approach to managing accessible parking:
 - Many drivers cannot find available parking spaces, so they often circle or double-park, which degrades transit speed and reliability, causes unnecessary greenhouse gas emissions and vehicle miles travelled, and reduces safety.
 - Worse, those disabled drivers who most need an accessible parking space often cannot find one close to their destination.



C. Blackout Period

It is the policy of Serco and the SFMTA that only employees identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from Bidders or potential Bidders seeking to influence the contractor selection process or the award of the contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally approved by Serco.

All firms and subcontractor(s) responding to this RFP are hereby notified that they may not contact any SFMTA or Serco/SFpark staff members, other than those specifically listed in this document, for any purpose related to this RFP, from the date the RFP is issued to the date when the contract award is

approved by Serco. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFP.

All firms and subcontractor(s) responding to this RFP 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 RFP.

Except as expressly authorized in the RFP, where any person representing a Bidder or potential Bidder contacts any SFMTA staff for the purpose of influencing the content of the competitive solicitation or the award of the contract between the date when the RFP is issued and the date when the final selection is approved by Serco, the Bidder or potential Bidder shall be disqualified from the selection process. However, a person who represents a Bidder or potential Bidder 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 RFP or wishes to raise concerns about the competitive solicitation.

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

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

An executed Attestation of Compliance (Appendix A) certifying compliance with this section of the RFP will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to this RFP. Any proposal that does not include the executed Attestation of Compliance as required by this section will be deemed non-responsive and will not be evaluated. Any Bidder 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.

D. Scope of Work

The SFMTA seeks a professional facilitator to help convene an accessible parking policy advisory committee and guide the group to: agree on the problem, decide whether to pursue solutions, establish goals and criteria for solutions, assess policy options, choose a solution, and identify criteria for an evaluation plan. The SFMTA expects this process to take approximately six months, with an average of two committee meetings per month.

The SFMTA envisions a committee comprised of around 14 members, including advocates for the disabled as well as other stakeholders representing the interests of merchants, the tourism industry, transportation advocates, etc. The committee will be temporary and advisory and provide important recommendations to the SFMTA. SFMTA staff from Enforcement, Engineering, Sustainable Streets, Finance & Information Technology, and the Meter Shop will serve as technical advisors.

The SFMTA is undertaking this effort as part of its *SFpark* project, which aims to make parking in San Francisco easier to find, reduce circling and double-parking, and make San Francisco's streets safer and less congested.

The facilitator will work closely with SFMTA staff throughout this process. SFMTA staff will assist the process by:

- Helping identify and communicate with committee members
- Providing existing documents outlining current accessible parking policies and practices in San Francisco and in twelve peer jurisdictions
- Providing policy analysis documents

The facilitator will be responsible for all the deliverables listed in the table below. In general, the facilitator's role is to:

- Plan the effort
- Providing process expertise
- Facilitate all meetings
- Guide committee to consensus on this controversial topic
- Provide summary documents of major decisions, meeting minutes, and copy for mailings

Deliverables and Example Schedule

| Deadline | Deliverable | Expected number of committee meetings* |
|----------|---|--|
| July | 1. Detailed project plan created in consultation with SFMTA staff | |
| July | 2. Work with SFMTA staff to create accessible parking policy advisory committee | 0-1 |
| | 3. Establish ground rules for committee | |
| | 4. Summary document with ground rules | |
| | 5. Meeting minutes (if meeting held) | |
| | 6. Copy for email to committee members | |

| Deadline | Deliverable | Expected number of committee meetings* |
|-----------------|--|--|
| Early August | 7. Group agrees on the problem and decides whether to pursue solutions** 8. Summary document of the problem 9. Minutes from meeting(s) 10. Copy for email to committee members | 1 |
| Early September | 11. Group agrees on goals and criteria for solutions 12. Summary document of goals and criteria for solutions 13. Minutes from meetings 14. Copy for email to committee members | 2 |
| Early October | 15. Group agrees on policy options to consider 16. Summary document of policy options to consider 17. Minutes from meetings 18. Copy for email to committee members | 2 |
| Mid-November | 19. Group assesses policy options, with analysis from the SFMTA 20. Summary document of group's feedback on policy options 21. Minutes from meetings 22. Copy for email to committee members | 2 |
| Mid-December | 23. Group agrees on solution and criteria for evaluation plan 24. Summary document of recommended solution and criteria for evaluation plan 25. Minutes from meetings 26. Copy for email to committee members | 2 |

**Final plan to be created in conjunction with the facilitator*

*** If the committee decides not to pursue accessible parking policy reform, the SFMTA reserves the right to cancel the project at that point.*

Section II: Proposal Information

A. Proposal Invitation

This Request for Proposals (RFP) constitutes an invitation to bid for the Accessibility Parking Policy Advisory Committee Facilitation, as directed by Serco, in accordance with the specifications, requirements and provisions herein.

Bidders should note that a successful bid in this RFP does not in any way guarantee success in future solicitations issued by Serco or SFMTA.

B. Schedule of Activities for Responding to RFP

The project's anticipated start date is July 2, 2012. The SFMTA expects the process to last approximately six months, with anticipated completion date of December 2012.

The following table contains the anticipated schedule for key events for this RFP. All times are Pacific Time.

| Phase | Date/ Time |
|---|---------------------------------|
| 1. RFP issued electronically via email | Friday, May 4, 2012 |
| 2. Deadline for submission of written requests for clarification. Submit questions to via email to Mike King, Serco RFP Coordinator, at SFparkManager2@serco-na.com . Requests for clarification emails must read "RFP Request for Clarification" in the subject line. | 5:00 pm, Wednesday, May 9, 2012 |
| 3. Written responses to all questions will be sent via email to all bidders. If further modifications to the terms of the RFP are required, an addendum to the RFP will be provided via email to all parties who are on record as having received a copy of the RFP. | Monday, May 14, 2012 |
| 4. Proposals due. Send proposals, in the format described in this solicitation, by email, to Mike King, Serco RFP Coordinator, at SFparkManager2@serco-na.com . | 5:00 pm, Monday, May 21, 2012 |
| 5. Contract Negotiations/Execution | May 28 – June 29, 2012 |
| 6. Purchase Order/Notice to Proceed issued | Monday, July 2, 2012 |

Section III: Submission Requirements

A. Pre-bid Questions

Bidders may submit written requests for clarification at any time after RFP issuance, prior to the deadline indicated in the Schedule of Activities for Responding to RFP (Section II, Paragraph B). Questions about the RFP content, specifications, and process should be sent to SFparkManager2@serco-na.com. Questions received by the deadline and their corresponding answers will be aggregated and distributed to all parties on the bidders' list by the date noted in the Schedule of Activities for Responding to RFP.

All information regarding the RFP will be disseminated by email. If your company did not receive direct notification of this RFP, please send a request to SFparkManager2@serco-na.com to be added to the bidders' list.

No pre-bid conference will be held for this procurement.

B. Proposer Requirements

The bidder's proposed key facilitator(s) must have:

- At least four years of experience as a professional facilitator
- Expertise or familiarity with urban planning and transportation issues
- Expertise or familiarity with issues surrounding access for the disabled
- Past success guiding groups of people with disparate opinions to reach consensus on controversial topics

C. Submitting Proposals

Proposals must be received prior to the deadline indicated in the Schedule of Activities for Responding to RFP (Section II, Paragraph B), and will only be received by email at the address below. Serco will not be responsible for any proposals that are not successfully delivered to Serco's email system. Proposals may be emailed to:

Mike King

SFparkManager2@serco-na.com

Bidders shall submit one (1) electronic copy in PDF Format (not to exceed 6 MB in total size), plus the Cost Sheet in Excel (see paragraph C.6, below), and the signed contract, ready for execution. Proposals that are submitted by fax, delivered to any other location, or are received after the deadline will not be considered.

D. Format

Firms interested in responding to this RFP shall submit the following information in the order specified below. Proposals must conform to the specified outline, including headings, sections and paragraphs. Bidders shall use Arial font, 12 point size, on letter size (8.5 x 11 inch) paper. Bidders may further subdivide specific paragraphs or add relevant sections at the end. However the proposal must be clearly organized per the outline in the following sections so the evaluating committee may easily locate responses to specific items. Note: in each section description below, a maximum number of pages is specified. However, Bidders are encouraged to keep their answers as brief as possible.

1. Introduction and Executive Summary (1 page)

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

This letter should include the Bidder's:

1. Full corporate name, address, and telephone number of a contact person.
2. Brief description of your firm, as well as how any joint venture or association would be structured
3. If joint consultants or subconsultants are proposed, provide the above information relative to the specific role each will play on your project team.

Submission of a proposal signifies that the quoted services and prices are valid for 180 calendar days from the proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

If the RFP requires amendment, this will be done in writing and distributed to all companies registered as bidders. If you are unsure whether your company, joint venture, or association is on the bidders' list, please send a request to SFparkManager2@serco-na.com. Proposals must acknowledge receipt of all amendments in the Executive Summary. See Section II B: Schedule of Activities for Responding to RFP.

2. Functional Proposal (up to 3 pages)

Bidders should address the following points in their proposals:

1. Statement of why Consultant is best-qualified for completing this scope of work (including optional tasks), highlighting previous experience with similar scopes of work and expertise in these areas.
2. Biographies of the staff that will work on this project.
3. List of three references with phone number for most relevant previous projects.
4. A sample report from one of three referenced projects.

Additionally, in this section, Bidders may provide brief additional information that may help Serco differentiate Bidders' offerings regarding services, approaches, and activities to be provided. Bidders are encouraged to provide a list of options and/or recommendations that are not captured in this RFP. Any option provided should address the service value and focus on delivering the greatest revenue return for the lowest total operating cost.

3. Exceptions

Proposals shall contain a section with detail about all exceptions to any RFP requirements. Vendors are encouraged to include explanations of alternatives or workarounds to bring their solutions into compliance with the requirements.

4. Acknowledgements (1 page)

Bidder must acknowledge, in the form of a short letter, the following:

1. Bidder will supply the information required in Appendix A
2. Bidder will approve and execute the contract in Appendix B without changes
3. Bidder has received each of the addenda, if any, issued before the proposal deadline. Bidder must acknowledge each addendum.
4. Bidders must also acknowledge that SMFTA shall be the exclusive rights owner of all plans, meeting minutes, reports, written and illustrative materials, test results, financial reports, and all other tangible efforts produced and provided as a result this RFP (whether direct or derived/calculated).

5. Cost Proposal (up to 2 pages)

Serco intends to award a contract to the firm(s) that it considers offers the best compliance with the requirements at an acceptable cost. It reserves the right to accept other than the lowest priced offer and to reject any proposals that do not respond to all points in this request.

Bidders should provide a complete cost proposal services for this pilot. The cost proposal should be itemized, and should account for personnel (by name), services, supplies, etc. Should Serco enter into contract execution with a bidder, no additions to the cost proposal will be permitted.

Payment of monthly costs, if any, will be paid only in arrears. Bidder will issue a maximum of one invoice per month during the life of the contract.

To allow evaluators to compare Bidders' pricing, Bidders shall complete the separate Accessibility Parking Facilitator RFP Cost Sheet (Excel document). Proposers are discouraged from modifying the format of the spreadsheet (other than inserting additional rows if needed); explanations and clarifications should be placed in the Cost Proposal section of the main proposal document.

Section IV: Proposal Evaluation and Vendor Selection

A. Mandatory Requirements

All proposals will be reviewed by Serco to determine if they contain the minimum essential requirements outlined in the RFP, including instructions governing submission format and compliance with SFpark requirements. Those proposals deemed non-responsive may be disqualified without further evaluation and the Bidder will be informed.

B. Clarifying Proposal During Evaluation Period

During the evaluation process, Serco has the right to require any clarification or change it needs in order to understand the Bidder's view and approach to the project and scope of the work. Any changes to the proposal will be made before executing the contract and will become part of the successful Bidder's contract.

C. Bidder Selection

Serco will evaluate all responsive proposals against the RFP requirements. Proposals will be evaluated by these criteria:

- Conformity with the requirements
- Company capability
- Thoroughness, completeness, and appropriateness of response
- Overall quality of proposed solutions relative to service objectives
- Proposed cost

Serco may choose to invite specific Bidders to make presentations before it makes the final selection(s). Bidders who are invited to make presentations will be provided with a list of questions and topics to cover in their presentations.

Section V: Contract Award

Serco will select one or more Bidders with whom designated staff shall commence execution of the contract in Appendix B.

All contract(s) resulting from this RFP shall be between Serco and the successful Bidder(s), and will be subcontracts under Serco. All subcontracts entered into between Serco and any and all Bidder(s) will contain and be subject to certain mandatory flow-down provisions required by the City of San Francisco as determined by Serco in its sole and absolute discretion, including, without limitation, any or all of the items attached hereto that will serve as appendices or as exhibits to any subcontract.

The proposal and all responses provided by the successful Respondent may become a part of the final contract.

Failure on the part of the Bidder to whom a contract is awarded to execute the contract and deliver the contract and required documents including the required documentation and insurance certificates within twenty (20) calendar days may be just cause for cancellation of the award and withdrawal of the contract. Awards may be made to other Bidders, or the RFP may be re-advertised, at Serco's discretion.

The initial service period under any contract will be one hundred eighty (180) days.

A. Financial Responsibility

Neither the SFMTA nor Serco accept any financial responsibility for any costs incurred by a Bidder in responding to this RFP. Proposals submitted in response to this RFP will become the property of Serco and may be used by it in any way deemed appropriate.

B. Reservation of Rights by Serco

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

- Waive or correct any defect or informality in any response, proposal, or proposal procedure;
- Reissue a Request for Proposals;
- Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
- Procure any services specified in this RFP by any other means;
- Award contracts to more than one Bidder responding to this RFP;

- Determine that no project will be pursued;
- Transfer the contract from Serco to the SFMTA or any other third party;
- Negotiate contracts with more than one Bidder simultaneously;
- During contract negotiations with a selected Bidder, if there is an unresolved conflict, Serco can begin contract negotiations with the next highest ranked bidder;
- Require Bidder change the staff working on this contract at any time for any reason; or
- Reject any response from any Bidder for any reason at any time.

Appendix A: Attestation of Compliance

To be completed by all Bidding Firms and All Individual Subcontractors

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

Name of RFP:

Name of Individual Completing this Form:

The Form is submitted on behalf of Firm (insert firm name):

1. I attest that I and all members of the firm listed above will and have complied to date with Section I, *General Information*, Part B. *Blackout Period*, of the above RFP.

☐ **Yes**

2. I understand that if my firm or any members of the firm are found to be in violation of Section I, *General Information*, Part B. *Blackout Period*, of the above-referenced RFP, my firm and any proposal in which my firm is named will be disqualified from further consideration for this contract.

☐ **Yes**

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

Signature: _____

Date _____

Appendix B: Contract

The contract begins on next page. Bidders are required to include a signed copy of the contract with their proposals.

THIS MASTER SERVICES AGREEMENT NO. _____ [Number] (the "Agreement") is made and entered into this 25th day of June, 2012 ("Effective Date") by and between **Serco Inc.**, a New Jersey corporation with offices located at 2200 Jerrold Street, Unit M, San Francisco, CA 94124 ("Serco"), and _____ [Vendor], a corporation with offices located at _____ [Address] ("Supplier"). This Agreement governs the Service described in each Purchase Order entered into or issued hereunder.

NOW THEREFORE, in consideration of the mutual promises and advantages to the parties, the parties agree as follows:

SECTION. 1 DEFINITIONS.

The following terms, as used herein or in exhibits or attachments hereto, shall have the meanings indicated:

- 1.1 "Affiliate." An entity, which directly or indirectly controls, or is controlled by, or is under common control with a party. "Control" means (i) for corporate entities, direct or indirect ownership of twenty percent (20%) or more of the stock or shares entitled to vote for the election of the board of directors or other governing body of the entity; and (ii) for non-corporate entities, direct or indirect ownership of twenty percent (20%) or greater of the equity interest.
- 1.2 "Confidential Information." Any and all business, technical or third-party information (including but not limited to marketing plans, financial data, specifications, drawings, sketches, models, samples, computer programs, or documentation) of Serco Inc. that is disclosed, provided or otherwise made available to Supplier.
- 1.3 "Customer." The City and County of San Francisco, or any agency or instrumentality of the City and County of San Francisco identified in the applicable Purchase Order as Serco's end customer for the Service or the entity for which Serco has a contract to provide goods or services.
- 1.4 "Fixed Price Basis." A reference to that Service, usually consisting of a defined task(s) and/or deliverable(s), for which Supplier, in exchange for its successful completion, delivery and acceptance thereof, is to be paid a firm, fixed amount, inclusive of all travel and expenses related in any way thereto, even if the actual amount of time, effort, or travel and expenses expended by Supplier differs from the estimate that served as the basis for establishing the fixed amount.
- 1.5 "Goods." Material, equipment, supplies, products, printing, and data processing hardware and software. This definition shall include any deliverables identified or resulting from the Work for a specific Statement of Work as well as any documentation, manuals, or other written materials that relate to such deliverables.
- 1.6 "Labor Rate Basis." A reference to that Service, usually described as providing expertise and/or assistance for a particular effort, for which Supplier, in exchange for its good faith and professional efforts, is to be paid (subject to any minimum or maximum established in the Purchase Order) an amount based on the actual number of hours of labor (or other specified unit of measure) multiplied by a rate of payment per hour (or other specified unit of measure).
- 1.7 "Purchase Order." Each document identified as such and executed by Supplier and Serco Inc. for the provision of Service, which shall incorporate the terms and conditions of this Agreement and contains such the description, pricing and other specific terms and conditions applicable to the Service for a specific project.
- 1.8 "Parking Meters" Electromechanical devices affixed to pavement or other infrastructure that collect fees and display the amount of time left for use of a parking space.
- 1.9 "Services." Any labor effort required to be provided by a Purchase Order or actually performed pursuant to a Purchase Order requirement wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and Goods.

- 1.10 "Statement of Work." Each document identified as such and executed by Supplier and Serco Inc. for the provision of Work, which shall incorporate the terms and conditions of this Agreement and contains such the description, pricing and other specific terms and conditions applicable to the Work for a specific project.
- 1.11 "Subcontractor." Whether capitalized or not herein, any subcontractor, vendor, material man, or supplier, in each case of any tier, that has a contract, license, or agreement with Supplier to supply equipment, material, services, supervision, consultation, or labor in connection with the performance of the Service.
- 1.12 "Technical Representative." The individual, if any, identified as such for each party in a Purchase Order that serves as the primary technical point of contact with regard to the Service to be complete for such Purchase Order. Either party may replace its Technical Representative upon written notice to the other party.
- 1.13 "Service." Any sale of Goods or provision of services by Supplier to or for Serco Inc.

SECTION. 2 SCOPE OF SERVICE

- 2.1 General. This Agreement consists of these terms and conditions and each Purchase Order entered into hereunder. Any reference to this Agreement shall be a reference to this Agreement and/or any Purchase Order, as applicable. This Agreement will govern each party's rights and obligations relating to Supplier's performance of Services, provision of Goods, or other performance or delivery of Service. Serco Inc. Affiliates may purchase Services under the terms and conditions of this Agreement.
- 2.2 Purchase Order(s). This Agreement, by itself, does not implement any transaction. Each Purchase Order will be numbered. Each Purchase Order executed pursuant hereto, together with the terms and conditions of this Agreement and the exhibits, if any, to the Purchase Order will define the scope of Service for a particular project, performance of Services, provision of Goods, or other Service under this Agreement. Nothing in this Agreement shall require either party to enter into any particular Purchase Order. Either party may, in its sole discretion, elect not to enter into any Purchase Order.
- 2.3 Specifications. Supplier will provide the Service and any required Goods or Services according to the specifications, schedules, and other items set forth in the Purchase Order ("Specifications") and in accordance with this Agreement. Additional written and detailed technical specifications for the Service may be referenced in or attached to each Purchase Order as attachments, and, when referenced or attached, shall be deemed to be incorporated within such Purchase Order reference. Specifications may also be subsequently developed or amended by written agreement of the parties' designated contract representatives. Supplier shall make such anticipatory preparation or arrangements, at its own expense, as are necessary to perform the Services, procure and deliver the Goods, or otherwise provide the Service to Serco in accordance with the applicable Purchase Order.
- 2.4 Highest Professional Standards. Supplier is expected to provide services for each Purchase Order using only the highest professional standards, while maintaining full compliance with the specifications and any procedures of Serco Inc. and its customer.
- 2.5 Change Control. During the course of a Purchase Order effort, Serco Inc. may desire a change in the scope of the effort. Serco Inc. will make requests for changes in writing and will deliver same to Supplier. Supplier shall handle changes strictly in accordance with the "Changes" Section of this Agreement.
- 2.6 Acceptance. Acceptance will occur when all portions of the Service under a Purchase Order meet the agreed upon tests or the acceptance criteria herein or in the applicable Purchase Order. If the Service does not meet such acceptance criteria when delivered by Supplier, Serco Inc. may give Supplier notification of the deficiency or non-conformance. Supplier then shall, within five (5) days of receipt of such written notification, either correct the deficiency or non-conformance or provide

Serco Inc. with a plan acceptable to Serco Inc. for correcting the deficiency or non-conformance. If the deficiency or nonconformance is not corrected or if an acceptable plan for correcting such deficiency is not established during such period, then, upon request by Serco Inc., Supplier shall refund to Serco Inc. all fees paid by Serco Inc. relating to such Purchase Order. This refund shall not relieve Supplier of any other remedies available to Serco Inc. by virtue of Supplier's breach.

- 2.7 Service Levels. Service provided by Supplier to Serco Inc. shall be performed in accordance with all applicable service levels as set forth in a Purchase Order ("Service Levels") for the term of such Purchase Order and any warranty period applicable thereto. As part of its provision of services to Serco Inc., Supplier shall provide a methodology for continuous improvement that commits to a regular improvement in the Service Levels throughout the period of Supplier's performance. Without limitation on the foregoing sentence, Supplier shall at a minimum, improve the Service Levels for services performed for Serco Inc. under this Agreement on an annual basis to reflect the higher of (i) the same level as the Service Level for the previous year or (ii) a level equal to the actual service levels attained by Supplier during the previous year.
- 2.8 Order of Precedence. In the event of any conflict between this Agreement and a Purchase Order, the terms of the Purchase Order shall control, but only with respect to that particular Purchase Order.
- 2.9 City is Third Party Beneficiary. The City and County of San Francisco is a third party beneficiary of the Agreement and Project Work Orders issued under it.

SECTION. 3 PROSECUTION OF THE SERVICE

- 3.1 Serco Inc. reserves the right to utilize its own resources and/or to source jobs to other suppliers.
- 3.2 In the event more that Serco Inc. or other entities are working on a job, Supplier shall cooperate with Serco Inc.'s representatives or other suppliers to assure an orderly, coordinated approach to job completion.
- 3.3 Supplier shall do the Service in a workmanlike manner using only qualified, careful and efficient workers and in strict conformity with this Agreement and the Purchase Order (including written Change Orders). Supplier shall provide, at Supplier's expense, all supervision, labor, materials not furnished by Serco Inc., equipment, tools, consumables, temporary services and facilities, transportation, storage, and all other facilities and services necessary or appropriate for the satisfactory performance of the Service.
- 3.4 Supplier shall perform the Service, and separable parts thereof, in accordance with the schedule set forth in the accepted Purchase Order.
- 3.5 Supplier shall be responsible for periodic reporting of the progress status of the Service and issues related thereto.
- 3.6 If Supplier is in jeopardy of missing a scheduled completion or delivery date for reasons other than an Excusable Delay, Supplier shall notify Serco Inc. in writing and Supplier shall take such steps as mutually agreed to by the parties which may be necessary to improve its progress. Serco Inc. may, at its discretion, require certain actions to demonstrate how the schedule will be regained, all without additional cost to Serco Inc.
- 3.7 Supplier shall immediately notify Serco Inc. of any Excusable Delay that may affect the schedule within five (5) business days of occurrence.
- 3.8 Failure of Supplier to comply with the requirements of this Section shall be grounds for determination by Serco Inc. that Supplier is not prosecuting the Service with such diligence as will ensure its completion within the time specified. Upon such determination, Serco Inc. may terminate Supplier's right to proceed with the Service, or any separable part thereof, in accordance with these terms and conditions.

SECTION. 4 PERSONNEL

- 4.1 Subcontracting and Supplier's Employees. Supplier is responsible for staffing necessary to provide the Service identified in Purchase Orders. Supplier may subcontract the performance of specific Services or provision of specific Goods hereunder only with Serco Inc. prior written consent. Personnel used or supplied by Supplier in the performance of the Service hereunder shall be employees or agents of Supplier and under no circumstances are such personnel to be considered employees or agents of Serco Inc.
- 4.2 Qualifications and Replacement. Serco Inc. shall also have the right to designate that any personnel be removed and replaced immediately upon request. Supplier will replace personnel upon termination of any such personnel or removal at the request of Serco Inc. Supplier agrees to maintain a consistently high skill level among all replacement personnel, whether the replacement was instigated by Serco Inc. or Supplier.
- 4.3 Technical Representatives. All transfer of deliverables and communications regarding the scope of work under such Statement of Work will be accomplished through the Technical Representatives. Any contractual changes to this Agreement or to the Statement of Work(s) are only as authorized in written amendments or modifications executed by the designated contract representative. Supplier will submit all of its invoices for a particular Statement of Work through the Technical Representative for such Statement of Work. Either party may change the person designated to be its Technical Representative for any Statement of Work at any time upon written notice to the other party.
- 4.4 Hiring/Non-Solicitation. During the term of this Agreement and for a period of one (1) year following the termination or expiration of this Agreement, Supplier agrees not to hire any employee of Serco Inc. or its Affiliates without the prior written permission of Serco Inc. Vice President of Human Resources. This provision shall apply to the former employees of Serco Inc. or its Affiliates for a period of six (6) months following the termination of employment of such individual. This restriction shall not apply to the solicitation or recruitment by Supplier generally in the media, and shall not prohibit Supplier either Party from hiring, without prior written consent, employees of Serco Inc. who answer any advertisement or who otherwise voluntarily applies for hire without having been personally solicited or recruited by Supplier or its representatives. Supplier's breach of this provision shall entitle Serco Inc. to immediately terminate this Agreement and/or any related Purchase Order and pursue such other legal or equitable remedies available to Serco Inc.

SECTION. 5 FEES, INVOICES, PAYMENT

- 5.1 Fees/Compensation. Supplier will be compensated for Service performed by it in the manner set forth in the applicable Purchase Order and the terms and conditions of this Agreement. The amounts identified in the applicable Purchase Order are the sole and exclusive compensation due Supplier by Serco Inc. with regard to the Purchase Order and Serco Inc. shall have no further liability beyond the lesser of (i) amounts due for Services, Goods, and Service rendered and accepted thereunder or (ii) the maximum amount set forth in the applicable Purchase Order.
- 5.2 Invoices/Payment. For all services to be performed for a Fixed Price Basis, Supplier shall invoice Serco Inc. for Service performed according to the methodology specified in the applicable Purchase Order. For Labor Rate Basis, Supplier shall submit detailed monthly invoices for Service performed. Supplier shall invoice Serco Inc. no more frequently than monthly. All invoices shall include receipts and supporting data for authorized expenses. No invoice shall exceed the amount set forth in the Purchase Order and Service approved and accepted by Serco Inc. Serco Inc. shall be entitled to return incomplete invoices and to return or correct invoices containing

errors. Serco Inc. shall pay supplier any and all undisputed portions of any invoice no later than three (3) working days from the date Serco receives payment from the Customer of any or all undisputed amounts relating to such invoice. Payment shall not constitute acceptance or approval by Serco Inc.

- 5.3 Invoicing. Invoices shall be sent to Serco only in electronic format to the following email address: sfpark@serco-na.com. All invoices shall include the following data items to the extent such data items applicable to Serco have been provided to Supplier:

| | |
|----------------------------|---|
| Invoice Date | Period of Performance |
| Purchase Order Line Number | Serco Project Number |
| Extended Cost Amount | Serco Point of Contact |
| Invoice Number | Serco Point of Contact Phone Number |
| Purchase Order Number | General Description of Services Performed |
| Total Amount Due | |

- 5.4 Expenses. Except as agreed in the applicable Purchase Order, Supplier shall not seek reimbursement from Serco Inc. for expenses or costs incurred in performing Services, delivering Goods, or otherwise performing Service. For all travel related expenses, other than those covered by a Fixed Price Basis in the applicable Purchase Order, Supplier shall:

- 5.4.1 obtain the prior written approval of Serco Inc. before incurring any travel expenses; and
- 5.4.2 submit to Serco Inc. a report for approved travel within thirty (30) calendar days after completion of the trip, or ii) with Supplier's next periodic invoice to Serco Inc. for related items or services, whichever occurs first, and provide a pre-printed receipt, with appropriate descriptive information, for all expenditures; and
- 5.4.3 be reimbursed for approved travel, subject to any limitations in the approval or approval request; only in accordance with the expense reimbursement policies in the Department of Personnel Administration website for travel/reimbursements policies for the State of California: <http://www.dpa.ca.gov/personnel-policies/travel/main.htm>.

- 5.5 Taxes. Except otherwise expressly included in the applicable Purchase Order, Supplier shall be solely responsible for the payment of any taxes, levies, tariffs or other amounts related to the performance of Services, provision of Goods, or other Service provided by Supplier.

- 5.6 Lien Waivers. Serco Inc. reserves the right, before making any payments, or at any time during the progress of the Service, to request Supplier to furnish evidence in a form satisfactory to Serco Inc., that all claims, liens and causes of action, if any, for the payment of wages or salaries or the payment of charges for labor, materials, tools, machinery, or supplies have been satisfied, released or settled, and in case such evidence is not furnished, the amount of such claims, liens, and causes of action may be retained from any moneys otherwise due Supplier hereunder until such lien waivers have been furnished.

- 5.7 Billing Disputes. Billing disputes shall not be cause for non-performance under this Agreement. Without limitation on the foregoing sentence, the non-payment by Serco Inc. of any amount invoiced by Supplier shall not be considered as a breach by Serco Inc. of this Agreement or any related Purchase Order to the extent that: (i) Serco Inc. disputes any such amount in good faith, and (ii) Serco Inc. and Supplier act diligently to resolve such dispute in accordance with this Agreement. Supplier and Serco Inc. agree to Service together to resolve all disputes within thirty (30) days of Supplier submitting the invoice to Serco Inc. for payment.

- 5.8 Overpayment. Supplier will return overpayments to Serco Inc. within fifteen (15) days of receipt.

SECTION. 6 CONFIDENTIALITY

Confidentiality Obligations. Supplier shall restrict access to the Confidential Information to its employees or agents who have a "need to know." Supplier, for itself and its employees, agents and representatives, warrants that it shall not disclose Confidential Information to any third party and shall treat the Confidential Information in the same way it treats its own Confidential Information of like kind, but in no event less than with a reasonable degree of care. This provision will not apply to information that is now or later comes into the public domain without the fault of Supplier; is known by Supplier prior to the Effective Date; is independently developed by Supplier, as demonstrated by written documents; or is obtained by Supplier from a third party that does not have an obligation to keep the information confidential. Supplier will not make any copies of the Confidential Information nor will it remove any property from Serco Inc.'s premises without prior approval. The confidentiality obligations, with respect to general disclosures under this Agreement, shall survive for a period of three (3) years from earlier of the expiration or termination of this Agreement. The confidentiality obligations, with respect to disclosures under a Purchase Order, shall survive for the earlier of termination or expiration of each Purchase Order issued hereunder, unless a longer period of survival is set forth in such Purchase Order.

SECTION. 7 WARRANTIES

Supplier represents, warrants, and covenants that

- 7.1 Neither Supplier or its permitted subcontractors, nor any of their respective employees, agents, or representatives, by entering into this Agreement, using information or materials, and performing the Service hereunder, has or will violate any consulting, employment, non-competition, proprietary information, confidentiality or other agreement, arrangement, understanding, or restriction between such party and a present or former employer, principal, client or other individual or entity.
- 7.2 Reserved
- 7.3 Reserved
- 7.4 No Service will infringe any copyright, trade secret, patent or other proprietary right of a third party. Supplier is the sole owner of, or otherwise has obtained all rights to grant the license granted hereunder to, any of the previously developed items, as defined by Section 8.2 hereof, to Serco Inc. Supplier will not misappropriate trade secret or rights of third parties in performing Service. Service will not contain any false or libelous statements or unlawful material, or otherwise constitute unlawful invasion of the privacy of any person.
- 7.5 No Service will contain any feature that prevents use, including without limitation, any computer virus, worm, lock, drop-dead device, Trojan-horse routine, trap door, time bomb, or any other code or instruction that may be used to access, modify, delete, damage, or disable the functioning of the Goods or any of systems of Serco Inc. or its customers.
- 7.6 No officer, employee or agent of Serco Inc. has been or will be employed, retained, paid a fee or otherwise receive personal compensation or consideration from Supplier, its affiliates, or theirs officers, employees, agents, or immediate family members in connection with obtaining, arranging or negotiating this Agreement or any Purchase Order.
- 7.7 No collusive arrangements have been made with other suppliers or persons bearing in any way upon this Agreement, Purchase Order or any Service hereunder.

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, SERCO INC. DOES NOT MAKE ANY WARRANTIES TO THE OTHER, EITHER EXPRESS OR IMPLIED, INCLUDING THE

IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

The provisions of this Section shall survive the termination or expiration of this Agreement for the period stated herein.

SECTION. 8 WORK PRODUCT

- 8.1 All materials (including but not limited to prototypes, drawings and documentation) and any ideas, designs, techniques, inventions, discoveries, improvements, information, creations, software, and any other items discovered, prepared or developed by or for Supplier in the course of or resulting from performance under this Agreement, or any Purchase Order hereto, (the "Work Product") shall be promptly disclosed and furnished to Serco Inc.. All right, title and interest in the Work Product shall vest in Serco Inc. and shall be deemed to be a work made for hire. To the extent it may not be considered a work made for hire, Supplier assigns to Serco Inc. all right, title and interest in the Work Product, including all copyrights, patents and applications therefore.
- 8.2 Supplier shall retain ownership of its previously developed items. If the Work Product includes previously developed items, Supplier hereby grants to Serco Inc. an unrestricted, royalty-free, perpetual, irrevocable (and assignable if a customer is identified in the Purchase Order) license to make, have made, use, market, import, distribute, copy, modify, prepare derivative works, perform, display, disclose and sublicense such Work Product.
- 8.3 Upon request, and without charge, Supplier agrees to reasonably assist Serco Inc. (including executing assignments and other papers) as may be required to protect, convey and enforce the rights of Serco Inc. in the Work Product.

SECTION. 9 INDEPENDENT CONTRACTOR

- 9.1 Supplier certifies that it is engaged in an independent business and will perform its obligations under this Agreement as an independent contractor and not as the agent or employee of Serco Inc.; that it has no authority to act for or bind Serco Inc.; that Supplier may and does Service for other customers; and that any persons provided by Supplier shall be solely the employees or agents of Supplier under its sole and exclusive direction and control.
- 9.2 Supplier is solely responsible for performing Service in accordance with the applicable Purchase Order.
- 9.3 Supplier shall have the sole responsibility for the conduct of its employees, representatives and agents, and for payment of their entire compensation, including salary and other forms of compensation, withholding of income and payment of taxes or like fees as required to comply with applicable federal, state and local laws, and payment or provision of worker's compensation, unemployment, disability insurance, and social security withholding. Supplier's personnel are not eligible to participate or to receive coverage under any Serco Inc. benefit plan, program, employment policy or procedure or workers' compensation insurance. Supplier shall be responsible for all employer obligations towards all of its employees and agents under all applicable laws. Supplier shall release and hold harmless Serco Inc. and its directors, officers, employees and representatives against any liability, expenses, and costs (including reasonable attorneys fees) relating, directly or indirectly, to Supplier's failure to comply with its obligation under this paragraph.

SECTION. 10 LIMITATION OF LIABILITY

SERCO INC. SHALL HAVE NO LIABILITY TO SUPPLIER, OR ITS EMPLOYEES, PERSONNEL, SUBCONTRACTORS, AGENTS OR REPRESENTATIVES, FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR PUNITIVE DAMAGES EVEN IF THEY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION. 11 INDEMNIFICATION

- 11.1 Supplier shall indemnify, hold harmless and defend, at Supplier's expense, Serco Inc. (including its officers, directors, employees and agents), its Affiliates and customers against any loss, cost, expense or liability (including but not limited to attorney fees and awarded damages) arising out of (i) a claim that the Service, or its use, infringes a patent, trade secret or other intellectual property right, (ii) based upon the breach of any term, condition, warranty, representation or covenant under this Agreement or any Purchase Order hereto, (iii) resulting from the negligence or willful or reckless acts or failures to act of Supplier or its employees, personnel, subcontractors, consultants, representatives or agents.
- 11.2 Supplier's obligation hereunder shall not extend to any combination of the Service with any other product, system or method when the latter is the sole, proximate cause of loss, cost, expense or liability to Serco Inc., unless (1) the product, system or method is provided by Supplier or Supplier's subsidiaries or affiliates; or (2) it would be reasonably expected to use the Service in combination with such product, system or method.
- 11.3 Serco Inc. will notify Supplier within a reasonable time after receiving notice of a claim. Provided that Supplier promptly and reasonably investigates and defends any such claim, Supplier shall have control over the defense and settlement thereof. Serco Inc. shall furnish, at Supplier's reasonable request and expense, information and assistance necessary for such defense. In the event of such a claim, and if (1) the Service is held to be infringing, (2) Supplier reasonably believes the Service will be held to infringe, or (3) where Serco Inc.'s use is restricted as a result of a claim of infringement, Supplier shall, at its expense, either obtain the right for Serco Inc. to continue using the Service or replace or modify it to be non-infringing and of equivalent functionality. If neither of the alternatives is reasonably possible, Supplier shall refund the amounts paid hereunder and reimburse Serco Inc. for all reasonable expenses for removal and replacement of the Service(s). In no event shall this provision substitute for Supplier's obligation to indemnify Serco Inc. as provided in Section 11 .1.

SECTION. 12 INSURANCE

- 12.1 Supplier, and Supplier's Subcontractors, shall purchase and maintain such insurance, at their expense, as will reasonably protect them from the claims set forth herein that may arise out of or result from Supplier's operations under this Agreement or a Purchase Order hereto, whether such operations be by the Supplier or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Notwithstanding Supplier's decision to maintain greater amounts, Supplier shall maintain the following minimum amounts and types of coverage:
 - 12.1.1 Commercial General Liability covering claims for bodily injury, death, personal injury or property damage with minimum limits of Five Million Dollars (\$5,000,000) for each occurrence with a General Aggregate limit of Five Million Dollars (\$5,000,000) and naming Serco as an additional insured as its interest may appear with respect to this Agreement.

- 12.1.2 Commercial Automobile Liability covering ownership, operation and maintenance of all owned, non-owned and hired automobiles used in connection with the performance of this Agreement, with minimum limits of One Million Dollars (\$1,000,000) each occurrence.
- 12.1.3 Worker's Compensation with statutory limits as required in the state where the Services are being provided and Employers' Liability or "Stop Gap" coverage with limits of One Million Dollars (\$1,000,000) each accident. Serco shall be given thirty (30) days advance written notification of any cancellation or material change of the policy.
- 12.2 Supplier shall forward certificate(s) of insurance to Serco prior to fulfillment of any Purchase Order hereunder and upon renewal of insurance during the term of this Agreement. If Supplier fails to provide proof of adequate insurance within ten (10) days of this Agreement execution, Serco may terminate the Agreement.
- 12.3 The above policies shall include the following coverage provisions: Serco and the City and County of San Francisco shall be named as additional Insureds; the insurers shall waive their rights of subrogation against Serco and the City and County of San Francisco; Supplier's policies shall be primary and non-contributory; and Serco shall be provided 30 days prior notice of cancellation, non-renewal or material alteration. Duplicate original versions of any and all notices under such policies shall be sent to the following addresses:
- Arian Collen
Program Manager
Serco Inc.
2200 Jerrold Street, Unit M
San Francisco, CA 94124
- Jay Primus
SFpark Manager
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
- 12.4 Reserved

SECTION. 13 COMPLIANCE WITH LAWS

- 13.1 Supplier shall, at its expense, obtain all permits and licenses, pay all fees, and comply with all federal, state and local laws, ordinances, rules, regulations and orders applicable to Supplier's performance under this Agreement, including, without limitation, concerning fair employment practices and nondiscrimination requirements, Occupational Safety and Health Act ("OSHA"), 29 U.S.C. §651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq.; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601 et seq.; the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. §1251 et seq.; the Clean Air Act ("CAA"), 42 U.S.C. §7401 et seq.; Hazardous Materials Transportation Act ("HMTA"), 49 U.S.C. Appx. 1801 et seq. all as amended and including their state counterparts, and further agrees to provide proof of same upon request by Serco.
- 13.2 Supplier acknowledges that any Services provided under this Agreement may be subject to applicable laws, regulations, rules, ordinances or orders, including without limitation the California Department of Transportation ("CALTRANS") and Federal Highway Administration ("FHWA") regulations as may then be in effect from time to time during the term of this agreement. For ease of reference, such CALTRANS and FHWA regulations may be found at

http://www.fhwa.dot.gov/cadiv/segb/views/document/Sections/Section8/8_3_2.htm and <http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm> or at such other web sites or through such other mediums as may be referenced from time to time by CALTRANS and FHWA, respectively.

- 13.3 Supplier shall comply strictly with Serco, and the federal, state, and local safety and health and performance rules governing the conduct of Supplier and Supplier's employees, agents, and subcontractors at and about the work site. Supplier agrees that it shall ensure that its supervisory personnel, employees, agents, and subcontractors at the work site comply strictly with such rules.
- 13.4 Supplier represents and warrants to Serco that, if required by law, it possesses a valid license to perform the Service in the state or states where the Service is to be performed and is registered in good standing with the appropriate board or commission therein. Supplier shall remain licensed and in good standing during the performance of the Service. Supplier shall bear all costs associated with said license and good standing.

SECTION. 14 TERM AND TERMINATION

- 14.1 Term. This Agreement shall be effective on the Effective Date and shall expire on June 30, 2012, unless otherwise terminated, canceled or extended per the terms specified in this Agreement by the parties. This Agreement may be extended upon written agreement of both parties.
- 14.2 Termination for Convenience.
- 14.2.1 Serco Inc. may terminate this Agreement or any Purchase Order, in whole or in part, for its convenience upon seven (7) days prior written notice.
- 14.2.2 Serco Inc. shall have the right at any time, without cause, to terminate further performance of a Purchase Order by providing Supplier prior written notice specifying the effective date of termination. In such event, Supplier shall wind down its Service on such Purchase Order in accordance with Serco Inc. instructions.
- 14.3 Termination for Cause. Serco Inc. may terminate this Agreement or any Purchase Order hereunder, immediately, in whole or in part, for default, breach, insolvency, bankruptcy, inability to pay debts, or similar financial circumstances by Supplier. If the default or breach is reasonably capable of cure, the non-defaulting party shall give the other party written notice and reasonable opportunity to cure. The provisions of the Articles on Warranties, Confidential Information, Work Product, Indemnification, Compliance with Laws and Dispute Resolution, shall survive the termination or cancellation of this Agreement.
- 14.4 Consequences of Expiration and/or Termination. In the event that Serco Inc. terminates an effort according to this Section, Supplier shall be entitled to fair compensation for Service done on a Labor Rate Basis based upon hours expended through the effective date of Termination or, for Service performed on a Fixed Price Basis at a price to be negotiated in good faith by the parties, but in no event to exceed either the fixed price specified in Purchase Order or a price determined by Supplier's then-current rates for Labor Rate Basis Service, whichever is lower. Supplier may not terminate any Purchase Order effort hereunder without Serco Inc.'s prior written consent. In the event of such termination, Serco Inc. may take possession of the Service (whether delivered to the job site or on order therefore by Supplier at job site) and finish the Service by whatever method Serco Inc. deems expedient and commercially reasonable. In the event of termination by Serco Inc. based upon a default by Supplier, Supplier shall continue to be fully liable for all damages suffered by Serco Inc. that are permitted under this Agreement or by law to

the extent such damages are caused by Supplier's performance of Service for such Purchase Order. A waiver by Serco Inc. of one default by Supplier shall not be considered to be a waiver of any subsequent default by Supplier, nor be deemed to amend or modify the terms of this Agreement.

SECTION. 15 DEFAULT BY SUPPLIER

- 15.1 Serco Inc. may terminate this Agreement, or any Purchase Order, in the whole or in part for default, if Supplier fails to perform any of its obligations or so fails to make progress as to endanger performance of this Agreement, or any Purchase Order, in strict accordance with the terms and conditions contained therein and, in either or both of these circumstances: Supplier does not cure such failure within the time provided upon written notice by Serco Inc. as provided in the notice of default, or such other time as the parties may mutually agree to. Failure to perform includes, but is not limited to any of the following occurrences:
- 15.1.1 Failure or refusal to perform Service described in a Purchase Order, in a safe and efficient manner.
 - 15.1.2 Failure to meet identified completion or delivery dates.
 - 15.1.3 Imperilment of life or property in carrying on the Service.
 - 15.1.4 Failure to comply with or violation of any term or condition of the Agreement or a Purchase Order.
 - 15.1.5 Failure to perform Service to the specifications provided by Serco Inc. in Purchase Order(s).
 - 15.1.6 Failure or refusal to return Serco Inc. provided materials.
 - 15.1.7 Failure by Supplier to make prompt payment to subcontractors or vendors.
 - 15.1.8 If Supplier becomes insolvent or is placed in bankruptcy, either voluntarily or involuntarily.
 - 15.1.9 Intentionally failing to submit accurate invoices.
- 15.2 Except at the discretion of Serco Inc., Supplier shall not have the opportunity to cure the same type of default more than once during the term of this Agreement.
- 15.3 Upon providing notice of termination based upon default or cause to Supplier, Serco Inc. shall be entitled to suspend Serco Inc. performance of its obligations, including payment of all sums due and owing under the Agreement until Supplier fully cures and remedies the default to the satisfaction of Serco Inc.

SECTION. 16 SUSPENSION OF SERVICE

Serco Inc. may at any time, and from time to time, by written notice to Supplier suspend further performance of all or any portion of the Service by Supplier. Said notice of suspension shall specify the day of suspension and the estimated duration of the suspension. Upon receiving any such notice of suspension, Supplier shall promptly suspend further performance of the Service to the extent specified, and during the period of such suspension shall properly care for and protect all Service in progress and materials, supplies, and equipment Supplier has on hand for performance of the Service, at Serco Inc. sole cost and expense. Serco Inc. may at any time withdraw the suspension of performance of the Service as to all or part of the suspended Service by written notice to Supplier specifying the effective date and scope of withdrawal, and Supplier shall resume diligent performance of the Service for which the suspension is withdrawn on a date mutually agreed upon by the parties in writing. If Supplier believes that any such suspension or withdrawal of suspension justifies modification of the Agreement price or time of completion, Supplier shall comply with the provisions of the procedure set forth in the CHANGES section hereof. In no event shall Supplier be entitled to any prospective profits or any damages because of such suspensions or withdrawals of suspension.

SECTION. 17 CHANGES

- 17.1 This Agreement may be subject to changes by additions, deletions, or revisions to the Purchase Order by Serco Inc. Supplier will be notified of such changes by Serco Inc. by receipt of additional and/or revised specifications, requirements, exhibits, or written orders.
- 17.2 Supplier shall submit to Serco Inc. within five (5) business days after occurrence of a change or receipt of a change request from Serco Inc., a proposal comprised of a detailed estimate with supporting calculations and pricing for the change together with any adjustments in the schedule required for the performance of Service as changed. Requests for time extensions shall be accompanied with an amended schedule, if adversely impacted. Pricing of changes shall be in accordance with the prices outlined in the quote, if applicable, and shall clearly define any increase, decrease, or no change in compensation and performance period under this Agreement.
- 17.3 Supplier shall not perform changes in the Service until Serco Inc. has approved in writing, through the issuance of a Purchase Order modification or change order, the pricing for the change and any adjustment in Supplier's Schedule for performance of the Service. Upon receiving such written approval from Serco Inc., Supplier shall diligently perform the change in strict accordance with this Agreement. Serco Inc. will process Change Orders within a reasonable period of time.
- 17.4 Supplier shall not comply with oral changes in the Service received from Serco Inc. unless Supplier deems that such changes will not affect the cost, Supplier's Schedule, or integrity of the Service. If Supplier believes that any oral change in the Service may involve a change in the cost, time to perform, or integrity of the Service, Supplier shall require that the change be given in writing and shall comply with the provisions set forth in this section. Any and all costs incurred by Supplier to perform oral changes shall be for Supplier's account and Supplier shall not be entitled to claim any additional time to perform the Service. Supplier hereby waives any and all rights to claim from Serco Inc. such costs or additional time to perform the Service as a result of compliance by Supplier with such oral changes.
- 17.5 No one other than Serco Inc. contract representative shall be entitled to issue Change Orders. In no event shall Supplier be entitled to compensation for its costs in executing Change Orders given to Supplier by anyone not authorized in writing by Serco Inc. Agreement Administrator.

SECTION. 18 CLAIMS

- 18.1 Subject to the provisions of the "Changes" Section of this Agreement, Supplier shall give Serco Inc. contract representative written notice within five (5) business days after the happening of any event which Supplier believes may give rise to claim by Supplier for an increase in the price or the period of performance.
- 18.2 Within ten (10) business days after the happening of such event, Supplier shall supply Serco Inc. contract representative with a statement supporting Supplier's claim, which statement shall include Supplier's detailed estimate of any change in price and period of performance occasioned thereby. If requested by Serco Inc. in writing Supplier shall substantiate its claim with payroll documents, paid invoices, receipts, records of performance, and other documents reasonably satisfactory to the Serco Inc. contract representative and subject to Serco Inc. verification. Serco Inc. shall not be liable for, and Supplier hereby waives, any claim or potential claim of Supplier of which Supplier knew or should have known and which was not reported by Supplier in accordance with the provisions of this Section. Supplier agrees to continue performance of the Service during the time any claim of Supplier hereunder is pending. Serco Inc. shall not be bound to any adjustments in the price or Supplier's Scheduled time for Supplier's claim unless expressly agreed to by Serco Inc. in writing. No claim hereunder by Supplier

shall be allowed if asserted after final payment under this Agreement or if submitted outside the time required by this Agreement or the applicable Purchase Order.

SECTION. 19 RESERVED

SECTION. 20 RISK OF LOSS

At the job site, Supplier shall take prudent measures to protect all material and equipment. While performing Service under this Agreement. Supplier shall at all times, in accordance with standard, industry practices, preserve and protect all materials and equipment (whether furnished by Supplier or Serco Inc.) used by Supplier in the execution of the Service from damage or loss due to Supplier's and/or its subcontractor's negligence or intentional acts. Supplier shall at all times, in accordance with standard, industry practices, protect from damage due to Supplier's and its subcontractors' operations, equipment and materials (whether stored or installed), structures and any and all other items on job site belonging to Serco Inc., its lessors, or others.

SECTION. 21 LICENSES, BONDS AND DAMAGES

- 21.1 Supplier Obtained Permits. Supplier may be required to obtain work permits as required by municipal, state or federal agencies to authorize Supplier to perform Service. Supplier shall pay all expenses related to such permits. Supplier shall provide a copy of same to Serco Inc. upon its request.
- 21.2 Supplier Obtained Licenses and Bonds. Supplier shall be responsible for obtaining any other licenses, bonds or other necessary legal authority or permission to perform Service for Serco Inc. Supplier shall pay all expenses related to such licenses and bonds and agrees to provide copies of same as requested by Serco Inc.

SECTION. 22 ADVERTISING, AND PUBLICITY

Neither party shall use the other party's names, marks, codes, drawings or specifications in any advertising, promotional efforts or publicity of any kind without the prior written permission of the other party.

SECTION. 23 INCORPORATED PROVISIONS

In addition to any and all other clauses setting forth Supplier's obligation to comply with any and all applicable laws and regulations arising out of or relating to Supplier's performance under this Agreement, the following City and County of San Francisco, state and federal laws, ordinances, rules, regulations, and orders (as each may be amended or replaced from time to time) are attached hereto as Appendices A through G, inclusive, and Exhibit "A" and are hereby incorporated herein by this reference for all purposes.

SECTION. 24 SUBCONTRACTING AND ASSIGNMENT

- 24.1 Supplier, as soon as practicable after commencement of the Service, shall furnish in writing to Serco Inc. contract representative the names of Subcontractors proposed for each principle portion of the Service. Serco Inc. will promptly reply to Supplier in writing stating whether or not Serco Inc. has reasonable objection to any such proposed person or entity. Failure of Serco Inc. to reply within ten (10) business days of its receipt of such names of persons or entities shall constitute notice of no reasonable objection.
- 24.2 Serco Inc. reserves the right to investigate the qualifications and responsibility of proposed or actual Subcontractors, and to prohibit same from performing Service where such investigation, in the sole judgment of Serco Inc., reveals that such Subcontractors are unqualified or not responsible. Criteria for such determination

may include, the Subcontractor's financial condition, its experience, the character and number of its employees, the condition of its equipment, and its past performance of similar Service for Serco Inc. Supplier shall not contract for the Service with any proposed person or entity to which Serco Inc. has made reasonable and timely objection.

- 24.3 If Serco Inc. has an objection to any such proposed person or entity, Supplier shall submit a substitute to which Serco Inc. has no reasonable objection. Any acceptance or rejection of a proposed person or entity by Serco Inc. shall not relieve Supplier of responsibility for the Service.
- 24.4 Service performed by Supplier's subcontractors shall be considered as Service performed by Supplier and Supplier shall remain fully responsible for performance and Warranties in accordance with this Agreement.
- 24.5 Any subcontractor utilized by Supplier shall assume all obligations, liabilities, and responsibilities under the Agreement jointly and severally with Supplier.
- 24.6 Suppliers' subcontractors are not to directly invoice or bill Serco Inc. Serco Inc. will not honor any invoices or requests for payments submitted by Suppliers' subcontractors.
- 24.7 Supplier may not assign this Agreement without Serco Inc. prior written consent. Serco Inc. may assign its rights or obligations hereunder and will provide notice of such assignment to Supplier.

SECTION. 25 LABOR RELATIONS

- 25.1 Supplier shall be responsible for relations with labor organizations either representing or seeking to represent its employees. Supplier shall not enter into any contract that purports to obligate Serco Inc. to Supplier's employees' union, either as successor or assignee of Supplier, or in any other way at any time. Supplier warrants that it is not a party to any existing union contract that purports to obligate Serco Inc.
- 25.2 Supplier shall maintain good relations with its employees and between Supplier's employees and the employees of other subcontractors and the employees of Serco Inc. and its other suppliers. Whenever Supplier has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the Service, Supplier shall immediately give notice thereof including all relevant information to Serco Inc.

SECTION. 26 NONEXCLUSIVE AGREEMENT

This Agreement is nonexclusive and Serco Inc. does not make any commitment or guarantee for any minimum or maximum amount of purchases for Services. Serco Inc. shall be under no obligation to purchase any services under this Agreement.

SECTION. 27 TIME IS OF THE ESSENCE

Time is of the essence in performance hereunder and a significant and material term hereof.

SECTION. 28 EXCUSABLE DELAYS AND TIME EXTENSIONS

In the event Supplier or Serco Inc. is delayed in performing any of its respective obligations in this Agreement and such delay is caused by acts of God, war, riots, civil insurrection, acts of the public enemy, strikes, lockouts, accidents, acts of civil or military authority, fires, floods, or earthquakes or any other condition beyond the reasonable control of the party delayed, such delay shall be excused and the period of such delay shall be added by a contract Change Order to the time for performance of the obligation delayed. In the event of any such delay, the party delayed shall, at no cost to the other party, exercise due diligence to shorten the delay and shall keep the other party advised as to the continuance of the delay and steps taken to shorten or resolve the delay. Supplier shall not be

entitled to additional or extra compensation by reason of any delay covered by this Section. In addition to the above, Supplier shall be entitled to treat as an Excusable Delay hereunder any delay caused by the failure of Serco Inc. to discharge any of its obligations hereunder in a timely and efficient manner, or any other delay which Serco Inc. and Supplier agree in writing should be treated as an Excusable Delay hereunder.

SECTION. 29 GENERAL PROVISIONS

- 29.1 Binding Agreement, Serco Inc. Affiliates. This Agreement shall be binding upon the parties hereto and shall inure to the benefit of the parties hereto and Serco Inc. Affiliates.
- 29.2 Entire Agreement, Partial Invalidity. The making, execution, and delivery of this Agreement by Supplier and Serco Inc. have been induced by no representations, statements, warranties, or agreements other than those herein expressed. This Agreement embodies the entire understanding of the parties hereto relating to Supplier's services regarding the subject matter hereof and supersedes any previous agreements or understandings, written or oral, in effect between the parties relating thereto. If any part, term, or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portion or portions shall not be affected thereby.
- 29.3 Modifications; Notices. This Agreement, Purchase Order(s) and any other attachments or exhibits may be amended or modified only by an instrument of equal formality signed by duly authorized representatives of the respective parties. All notices, requests, demands, or other communications hereunder other than day-to-day communications within the duties of the technical representatives shall be in writing and shall be deemed given if personally delivered or five (5) days after proper mailing to the address set forth herein:
- 29.4 Waiver of Breach. No waiver of any provision of this Agreement or any right or obligation of Serco Inc. shall be effective unless in writing, signed by its authorized representative. The failure of Serco Inc. on a one time or multiple time basis to enforce a right shall not constitute a waiver.
- 29.5 Use of Serco Inc. Trademark/Name. Supplier shall not make any oral or written statement or perform any act indicating that Serco Inc. endorses or approves or has endorsed or approved Supplier or its services. Supplier shall not associate or in any way connect any name or trademark of Serco Inc. with Supplier's services hereunder without Serco Inc. prior written approval. The provisions of this clause shall not restrict Supplier or its employees from referencing and describing services performed hereunder in summary form, without revealing Serco Inc. Confidential Information, in experience or qualifications summaries.
- 29.6 Use of San Francisco Municipal Transportation Agency (SFMTA) Name and Trademarks. Supplier shall not make any oral or written statement or perform any act indicating that the SFMTA or *SFpark* endorses or approves or has endorsed or approved Supplier or its services. Supplier shall not associate or in any way connect any name or trademark of the SFMTA, *SFpark*, the Municipal Railway or the City and County of San Francisco with Supplier's services hereunder without Customer's prior written approval. The provisions of this clause shall not restrict Supplier or its employees from referencing and describing services performed hereunder in summary form, without revealing Customer Confidential Information, in Supplier's experience or qualifications summaries.
- 29.7 Choice of Law; Venue and Jurisdiction. Except as otherwise set forth in this Section 33.7, this Agreement shall be construed and the legal relations between the parties determined in accordance with the laws of the State of California, USA, without giving effect to any choice of law rules that may direct the application of the laws of any other jurisdiction. The Service under this Agreement is primarily funded through the

FHWA, and administered by CALTRANS. If any provision of this Agreement shall conflict with any applicable federal laws, regulation, guideline, or other requirement, the federal provision shall govern. The parties consent to venue in City and County of San Francisco, California, and to the exclusive jurisdiction of the courts of Superior Court for San Francisco, California, and the Federal District Court for the Northern District of California situated in the San Francisco, California, for all litigation that may be brought, subject to the requirement for dispute resolution hereunder, with respect to the terms of, and the transactions and relationships contemplated by, this Agreement. The parties further consent to the jurisdiction of any federal or state court located within a district that encompasses assets of a party against which a judgment has been rendered, either through arbitration or through litigation, for the enforcement of such judgment or award against the assets of such party.

- 29.8 Records and Audit. Serco Inc. may, upon its request, audit any and all Service or expense records of Supplier relating to materials and/or services provided hereunder. Supplier shall have the right to exclude from such inspection any of its confidential or proprietary information that was not otherwise provided to Serco Inc. as a part of a Purchase Order effort. Supplier further agrees to maintain its books and records relating to material and/or services provided for a period of two (2) years from the date such Service was completed, and to make such books and records available to Serco Inc., during normal business hours and upon reasonable advance notice, at any time or times within the two year period.
- 29.9 Dispute Resolution. In the event of a dispute arising under or in connection with this Agreement or a related Purchase Order, Serco Inc. and Supplier agree that each party's respective representatives will Service diligently and in good faith to promptly resolve same. If the representatives fail to resolve any such dispute within ten (10) days after both parties first became aware of the dispute, the dispute shall be elevated to the Executive Vice President level of each organization, at which level appropriate individuals from both parties will diligently attempt to resolve the dispute. If at the end of that additional ten (10) days period the dispute remains unresolved, the parties may elect to continue efforts to resolve the dispute through further discussions, provided that either party may at such time elect to pursue other available legal or equitable remedies as well or in lieu of any further discussion.
- 29.10 Remedies. The remedies stated in this Agreement are cumulative and are in addition to any other rights available in law or in equity.
- 29.11 Headings Not Controlling. Headings used in this Agreement are for reference purposes only and shall not be used to modify the meaning of the terms and conditions of this Agreement.
- 29.12 Survival Period. Any provision of this Agreement that imposes an obligation following the termination or expiration of this Agreement will survive the termination or expiration and will continue to be binding upon the parties to this Agreement.
- 29.13 Right to Offset. When and if a potential offset situation arises, the amount and timing of such offset shall be discussed by Serco Inc. and Supplier. If a claim is not resolved within fifteen (15) business days, then Serco Inc. may offset the disputed amount and the parties may elect to proceed with their rights and obligations under this Agreement. Notwithstanding the foregoing, Serco Inc. reserves the right to settle third party Claims related to contracted Service if such Claims are not paid directly by Supplier within ten (10) calendar days. If paid by Serco Inc., Serco Inc. shall offset the amount of the Claim to the monies owed Supplier, including a twenty percent (20%) claims handling fee of the amount owed in the claim. Supplier expressly agrees to waive and hereby does waive any claim or defense against Serco Inc. by reason of Serco Inc. having discharged such claims article.
- 29.14 Discrimination Prohibited. The Congress of the United States, the Legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other Service financed with public funds. Supplier agrees to

comply with said Fair Employment practices and nondiscrimination requirements, including but not limited to the filing of required forms and declarations asserting Supplier's compliance with those requirements. Supplier further agrees that any agreement entered into by Supplier with a third party for performance of Service related to the SFpark Program shall incorporate this requirement as essential parts of such agreement to be enforced by that third party as verified by Supplier. Supplier's failure to comply with the obligations in this subsection 29.14 shall constitute a material breach of this Agreement.

THE PARTIES, INTENDING TO BE LEGALLY BOUND, HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR AUTHORIZED REPRESENTATIVES ON THE DATES SET FORTH BELOW.

| | |
|--|------------------------------------|
| Serco Inc. | _____ [Vendor] |
| By: <i>Authorized Signature</i> | By: <i>Authorized Signature</i> |
| Name: Charles Tellis | Name: _____ <u>[Typed Name]</u> |
| Title: Sr. Subcontracts Administrator | Title: _____ <u>[Typed Title]</u> |
| Date: | Date: |
| Address for Purposes of Notices: | Address for Purposes of Notices: |
| Arian Collen, Program Manager, Serco, Inc. | |
| 2200 Jerrold Street, Unit M | |
| San Francisco, CA 94124 | |

ATTACHMENT A

Statement of Work

[The statement of work will describe the deliverables for vendors chosen under the RFQ. It will be derived from the specifications in the RFQ document, along with the vendor's response.]

ATTACHMENT B

Compensation Schedule

| Item | Qty | Unit Cost | Total Cost |
|--|-----|--------------|------------|
| [To be completed based upon vendor's quotation.] | | | |
| | | Total | |

ATTACHMENT C

ASSIGNMENT AND ASSUMPTION AGREEMENT In re Master Services Agreement between Serco Inc. and [Vendor]

This Assignment and Assumption Agreement ("**Assignment**") is dated for convenience as _____, 20__, effective _____, 20__ between Serco Inc., a New Jersey corporation ("**Serco**"), as Assignor, and the City and County of San Francisco, a municipal corporation ("**City**"), acting by and through its Municipal Transportation Agency ("**SFMTA**"), as Assignee, and [Vendor], as Obligated Third Party and Third Party Beneficiary.

RECITALS

A. City and Serco entered into a written agreement on or about June 1, 2008 ("**Serco SFpark Agreement**") for administrative services related to the SFMTA's SFpark Project ("**SFpark Project**").

B. Pursuant to the SFpark Agreement City authorized Serco to serve as a contractor/purchasing agent for the SFMTA in the procurement of _____ and to provide related services to support SFMTA.

C. Pursuant to the SFpark Agreement, On or about _____, 2012, Serco entered into an agreement with [Vendor] for the procurement of _____ for the SFpark Project.

D. The City desires to assume various vendor subcontracts from Serco and Serco desires to assign said subcontracts to the City, including a contract between Serco and [Vendor], dated _____, 2010 (the " _____ **Subcontract**"). [Vendor] desires that Serco assign and the City assume the _____ **Agreement**, rather than have the _____ **Agreement** terminate simultaneously with the Serco SFpark Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Consent of Assignor. Serco, as Assignor, hereby assigns, conveys, transfers, and delivers to City all of Serco's right, title and interest in the _____ **Agreement** between Serco and [Vendor], arising on or after the Effective Date. Assignor agrees to defend, indemnify and hold City harmless with respect to (a) work performed prior to the Effective Date and (b) payment for all work performed prior to the Effective Date.

2. Consent of Assignee. City, as Assignee, accepts this Assignment of the _____ **Agreement** from Serco and assumes and agrees to be subject to all obligations and liabilities of Serco under the _____ **Agreement** and to perform all the terms and conditions of the _____ **Agreement**, arising on or after _____, 20__, subject to the conditions listed in Paragraph 4, below.

3. Consent of [Vendor]. [Vendor] agrees to assignment of the _____ **Agreement** from Serco to the City, subject to the terms and conditions stated in this Assignment.

Supplier Master Agreement
Contract No. _____

4. Conditions of Assignment. This Assignment is subject to the following conditions:

4.1. On or before _____, 20____, [Vendor] and the City must negotiate and execute an Amendment to the _____ **Agreement** to include terms that meet the contracting requirements of the City and County of San Francisco and the Federal Highway Administration, including but not limited to a clarification of the scope of work to be performed, a clarification of commercially reasonable rates of compensation, and the inclusion of such language and provisions that are required to be included in a City and County of San Francisco professional services agreement for services provided to a federally funded project.

4.2. If the parties fail to negotiate and execute an Amendment to the _____ **Agreement** that meets the conditions set out in Paragraph 4.1 above, then the _____ **Agreement** and this Assignment shall terminate as of the Effective Date without liability or obligation to any party.

4.3. [Vendor] shall not do or be obligated to do any work or provide any services under the _____ **Agreement** and the City shall not be liable for or obligated to make any payment of compensation to [Vendor] unless and until [Vendor] and the City execute an Amendment to the _____ **Agreement** that meets the conditions set forth in Paragraph 4.1 above.

5. **Incorporation of _____ Agreement by Reference.** A true and correct copy of the _____ **Agreement** is attached to this Assignment as Appendix A and is incorporated as if fully set out herein, subject to the limitations and amendment requirements set forth in paragraphs 4.1, 4.2 and 4.3.

6. Effective Date of this Assignment. This Assignment shall be effective as of _____, 20____ (the "**Effective Date**").

7. **Governing Law.** The laws of the State of California shall govern all questions concerning the construction of this Assignment and the rights and liabilities of the parties to this Assignment. Venue for any action arising from the _____ **Agreement** or this Assignment shall be in San Francisco.

8. **Release by [Vendor].** [Vendor] represents and warrants that it has been fully compensated for all work it performed, services it rendered on or prior to _____, 20____. [Vendor] hereby fully and unconditionally releases Serco and the City and each of them and their respective officers, boards, commissions, employees and agents, successors and assigns, and all other persons and associations, known or unknown, and each of them, from all claims, stop-notices, liens and causes of action by reason of any fact, circumstance or associations, known or unknown, that arises out of Contract No. MR-1182R.

[Vendor] certifies that it has read and understands the terms of Section 1542 of the California Civil Code, which section reads as follows:

A general release does not extend to the claims which the creditor does not know or suspect to exist in his favor at the time

of executing the Release, which if known by him must have materially affected his settlement with the debtor.

[Vendor] specifically waives all rights and benefits it has or may have under Section 1542 regarding any claims, stop-notice, liens and causes of action against Serco and/or the City by reason of any fact or circumstance that arises out of the _____ **Agreement**.

[Vendor] understands and acknowledges that the significance and consequence of this waiver of Section 1542 of the Civil Code is that even if it should eventually suffer additional damages arising out of _____ **Agreement**, it will not be permitted to make any claim for those damages against any party. Furthermore, [Vendor] acknowledges that it intends these consequences even as to claims for injury or damages that may exist as of the date of this release, regardless of whether [Vendor] knows they exist, and which if known, would materially affect its decision to execute this release, regardless of whether [Vendor]'s lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

9. Mutual Indemnities

9.1. Assignor. Serco shall indemnify, defend and hold harmless the City from and against any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of (a) any failure of Serco to convey its interest pursuant to this Assignment, free and clear of all third-party liens, claims or encumbrances, or (b) any breach by Serco of the _____ **Agreement** or any other failure to perform or observe any of the duties or obligations of Serco thereunder, to the extent such breach or failure arises prior to the Effective Date.

9.2. Assignee. The City shall indemnify, defend and hold harmless Serco from and against any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of any breach by the City of the _____ **Agreement** or any other failure to perform or observe any of the duties or obligations thereunder assumed by the City pursuant to this Assignment.

10. Successors. Subject to the terms set forth herein, this Assignment shall be binding upon and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Assignment, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

11. Entire Agreement. This Assignment, including the Appendices attached hereto, contains the entire agreement of the parties as to this Assignment, and supersedes any prior written or oral agreements between them concerning the subject matter of this Assignment. There are no representations, agreements, arrangements, or understandings, oral or written, among the parties, relating to the subject matter of this Assignment, that are not fully expressed in this document.

12. Headings. All section headings and captions contained in this Assignment are for reference only and shall not be considered in construing this Assignment.

13. **Construction.** The parties to this Assignment acknowledge that they have fully read the contents of this document and that they have had opportunity to be advised by counsel of their choice and that they have full, complete and total comprehension of the provisions contained in this document and are in full agreement with each and every one of those terms, conditions and provisions. As such, the parties agree to waive any and all rights to apply, in the interpretations of any and all terms, provisions or conditions of this Assignment, the rule of construction that ambiguities are to be resolved against the drafter of the agreement. For the purposes of this instrument, the parties to this Assignment agree that ambiguities, if any, are to be resolved in the same manner as would have been the case if this instrument had been jointly conceived and drafted.

14. **Severability.** Should the application of any provision of this Assignment to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Assignment shall not be affected or impaired thereby and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of Serco, the City, and [Vendor].

15. **Notices.** All notices, consents, directions, approvals, instructions, requests and other communications regarding this Assignment or the _____ **Agreement** shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below). All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time Serco, the City or [Vendor] may designate a new address for purposes of this Section by notice to the other signatories to this Assignment.

If to Assignor:

If to Assignee:

If to [Vendor]:

16. **Further Assurances.** From and after the date of this Assignment, Serco, the City and [Vendor] agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the conveyance contemplated by this Assignment or as may be required by the City.

IN WITNESS WHEREOF, the parties have executed this Assignment the day and year first written above.

SERCO, INC. - ASSIGNOR

By _____

CITY AND COUNTY OF SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY - ASSIGNEE

By _____

APPROVED AS TO FORM

DENNIS J. HERRERA
City Attorney

By:
Stephanie J. Stuart
Deputy City Attorney

[VENDOR]

President

Federal Employer I.D. No. _____

APPENDIX A

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION (CalTrans 12-E, Attachment C)

The Supplier Pictoform certifies that he/she has _____ / has not _____ participated in a previous contract or subcontract subject to the equal opportunity classes, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he/she has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by suppliers and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should not that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

APPENDIX B

NON-COLLUSION AFFIDAVIT (CalTrans 12-E, Attachment D)

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106, the contractor declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the contractor has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the contractor or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body associated with the award of the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Noncollusion Affidavit is part of the contract. Signing this contract on the signature portion thereof shall also constitute signature of this Noncollusion Affidavit. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

APPENDIX C

DEBARMENT AND SUSPENSION CERTIFICATION (CalTrans 12-E, Attachment E; Title 49, Code of Federal Regulations, Part 29)

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility from a Federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

Note: If there are any exceptions, please provide written note of these exceptions to Serco prior to completing contract execution. Exceptions will not necessary result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate to whom it applies, initiating agency, and dates of action.

Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the contract. Signing this contract on the signature portion thereof shall also constitute signature of this certification.

APPENDIX D

NON-LOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS (CalTrans 12-E, Attachment F)

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

DISCLOSURE OF LOBBYING ACTIVITIES (CalTrans 12-E, Attachment G)
COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 USC
1352

Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SIGNATURE: _____
TITLE: _____
DATE: _____

PRINT: _____
TELEPHONE NUMBER: _____

**INSTRUCTIONS FOR COMPLETION OF SF-LLL,
DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g. the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g. , "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action. (b)

Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbying has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

APPENDIX F

NOTICE TO BIDDERS/PROPOSERS DISADVANTAGED BUSINESS ENTERPRISE INFORMATION (PROFESSIONAL SERVICE INSERT)

1.1 FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDED CONTRACTS

- A. This project is subject to Title 49, Code of Federal Regulations part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." The regulations in their entirety are incorporated herein by this reference.
- B. Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26.5 are encouraged to participate in this Contract. The Proposer shall ensure that DBEs have the opportunity to participate in the performance of this Contract and shall take all necessary and reasonable steps for this assurance. The Proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- C. On May 1, 2006, Caltrans implemented a race-neutral DBE program, which include the following changes with respect with third party contracts funded by grants from FHWA:
 - 1. The City may no longer advertise and award contracts with federal-aid funds containing race-conscious DBE goals.
 - 2. The City will still collect and report participation and utilization by DBEs on federal-aid contracts.
 - 3. Federal-aid contracts shall contain race-neutral DBE contract language.

1.2 TERMS AS USED IN THIS DOCUMENT

- A. **Annual Anticipated DBE Participation Level (AADPL):** The level of participation that the local agency would expect DBEs to achieve in the absence of discrimination and the effects of past discrimination on federal-aid contracts awarded in its jurisdiction in a given Federal Fiscal Year. This includes an assessment of the availability for specific items of work that DBEs could reasonably be expected to compete for subcontracting opportunities on a federal-aid contract and their likely availability for work on federal-aid contracts that will be awarded in a given fiscal year. The AADPL is not a goal that the local agency needs to achieve, but the AADPL will be used by Caltrans to establish a statewide overall DBE participation goal as required by Title 49, Part 26 of the CFR. The local agency must have an approved AADPL on file with the DLAE before federal funds can be authorized on any new federal-aid consultant or construction contract.
- B. **Disadvantaged Business Enterprise (DBE):** A for-profit "small business concern" is as defined in 49 CFR 26.65 that is at least 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. One or more such individuals must also control the management and daily business operations. These individuals must be citizens of the United States and (1) any individual who the City finds to be a socially and economically disadvantaged individual on a case-by-case basis, or (2) who are either Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, women, or any other group found to be socially and economically disadvantaged by the Small Business Administration. This definition was revised in 1987 to include women.

- C. Race-Neutral Measure of Program:** A race-neutral measure or program is one that, while benefiting DBEs, is not solely focused on DBE firms. For example, small business outreach programs, technical assistance programs, and prompt payment clauses can assist a wide variety of small businesses, not just DBEs. For purposes here, race-neutral includes gender neutrality.
- D. Small Business Concern:** Small Business Concern means, with respect to firms seeking to participate as DBEs in U.S. Department of Transportation (DOT) assisted contracts, a small business concern as defined pursuant to Section 3 of Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in Section 26.65(b) of 49 CFR.
- E. Statewide Overall DBE Goal:** As required by federal law, Caltrans has established a statewide overall DBE goal. This is the level of DBE participation that Caltrans would expect DBEs to achieve in the absence of discrimination and the effects of past discrimination in a given fiscal year. In order to ascertain whether the Statewide Overall DBE Goal is achieved, Caltrans will track DBE participation on all Federal-aid contracts.

1.3 DBE PROGRAM

- A.** Bidders shall be fully informed in respect to the requirements of the referenced federal DBE regulations and the DBE program developed by the California Department of Transportation pursuant to those regulations. Attention is directed to the following matters:
1. A DBE must be a small business concern as defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
 2. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, as a vendor of material or supplies, or as a trucking company.
 3. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
 4. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55; that is responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
 5. The bidder (prime contractor) shall list only one subcontractor for each portion of work as defined in their bid/proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
 6. A prime contractor who is a certified DBE is eligible to claim all of the work in the contract toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.
 7. DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources:
 - a. The Caltrans "Civil Rights" web site at:
<http://www.dot.ca.gov/hq/bep>

- b. The Caltrans DBE Directory: This Directory may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, Telephone: (916) 445-3520.
- B.** When reporting DBE participation, bidders may count the cost of materials or supplies purchased from DBEs as follows:
1. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies will count toward DBE participation. A DBE 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.
 2. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, 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. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph B.2. if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this paragraph B.2.
 3. If the DBE is neither a manufacturer nor a regular dealer, count only the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a work site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.
- C.** When reporting DBE participation, bidders may count the participation of DBE trucking companies as follows:
1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
 2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract;
 3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs;
 4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract;

5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE;
 6. For the purposes of this paragraph C, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- D.** When a DBE performs as a participant in a joint venture, a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces will counted toward the DBE participation.
- E.** Bidders are encouraged to use services offered by financial institutions owned and controlled by DBEs.
- F.** For further information regarding SFMTA's DBE Program, contact André P. Boursse at (415) 701-4362.

1.4 DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PROCEDURES

- A.** Each Bidder must comply with all applicable requirements subject to Title 49, Code of Federal Regulations Part 26 (49 CFR 26).
- B.** Bidders' attention is directed to the City's nondiscrimination requirements for this Contract as specified in this document. Nondiscrimination requirements set forth in this document should be read thoroughly and shall be complied with, to the extent necessary, to fulfill the intent thereof.
 1. Bidders shall identify the particular DBE subcontractors to be utilized in performing the Contract, specifying for each dollar value of participation Work to be performed and such information as may be reasonably required to determine its DBE participation percentage.
 2. Bidders should not depend on deletable Bid items to calculate the DBE participation percentage.
 3. Bidder's attention is directed to the City's prompt payment provision. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

1.5 DBE PROGRAM BIDDING FORMS

A. Submit the following forms with the Bid:

1. **SFMTA Form No. 1 - Consultant /Joint Venture Partner and Subconsultant Participation Report.** The proposer/Bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Title 49, Section 26.11 of the Code of Federal Regulations. This listing is required in addition to listing DBE Subcontractors elsewhere in the proposal.

2. **SFMTA Form No. 2) - Bidder's List of Subconsultants Not Selected (DBE and Non-DBE).** The Bidder shall list all subcontractors (both DBE and non-DBE) who provided a quote or bid but were not selected to participate as a subcontractor in this project. This is required for compliance with Title 49, Section 26 of the Code of Federal Regulations.
3. **SFMTA FORM No. 3 – QUESTIONNAIRE ON RECRUITMENT, HIRING, AND TRAINING PRACTICES FOR CONSULTANTS** (to be completed by proposers, joint venture partners and subconsultants.)
4. **SFMTA FORM No. 4 – SUBCONSULTANT PARTICIPATION DECLARATION** (to be submitted by the prospective prime consultant.)
5. **SFMTA FORM No- 5-DISADVANTAGED BUSINESS ENTERPRISE ACKNOWLEDGEMENT DECLARATION** (to be submitted by each listed DBE subconsultant).

POST AWARD FORMS:

6. **SFMTA 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 SFMTA FORM No. 6 for the immediately preceding period for DBE joint venture partners and all subconsultants that are utilized on the Contract.
7. **SFMTA FORM No. 7 - SUBCONSULTANT PAYMENT DECLARATION**
Consultant shall complete SFMTA 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. Note: This form shall provide evidence that the Consultant has complied with the prompt payment provisions of the Contract.
8. **SFMTA 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.
9. **EXHIBIT 17-F FINAL REPORT UTILIZATION OF DISADVANTAGED BUSINESSES**
Consultant, including all joint venture partners, if any, shall complete Exhibit 17-F and submit it to the Project Manager (copy to CCO) with its final progress payment application. Consultant must provide complete and accurate information on Exhibit 17-F and have it executed by all DBE joint venture partners and all subconsultants.

APPENDIX G
MISSING

APPENDIX H

CITY OF SAN FRANCISCO PROVISIONS REGARDING GRAFFITI REMOVAL

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Supplier shall remove all graffiti from any real property owned or leased by Supplier in the City and County of San Francisco within forty-eight (48) hours of the earlier of Supplier's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This appendix is not intended to require a Supplier to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§101 et seq.).

EXHIBIT A

Contractual Clauses Incorporated by Reference

(a) In addition to any other clauses set forth by reference in this Agreement, this Agreement incorporates the clauses set forth below by reference, with the same force and effect as if they were given in full text. If inapplicable to this specific acquisition due to the clause's prescription, they are considered self-deleting. Upon request, Serco will inform Supplier as to where the full text of the referenced clause may be found if it is not reasonably evident from the clause and code references set forth below; the subject description is for informational purposes only and is not intended to provide Supplier with substantive information about the scope or subject of the applicable clause. The applicable version of these clauses is the version in effect on the date of the award of this Agreement. To the extent that an earlier version of any such clause is included in Serco's Prime Contract with the City and County of San Francisco under which this Agreement is issued, the date of the clause as it appears in such Prime Contract shall be controlling and said version shall be incorporated herein.

(b) For any time period stated or referred to in the following provisions, Supplier agrees to give Serco notice at least two full work days prior to the time that notice is required to be given by Serco to the City of San Francisco or any other party.

(c) Solely with respect to this Section, in all such clauses, unless the context of the clause requires otherwise, the term "Contractor" shall mean "Supplier" the term "Contract" shall mean this "Agreement," and the terms "Government," "Contracting Officer" and equivalent phrases shall mean "Prime Contractor" and "Prime Contractor Subcontract Administrator", respectively. The term "Serco Representative" or such other name as may be used to identify Government employees shall mean the corresponding Serco employee. It is intended that the referenced clauses shall apply to Supplier in such manner as is necessary to reflect the position of Supplier as a subcontractor to Serco, to insure Supplier's obligations to the City and County of San Francisco and to the United States Government, and to enable Serco to meet its obligations under its Prime Contract and applies to any and all applicable regulations:

CLAUSE NUMBER

CODE/(SUBJECT)

| | |
|--|--|
| Section 21.35 | San Francisco Administrative Code (False Claims) |
| Section 12F.5 | San Francisco Administrative Code (McBride Principals –Northern Ireland) |
| Section 12M.2 | San Francisco Administrative Code (Nondisclosure of Private Information) |
| Section 12.M3 | San Francisco Administrative Code (Enforcement) |
| Section 120 | San Francisco Administrative Code (Earned Income Credit) |
| Chapter 12G | San Francisco Administrative Codes (Prohibition on Political Activity with City Funds) |
| Chapter 12P | San Francisco Administrative Code (Minimum Compensation Ordinance) |
| Chapter 12Q | San Francisco Administrative Code (Health Care Accountability Ordinance) |
| Section 120 | Earned Income Credit Forms |
| Section 67.24(e) | San Francisco Administrative Code (Sunshine Ordinances) |
| Section 804(b) | San Francisco Environment Code (Tropical Hardwood and Virgin Redwood Ban) |
| Section 1300 | San Francisco Environment Code (Preservative-treated Wood Containing Arsenic) |
| Chapter 5 | San Francisco Environment Code (Resource Conservation) |
| Chapter 16 | San Francisco Environment Code (Food Service Waste Reduction Requirements) |
| Section 15.103 | Charter of the City of San Francisco (Conflict of Interest) |
| Article III, | |
| Chapter 2 | City of San Francisco Campaign and Government Conduct Code (Conflict of Interest) |
| Section 1.126 | City of San Francisco Campaign and Government Conduct Code (Limitation of Contributions) |
| Section 87100 et. seq. and Section 1090 et. seq. | State of California Government Code (Conflict of Interest) |
| Pub. L. 94-163, | |
| 89 Stat. 871 | California Energy Policies and Conservation Act |
| Sections 987 et. seq. | California Civil Code (California Art Preservation Act) |

Supplier Master Agreement

Contract No. _____

| | |
|-----------------------|--|
| Chapter 21 | California Code of Regulations, Title 21 (Maintenance and Retention of Records) |
| Section 2500 et seq. | |
| Section 306 | Clean Air Act (42 U.S.C. 1857(h)) |
| Section 508 | Clean Water Act (33 U.S.C. 1368) and Executive Order 11738 |
| 40 CFR part 15 | Environmental Protection Agency Regulations |
| Section 504 | Rehabilitation Act of 1973 (Anti-Discrimination based on disability) |
| | Americans with Disabilities Act |
| Executive Order 11246 | Equal employment Opportunity |
| Executive Order 11375 | Amending Executive Order 11246 Relating to Equal Employment Opportunity |
| 41 CFR part 60 | Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor |
| 17 U.S.C. 101 et seq. | Federal Visual Artists Rights Act of 1990 |
| Sections 103 and 107 | Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) |
| 29 CFR part 5 | Department of Labor Relations regulations (Supplementing the Contract Work Hours and Safety Standards Act) |
| | Federal Drug-Free Workplace Act of 1989 |
| | Disadvantaged Business Enterprise Program established by the Federal Highway Administration |