STAFF REPORT FOR CALENDAR ITEM NO.: 12
FOR THE MEETING OF: September 10, 2026

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:
Authorizing the Executive Director to execute a general services agreement for Janitorial Services with ABM Industry Groups, LLC, for the Salesforce Transit Center for an amount not to exceed $7,555,900 over a five-year term.

EXPLANATION:
On July 8, 2026, the Transbay Joint Powers Authority (TJPA) issued Invitation for Bids (IFB) 26-06 for Janitorial Services for the Salesforce Transit Center (Property), including the Transit Center's mixed-use commercial and public spaces and Salesforce Park. Consistent with TJPA Board Procurement Policy at Section III.A, "General Services" are those services that do not require extended analysis, the exercise of discretion or independent judgment in their performance, or the application of an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent expertise in the field. Janitorial services are a typical form of General Services.

The IFB was issued as a low-bid procurement given that the scope of work, staffing expectations, performance requirements, and service standards could be defined with sufficient specificity to support award to the lowest responsive and responsible bidder. For a low-bid procurement, there is no selection panel, no interviews, and no opportunity for a qualitative assessment of the vendor or other opportunities to exercise discretion.

The bid specifications for the Janitorial Services procurement were developed based on the operational and cleaning requirements of the Salesforce Transit Center and are substantially consistent with the specifications under which janitorial services have previously been procured, with updates to reflect current service needs (including window cleaning, as set forth in the IFB). The bid specifications describe the tasks, frequencies, and performance standards required to maintain the Transit Center's public and commercial areas.

The IFB was issued with two addenda — Addendum No. 1, posted July 22, 2026, and Addendum No. 2, posted July 28, 2026 — each of which included a revised Bid Sheet Form.

TJPA received eight (8) bids by the Friday, August 7, 2026 deadline. Of the bids received, one was deemed non-responsive; therefore, seven (7) bids were evaluated at the public bid opening held at TJPA's main office on August 7, 2026.

Responsive bids were received from the following firms:

- ABM Industry Groups, LLC
- CCS Facility Services
- Metro Services Group, LLC
- Union Service Company, Inc.
- Uniserve Facilities Service LLC
- Universal Building Services
- YADEJS Inc.

Bid Tabulation (Annual amount, as opened):

Bidder	Annual Amount
ABM Industry Groups, LLC	**$1,376,091.25**
Metro Services Group, LLC	$1,496,906.38
CCS Facility Services	$1,609,961.88
YADEJS Inc.	$1,699,450.00
Uniserve Facilities Service LLC	$1,704,197.00
Universal Building Services	$1,716,413.51
Union Service Company, Inc.	$2,000,535.00
Karla's Janitorial & Suppliers LLC	Non-Responsive

TJPA staff conducted a responsiveness review (conformance with IFB requirements) and a responsibility review (including verification of required licenses, insurance, and other due diligence customary for contract award). Because the IFB was issued as a low-bid procurement, where the scope of work and service standards could be defined with sufficient specificity to support award to the lowest responsive and responsible bidder, a selection panel was not formed. TJPA staff determined that ABM Industry Groups, LLC is the lowest responsive and responsible bidder and recommends award consistent with the IFB.

Contract Amount

ABM Industry Groups, LLC submitted the lowest-priced responsive bid, with a base annual amount of $1,376,091.25. To account for as-needed services within the scope of services, TJPA has added $50,000 to each year of the contract amount. For budgeting purposes, the TJPA assumed the contract amount escalates by three percent (3%) each year beginning in Year 2, but the actual amount shall be adjusted in accordance with San Francisco Labor and Employment Code Article 102. The recommended not-to-exceed amount for the contract is an aggregate of the estimated annual escalation by year as follows:

Contract Year	Not-to-Exceed Amount
Year 1	$1,426,091.25
Year 2	$1,467,373.99
Year 3	$1,509,895.21
Year 4	$1,553,692.06
Year 5	$1,598,802.83
Total (Years 1–5)	**$7,555,855.33**

Salesforce Park Committee Review and Recommendation

In 2021, TJPA and the East Cut Community Benefit District (ECCBD) entered an Amended and Restated Memorandum of Understanding for Implementation of Management Plan relating to Salesforce Park (MOU). The MOU describes certain procedures for the Salesforce Park Committee, a committee made up of representatives of TJPA and the non-profit to discuss matters related to the management, operations, and budget for the Park.

Pursuant to the MOU, proposed awards of contracts for the provision of services primarily related to the Park and that are expected to cost $120,000 or more are considered “Major Park Services” contracts. Because the Janitorial Services contract includes services within Salesforce Park, the proposed Janitorial Services contract is a Major Park Services contract under the MOU. Pursuant to the MOU, the Salesforce Park Committee had the opportunity to review, consider, and make recommendations to the scope of work listed under IFB 26-06 and the solicitation, which requires award to the “apparent low bidder” and does not require the qualitative assessment of the vendor.

The Salesforce Park Committee was made aware of the IFB for Janitorial Services during the May 27, 2026 and June 24, 2026 meetings, where they were advised of both the scope of work and the conditions related to an IFB, for which there is no selection panel, no interviews, and no opportunity for a qualitative assessment of the vendor. As of August 27, 2026, both the East Cut CBD and the Salesforce Park Committee are aware of the intent to award the apparent low bidder and have raised no objections.

Bid Protest

On August 18, 2026, a bid protest was received from Karla's Janitorial & Suppliers L.L.C. (Karla's Janitorial) regarding Invitation for Bids (IFB) 26-06 Janitorial Services. On July 28, 2026, TJPA issued Addendum No. 2, which revised Attachment 3 – Bid Sheet and required bidders to use the revised Bid Sheet in submitting their bids. Karla's Janitorial did not submit the revised Bid Sheet, and TJPA determined its bid to be non-responsive. The protest raised the following challenge:

- Karla's Janitorial did not dispute that Addendum No. 2 required use of the revised Bid Sheet or that it failed to submit the required Bid Sheet. Instead, Karla's Janitorial argued that its failure to submit the required Bid Sheet did not affect the substance, certainty, or competitiveness of its submitted price, and that TJPA's determination was therefore arbitrary and capricious.

On August 25, 2026, TJPA evaluated the protest, the bid submittal documents, the solicitation, and the applicable addenda, and concluded that the protest was not valid or substantive. Specifically, TJPA concluded:

- Addendum No. 2 was not merely a formatting revision; it changed the pricing mechanism in Attachment 3 to allow bidders to enter monthly rates and identify anticipated rate escalations during the contract year. The distinction between the two Bid Sheets was substantive and related directly to the pricing information TJPA requested from all bidders.
- Karla's Janitorial's assertion that its total price would have remained the same did not cure the non-responsiveness of its bid, and applicable case law confirms that TJPA holds the discretion to reject a bid for failure to submit the required Bid Sheet.

- Karla's Janitorial was the only bidder that submitted the incorrect Bid Sheet; the other seven bidders submitted the revised Bid Sheet issued with Addendum No. 2. Allowing Karla's Janitorial to be evaluated using a superseded Bid Sheet would require TJPA to waive a solicitation requirement for one bidder while applying it to the bidders who complied.

On August 25, 2026, the TJPA denied the bid protest from Karla's Janitorial and issued its Response to Bid Protest, affirming its determination that Karla's Janitorial's bid is non-responsive.

On August 26, 2026, the TJPA received a Bid Protest from Metro Services Group. The protest was not timely submitted and did not contain the content required by the TJPA Board's Protest Policy. On these bases, the TJPA denied the protest. (On the merits, the protest was also denied. Metro Services Group's protest alleged that the bid sheet submitted by ABM did not complete the required fields for pricing. TJPA explained that it carefully reviewed the ABM bid sheet and determined that Metro's assertion was not correct; ABM completed all of the elements of the bid sheet, inserting $0 as its bid price for the Project Manager position and noting that the entry reflects a discount to the TJPA.)

RECOMMENDATION:
TJPA staff recommends that the TJPA Board authorize the Executive Director to execute a general services agreement for Janitorial Services with ABM Industry Groups, LLC for an amount not to exceed $7,555,900 for a five-year term, as attached.

ENCLOSURES:

1. Resolution
2. Evaluation report
3. Bid Opening Tabulation
4. General Services Agreement

TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS

Resolution No. _____________

WHEREAS, The Transbay Joint Powers Authority (TJPA) requires the services of a janitorial firm to provide janitorial services at the Salesforce Transit Center, including its mixed-use commercial and public spaces and Salesforce Park, in support of the Transbay Program; and

WHEREAS, On July 8, 2026, TJPA issued an Invitation for Bids (IFB) 26-06 for Janitorial Services, explaining the determination that the contract should be awarded on a low-bid basis; and

WHEREAS, TJPA received eight (8) bids, seven (7) of which were responsive bids; and

WHEREAS, Based on the pricing submitted, ABM Industry Groups, LLC was determined to be the apparent low bidder; and

WHEREAS, TJPA staff have determined that ABM Industry Groups, LLC is the lowest responsive and responsible bidder to provide the services for an amount not to exceed $7,555,900 for a five-year term; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute a general services agreement with ABM Industry Groups, LLC to provide the Janitorial Services at the Salesforce Transit Center for an amount not to exceed $7,555,900 for a five-year term, in the form presented herewith.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of September 10, 2026.

____
Secretary, Transbay Joint Powers Authority

TRANSBAY JOINT POWERS AUTHORITY

Janitorial Services
Evaluation Report
September 2026

Executive Summary and Recommendation

In response to Invitation for Bids (IFB) No. 26-06 – Janitorial Services, for qualified firms to provide janitorial services for the Salesforce Transit Center, issued on July 8, 2026, the Transbay Joint Powers Authority (TJPA) received eight bids by the August 7, 2026 deadline. One bid was deemed non-responsive and the remaining seven bids were evaluated at the public bid opening held on August 7, 2026, at the TJPA's main office. During the bid opening, ABM Industry Groups, LLC (ABM) was determined to be the apparent low bidder, which meant that ABM submitted the lowest priced offer as opened, but the final contract award remained contingent upon determining if the bid was responsive and the bidder was responsible.

Based on the criteria outlined in the IFB, and confirming that the bid and bidder are both responsive and responsible, the TJPA Procurement Office recommends that the TJPA enter into a professional services agreement with **ABM Industry Groups, LLC,** to provide physical Janitorial Services for a five (5)-year term effective October 1, 2026.

Background

The TJPA is seeking the services of a qualified firm to provide janitorial services for the Salesforce Transit Center. The firm must have experience in providing commercial janitorial services of similar size and scope of the requested services, and experience providing these services in Northern California.

Schedule

1)	IFB advertised/posted	July 8, 2026
2)	Deadline for Submission of Questions	July 15, 2026
3)	Answers to Written Questions Posted	July 22, 2026
4)	Bids Due	August 7, 2026
5)	Bid Opening	August 7, 2026

IFB Outreach

The TJPA posted the IFB on its website for the public to view and print; posted the IFB on DemandStar, a free e-procurement solution that allows the TJPA to cast a broader net to suppliers; and also sent an announcement of its availability to all interested parties who have signed up for TJPA updates/contracting opportunity notifications. In total, the announcement was sent to approximately 900 contacts who have signed up on the TJPA website for notice of all TJPA professional services contracts and 28 suppliers via DemandStar.

The TJPA received bids on or before the bid due date, from:

- ABM Industry Groups, LLC
- CCS Facility Services
- Karla's Janitorial & Suppliers LLC
- Metro Services Group, LLC
- Union Service Company, Inc
- Uniserve Facilities Service, LLC
- Universal Building Services
- YADEJS Inc

Bid Evaluation

The TJPA Procurement Office received eight bids via the procurement@tjpa.org email on or before the bid due date and time of August 7, 2026 at 2:00 P.M.

During the public bid opening, held at TJPA's main office on August 7, 2026 at 3:00 P.M., the TJPA Procurement & Contract Compliance Manager, with the TJPA Facility Director as witness, opened the eight bids received. Karla's Janitorial & Suppliers LLC submitted a previously outdated Bid Sheet and was therefore deemed non-responsive. The remaining seven Bids were then evaluated and ABM was deemed the apparent low bidder, with over a $120,000 difference in pricing between their bid and the next lowest, and over $624,000 between ABM's bid and the highest submitted bid.

After notifying all parties of the apparent low bidder, the TJPA Procurement Office completed their review of the bid to ensure it was responsive and that the bidder was responsible. This included confirming all required documents were submitted, the minimum qualifications were met, and that the bidder was not debarred or suspended from receiving federal funding.

As an IFB, the contract terms and scope are not subject to negotiations. However, ABM was provided the final draft of the agreement and approved as to form.

The TJPA Procurement Office recommends that the TJPA award an agreement with ABM Industry Groups, LLC.

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The bid submitted in response to this IFB is available for review at TJPA offices.

Attachments

Attachment A, IFB Announcement
Attachment B, Bid Opening Tabulations

Reference

In response to Invitation for Bids (IFB) No. 26-06 – Janitorial Services, for qualified firms to provide janitorial services for the Salesforce Transit Center, issued on July 8, 2026.

Attachment A

ANNOUNCEMENT
INVITATION FOR BIDS

The Transbay Joint Powers Authority (TJPA) issues this Invitation for Bids (IFB) for Janitorial Services for the Salesforce Transit Center (Property) from qualified firms (Bidders) to provide janitorial services in mixed-use commercial and public spaces.

Bids must be received by the TJPA no later than **2:00 p.m. Pacific Time on Friday, August 7, 2026.** Bids submitted electronically shall be in Adobe PDF (Portable Document Format) and sent via email or file sharing link to Procurement@tjpa.org. Bidders who elect to submit a physical copy of their Bids shall submit one hardcopy and a USB drive containing the Bid in PDF to the following address:

Transbay Joint Powers Authority
Attn: Procurement – IFB 26-06
425 Mission Street, Suite 250
San Francisco, CA 94105

Bidders may obtain copies of this IFB, including the forms to be submitted in the bid package, by downloading the document from the TJPA website or by contacting the TJPA at (415) 597-4620 or by email: Procurement@tjpa.org.

Attachment B
IFB 26-06 Janitorial Services
Bid Opening Tabulations

Bidder:	ABM Industry Groups, LLC	CCS Facility Services
Annual Amount	$1,376,091.25	$1,609,961.88

Bidder:	Karla's Janitorial & Suppliers LLC	Metro Services Group, LLC
Annual Amount	Non-Responsive	$1,496,906.38

Bidder:	Union Service Company, Inc	Uniserve Facilities Service LLC
Annual Amount	$2,000,535.00	$1,704,197.00

Bidder:	Universal Building Services	YADEJS Inc
Annual Amount	$1,716,413.51	$1,699,450.00

Low-Bid is determined by Year 1 total direct labor costs and additional services.

GENERAL SERVICES AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into as of the ____ day of ___________ 2026, by and between the TRANSBAY JOINT POWERS AUTHORITY (“TJPA”) and ABM Industry Groups, LLC (“Contractor”).

Recitals

A. The TJPA requires Janitorial Services for the Transbay Program (“Program”).

B. The Contractor was competitively selected pursuant to an Invitation for Bids (“IFB”) entitled IFB 26-06 – Janitorial Services.

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

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

E. On September 10, 2026, the TJPA Board of Directors adopted Resolution No. _____________ authorizing the TJPA’s Executive Director to execute this Agreement with the Contractor.

Now, THEREFORE, the parties agree as follows:

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

a. Charges under this Agreement will accrue only after prior written authorization certified by the TJPA’s Chief Financial Officer and services under contract shall not commence prior to the Chief Financial Officer’s issuance of a Notice to Proceed (“NTP”). The amount of the TJPA's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

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

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

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

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be for five (5) years from the Effective Date of the Agreement, as described in Section 3, “Effective Date of Agreement.”

3. Effective Date of Agreement

The effective date of this Agreement shall be October 1, 2026, provided that the Agreement has been fully executed by all required parties.

4. Authorization to Commence Work

The Contractor shall not commence any work under this Agreement until the Chief Financial Officer has certified the availability of funds and has issued formal written authorization to proceed in the form of a Notice to Proceed (“NTP”). Such authorization may be for a partial or full scope of work.

5. Services the Contractor Agrees to Perform

The Contractor agrees to perform the services listed in Appendix A, Scope of Services, attached hereto and incorporated by reference as though fully set forth within. TJPA representatives are not authorized to request, and the TJPA is not required to reimburse the Contractor for, service beyond the scope of Appendix A, unless the changed scope is authorized by written amendment and approved as required by law. Each NTP shall relate to a specified part of the services, and a not-to-exceed maximum price under that NTP. No NTP can be amended, except in writing and signed by an authorized representative of the TJPA.

6. Compensation

a. All work under this Agreement shall be compensated on an hourly basis, subject to any maximum price set forth in a particular NTP. In no event shall the total compensation under this Agreement exceed Seven Million, Five Hundred Fifty-Five Thousand, Nine Hundred Dollars ($7,555,900). The breakdown of the Contractor’s fees appears in Appendix B, Calculation of Charges.

b. Hourly rates for services are to remain fixed during the entire contract period, including any option periods, pursuant to Appendix B.

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

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

7. Guaranteed Maximum Costs

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

b. Except as may be provided by laws governing emergency procedures, TJPA representatives are not authorized to request, and the TJPA is not required to reimburse the Contractor for, commodities or services in excess of the price set forth in an NTP and in excess of the total compensation under this Agreement as stated in Section 6, "Compensation," unless the changed scope is authorized by written amendment and approved as required by law.

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

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

8. Payment

Invoices furnished by the Contractor under this Agreement must be in a form acceptable to the TJPA and must include a unique invoice number. Invoices shall include the first and last day of a calendar month and be submitted within thirty (30) days of the end of said calendar month. The Contractor must submit required Progress Payment Reports including payments to DBE/SBE firms with every invoice. Compensation shall be made for services identified in the invoice that the TJPA Chief Financial Officer, in their sole discretion, concludes have been satisfactorily performed. Services that do not conform to the requirements of this Agreement may be rejected by the TJPA and in such case must be replaced by the Contractor without delay at no cost to the TJPA. If the Contractor fails to provide the services in accordance with the Contractor's obligations under this Agreement, the TJPA may withhold any and all payments due the Contractor until such failure to perform is cured, and the Contractor shall not stop work as a result of the TJPA's withholding of payments as provided herein. All amounts paid to the Contractor shall be subject to audit by the TJPA.

The TJPA shall make payment to the Contractor at the address specified in Section 25, "Notices to the Parties."

9. Payment of Prevailing Wages and Other Requirements

a. Covered Services. Services to be performed by Contractor under this Agreement will involve the performance of work covered by San Francisco Labor and Employment Code Article 102 **(102.2)** (collectively, "Covered Services"), which is incorporated into this Agreement as if fully set forth herein and will apply to any Covered Services performed by Contractor and its subcontractors.

b. **Janitorial Services.** This Agreement is subject to the prevailing wage requirements of Labor and Employment Code Article 102.1 and Article 102.2, which are incorporated by reference as terms of this Agreement. Contractor agrees that any employee engaged in janitorial services (as defined in Article 102.2) shall be paid not less than the Prevailing Rate of Wages, as fixed and determined by the Board of Supervisors pursuant to Labor and Employment Code Article 102.1. Contractor agrees to comply with, and to require any authorized Subcontractors to comply with, the prevailing wage rate requirement imposed by this Section.

c. **Enforcement of Prevailing Wage Requirements.** Contractor agrees that a failure to pay the Prevailing Rate of Wages required by this Agreement by Contractor or its subcontractors will result in the TJPA taking enforcement action against Contractor in accordance with Labor and Employment Code Article 102.1(c)(4).

d. **Transition Employment Requirements.** This Agreement is subject to the Transition Employment Requirements in Labor and Employment Code Article 102.1(d). Contractor agrees to comply with, and to require any authorized Subcontractors to comply with, the obligations imposed by Article 102.1(d).

e. **Requirement of Employer-Employee Relationship.** This Agreement is subject to the Employer-Employee Relationship requirements in Labor and Employment Code Article 102.1(e). Contractor and any authorized Subcontractors shall perform this Agreement with Individuals employed by Contractor or Subcontractor in an Employer-Employee relationship as defined by California law.

f. **Wage Rates.** The latest prevailing wage rates for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations ("DIR"), as such prevailing wage rates may be changed during the term of this Agreement, are hereby incorporated as provisions of this Agreement. Contractor agrees that it shall pay not less than the highest general Prevailing Wage Rates, to all workers employed by Contractor who perform Covered Services under this Agreement. Copies of the Prevailing Rate of Wages as fixed and determined in accordance with San Francisco Labor and Employment Code Section 103.2 are available from the City's Office Labor Standards and Enforcement ("OLSE") and are on file at the OLSE's principal office or at the job site and shall be made available to any interested party on request.

g. **Subcontract Requirements.** Contractor shall insert in every subcontract for the performance of Covered Services under this Agreement a provision requiring subcontractor to pay all persons performing labor in connection with Covered Services under the subcontract not less than the highest general prevailing rate of wages as determined by the Board of Supervisors and DIR for such labor and services.

h. **Posted Notices.** Contractor shall post job site notices at all job sites where Covered Services are to be performed**.**

i. **Payroll Records.** Contractor shall keep or cause to be kept complete and accurate payroll records for all workers performing Covered Services. Such records shall include the name, address and social security number of each worker who provided Covered Services, including apprentices, their classification, a general description of the Services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall perform any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract. All such records shall at all times be available for inspection of and examination by the TJPA and its authorized representatives and/or DIR.

j. **Certified Payrolls.** Contractor shall prepare certified payrolls for the period involved for all employees, including those of subcontractors, who performed Covered Services.

k. **Compliance Monitoring.** Covered Services performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by DIR and/or TJPA. Contractor and any subcontractors performing Covered Services will cooperate fully with DIR and/or TJPA employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements. Contractor agrees that (i) the TJPA shall have the right to engage in random inspections of job sites and have access to the employees of the Contractor, employee time sheets, inspection logs, payroll records and employee paychecks; (ii) Contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (iii) Contractor shall prominently post at each job-site a sign informing employees that the project is subject to TJPA's prevailing wage requirements and that these requirements are enforced by the TJPA; and (iv) the TJPA may audit such records of Contractor as it reasonably deems necessary. Failure to comply with these requirements may result in penalties and forfeitures pursuant to the California Labor Code, including Section 1776(g), as amended from time to time, San Francisco Administrative Code Section 6.22(e), and San Francisco Labor and Employment Code Article 102, as applicable.

l. **Remedies.** Should Contractor, or any subcontractor performing Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Agreement or subcontract for the Covered Services, the general prevailing rate of wages as herein specified, Contractor shall forfeit, and in the case of any subcontractor so failing or neglecting to pay said wage, Contractor and the subcontractor shall jointly and severally forfeit, back wages due plus the penalties set forth in Administrative Code Section 6.22(e) and/or California Labor Code Section 1775. The TJPA, when certifying any payment which may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture.

10. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code Section 21.35, any contractor, subcontractor, or consultant who submits a false claim shall be liable to the TJPA for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the TJPA if the contractor, subcontractor or consultant (a) knowingly presents or causes to be presented to an officer or employee of the TJPA a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the TJPA; (c) conspires to defraud the TJPA by getting a false claim allowed or paid by the TJPA; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the TJPA; or (e) is a beneficiary of an inadvertent submission of a false claim to the TJPA, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the TJPA within a reasonable time after discovery of the false claim.

11. Disallowance; Suspension and Debarment

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

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

12. Taxes

Except for any applicable California sales and use taxes charged by the Contractor to the TJPA, the Contractor shall pay all taxes, including possessory interest taxes, levied upon or as a result of this Agreement, the transaction, or the services delivered pursuant hereto.

13. Payment Does Not Imply Acceptance of Work

The granting of any payment by the TJPA, or the receipt thereof by the Contractor, shall in no way lessen the liability of the Contractor to correct or revise unsatisfactory work, even though the unsatisfactory character of such work may have been apparent or detected at the time such payment was made.

14. Qualified Personnel

The Contractor warrants to the TJPA that the services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the services are performed so as to ensure that all services performed are correct and appropriate for the purposes contemplated in this Agreement. The Contractor represents and warrants to the TJPA that the Contractor is qualified to perform the services as contemplated by this Agreement. The Contractor further represents and warrants to the TJPA that it has all required licenses and approvals to perform the work contemplated by this Agreement, and that all work performed under this Agreement shall be performed only by personnel under the supervision and in the employment of the Contractor. All personnel engaged in the work shall be fully qualified and shall be authorized, licensed and certified under state and local law to perform such work if authorization, licensing or certification is required. All personnel, including those assigned at the TJPA's request, must be supervised by the Contractor. The Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

15. Responsibility for Equipment

The TJPA shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by the Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to the Contractor by the TJPA.

16. Independent Contractor, Payment of Taxes and Other Expenses

a. Independent Contractor

The Contractor or any agent or employee of the Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by the TJPA under this Agreement. The Contractor or any agent or employee of the Contractor shall neither have employee status with the TJPA nor be entitled to participate in any plans, arrangements, or distributions by the TJPA pertaining to or in connection with any retirement, health or other benefits that the TJPA may offer its employees. The Contractor or any agent or employee of the Contractor is liable for the acts and omissions of itself, its employees and its agents. The Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to Federal Insurance Contributions Act (FICA), income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to the Contractor's performing services and work, or any agent or employee of the Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or joint venture relationship between the TJPA and the Contractor.

Any terms in this Agreement referring to direction from the TJPA shall be construed as providing for direction as to policy and the result of the Contractor's work only, and not as to the means by which such a result is obtained; the TJPA does not retain the right to control the means or the method by which the Contractor performs work under this Agreement.

b. Payment of Taxes and Other Expenses

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

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

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement. The Contractor shall not be considered an employee of the TJPA. Notwithstanding the foregoing, the Contractor agrees to indemnify and save harmless the TJPA and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this Agreement.

17. Insurance

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

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

(2) Commercial General Liability Insurance on an occurrence basis, with limits not less than $2,000,000 each occurrence for Bodily Injury, Property Damage, Contractual Liability, Personal and Advertising Injury, Products and Completed Operations; and

(3) Business Automobile Liability Insurance with limits not less than $1,000,000 per accident for Bodily Injury (including death), Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable; and

(4) Umbrella Liability Insurance with limits not less than $5,000,000 each occurrence and $5,000,000 aggregate, which coverage shall respond in excess of the coverage described in Section 17(a)(2) and Section 17(a)(3) above.

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

(1) Name as Additional Insured the entities indicated in Appendix C, Additional Insureds.

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

c. The Contractor shall provide thirty (30) days' advance written notice to the TJPA of cancellation of coverages for any reason. Notices shall be sent to the address specified in Section 25, "Notices to the Parties."

d. Should any of the required insurance be provided under a claims-made form, the

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

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

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

g. Before commencing any operations under this Agreement, the Contractor shall furnish to the TJPA certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A.M. Best A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to the TJPA, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

h. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the TJPA for all work performed by the Contractor, its employees, agents and subcontractors.

i. Approval of the insurance by the TJPA shall not relieve or decrease the liability of the Contractor under this Agreement. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the TJPA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the TJPA.

j. If the Contractor will use any subcontractor(s) to provide the services, the Contractor shall require the subcontractor(s) to provide all necessary insurance and to name as Additional Insured the entities indicated in Appendix C.

18. Indemnification

a. General Indemnity

The Contractor shall indemnify and hold harmless the TJPA and its officers, directors, agents and employees from, and if requested shall defend them from and against, any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of the TJPA or the Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from the Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from the Contractor's performance of this Agreement, including, but not limited to, the Contractor's use of facilities or equipment provided by the TJPA or others, regardless of the negligence of, and regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on the TJPA, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of the TJPA and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on the Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the TJPA's costs of investigating any claims against the TJPA.

In addition to the Contractor's obligation to indemnify the TJPA, the Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend the TJPA from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to the Contractor by the TJPA and continues at all times thereafter.

b. Copyright Infringement

The Contractor shall also indemnify, defend and hold harmless from all loss and liability, including attorneys' fees, court costs, and all other litigation expenses, all Indemnitees for infringement of the patent rights, copyright, trade secret, or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by the TJPA, or any of its officers or agents, of the Contractor's services.

19. Incidental and Consequential Damages

The Contractor shall be responsible for incidental and consequential damages to the TJPA resulting in whole or in part from the Contractor's acts or omissions.

20. Liability of TJPA

The TJPA's payment obligations under this agreement shall be limited to the payment of the compensation provided for in Section 6, "Compensation." Notwithstanding any other provision of this Agreement, in no event shall the TJPA be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

21. Omitted. Liquidated Damages

By entering into this Agreement, the Contractor agrees that in the event the Services are delayed beyond the scheduled milestones and timelines as provided in Appendix A, the TJPA will suffer actual damages that will be impractical or extremely difficult to determine; further, the Contractor agrees that the sum of _______________Dollars ($_______) per day for each day of delay beyond scheduled milestones and timelines is not a penalty, but is a reasonable estimate of the loss that the TJPA will incur based on the delay, established in light of the circumstances existing at the time this contract was awarded. The TJPA may deduct a sum representing the liquidated damages from any money due to the Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by the TJPA because of the Contractor's failure to deliver to the TJPA within the time fixed or such extensions of time permitted in writing by the TJPA.

22. Termination for Default; Remedies

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

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

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

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

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

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

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

23. Termination for Convenience

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

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

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

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

(3) Terminating all existing orders and subcontracts.

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

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

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

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

c. Within thirty (30) days after the specified termination date, the Contractor shall submit to the TJPA an invoice, which shall set forth the reasonable cost to the Contractor for all services and other work the TJPA directed the Contractor to perform prior to the specified termination date, for which services or work the TJPA has not already tendered payment. The costs shall be determined as provided in Section 6, "Compensation," and shall be invoiced as provided in Section 8, "Payment." The Contractor may also recover the reasonable cost of preparing the invoice.

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

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

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

24. Rights and Duties Upon Termination or Expiration

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

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

25. Notices to the Parties

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

To TJPA:	Executive Director Transbay Joint Powers Authority 425 Mission Street, Suite 250 San Francisco, CA 94105 (415) 597-4620 info@tjpa.org
To Contractor:	Ahmad Kadouri ABM Industries 600 Harrison Street, Suite 600 San Francisco, CA 94107 (480) 973-6745 Ahmad.kadouri@abm.com

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

26. Proprietary or Confidential Information of the TJPA

The Contractor agrees that all information disclosed by the TJPA to the Contractor shall be held in confidence and used only in performance of this Agreement, except to the extent the use or disclosure is: (i) authorized by this Agreement; (ii) made after the Contractor receives advance written approval from the TJPA; (iii) contains information which is publicly known; or (iv) required by law or judicial order.

27. San Francisco Protection of Private Information

a. If this Agreement requires the TJPA to disclose "Private Information" to the Contractor within the meaning of San Francisco Administrative Code Chapter 12M, the Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the services. The Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

28. News Releases/Interviews

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

29. Ownership of Results

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

30. Works for Hire

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

31. Audit and Inspection of Records

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

32. Subcontracting

The Contractor will be permitted to subcontract additional portions of the work under this Agreement subject to the prior written approval of the TJPA Executive Director. Subcontractors shall be solely responsible to the Contractor throughout the performance of the Services under this Agreement. Assignment by the Contractor of work to subcontractors shall not relieve the Contractor of any obligation to the TJPA for the work performed. The TJPA shall be provided with a copy of each subcontract promptly upon execution. Any agreement made in violation of this provision shall be null and void.

33. Assignment

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

34. Non-Waiver of Rights

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

35. Conflict of Interest

Through its execution of this Agreement, the Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the San Francisco City Charter; Article III, Chapter 2 of San Francisco's Campaign and Governmental Conduct Code; and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and further agrees promptly to notify the TJPA if it becomes aware of any such fact during the term of this Agreement.

The Contractor's duties and services under this Agreement shall not include preparing or assisting the TJPA with any portion of the public entity's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the TJPA. The TJPA shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of the project. The Contractor's participation, if any, in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. The Contractor shall cooperate with the TJPA to ensure that all bidders for a subsequent contract on any subsequent phase of the project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by the Contractor, if any, pursuant to this agreement.

36. San Francisco Limitations on Contributions

Through execution of this Agreement, the Contractor acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, the TJPA for the rendition of personal services, for the furnishing of any material, supplies or equipment, or for the sale or lease of any land or building, from making any campaign contribution to (1) a TJPA elected official if the Agreement must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such Agreement or twelve months after the date the Agreement is approved. The prohibition on contributions applies to each prospective party to the contract; each member of the Contractor's board of directors; the Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in the Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Contractor. The Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the TJPA.

37. San Francisco Prohibition on Political Activity with TJPA Funds

In performing the services, the Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the TJPA for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

38. Equal Employment Opportunity/Nondiscrimination; Penalties

a. The Contractor Shall Not Discriminate

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

Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor is encouraged to actively recruit minorities and women for its workforce and take other steps, such as on-the-job training and education, to ensure nondiscrimination in the Contractor's employment practices.

b. Subcontracts

Contractor shall comply with the provisions of San Francisco Labor and Employment Code Articles 131 and 132. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 131.2(a), 131.2(c)-(k), and 132.3 of the San Francisco Labor and Employment Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Articles 131 and 132.

c. Nondiscrimination in Benefits

The Contractor does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where the work is being performed for the TJPA elsewhere within the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Labor and Employment Code Article 131.2.

d. Consideration of Salary History

The Contractor shall comply with San Francisco Labor and Employment Code Article 141, the Consideration of Salary History Ordinance or "Pay Parity Act." The Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Article 141.

39. Disadvantaged Business Enterprise (DBE) Requirements

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the TJPA deems appropriate, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the contractor from future bidding as non-responsible

All TJPA contractors must place the above clause in any subcontract. Additionally, the contractor must provide TJPA a copy of each subcontract within 10 days of contractor receipt of a Notice To Proceed.

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

40. Small Business Enterprise (SBE) Requirements

The Contractor shall comply with the SBE provisions contained in the TJPA Small Business Enterprise Program and incorporated into this Agreement as though fully set forth, including, but not limited to, achieving and maintaining the SBE goal as submitted by the Contractor in its Proposal of Zero percent (0%).

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

41. Prompt Payment to Subcontractors

a. Prompt Progress Payment to Subcontractors

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

b. Prompt Payment of Withheld Funds to Subcontractors

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

42. San Francisco Minimum Compensation Ordinance

If San Francisco Labor and Employment Code Article 111 applies to this Agreement, the Contractor shall pay covered employees no less than the minimum compensation required by San

Francisco Labor and Employment Code Article 111, including a minimum hourly gross compensation, compensated time off, and uncompensated time off. Contractor is subject to the enforcement and penalty provisions in Article 111. Contractor is required to comply with all of the applicable provisions of Article 111, irrespective of the listing of obligations in this Section. By signing and executing this Agreement, Contractor certifies that it complies with Article 111.

43. San Francisco Healthcare Accountability Ordinance

If San Francisco Labor and Employment Code Article 121 applies to this Agreement, the Contractor shall comply with the requirements of Article 121. For each Covered Employee, the Contractor shall provide the appropriate health benefit set forth in Article 121.3 of the Health Care Accountability Ordinance (HCAO). If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission. Contractor is subject to the enforcement and penalty provisions in Article 121. Any Subcontract entered into by Contractor shall require any Subcontractor with 20 or more employees to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section.

44. San Francisco First Source Hiring Program

If applicable to this Agreement, the Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and the Contractor is subject to the enforcement and penalty provisions in Chapter 83.

45. San Francisco Consideration of Criminal History in Hiring and Employment Decisions

The Contractor agrees to comply fully with and be bound by all of the provisions of Article 142, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Labor and Employment Code ("Article 142"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Article 142 are incorporated herein by reference and made a part of this Agreement as though fully set forth. The requirements of Article 142 shall only apply to the Contractor's or subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City and County of San Francisco, and shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

46. MacBride Principles – Northern Ireland

The provisions of San Francisco Administrative Code Chapter 12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

47. Drug-Free Workplace Policy

The Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on TJPA premises. The Contractor agrees that any violation of this prohibition by the Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

48. Resource Conservation Ordinance

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

49. San Francisco Tropical Hardwood/Virgin Redwood Ban

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

50. 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 its residents, and to prevent the further spread of graffiti.

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

51. Modification of Agreement

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

52. Administrative Remedy for Agreement Interpretation

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

53. Agreement Made in California; Venue

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

54. Construction

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

55. Entire Agreement

This Agreement sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 51, "Modification of Agreement."

56. Severability

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

57. USDOT Requirements

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

58. Compliance With Laws

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

59. Compliance with Americans with Disabilities Act

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

60. Authority to Execute Agreement, and Use of Electronic Signatures

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

Unless otherwise prohibited by law or TJPA policy, the parties agree that an electronic copy of this Agreement, or an electronically signed Agreement, has the same force and legal effect as the Agreement executed with an original ink signature. The term “electronic copy of this Agreement” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of the original signed Agreement in a portable document format. The term “electronically signed Agreement” means the Agreement that is executed by applying an electronic signature using technology approved by the TJPA.

61. Compliance with Naming Rights Agreement

The TJPA has executed an agreement with salesforce.com providing salesforce the right to name the new transit center the “Salesforce Transit Center” and the right to receive certain other benefits. The Naming Rights Agreement imposes requirements and obligations relative to the name of, references to, and logos associated with the transit center. The Contractor will comply with the procedures, restrictions, and requirements developed by the TJPA related to implementation of its obligations under the Naming Rights Agreement, and the terms for the Contractor’s use of the name and logos associated with the transit center.

62. Cooperative Drafting

This Agreement has been drafted through a cooperative effort of TJPA and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

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

TRANSBAY JOINT POWERS AUTHORITY

____
Adam Van de Water, Executive Director

Approved as to Form by:

____
TJPA Legal Counsel

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

____
Secretary, TJPA Board

CONTRACTOR

____
Authorized Signature

____
Printed Name

____
Title

____
Contractor Name

____
Address

____
City, State, Zip Code

____
Phone Number

____
Federal Employer ID Number

APPENDIX A

SCOPE OF SERVICES

I. SERVICE REQUIREMENTS

A. EXPECTATIONS

The work covered by this contract involves janitorial cleaning services for the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure. Specific cleaning service areas include bus ramp: bus storage area: corridors; lobbies; restrooms; conference rooms; exterior entrances; vending; data centers/computer rooms; dock areas; garage bay areas; storerooms; crating rooms; stairwells and any and all customer, employee and public spaces contained within Salesforce Transit Center, Salesforce Park, and adjoining infrastructure.

B. SERVICES TO BE PROVIDED

Services to be provided include:

- Routine and project cleaning of the following items: walls, ceilings, furniture and furnishings including chairs, wardrobes, tables, desks, telephones, shelving/bookcases, pipes, high dust areas, blackboards/marker boards, clocks, exit/other signs, pictures, interior window sills, spotting of interior glass and lobby glass, all Carpet surfaces; Carpet coverings (carpeting, rugs, tile, etc.) walk-off mats, baseboards, cabinets, water fountains, doors and door frames, moldings, transoms, radiators, and other heating devices, grills, vents/lovers, blinds, steps/banisters, elevator tracks, coat racks, credenzas/office furnishings, filing cabinets, air conditioners, fire extinguishers, drainage and toilet fixtures, sinks, mirrors, sanitary napkin/other dispensers, lockers, tubs, shower rooms, shower curtains, partitions, urinals, table-top and modular furniture, lighting or illuminating fixtures, carts, dollies, soap, paper towel and toilet tissue dispensers, equipment, pads, trash containers, microwaves, refrigerators, stairwells, and any and all customer, employee, and public items.
- Daily cleaning of secured and non-secured areas (where applicable), conference facility cleaning, sweeping and policing of steps, entrances, sidewalks and grounds, trash/waste removal to designated locations.
- Daily spot cleaning of fingerprints and smudges on all walls, doors, glass and other furniture.
- Surface traffic cleaning, spot cleaning and vacuuming of carpet are included in services.
- Full time Zero waste trash sorting services, in compliance with San Francisco Department of Environment and Recology.
- Bi-annual (twice yearly) carpet cleaning for TJPA office, Security Operations Center, Facilities Office – totaling roughly 8,000 square feet of office space.
- Annual (once yearly) window cleaning services:

- Street Level Exterior Cleaning (Grand Hall and Columns) - Provide labor, equipment, and supplies to wash the exterior perimeter windows of all the street level windows around Grand Hall and columns surrounding the entire property using scissor lift to access the windows over the bump out boxes. The balance of the windows will be cleaned using ladders and poles.
- Street Level Interior Cleaning (Grand Hall) - Provide labor, equipment, and supplies to wash the interior perimeter windows of the street level windows in Grand Hall only (no retail spaces or areas beyond Fremont Street). Cleaning excludes the upper skylight and windows over the escalator (but includes escalator glass).
- Bus Deck Level Window Washing - Provide labor, equipment, and supplies to wash the windows on the Bus Deck level.
- Rooftop Park Level Window Washing - Provide labor, equipment, and supplies to wash the windows in the rooftop park.

No restroom supplies (paper products such as toilet tissue, liners, hand towels, feminine hygiene products, etc.) are to be included in the monthly service cost.

Contractor guarantees that the work shall be performed in a professional manner, free from defects in materials and workmanship, strictly in accordance with all specifications.

Equipment needed:

- Standard ladders and poles
- Scissor lift capable of working 50ft in the air, to service: bump out boxes around Grand Hall and Bus Deck level glass, which spanning into the Park level.

See Attachment 1: Window Cleaning for additional information.

C. DEFINITIONS

Class A Property: a prestigious building characterized by high-quality standard finishes, prime location, state-of-the-art infrastructure, and premier amenities.

OSHA:

Cleanliness: For items subject to cleaning, per specifications, cleanliness means:

- The absence of litter or debris which can be eliminated by appropriate policing techniques
- The absence of un-bonded dust build up which can be eliminated by appropriate dusting techniques
- The absence of any surface marks, spills or other bonded surface residue that can be eliminated by appropriate damp or wet cleaning techniques
- The absence of any soil, wax, or bonded build up which can be eliminated by appropriate heavy duty, cycle or project cleaning technique
- The presence of appropriate surface gloss or protection

- The absence of minor spots, marks or other surface soil which can be eliminated by appropriate spot cleaning technique.
- The absence of dust, lint and other fiber accumulation in fabric and carpeted areas which can be eliminated by appropriate vacuum-cleaning techniques.

Timing:

- Repeated – Performed as Needed to maintain cleanliness
- Daily – One time per day (Monday-Friday) at the appropriate time to be determined by the Facility Director based on the service needed.
- # X Weekly – Performed two or more times per week (as indicated), but less than daily, at the appropriate time to be determined by the Facility Director based on the service needed.
- Weekly - One time per week (Monday-Friday) at the appropriate time to be determined by the Facility Director based on the service needed.
- Bi-Weekly One time every other week (Monday-Friday) at the appropriate time to be determined based upon the service needed.
- Monthly - One time per month (Monday-Friday) at the appropriate time to be determined by the Facility Director based on the service needed.
- Quarterly – Four times per annum at the appropriate time to be determined by the Facility Director based on the service needed.
- Semi-Annually – Two times per annum at the appropriate time to be determined by the Facility Director based on the service needed.
- Annually - One time per annum (Monday-Friday) at the appropriate time to be determined by the Facility Director based on the service needed.

Non-Service Days – Days predetermined by the Facility Director where no service will be performed.

It is understood that whenever the terms “adequate” or “as required” or “as necessary” or “if necessary” or “clean” are indicated in the specifications, these terms shall be construed to mean “as determined by the TJPA.”

- POLICE – Inspect, pick up debris and correct obvious deficiencies.
- SWEEPING – To gather and remove surface dust and debris from any and all floor surfaces using a broom, brush or dust mop.
- DUST MOPPING – Use of a Chemically Treated floor tool to attract and remove dust and debris from floor surfaces
- SPOT MOPPING – Using a damp mop or sponge type tool to wipe up spots and spills from floor surfaces
- DAMP MOPPING – Surface cleaning of entire areas of floor surfaces using a single bucket and mop, wringer and clear water
- WET MOPPING – A two bucket, two mop operation using detergent and water to wet mop the floor and clean water to rinse the surface being mopped dry after rinsing.

- MOP STRIPPING – Similar to wet mopping but substituting a detergent specifically formulated for mop-stripping in place or ordinary detergent. The mop-strip detergent should be capable of removing floor finish as well as surface stains.
- MACHINE SCRUB OR MACHINE STRIP – Same as mop-stripping but utilizing a rotary floor machine to facilitate the stripping prior to rinsing
- STRIP AND RE-FINISH – Machine scrubbing of resilient floor finish followed by the application of light multi-layers of an approved floor finish
- SPRAY BUFFING – The mist application of an approved floor finish while buffing with a rotary floor machine for the purpose of restoring the luster to a previously stripped and refinished floor surface
- DRY BUFFING – Similar to Spray buffing but omitting the application of additional finish
- CARPET VACUUMING – Removing dust and debris from carpet surfaces and fibers with a tool designed to electrically create a vacuum and drive a brush affixed with beater bars to loosen embedded debris
- CARPET SPOT CLEANING – To remove spots from carpeting using appropriate approved chemicals and methods without damaging the carpet or permanently "fixing" the stain.
- SANITIZING – Cleaning with a solution containing a germination detergent, chemically formulated to kill germs and bacteria.
- WASH – Using a sponge, brush or Cloth along with a solution of neutral detergent and water to remove built-up stains, residue, or scum followed by a rinse of clear water wiped dry with a sponge or cloth that has been thoroughly "wrung out" so as to avoid leaving steaks or water spots
- RINSE DRY - To rinse with clear water and wipe dry with a sponge, mop or cloth which has been thoroughly "wrung-out" so as to avoid leaving streaks or water spots

SPECIFICATION FOR CLEANING CHEMICALS, DISPENSING SYSTEM, AND PROCEDURES

The cleaning chemicals, dispensing system, and cleaning procedures used in the facility should meet the following criteria:

1. Cleaning Chemicals – The chemicals used on property should be either Green Seal (GS) -37 or GS-40 certified or they should be classified as Environmentally Preferred Products (EPP).

    a) Green Seal Certifications

        GS-37 Cleaners Categories - The GS-37 standard establishes environmental requirements for the following industrial and institutional cleaners:

        - Glass Cleaners
        - General Purpose Cleaners
        - Restroom Cleaners
        - Industrial Degreasers

- Carpet Cleaners

GS-40 Cleaners Categories - The GS-40 standard establishes environmental requirements for the following industrial and institutional floor-care products:

- Floor Finish/Sealers
- Floor Finish Strippers

b) Environmentally Preferable Products (EPP)

EPPs are products produced with best-in-class criteria for performance, reduced environmental impact, and enhanced safety. Best-in-class criteria are based on the 12 criteria points used by Green Seal to evaluate products. To qualify as an Environmentally Preferable Product, the product must meet at a minimum 11 of the following 12 criteria:

- Human Toxicity
- Carcinogens and Reproductive Toxins
- Skin and Eye Irritation
- Skin Sensitization
- Combustibility
- Ozone/VOC
- Aquatic Toxicity
- Aquatic Biodegradation
- Eutrophication
- Recyclable Packaging
- Concentrate
- Prohibited Ingredients

2. Dispensing System

a) Along with meeting the above specifications, products should also be delivered through a dispensing system that meets the following list of criteria:

- Safe, spill-tight, permanently integrated head and bottle
- Backflow prevention
- Portable dispensing
- Duo flow rate dispensing (high-flow for buckets; low-flow for bottles)
- Ergonomically designed handle
- Accurate dilution rates that can be verified
- 100% recyclable container

b) Floor finish should be provided in plastic bladders which are contained inside a corrugated outer box made with a minimum of 25% recycled material.

3. Cleaning Procedures and Storage

   a) Wherever possible, the Contractor will implement a system of chemicals, procedures, and tools that meet UL GREENGUARD Certification which measures indoor air quality for low-emitting products and materials.
   b) The Contractor shall also use cleaning procedures recognized by the US Green Building Council for Leadership in Energy and Environmental Design (LEED) certification, along with providing documentation on employee training programs.

II. RULES AND REGULATIONS

The following Rules and Regulations will be strictly adhered to and enforced. In all cases, coordinate activities or questions with the TJPA. The Contractor is responsible for issuance of a copy of these rules and regulations to all subcontractors and employees. The TJPA reserves the right to require removal from the Salesforce Transit Center of any Contractor or Contractor's subcontractor's employee exhibiting behavior which would justify termination. Such action does not waive the Contractor's responsibility to complete the services as agreed.

A. INTENT

It is the intent of the TJPA that the Contractor provide the labor, supervision and management that is required to perform the services requested (as described and specified in the applicable service specifications herein) and to ensure overall cleanliness to the locations listed herein , ("Buildings"), (See Attachment 2 – Site Plan). The services requested shall be performed to the greater of the standards applicable to "Class A Properties" or the standards specified in this Agreement.

B. COOPERATION AND COORDINATION

Contractor shall cooperate with the TJPA and other trades doing work at the site. Contractor shall plan its schedule and arrange the services requested so as not to conflict with other trades working at the site or the business functions of the TJPA. Contractor shall familiarize itself with the work to be done by others insofar as it affects Contractor's work and shall promptly share information and coordinate with others in order to achieve a harmonious working environment. Contractor shall immediately notify the TJPA orally and in writing of any conditions that might prevent the satisfactory completion of the services requested. In case of any conflict between Contractor's work and any work to be performed by others, the TJPA shall have the final decision with respect to addressing and resolving the conflict and Contractor shall promptly comply with each such decision.

C. EQUIPMENT & SUPPLIES

The Contractor shall provide all equipment, tools, receptacle and supplies necessary for the effective and efficient cleaning services of the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure.in accordance with the intent and the letter of specifications. In the event that products are supplied by the TJPA, all proceeds shall be credited to the TJPA. All Contractor equipment and tools shall be state-of-the-art and consistent with good practices. Any Contractor equipment or tools that the TJPA may deem unsuitable shall be removed from the buildings and replaced with suitable equipment within 24 hours of notification to the Contractor by the TJPA. The TJPA will be the sole judge of the suitability of all Contractor equipment.

All Contractor equipment and tools shall be used exclusively for the performance of the services requested and for no other purpose and shall be stored in a secure, enclosed storage area or garage, as the case may be, designated and provided by the TJPA. Sufficient quantities of equipment and tools shall be maintained in the TJPA's storage area for all routine needs. Contractor shall have the responsibility for the custody, care and safekeeping of all equipment and tools. All storage areas and garages shall be kept in a neat and clean condition and are subject to TJPA's inspection at any time. Contractor shall not have the exclusive right to use and/or occupy any storage area or garage and shall accommodate all other uses designated by the TJPA, from time to time.

Notwithstanding anything to the contrary contained in this Agreement, Contractor, shall at its sole cost and expense, provide all cellular communication devices and/or radios used by the employees and shall pay all charges imposed by the cellular service provider selected by Contractor. Radios intended for use at the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure shall operate on the established frequency as determined by the TJPA. At the discretion of the Facility Director, managers, supervisors, forepersons, freight operators, and specialty workers assigned to the property may be issued radios.

Contractor is responsible for bringing only the quantity of chemicals or hazardous materials onto the property as is required to perform the services requested for a period of one (1) month. Such products should be those that afford the greatest degree of environmental and human health protection that can effectively perform the services requested. Contractor is responsible for the safe handling, use and disposal of such chemicals or hazardous materials and shall provide the TJPA with Material Safety Data Sheets (MSDS) for each product used, at each and every building cleaned as well as a copy must be kept in the storage area of the chemicals or hazardous materials. MSDS and other Occupational Safety and Health Administration (OSHA) required safety information shall be clearly posted in all employee supply, storage and locker areas. Contractor shall be familiar with and have read and understood the label of any chemical product the Contractor will use at any of the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure.

Contractor and Contractor's employees, agents or subcontractors, shall be trained on the human health effects of all such products, personal protective equipment requirements for such products (if any) and procedures for safely mitigating any spills of the product. Contractor shall supply spill kits, neutralizers or absorbents in sufficient quantity to safely mitigate any potential spills Contractor, its employees, agents or subcontractors, may cause. Contractor must immediately notify the TJPA on any spill other than an accidental spill of chemical product. An accidental spill is generally a spill of less than one (1) cup of chemical product.

D. UNIFORMS

Contractor shall, at its sole cost and expense, provide its employees with all uniforms, work clothing, apparel, shoes and seasonal clothing, including, but not limited to shirt, trousers, smocks and outerwear (collectively, "Uniforms") and all safety and protective devices. The color and style of all Uniforms shall be subject to the prior approval of the TJPA in each instance. Uniforms shall not bear any insignia or logo without the prior written consent of the TJPA. Contractor shall clean, launder, press, repair and maintain all Uniforms in accordance with generally accepted standards of the textile industry so that all employees present a neat and professional appearance at all times. Uniforms that are worn out shall be promptly replaced. While on duty, all employees are required to wear a properly fitted, full and complete Uniform and to display appropriate TJPA photo identification badges. Notwithstanding anything to the contrary contained in this Agreement, the TJPA shall not be required to pay any amount in connection with the cost and expense incurred by Contractor for providing and laundering Uniforms, for providing safety and protective devices used by the employees and for any training required in connection therewith.

E. WASTE DISPOSAL

Contractor shall collect, clean and remove all trash and other matter and materials except for hazardous materials, as defined under applicable federal, state and local laws, in leak-proof containers and deposit the containers at the trash collection areas designated by the TJPA.

All employees involved in trash removal/recycling shall be familiar with, and comply with the TJPA procedures and policies and all other laws, rules and governmental regulations that are applicable to trash removal/recycling as imposed by governmental, quasi-governmental or other agencies having jurisdiction.

Contractor shall provide protective covering such as plastic tarps to protect Carpet coverings in areas where trash is staged for transport and removal.

F. QUALITY ASSURANCE

All services requested shall be performed in a first-class, industry-accepted, professional manner, to the satisfaction of the TJPA. Contractor's Site Manager shall submit a daily report detailing any non-daily routine tasks (See Attachment 3 – Tasks). Contractor will develop quality control forms and specification schedule sheets for all work performed and within a future date from the date of contract reward the Contractor shall submit the forms and schedules to the TJPA for approval.

Contractor's management employees shall inspect all work on a daily or weekly basis as designated by the Facility Director from time to time. Weekly, Contractor shall deliver to Facility Director a copy of all daily and weekly inspection reports. Contractor will employ the necessary management employees who shall supervise Contractor's other employees in the performance of the services requested. Management employees shall be present at the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure during the performance of the services requested and shall attend weekly meetings with and scheduled by the TJPA.

All procedures in connection with the services requested must be submitted in writing to the TJPA for approval before implementation. Any risks inherent in any procedure must be clearly disclosed and explained. All routine procedures must be submitted to the TJPA annually for approval.

All services listed in the forthcoming cleaning specifications shall be performed at the indicated frequencies or at such other frequencies as may be determined by the Facility Director. The terms "as necessary" and "as required" when used in the forthcoming cleaning specifications shall be defined as determined by the Facility Director.

G. RELATED DUTIES

In addition to the supervision of all work, the management employees shall be responsible for the following items:

- Instructing personnel to turn-off all lighting as soon as possible each night.
- Instructing personnel that lights will be left on during the performance of work in occupied areas.
- Securing all suite entrances in conjunction with the TJPA's security staff.
- Preparing and promptly delivering to the TJPA a written report of each incident of injury to any person, damage, loss or theft involving TJPA fixtures, property or equipment. The form and substance of each report shall be satisfactory to the TJPA.
- Contractor shall promptly advise the TJPA of all damages to property of the TJPA or property of others, all injuries incurred by persons including employees of the Contractor (or any subcontractor) in any manner relating, either directly or indirectly, to the work to be done or the services to be

performed by the Contractor. A detailed incident report should be completed and submitted to the Facility Director within 24 hours after the incident.

- Immediately advising the TJPA of any conditions or circumstances that have caused or may cause any material disruption of services, or that is or may become hazardous or that affects or may affect or threaten the life, health or safety of any individual or that constitutes an emergency.
- While cleaning the tenanted areas, Contractor's personnel will not admit anyone into a tenanted area, and all doors shall remain locked at all times, Upon completion of nightly chores, all lights will be turned off, exterior doors locked and offices left in a neat and orderly condition. Any exceptions (i.e. leaking faucets, malfunctioning lights, broken locks, loose carpeting, etc.) shall be brought to the attention of the TJPA, and placed in the daily logbook.
- Contractor will provide the TJPA with a list of all employees providing services associated with the scope of services for each physical location. The list shall be updated as needed by Contractor and provided to the TJPA. Such lists shall include roving managers.

H. PERSONNEL TIME KEEPING

All employees except those designated in writing by the TJPA, shall be required to sign or log "in" and log "out" in accordance with the procedures established by the TJPA. Upon a future date designated by the TJPA after award of a contract, Contractor shall provide the TJPA with a schedule indicating the name and job assignment for each employee. The job assignments and the number of employees assigned thereto shall be submitted to the TJPA and a revised schedule shall be delivered to the TJPA promptly following each change in the schedule and each such change shall be subject to the prior written approval of the TJPA.

I. HOURS OF WORK

Contractor must exercise good judgment in all forms of work to be performed. Realizing the tenants' rights to a peaceful and quiet workplace must be the priority at all times. If the Contractor is unsure, the Contractor should contact Facility Management staff prior to starting work.

J. CONTRACTOR'S WORK FORCE

All employees shall be qualified to perform the work required in connection with their job assignment and to achieve and maintain the level of service described herein.

If any employee or any person employed by any permitted subcontractor of Contractor is not acceptable to the TJPA, said individual shall be immediately removed from Salesforce Transit Center, Salesforce Park, and adjoining infrastructure, prohibited from working at property and shall be replaced immediately by Contractor or the subcontractor, as the case may be, with an individual acceptable to the TJPA. Requests for the removal of any such personnel will be limited to disciplinary and/or security reasons or other lawful grounds and shall not be based upon gender, race, age, national origin or other grounds prohibited by law. Contractor shall immediately notify the TJPA of the name of each employee and any person employed by any permitted subcontractor who is terminated or suspended by Contractor and the name of each individual hired to replace any employee who is terminated.

Contractor shall maintain and show evidence of an adequate back-up force of personnel, including management personnel, and equipment and a crisis management team with the ability to provide additional and immediate assistance to the TJPA in case of flood, fire, casualty, natural or man-made disasters, or other emergency circumstances.

Upon the execution of this Agreement, Contractor shall provide the TJPA with the names and telephone numbers (excluding Contractor's local branch number or answering service) for at least five supervisory personnel who can be contacted by the TJPA 24 hours per day, 7 days a week in the event of an emergency and who are authorized to dispatch back-up working crews in the event of a request by the TJPA for such services. Contractor will update the emergency telephone list as required throughout the term of Agreement so that the TJPA shall always have current numbers.

The management employees shall: (i) be assigned to adequately monitor and control all work to completion each night; (ii) become familiar with TJPA's emergency, fire and disaster plans and shall assume the duties assigned to them by the TJPA in connection with these plans; (iii) comply with and assist the TJPA in enforcing the security plan that relates to the activities of the employees; and (iv) be available, upon request, to meet with the TJPA during normal business hours.

In addition to site managers and management employees assigned to the direct supervision of other employees, Contractor shall maintain and show evidence of adequate senior management level staff who shall make periodic scheduled and unscheduled visits to property to assure that the work is being performed in accordance with the Agreement and that all employees are performing the work in accordance with the Agreement.

Contractor shall assure that at least one English speaking staff member is available at each service location. If not, then an English-speaking interpreter must be available via telephone to communicate service needs to site staff.

Contractor shall, at its sole cost and expense, engage a firm satisfactory to the TJPA, to prepare a comprehensive background report for each individual who will be assigned by Contractor to work at the property after the date of this Agreement. At the TJPA's request, Contractor shall promptly provide the TJPA with a copy of the background search and the results of any applicable drug and alcohol tests.

Upon a future date by the TJPA, Contractor shall cause a comprehensive background report for each existing employee to be prepared and shall deliver the results to the TJPA in the manner provided herein.

The TJPA will determine at a future date from the execution of this Agreement when the Contractor shall submit to the TJPA a written plan to provide all training that is necessary or required for employees to perform the portion of the work to which they have been assigned. Contractor shall, prepare, implement and administer the plan and provide all training in a timely manner and at its sole cost and expense. The program and all modifications thereto shall be subject to the prior written approval of the TJPA. Appropriate documentation, satisfactory to the TJPA, verifying the successful training of applicable employees shall be submitted intervals determined by the TJPA.

At least annually, Contractor shall provide the TJPA with a written evaluation of the performance of all employees. Contractor shall take appropriate action to correct the deficiencies cited for each employee.

The TJPA shall have the right to approve all employees who are assigned to the property.

Contractor shall keep on file and as requested, provide for the TJPA inspection, proof of U.S. citizenship or legal residence for all employees. No Contractor employee will be allowed to work on the premises unless they are in conformance with all rules and regulations regarding citizenship, immigration and any other rules/regulations, laws, etc. by the authority having jurisdiction.

Contractor employees shall not eat, drink or smoke on duty. They shall not use telephones, disturb papers on desks, open drawers or cabinets, turn on televisions or radios, or use cellular phones without prior written authorization from the TJPA.

Contractor agrees to give the TJPA two-week notification, and submit for approval any changes to key personnel, such as Shift Supervisor(s), Account Manager or Project Manager.

All personnel furnished by the Contractor are required to be employees of the Contractor or approved subcontractor. At no time will they be considered employees of the TJPA and at no time may an individual working for the firm also be an employee of the TJPA. The Contractor will pay the salary of all the Contractor's personnel as well as all employer's Federal, State and Social Security taxes, Federal and State Employment taxes and any other personnel taxes required by law.

The Contractor will provide an Account Manager with a minimum of five (5) years' experience managing accounts for the Contractor.

The Contractor will, at its own cost and expense, provide training and seminars to personnel assigned to the property.

During Emergency and/or Storm conditions certain locations may have extended hours and service needs. Contractor shall plan for and be prepared to staff as requested by the TJPA.

K. SECURITY

Employees must demonstrate the utmost care and caution when in sensitive or secure areas of the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure. Unless otherwise directed by TJPA officials, said employees are required to stay clear of unauthorized areas. If any employee is confronted with abnormal conditions or circumstances, the affected employees shall immediately stop all activities and contact the TJPA and building security personnel for further instructions.

Contractor shall insure that all employees who work at the property are adequately informed of and comply with all applicable directives, policies, procedures and rules and regulations issued or adopted by the TJPA.

Contractor shall develop a program, in conjunction with the TJPA, for the controlled access of all employees in order to limit employee access to only those areas to which they must have access. This includes both card and key accessible areas.

Contractor shall not admit any unauthorized personnel onto the property (to include personal acquaintances, children or spouse).

The Contractor's supervisor shall be responsible for key control and will not issue keys to any Contractor employee without carefully considering the consequences and will account for sign-out of keys issued daily. All Contractor employees shall be informed that taking these keys outside the property will be grounds for immediate termination. Contractor employees will turn all keys over to the supervisor before leaving the premises. The supervisor will not take any keys off premises.

Upon loss of key(s) to any office, common area rooms, janitorial closets, conference room or other locked area of the premises for which Contractor has key access, the Contractor will immediately advise the TJPA. Re-keying shall include the replacement of any tenant or other entry key, which may have been previously issued. In addition, Contractor shall be liable for any additional loss, costs and expenses, including attorney's fees, that the TJPA may incur due to the loss of a key or keys that Contractor is responsible for.

L. SAFETY

Contractor shall, at its sole cost and expense, be responsible for the safety of all employees and for assuring that the work is performed in a manner that does not jeopardize the safety of any person present at the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure
or damage TJPA and/or tenant property. Contractor shall perform all work in an appropriate and careful manner so as to minimize the risk of damage, fire, flood, or other hazards or casualty.

Contractor is responsible for assuring that all personnel, equipment and operations of the Contractor at the property are in conformance with the Occupational Safety and Health Act (OSHA), including but not limited to, all "Right To Know" information, Material Safety Data Sheets and supporting documentation and all other applicable federal, state and local laws and regulations. Contractor shall promptly advise the TJPA in writing if any product, equipment or other item supplied by the TJPA for use by Contractor, any employee or any permitted subcontractor does not comply with OSHA regulations.

Notwithstanding anything to the contrary contained herein, the TJPA shall not be required to pay any amount to Contractor in connection with Contractor's obligations under this Section and with respect to the costs and expenses incurred by the Contractor in providing any safety equipment, devices or training to the employees.

M. COMPLIANCE WITH LAWS, ORDERS AND REGULATIONS

Contractor represents and warrants that Contractor: (i) is experienced, skilled in the performance of the services that are required to be provided in connection with the performance of the work; (ii) possesses all governmental certificates, licenses, consents, approvals and permits (collectively, "Licenses") that are required in connection with the performance of the work; and (iii) is thoroughly familiar with all laws, orders and rules and regulations that are applicable to the work (collectively, "Laws"). During the term of the Agreement, Contractor shall comply with all Laws and shall maintain all Licenses in full force and effect.

Contractor further warrants and represents to the TJPA that: (i) all employees possess all Licenses that are required by applicable law or regulation in connection with the performance of the portion of the work that has been assigned to the respective employee; (ii) all employees who are hired by Contractor following the date of this Agreement shall possess all Licenses, including, but not limited to, a Driver License that are required by applicable law or regulation in connection with the performance of the portion of the work that has been assigned to the respective employee.

All Licenses shall be valid and maintained in full force and effect throughout the term of the Agreement and a copy thereof shall be delivered to the TJPA within three (3) days following its request for such copy.

Notwithstanding anything to the contrary contained in this Agreement, the TJPA shall not be required to pay any amounts to Contractor or any employee in connection with the procurement, maintenance and/or renewal of any License, except for labor costs that Contractor is obligated to pay to any employees to compensate them for the time spent by them in taking any examination for a License or Special License and for the time spent traveling to and from the site of the examination.

Contractor's employees must comply with Salesforce Transit Center and Park Rules & Regulations at all times when on property.

N. BOOKS AND RECORDS

Contractor shall maintain separate and accurate books and records in connection with the performance of the work, including, but not limited to, all labor costs and expenses incurred by Contractor and shall retain all such books and records for a period of six (6) years following the Termination Date. All books and records shall be prepared in accordance with generally accepted accounting principles consistently applied and shall only reflect information that is pertinent to this solicitation and shall not reflect any information that is applicable to any other business of Contractor.

The TJPA and its representatives shall have the right to audit, and copy said books and records during normal business hours at Contractor's office located closest to the Salesforce Transit Center. TJPA's rights under this paragraph shall survive the termination of this Agreement.

Contractor shall provide written or verbal reports to the TJPA as directed. These reports shall be in a format accepted by the TJPA.

O. SPACE

The TJPA shall designate and furnish, without charge to Contractor, storage and washroom space for the non-exclusive use by the employees and all such space shall be deemed to be part of the Licensed Premises and subject to all the terms and provisions that are applicable to the Licensed Premises.

P. PARKING

There will be no Contractor parking in the dock areas unless authorized by the Facility Director. After loading and unloading in the dock area, vehicles must be moved offsite. Vehicles and any personal property are left at the owner's own liability. Do not leave keys in vehicle.

Any exception to dock rules must be confirmed by Facility Director. If this is not possible, the Security Operations Center's decision will be valid and final.

Q. INTERRUPTION OF BUILDING SERVICES

The TJPA reserves the right, without liability or obligation to Contractor, to stop or reduce any heating, elevator, lighting, ventilating, air conditioning, gas, steam, power, water, janitorial or other service of any type or nature or to interrupt the use of any facilities or portions of the Salesforce Transit Center, Salesforce Park, and adjoining infrastructure at any time and from time to time as may be necessary and for as long as may reasonably be required in the discretion of the TJPA as a result of any accident, alteration, repair, maintenance, construction, damage, casualty or Force Majeure.

R. ELEVATOR SERVICE

Contractor shall have the reasonable non-exclusive use of elevators designated by the TJPA. Contractor shall comply with all rules and regulations adopted by the TJPA with respect to the use of the elevators. If such designated elevators are not available, the TJPA may assign alternate elevators to Contractor for temporary use by Contractor. Contractor shall protect the interior of all elevators from damage, paying special attention to any carpet coverings.

S. HOLIDAYS

The Contractor shall provide a staffing plan for recognized holidays to be approved by the TJPA. Staffing plans should include the number and type of staff recommended by shift, to ensure continued coverage.

Upon request, Contractor shall supply Annual, Monthly, Weekly, Daily and Hourly pricing for additional services that may from time to time be required by the TJPA.

T. CHANGES TO SCOPE OF SERVICES

The TJPA may, from time to time, order changes by additions or deletions to the original Scope of Services . Should this occur, the invoiced sum would be adjusted accordingly. All such orders must be in writing, and the Contractor shall not be entitled to reimbursement for any extra costs unless the amount of such extras is approved in writing before the work involved in any such change has commenced.

U. SUBCONTRACTING

The Contractor may not subcontract work without the prior written consent of the TJPA. The Contractor agrees that it will not at any time prior to or during the term of the Agreement, either directly or indirectly, use any subcontractor(s) and/or labor and/or materials which would or will create any difficulty with other subcontractors and/or labor engaged by the Contractor or the TJPA in the operation of the premises or any part thereof.

V. On-Call and As-Needed Services

1. **Scope.** In addition to recurring services described in Section I.B. Services to be Provided, above, the TJPA may from time to time request that the Contractor perform discrete, non-recurring cleaning services ("As-Needed Services"). As-Needed Services may include, without limitation, event support for public or private events; supplemental or specialized cleaning arising from higher-than-normal use; emergency response and cleanup (including water intrusion, plumbing overflows, and flooding); and biohazard or sharps remediation and disposal.
2. **Written Request and Authorization.** The TJPA may request a written quote for any proposed As-Needed Services. Upon request, the Contractor shall submit a written quote describing the scope of work, schedule, and price. **No As-Needed Services shall be performed, and no charges shall be incurred or owed, unless and until the TJPA has approved the scope and price in writing** (email from an authorized TJPA representative being sufficient). Any work performed without such prior written authorization is at the Contractor's sole risk and expense, and the TJPA shall have no obligation to pay for it.
3. **Pricing.** At the TJPA's election, As-Needed Services shall be priced using the labor rates set forth in Appendix B. The Contractor shall itemize the basis of each quote. Approved quotes are firm and may not be exceeded without the TJPA's further approval.

Attachment 1 – Window Cleaning

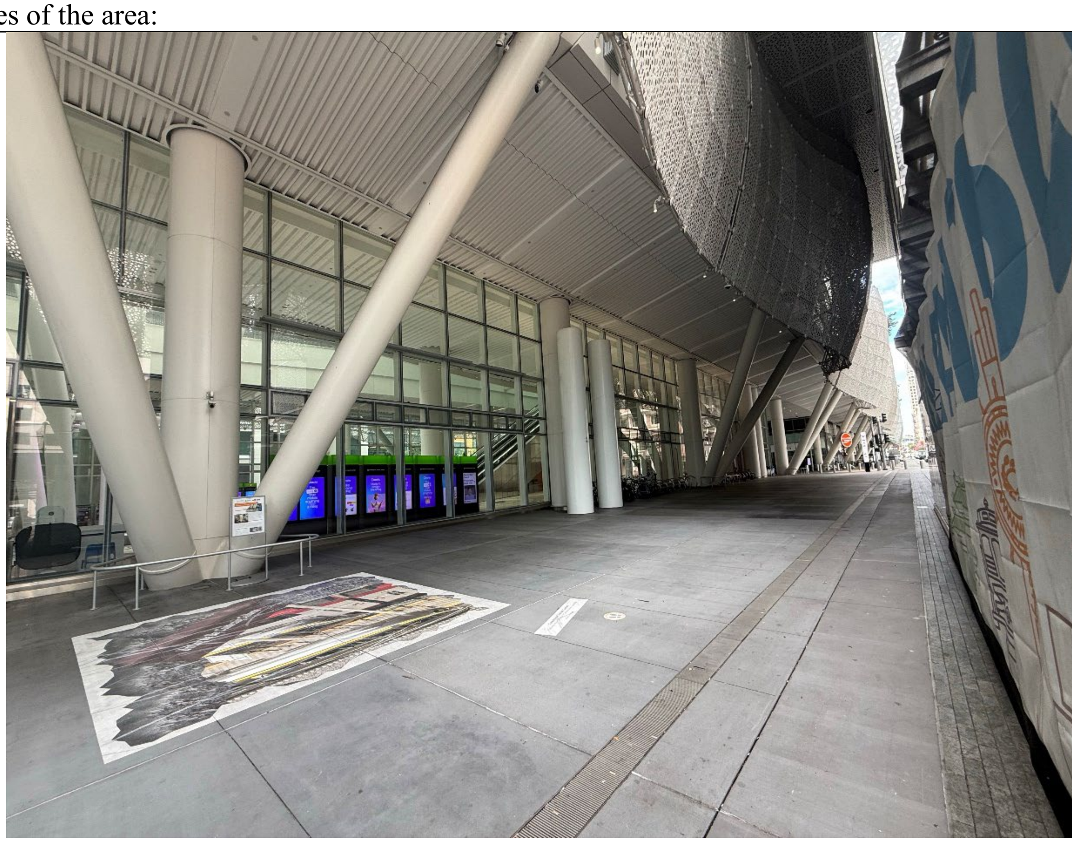
Equipment needed:

- Standard ladders and poles
- Scissor lift capable of working 50ft in the air, to service: bump out boxes around Grand Hall and Bus Deck level glass, which spanning into the Park level.

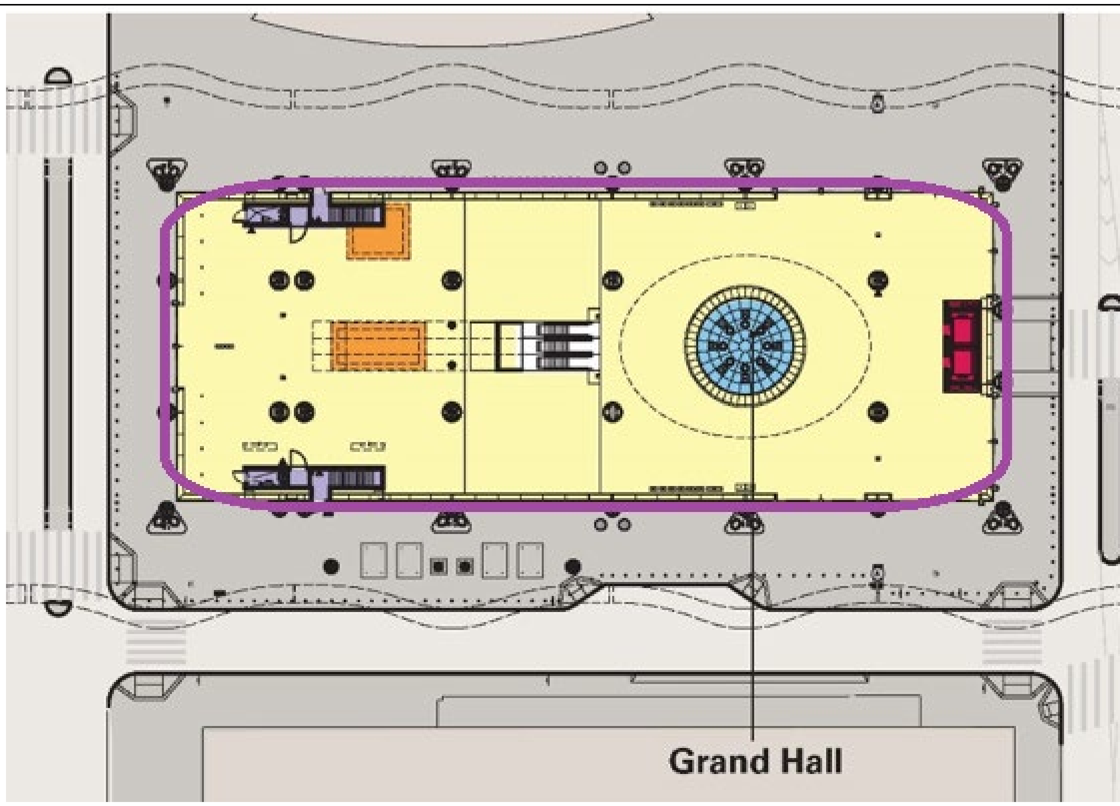
Annual (once yearly) window cleaning services:

- Street Level Exterior Cleaning (Grand Hall and Columns) - Provide labor, equipment, and supplies to wash the exterior perimeter windows of all the street level windows around Grand Hall and columns surrounding the entire property using scissor lift to access the windows over the bump out boxes. The balance of the windows will be cleaned using ladders and poles.

Images of the area:



- Bump out box example shown (surrounding column)



- Area of work is highlighted in purple.

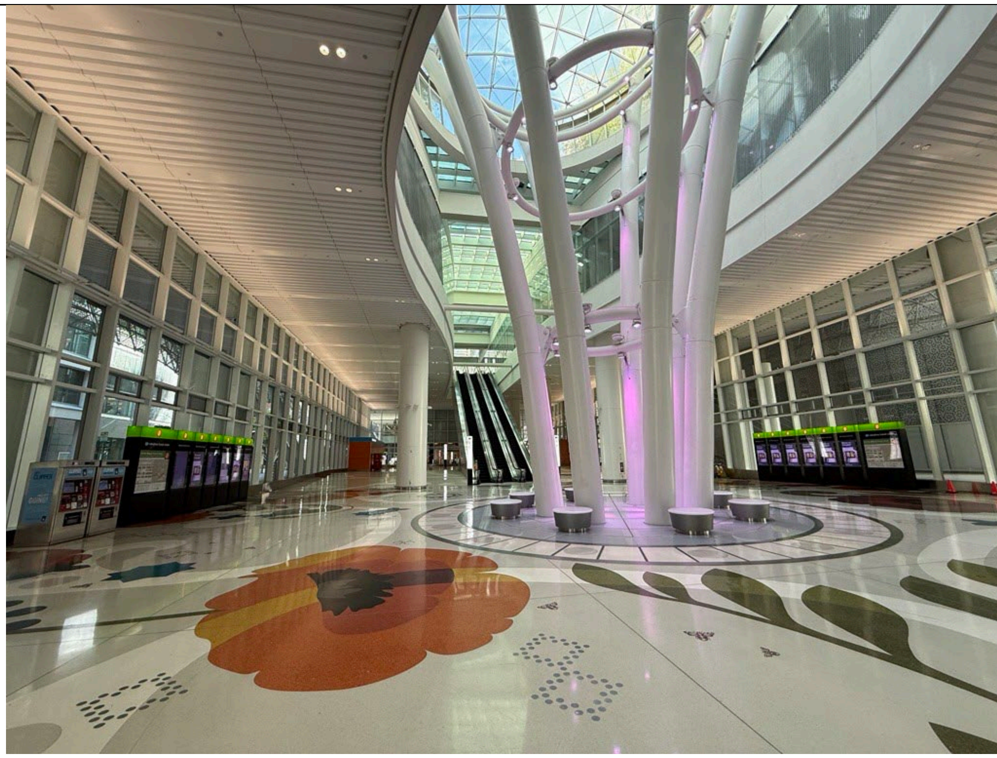
- Located between Natoma and Minna; & First and Fremont

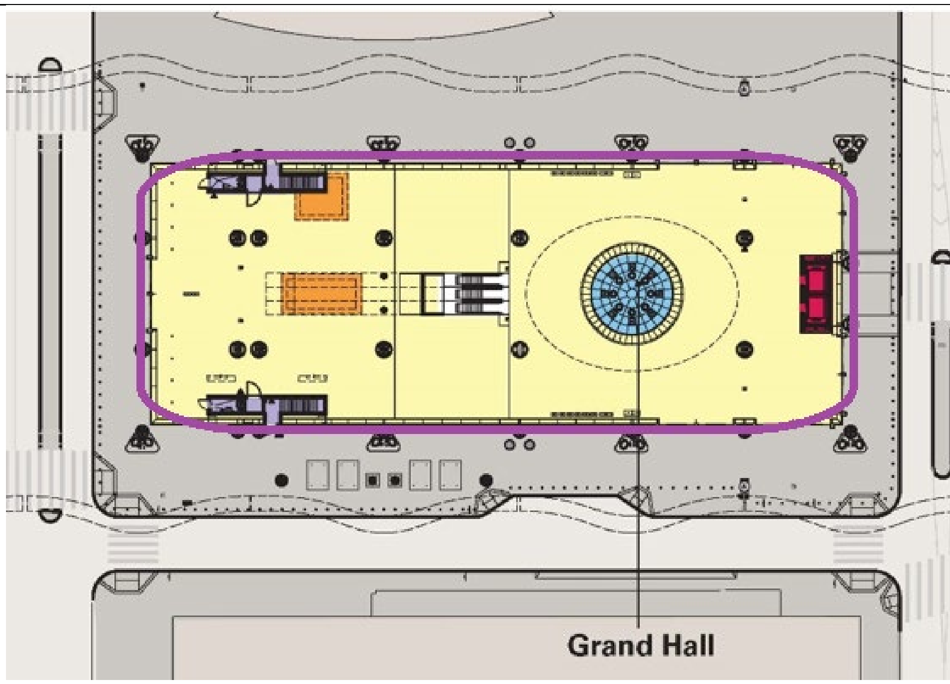
Columns

- Example of columns shown (surrounding the entire property).
- All need to be cleaned, but the ones that are most dirty are in the Bus Plaza on first floor (where buses sometimes idle), between Fremont and Beale on Natoma.

- Street Level Interior Cleaning (Grand Hall) - Provide labor, equipment, and supplies to wash the interior perimeter windows of the street level windows in Grand Hall only (no retail spaces or areas beyond Fremont Street).
    - Cleaning excludes the upper skylight and windows over the escalator (but includes escalator glass).

Images of the area:

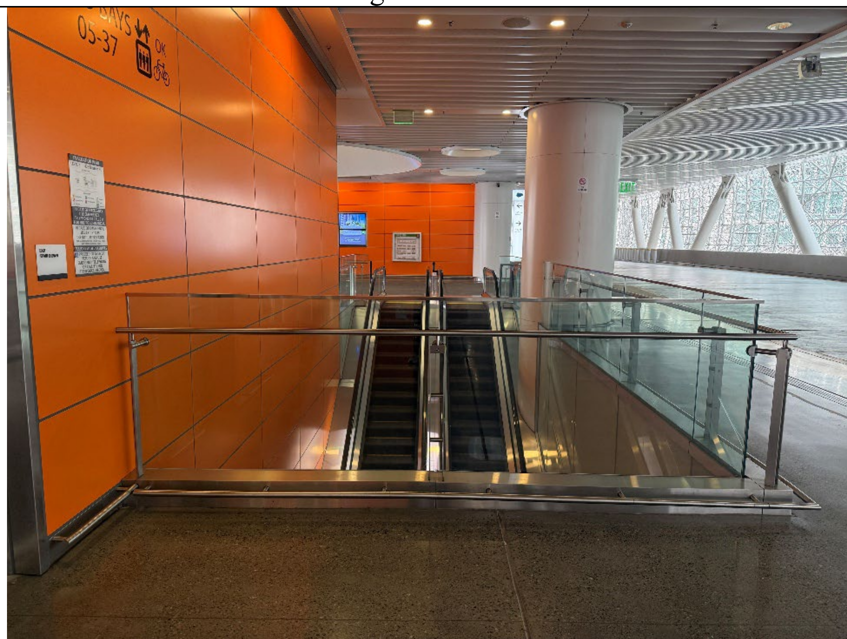


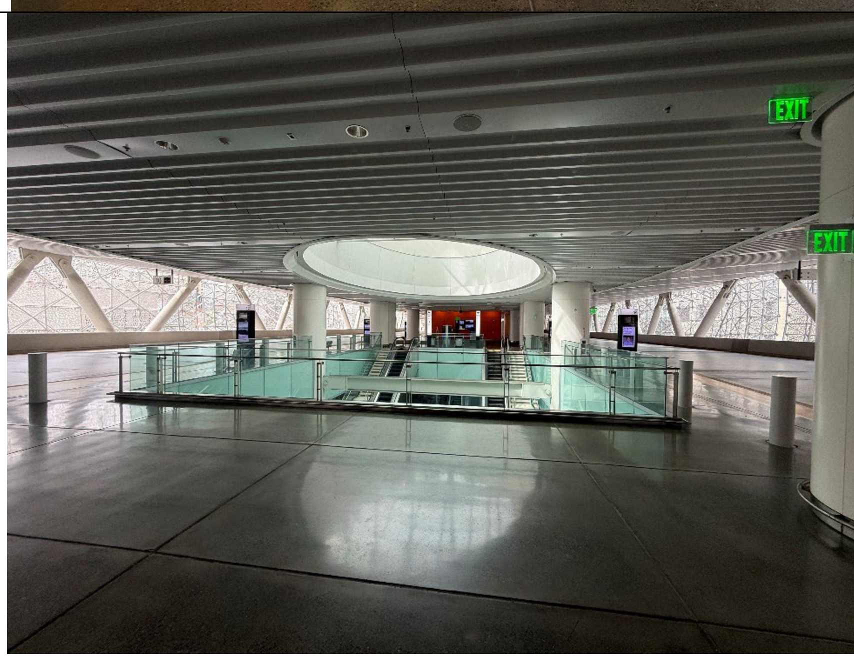


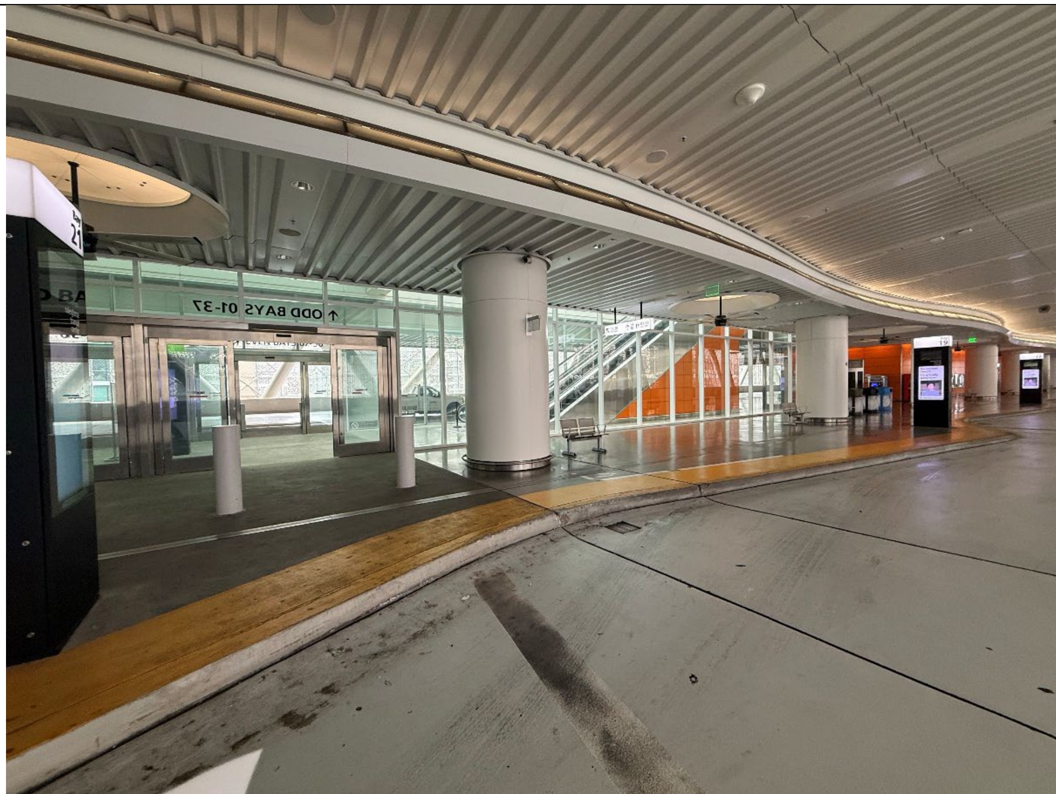
- Area of work is highlighted in purple.
- Located between Natoma and Minna; & First and Fremont

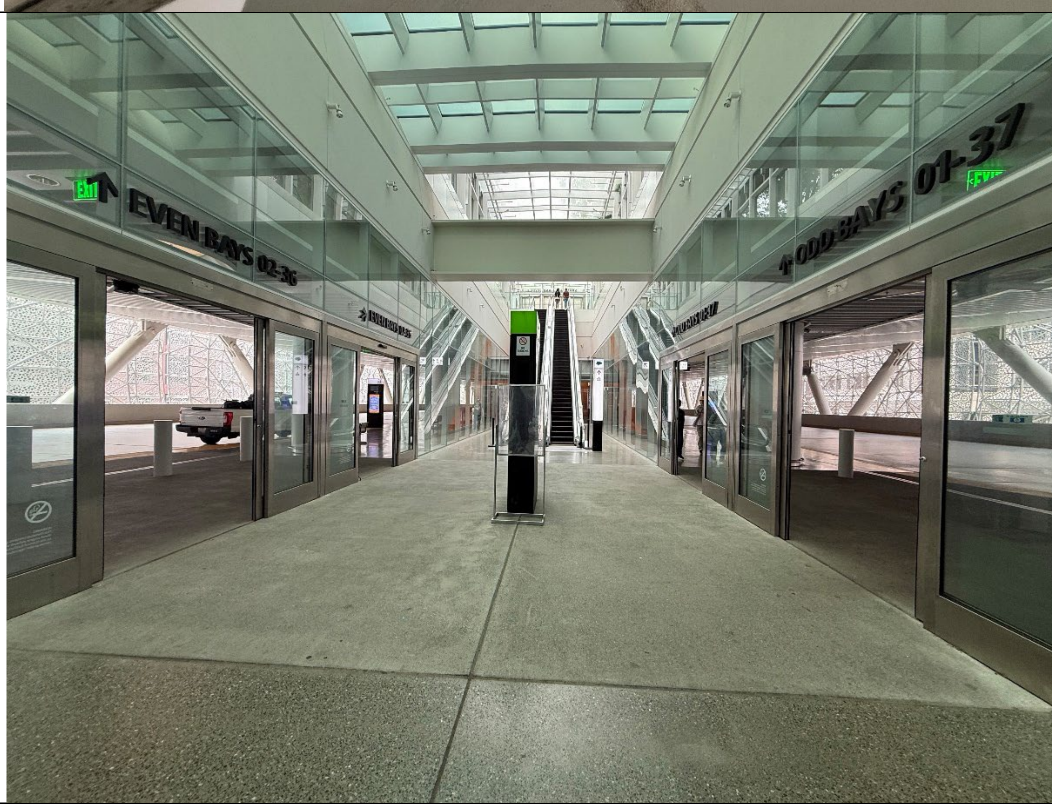
- Bus Deck Level Window Washing - Provide labor, equipment, and supplies to wash the windows on the Bus Deck level.

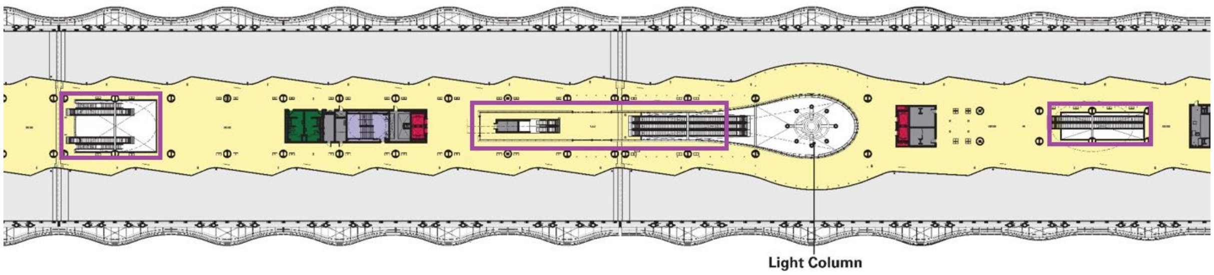
Images of the area:







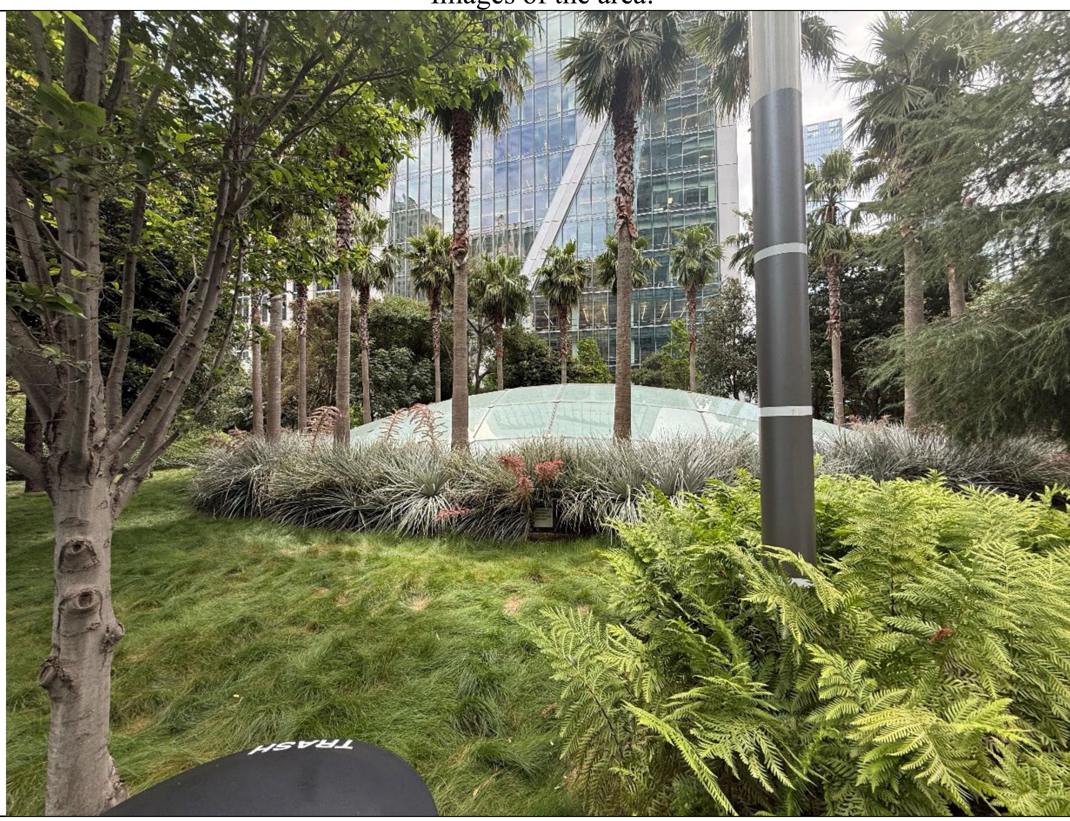

EXIT
EVEN BAYS 02-36
ODD BAYS 01-37

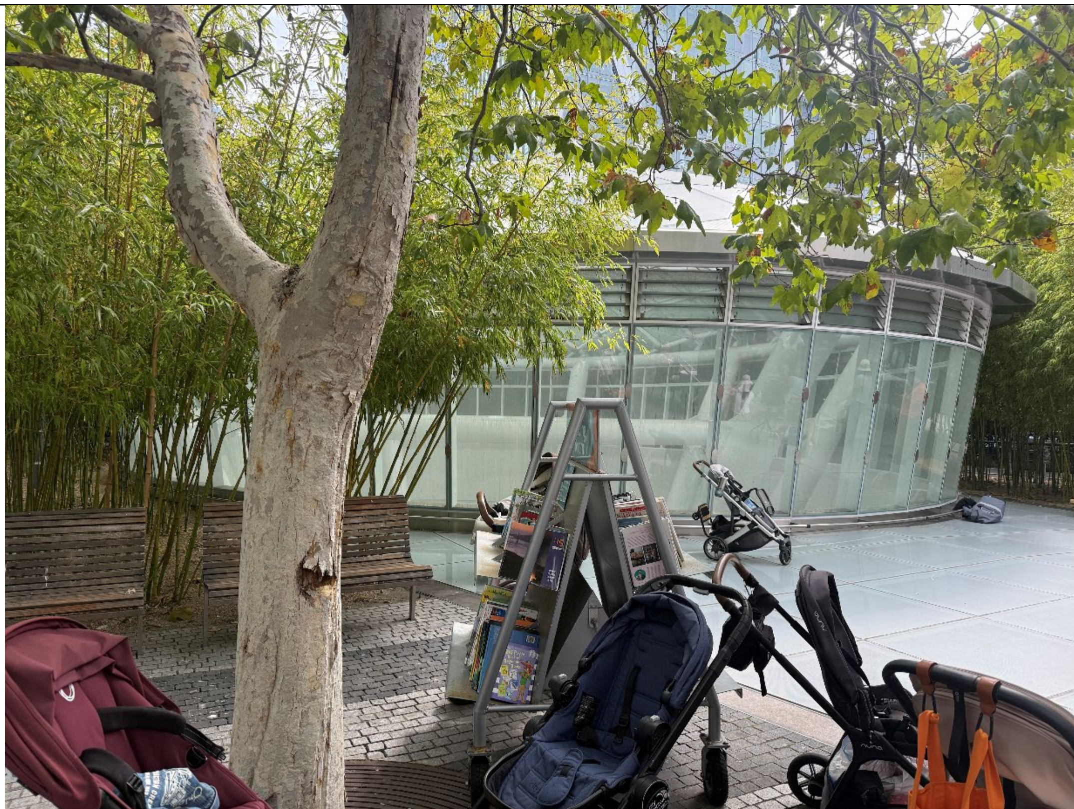


- Area of work is highlighted in purple.

- Rooftop Park Level Window Washing - Provide labor, equipment, and supplies to wash the windows in the rooftop park.

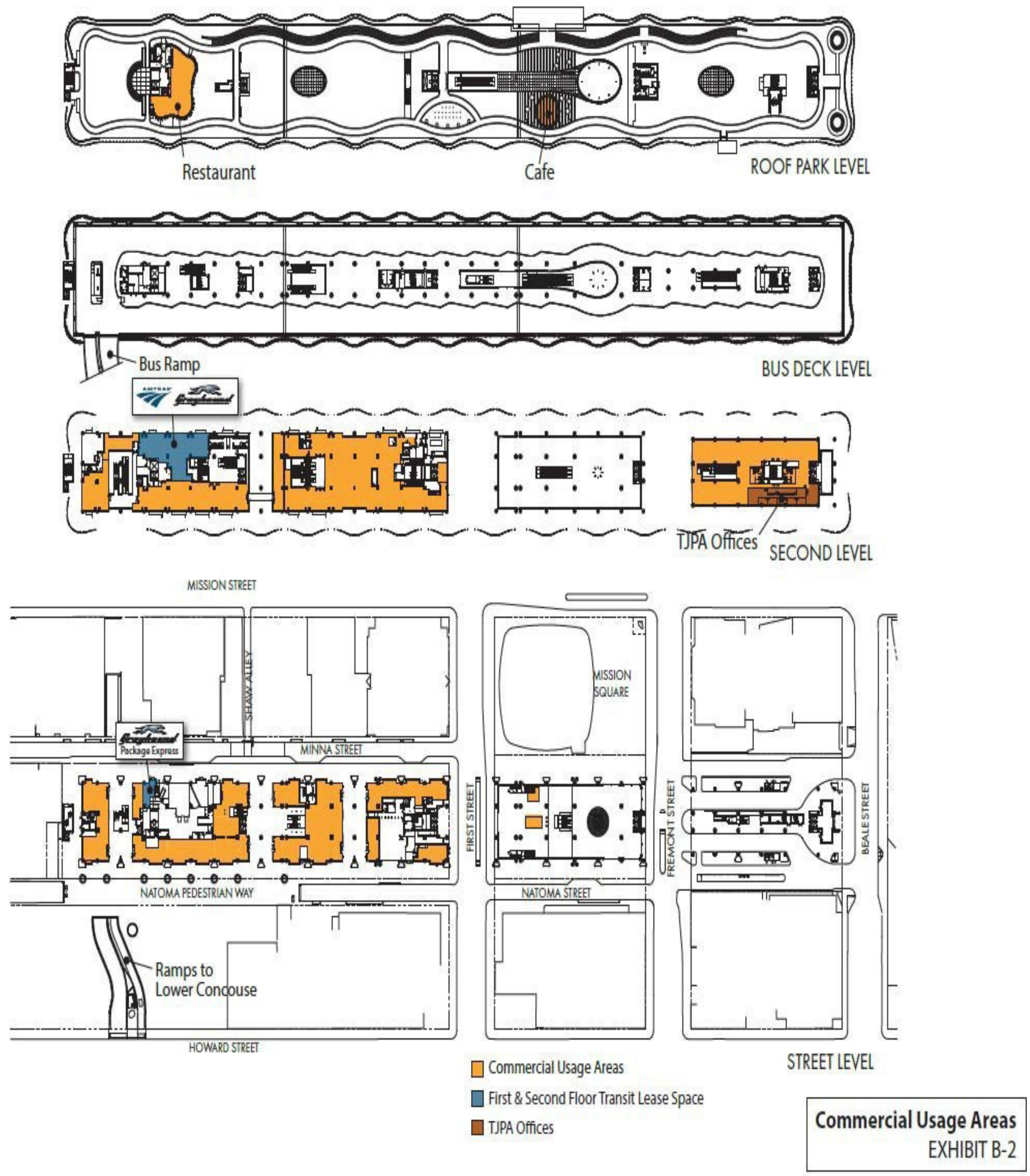
Images of the area:



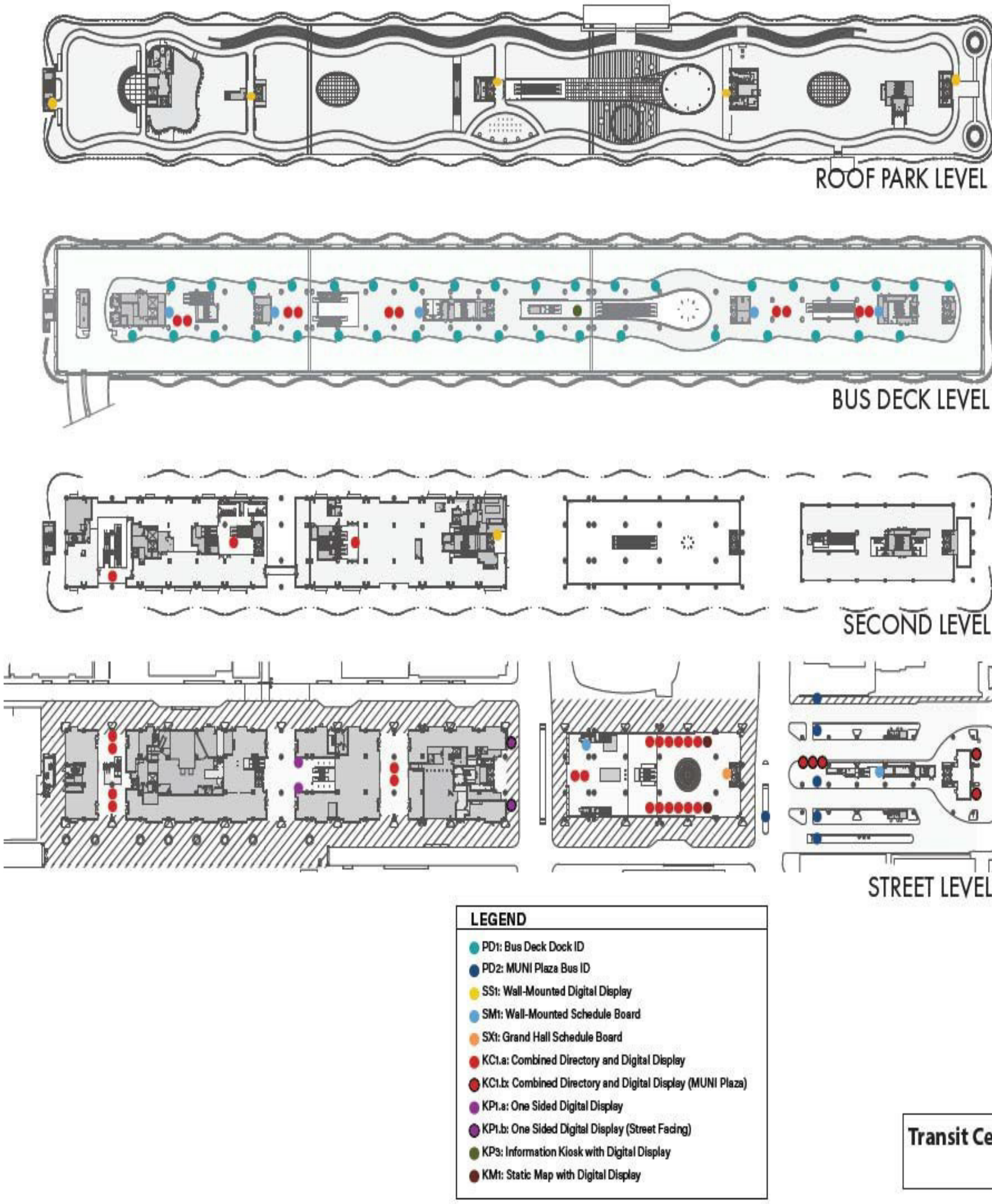


- Area of work is highlighted in purple.

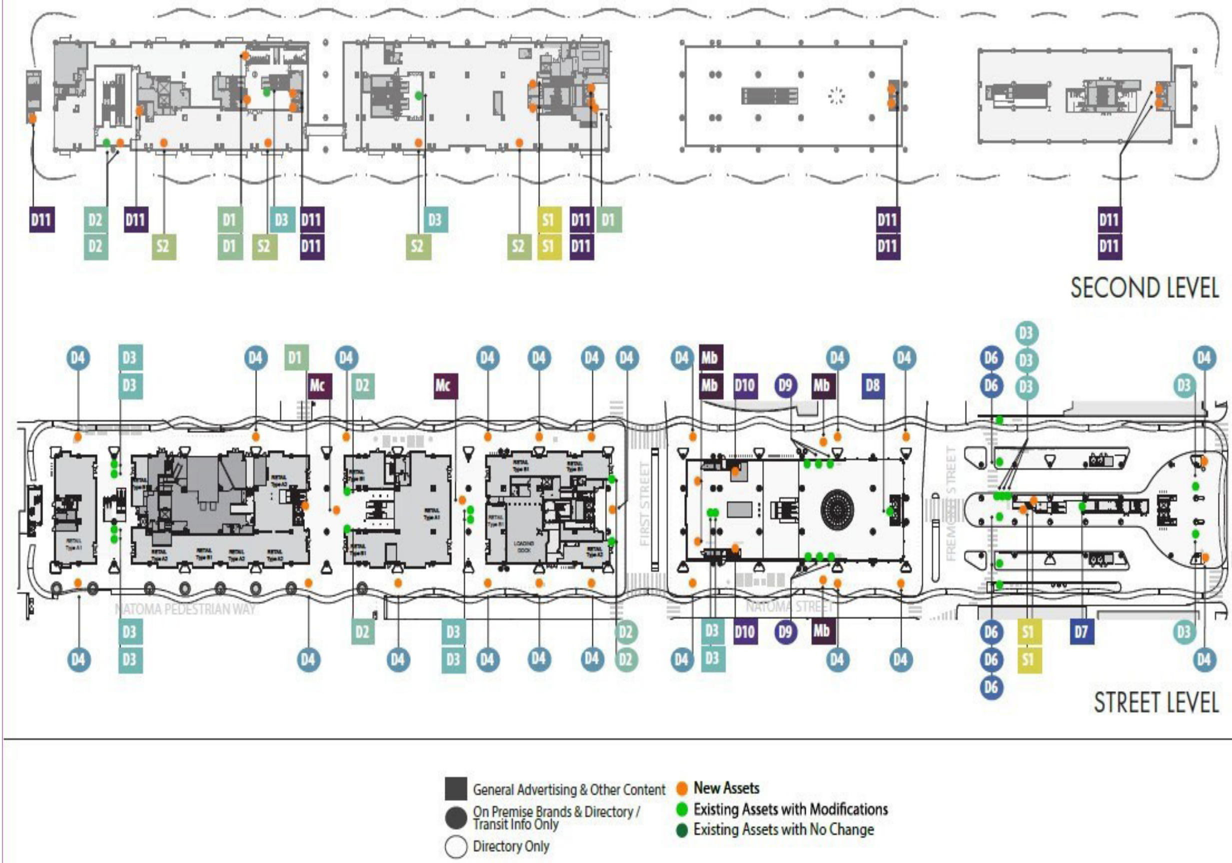
Attachment 2 -Site Plan



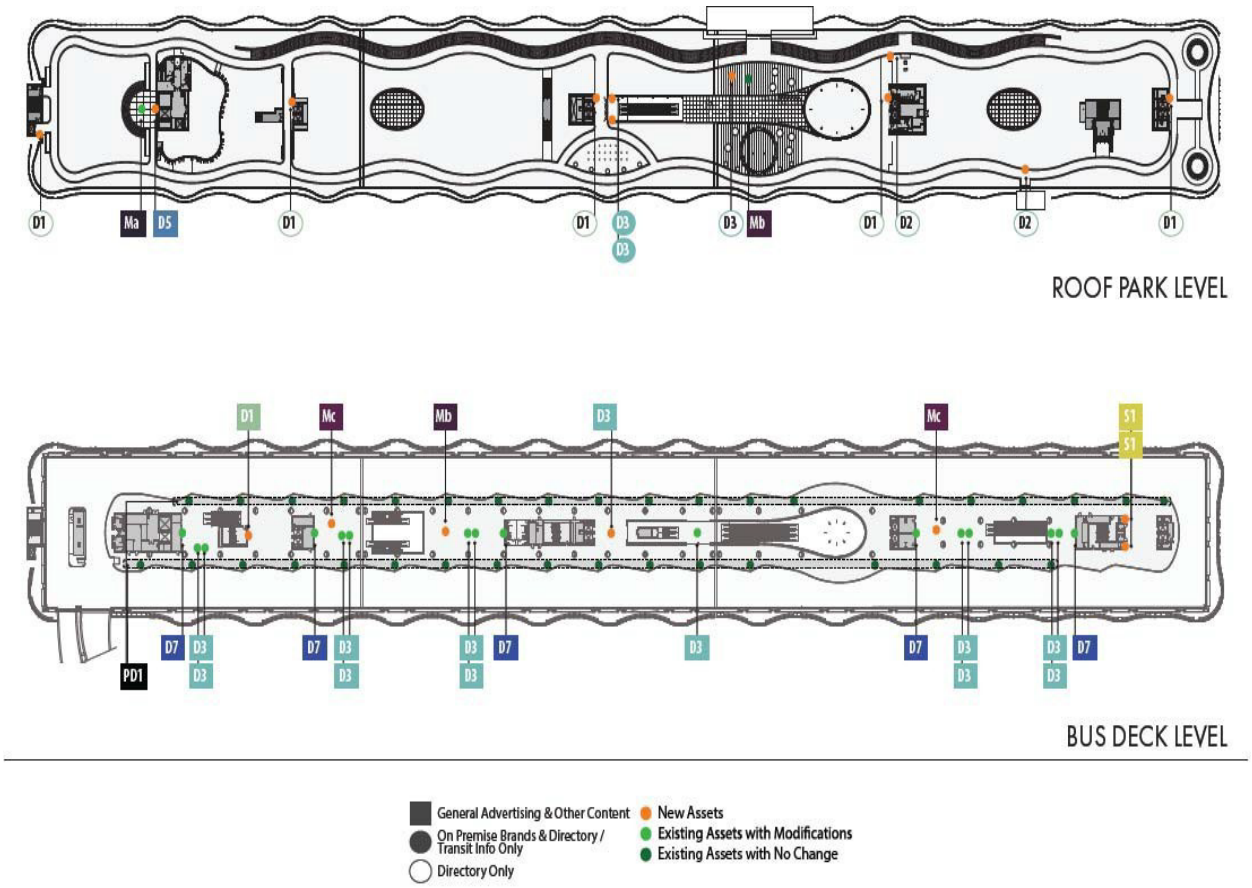
Lower Levels Support Space
EXHIBIT B-4



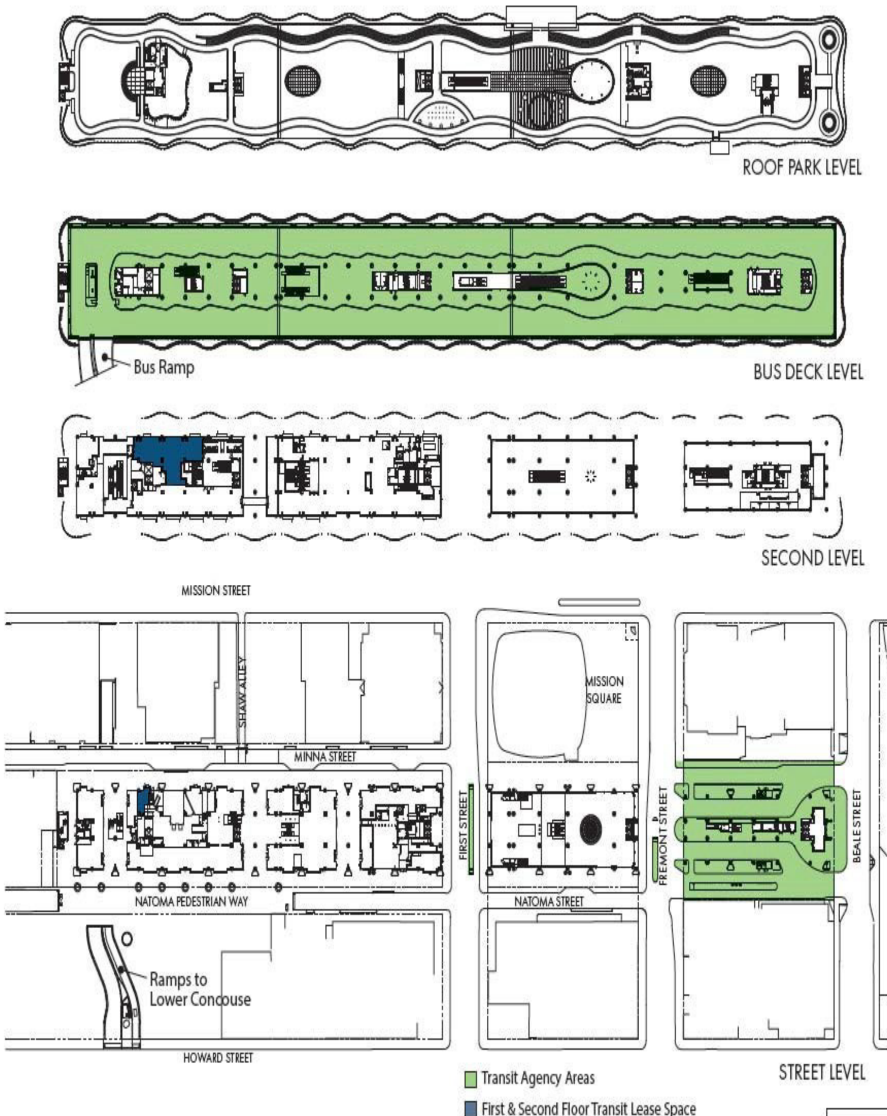
Transit Center Signage
EXHIBIT B-5



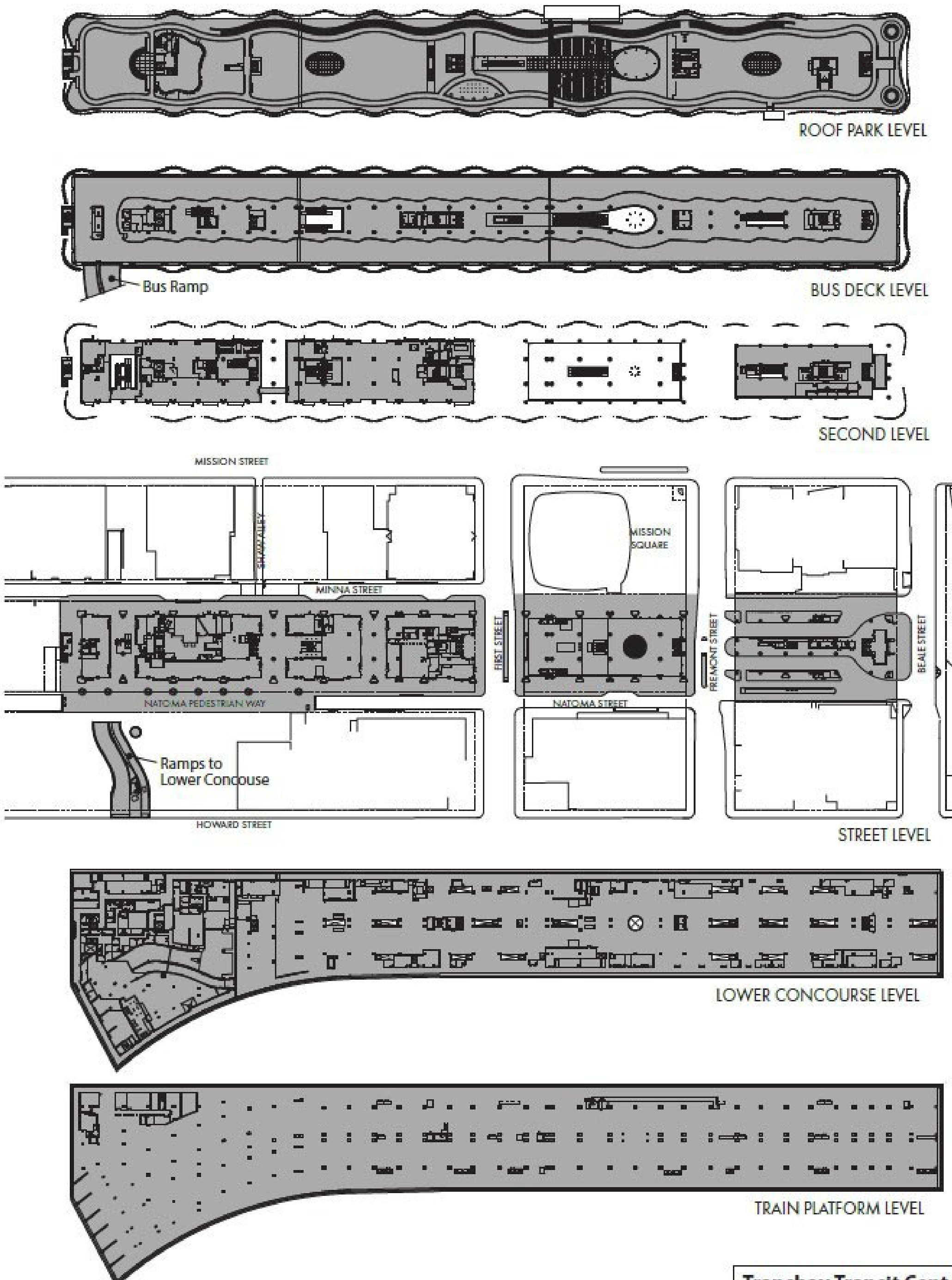
Transit Center Signage
EXHIBIT B-5



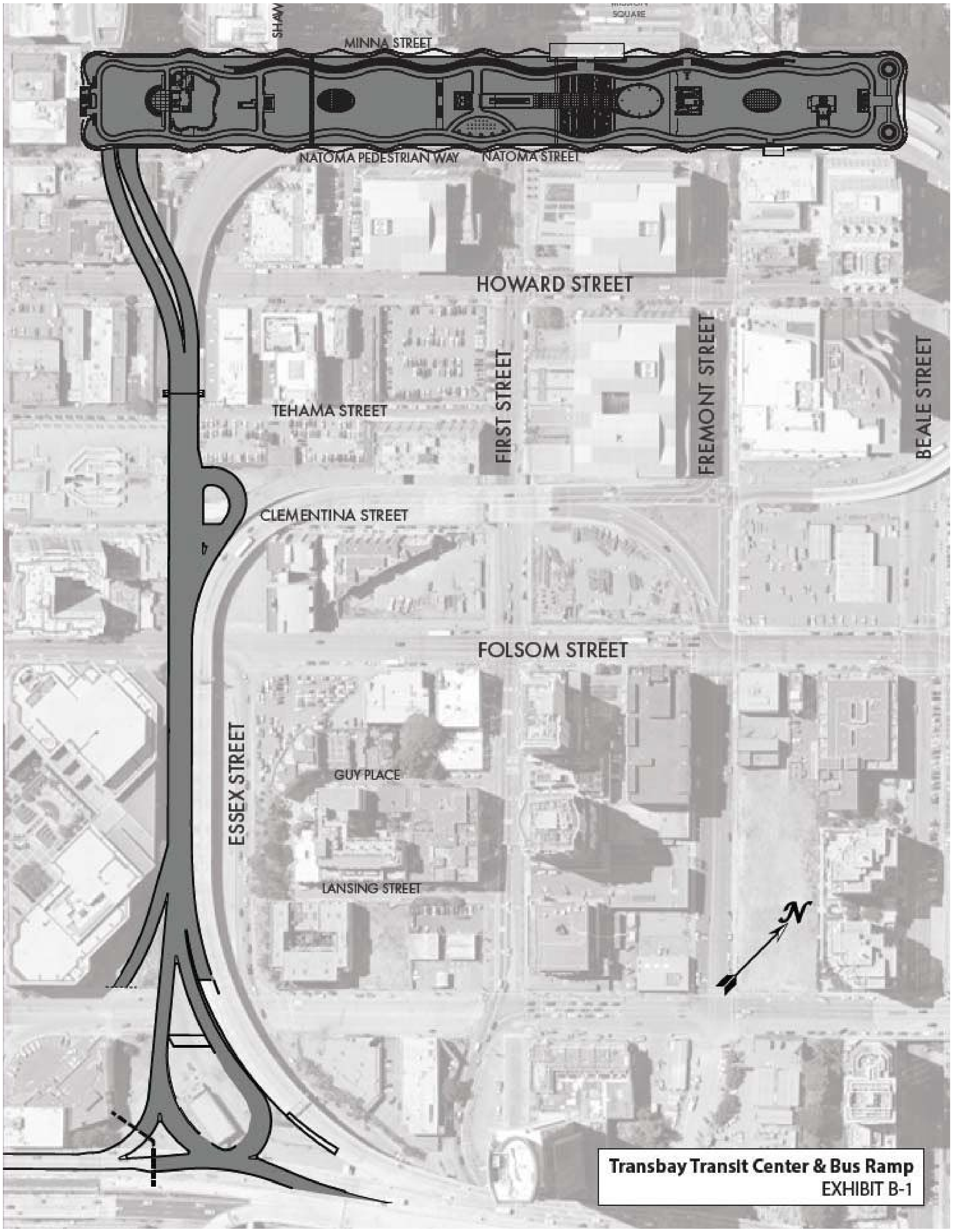
Transit Center Signage
EXHIBIT B-5



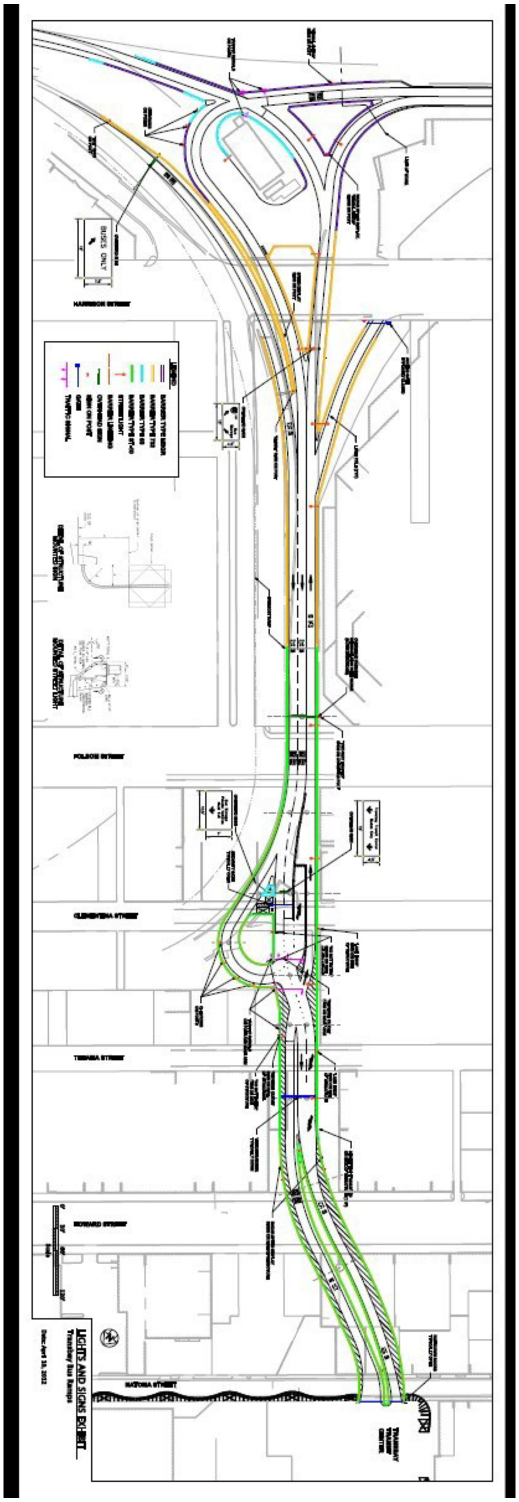
Transit Agency Areas
EXHIBIT B-3

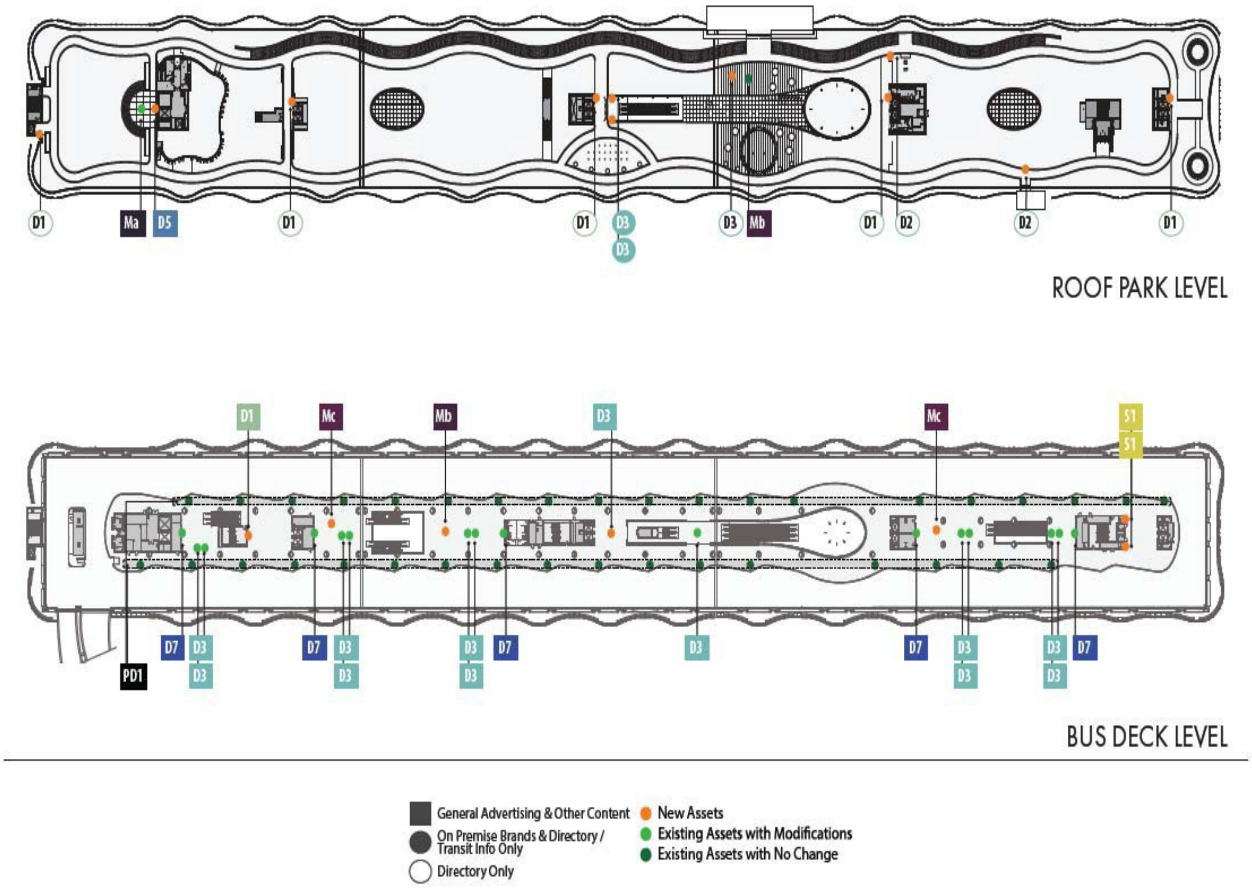


Transbay Transit Center
EXHIBIT B-1

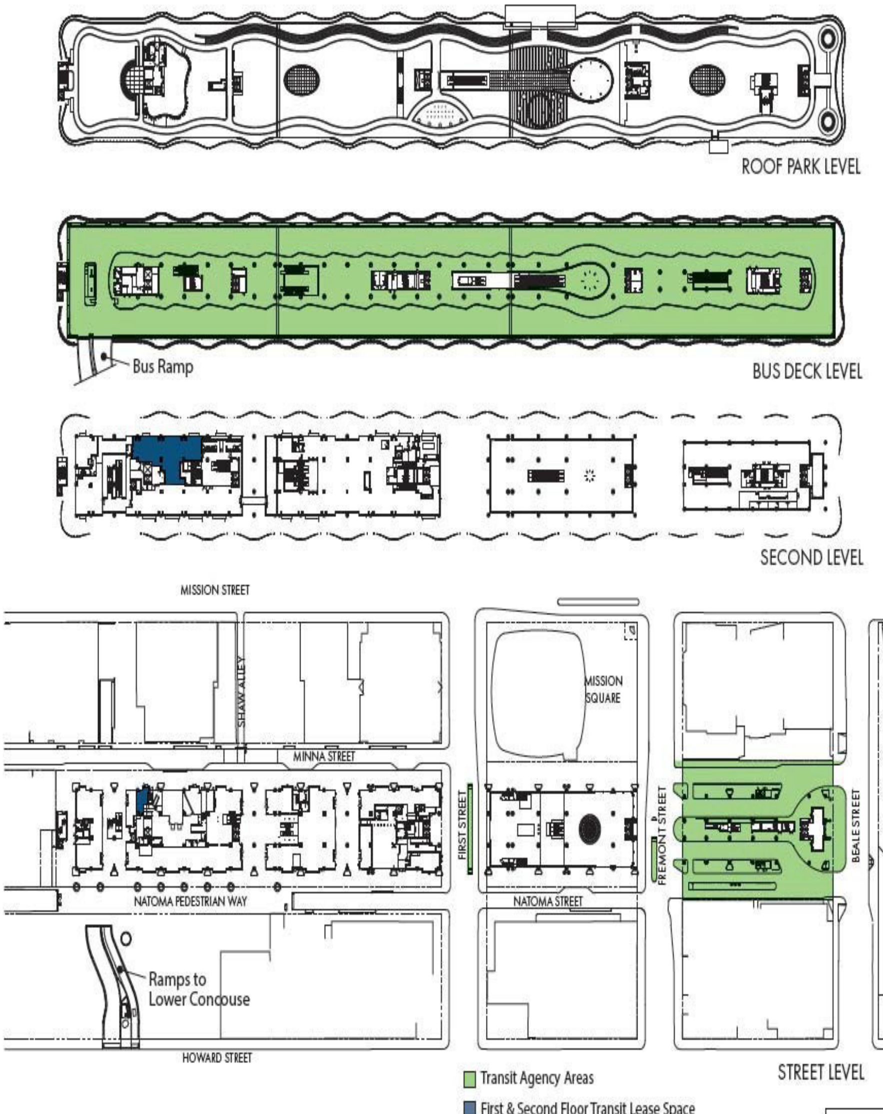


MINNA STREET
NATOMA PEDESTRIAN WAY
NATOMA STREET
HOWARD STREET
TEHAMA STREET
FIRST STREET
FREMONT STREET
BEALE STREET
CLEMENTINA STREET
FOLSOM STREET
ESSEX STREET
GUY PLACE
LANSING STREET
N
Transbay Transit Center & Bus Ramp
EXHIBIT B-1


LIGHTS AND SIGNS EXHIBIT
BUSES ONLY



Transit Center Signage
EXHIBIT B-5



Transit Agency Areas
EXHIBIT B-3

Task	Area	Frequency	
Rooftop (based on Park requirements)			
Clean restrooms	Restrooms	Daily	
Check restrooms	Restrooms	Daily	
Scrub restroom floors	Restrooms	Upon Request	
Hand sweep of litter from paths	Sanitation	Daily	
Pick litter from gardens and plant beds	Park	Upon Request	
Empty trash cans (16 sets, 3 trashcans per set.)	Sanitation	Daily	Currently (3) sets of trash cans, 2-3xs Empty trash cans
Bus tables	Sanitation	Daily	
Wipe games tables	Public	Daily	
Move trash from park collection point	Public	2-xDaily	
Remove gum/gum spots	Park	Daily	
Empty and clean buckets, supplies, tools	Sanitation	Daily	
Clean yoga mats	Sanitation	N/A	
Clean Imagination Playground Area	Sanitation	Upon Request	
Clean Park storage space	Sanitation	Upon Request	
Digital displays (5)	Park	Daily	
Clean fountain power wash	Park	U Request Weekly	
Walkway floor, power wash floor	Walkway	U Request Weekly	
clean light fixtures	Public	Upon Request	
Hose out trash/recycling receptacles and liners (16 sets, 2 receptacles)	Sanitation	Weekly	
Clean wheeled trash cart (gondola) 2?	Sanitation	Daily	
Clean wheeled trash cans (6-10)	Sanitation	Daily	

Clean any vents (R.R., storage area)	Sanitation	Upon Request	
Clean silver electrical boxes (circuit panels) #10?	Sanitation	Upon Request	
Clean gutters	Sanitation	Upon Request	
Organize storage, any other storage areas & BOC	Sanitation	Weekly	
Clean benches	Sanitation	Weekly	
Clean Park trash and recycling cans (16 sets, 3 receptacles)	Sanitation	Weekly	
Lower Concourse			
COMMON AREA EATING\VENDING AREA			
DAMP WIPE TABLES AND CHAIRS OF LOOSE SOIL, SMUDGES AND SPILLS REARRANGE CAFÉ SEATING TO ITS PLANNED LAYOUT SPRAY ANDWIPEMICROWAVE OVEN(S) INSIDE AND OUT DUST ALL HIGH AND LOW SURFACES WITHIN NORMAL REACH DUST AND DAMP-WIPE LEDGES WITHIN NORMAL REACH SPOT CLEAN ALL WALLS,LIGHT SWITCHES, AND DOORS REMOVING FINGERPRINTS, SMUDGES, AND SPILLS SPOT CLEAN FABRIC FURNITURE WITH AN APPROVED SPOTTER VACUUM EDGES AND CORNERS OF CARPETED FLOORS SHAMPOO, STEAM OR DRY CLEAN, AND EXTRACT ALL CARPETED AREAS		Daily Daily Weekly Weekly Weekly Weekly (UR) Bi-Weekly Weekly (UR) Bi-Weekly	Upon Request Upon Request
CONFERENCE/ interview ROOMS (5)			
EMPTY ALL TRASH RECEPTACLES AND REPLACE LINERS AS NECESSARY. VACUUM AND SPOT CLEAN ALL CARPETED FLOORS PROPERLY ARRANGE ALL TABLES AND CHAIRS DAMP WIPE TABLETOPS COLLECT ALL DISHES, CUPS, AND UTENSILS AND RETURN TO CAFÉ DISH ROOM		Daily Daily Daily Daily Upon R	

WINDOW SHADES NEED TO BE PUT ALL THE WAY UP WINDOW BLINDS NEED TO BE PUT ALL THE WAY DOWN DUST ALL HIGH AND LOWSURFACES WITHIN NORMAL REACH VACUUM EDGES AND CORNERS OF CARPETED FLOORS DUST AND DAMP WIPE LEDGES WITHIN NORMAL REACH		Upon R Upon R Weekly Weekly Weekly	
CORRIDORS			
SPOT CLEAN ALL WALLS, LIGHT SWITCHES ANDDOORS EMPTY ALL TRASH RECEPTACLES AND REPLACE LINERS AS NECESSARY CLEAN/POLISH DRINKING FOUNTAINS AND DAMP WIPE SURROUNDING WALLS (5?) DUST AND SPOT-WIPE ALL DOORS AND DOOR FRAMES USING APPROVED SPOTTER, SPOT CLEAN CARPETED AREAS DAMP MOP HARD SURFACE FLOORS DUST ALL HIGH-LEVEL HORIZONTAL SURFACES WITHIN NORMAL REACH DUST HIGH AND LOW AREAS SUCH AS PICTURES, CLOCKS, ETC. SHAMPOO, STEAM, OR DRY CLEAN, AND EXTRACT ALL CARPETED AREAS		Daily Daily Daily Bi-Weekly (UR) Daily Bi-Weekly Bi-Weekly (UR)	Upon Request Upon Request
HARD WALLED OFFICE AREAS	OFFICE		
EMPTY ALL TRASH RECEPTACLES AND REPLACE LINERS AS NECESSARY DUST DESKTOP TELEPHONES VACUUM ALL CARPETED FLOORS (COMPLETED ON TUESDAY/THURSDAY) DAMP-WIPE ALL DOORS AND DOOR FRAMES VACUUM EDGES AND CORNERS OF CARPETED FLOORS		Daily Bi-Weekly Bi-Weekly Weekly Bi-Weekly	

DUST AND SPOT WIPE ALL AIR DIFFUSERS AND LIGHT FIXTURES STRIP, WAX AND POLISH ALL HARD SURFACE FLOORS CLEAN AND POLISH ALL METAL BRIGHTWORK DUST MOP AND/OR SWEEP ALL HARD SURFACE FLOOR AREAS DAMP MOP ALL HARD SURFACE FLOORS USING A GERMICIDAL DISINFECTANT, AND IF PRESENT SANITIZE FLOOR DRAINS SHAMPOO, STEAM OR DRY CLEAN, AND EXTRACT ALL CARPETED AREAS		(UR) (UR) Daily Daily Daily Daily (UR)	Upon Request Upon Request
EMPLOYEE BREAK ROOMS	BREAKROOM		
CLEAN ALL RESILIENT FLOOR SURFACES WITH CHEMICALLY TREATED DUST MOP SPOT CLEAN ALL COMPOSTION FLOORS DUST AND POLISH ALL FURNITURE CLEAN AND POLISH MIRRORS CLEAN SINKS AND DAMP-WIPE ALL COUNTER TOPS USING AN APPROVED DISINFECTANT CLEAN AND POLISH ALL METAL BRIGHTWORK EMPTY ALL WASTEBASKETS AND REPLACE LINERS AS NECESSARY DAMPMOP ALLHARDSURFACEFLOORS USING AGERMICIDAL DISINFECTANT, AND IF PRESENT SANITIZE FLOOR DRAINS INSPECT AND FILL ALL DISPENSERS AS NEEDED		Daily Daily Daily (UR) Daily Daily (UR) Daily Daily	Upon Request Upon Request
STREET LEVEL			
FREIGHT ELEVATORS (1)	FREIGHT		
FULLY SWEEP AND DAMP MOP FLOOR CLEAN AND/OR POLISH ELEVATOR CABS, DOORS, INDICATOR LIGHTS AND TRACKS		Daily	Monthly or Upon Request

REMOVE ALL GRAFFITI ELEVATOR LOBBIES WALLS AND FIXTURES (4) DAMP MOP USING AUTOMATIC SCRUBBER IN THE HARD FLOOR ELEVATOR LOBBIES (4) PRESSURE WASHING MINNA & NATOMA FROM 2ND STREET TO BEALE SHAW VALLEY – FLOOR SCRUBBING STREET LEVEL BEAM CLEANING		Weekly Weekly Monthly Monthly (UR)	Monthly or Upon Request Upon Request
ELEVATOR (9) & ESCALATORS (10)	ELE/ESC.		
SPOT CLEAN ALL HORIZONTAL AND VERTICAL SURFACES REMOVING FINGERMARKS, SMUDGES AND STAINS FULLY VACUUM ALL CARPET FROM WALL-TO-WALL TO INCLUDE CORNERS AND EDGES DAMP WIPE AND POLISH ELEVATOR BRIGHT METALWORK DETAIL VACUUM AND DAMP-WIPE ELEVATOR TRACKS DUST ALL CAN LIGHTS USING DUST WAND IN THE PASSENGER ELEVATORS DETAIL CLEAN THRESHOLD PLATES REMOVING ALL VISIBLE SOIL IN THE FREIGHTAND PASSENGER ELEVATORS WIPE, SPOT CLEAN, VACUUM, AND POLISH ALL ESCALATOR LANDINGS (16) DAMP-WIPE ALL ESCALATOR HAND RAILS SPOT CLEAN AND DRY WIPE ALL ESCALATOR BALUSTRADES, NO SCOURING IS PERMITTED (5) CLEAN AND POLISH ESCALATOR TREADS, RISERS, LOWER SKIRT GUARDS, AND THRESHOLDS (10)		Daily Daily Daily (UR) Bi-weekly Bi-weekly Daily Weekly (UR) (UR)	Upon Request Upon Request Upon Request
LOBBIES, ELEVATOR LOBBIES/LANDINGS	LOBBIES		
EMPTY ASHTRAYS, CLEAN CIGARETTE URNS, SMOOTH SAND, AND REPLACE AS NECESSARY (3? Street Level)		Daily	

REMOVE ALL GRAFFITI HAND WASH ALL WALLS DAMP MOP USING AUTOMATIC SCRUBBER IN THE HARD FLOOR ELEVATOR LOBBIES WIPE AND SPOT CLEAN ALL GLASS DIRECTORIES AND SIGNAGE DAMP WIPE AND POLISH ALL METAL BRIGHTWORK WITHIN NORMAL REACH		Daily Weekly Weekly Daily Daily	
QUIET ROOMS/MOMMY ROOMS (PER ROOM) (location?) N/A right now	MOMMYRM.		
DAMP WIPE SOILED WASTE BASKETS EMPTY ALL TRASH RECEPTACLES AND REMOVE COLLECTED TRASH TO DESIGNATED AREA REPLACE LINERS AS NEEDED SPOT CLEAN ALL WALLS, LIGHT SWITCHES, DOORS AND VENDING MACHINES DAMP WIPE ALL TABLES AND CHAIRS (1 table two chairs) CLEAN AND SANITIZE ALL SINKS AND WIPE DRY FILL PAPER TOWEL DISPENSERS DAMP-WIPE ALL COUNTERTOPS DUST MOP AND DAMP MOP HARD SURFACE FLOOR (ENTIRE AREA) DUST ALL BASEBOARDS, LEDGES, MOULDINGS, AND OTHER LOW REACH AREAS DUST ALL HIGH-LEVEL HORIZONTAL SURFACES SPRAY AND WIPE REFRIGERATORS INSIDE AND OUT. PERFORM THIS TASK AFTER 9:00 PM EVERY FRIDAY. DO NOT DISCARD ANYTHING. DEFROST AS NEEDED		(UR) (UR) (UR) (UR) (UR) (UR) (UR) (UR) (UR) (UR) (UR) (UR)	Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request Upon Request
PUBLIC AREAS AND CORRIDORS	PUBLIC		

GRAND HALL POLISH HARD SURFACE FLOORS USING HIGH-SPEED BURNISHER ALONG WITH SPRAY BUFF OR MOP ON RESTORER		(UR)	Upon Request
DAMP MOP FLOOR USING SCRUBBER MACHINE		Weekly	
EMPTY ALL TRASH RECEPTACLES AND REPLACE LINERS AS NECESSARY (PEAK HOURS FOR TRANSPORTATION)		Daily	
CLEAN/POLISH DRINKING FOUNTAINS AND DAMP-WIPE SURROUNDING WALLS		Daily	
(10) DUST AND SPOT WIPE ALL DOORS AND DOOR FRAMES		(M)	Monthly
USING APPROVED SPOTTER, SPOT CLEAN CARPETED AREAS (ENTRY MATS?)		Bi-weekly	
DUST ALL HIGH-LEVEL HORIZONTAL SURFACES WITHIN NORMAL REACH		(UR)	Upon Request
DUST HIGH AND LOW AREAS SUCH AS PICTURES, CLOCKS, ETC.		(UR)	Upon Request
FULLY SWEEP ALL WALKS		Daily	
WIPE AND SPOT CLEAN ALL STAND PIPES, COLUMNS, ETC.TO REMOVE WATER STAINS		Weekly	
FOOD TRUCK VENDOR TRASH AND DEBRIS		N/A	Upon Request
JANITOR CLOSETS/STORAGE AREAS (Per closet)	CLOSET		
EMPTY WASTE BASKETS AND REMOVE COLLECTED TRASH TO DESIGNATED AREA. REPLACE LINERS WHEN TORN OR SOILED		Daily	
CLEAN THE FLOOR AND TIDY ALL EQUIPMENT. REMOVE ITEMS THAT DO NOT BELONG		Daily	
EMPTY VACUUM CLEANER BAGS AND CHECK BELTS		Weekly	
CLEAN MOP SINKS AND LEAVE FREE OF ALL DEBRIS		Daily	
LOADING DOCK AREAS	DOCK		

HAUL ALL COLLECTED TRASH AND RECYCLE TO DESIGNATED AREAS. DEPOSIT INTO APPROPRIATE CONTAINER(S), COMPACTOR OR BALER		Daily	
SPOT MOP ALL TRACKAGE AND SPILLS		3x Daily	
RESTROOM			
USING PUSH BROOM SWEEP ALL DOCK FLOOR SURFACES TO INCLUDE UNDER ALL COUNTERS, FIXTURES, EQUIPMENT, ETC. POWERWASH ALL DOCK FLOORS		Weekly	
POWER WASH ALL DOCK FLOORS		Monthly	
BUS DECK			
RESTROOMS (DRIVER RESTROOMS)			
CLEAN ALL FIXTURES AND SANITIZE, USING APPROVED CLEANER		Daily	
EMPTY ALL WASTE RECEPTACLES AND REMOVE TRASH TO DESIGNATED AREA		Daily	
DAMP WIPE WASTE RECEPTACLES WITH A DISINFECTANT		Daily	
CLEAN AND POLISH MIRRORS		Daily	
DUST AND/OR SPOT CLEAN ALL HORIZONTAL AND VERTICAL SURFACES TO INCLUDE DISPENSERS, PARTITIONS, WALLS/DOORS WITH DISINFECTANT		Daily	
CLEAN SINKS AND DAMP WIPE ALL COUNTERTOPS USING AN APPROVED DISINFECTANT		Daily	
CLEAN AND POLISH ALL METAL BRIGHT WORK		Daily	
DUST MOP AND/OR SWEEP ALL HARD SURFACE FLOOR AREAS		Daily	
DAMP MOP ALL HARD SURFACE FLOORS USING A GERMICIDAL DISINFECTANT, AND IF PRESENT SANITIZE FLOOR DRAINS		Daily	
INSPECT AND FILL ALL DISPENSERS AS NEEDED		Daily	
WASH TILE WALLS NEXT TO URINALS AND TOILETS IN THE RESTROOMS WITH A GERMICIDAL DISINFECTANT		Weekly	

MACHINE SCRUB ALL RESTROOM FLOORS USING GERMICIDAL DISINFECTANT DUST AND SPOT WIPE ALL AIR DIFFUSERS AND LIGHT FIXTURES WALL AND FLOOR GROUT		(UR) (UR) (UR)	Upon Request Upon Request Upon Request
PEDESTRIAN PLATFORM AREA			
SCRUB FLOOR & EDGE MOP EMPTY ALL WASTE RECEPTACLES AND REMOVE TRASH TO DESIGNATED AREA (16 SETS OF 2?) POLICE AREA FOR DERIS/SPILLS WIPE AND SPOT-CLEAN ALL STAND PIPES, COLUMNS, GLASS, ETC. TO REMOVE WATER SPLASHES AND STAINS	FLOOR	(W) Daily Daily Daily	Weekly
BUS DRIVING AREA			
SCRUB, POWERWASH & VACUUM BUS OFF-RAMP SWEEP	BUS AREA BRIDGE	(UR) (UR)	Upon Request Upon Request
STAIRWELLS (3) ROOF TO STREET LEVEL			
SWEEP ALL HARD SURFACE FLOORS AND STAIRS SPOT CLEAN ALL DOORS, WALLS AND JAMBS DAMP MOP ALL HARD SURFACE FLOORS DUST AND /OR SPOT CLEAN ALL HORIZONTAL AND VERTICAL SURFACES TO INCLUDE HANDRAILS, BASEBOARDS, AND LIGHT FIXTURES HIGH DUST ALL SURFACES NOT REACHED DURING NORMAL OPERATIONS		Weekly Weekly (UR) Monthly (UR)	 Upon Request Upon Request

Zero Waste Trash Sorting Services, Full time - in compliance with SF Environment and Recology.

APPENDIX B

Calculation of Charges

There shall be no mark up by the Contractor for the cost of subcontractors retained by the Contractor in the performance of the Services.

The below hourly rates shall include all incidental expenses of the Contractor, including the costs of toll telephone calls, document binding, filing fees, express mail, delivery charges, courier service, in - and out-of-house photocopying, charges for sending facsimiles, transportation, travel, automobile rental, taxicab fares, parking, meals, secretarial services, printing, photographs, renderings, maps, Internet, computer, overhead, administration, and other costs and charges incurred by the Contractor or the Contractor's subcontractors.

Direct costs actually incurred by the Contractor in performing the Services are subject to reimbursement if such costs are pre-approved by TJPA in writing. Contractor will not mark up such allowable costs and a receipt or invoice must be submitted documenting allowable costs. Any allowable travel costs must be consistent with TJPA's Travel Policy.

1. **Project Cost.** In accordance with Section 6 of this Agreement, Contractor's total compensation under this Agreement is detailed below, inclusive of all costs required to complete all work specified in Appendix A. In no event shall the total costs under this Agreement exceed the amount provided in Section 6, of this Agreement.
   a. **On-Call and As-Needed Services.** On-call and as-needed services shall be performed only upon approval from the TJPA. Total charges for all on-call and as-needed services shall not exceed Fifty Thousand Dollars ($50,000) per fiscal year.

2. **Price Adjustments.**
   Contractor's rates, as specified in the table below, are to be firm for the first year of the Agreement. Rates for Years two (2) through (5), the labor rate component, shall be adjusted as required based on the current Prevailing Wage Rates, which are effective January 1, 2026 until superseded, as determined in accordance with San Francisco Labor and Employment Code Article 102. Contractor shall submit documentation of the new rates at least 30 days prior to the effective date.

   All other costs, including fees and overhead, to be firm for the term of the Agreement, from start date through end of term.

3. **Certified Payroll.**
   Each Contractor and Subcontractor subject to Prevailing Wages shall maintain weekly certified payroll records, and shall submit those certified payroll records to the TJPA with their monthly invoice. All certified payroll records shall be accompanied by a statement of compliance signed by the Contractor or Subcontractor indicating that the payroll records are correct and complete, that the wage rates contained therein are not less than those determined in accordance with San Francisco Labor and Employment Code Section 103.2, and that the classifications set forth for each employee conform with the work performed.

Year One Costs

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 1
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$62.34	1	$10,130.25
3	Janitor - Swing Shift	$56.81	2	$18,463.25
4	Janitor - Night Shift	$56.81	2	$18,463.25
5	Utility Worker	$57.84	2	$18,798.00
6	Zero Waste Sorter	$57.92	1	$9,412.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$110,236.75

Total Cleaning Assumptions	Year 1 - Month 1
Wage Cost	$56,513.93
Health and Welfare, Pension, Vacation	$35,514.55
Other Burden	$15,295.96
Fees	$2,204.76
Other (Please describe in row below)	$707.55
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 19)	$110,236.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 2
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$62.34	1	$10,130.25
3	Janitor - Swing Shift	$56.81	2	$18,463.25
4	Janitor - Night Shift	$56.81	2	$18,463.25
5	Utility Worker	$57.84	2	$18,798.00
6	Zero Waste Sorter	$57.92	1	$9,412.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$110,236.75

Total Cleaning Assumptions	Year 1 - Month 2
Wage Cost	$56,513.93
Health and Welfare, Pension, Vacation	$35,514.55
Other Burden	$15,295.96
Fees	$2,204.76
Other (Please describe in row below)	$707.55
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 33)	$110,236.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 3
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$62.34	1	$10,130.25
3	Janitor - Swing Shift	$56.81	2	$18,463.25
4	Janitor - Night Shift	$56.81	2	$18,463.25
5	Utility Worker	$57.84	2	$18,798.00
6	Zero Waste Sorter	$57.92	1	$9,412.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$110,236.75

Total Cleaning Assumptions	Year 1 - Month 3
Wage Cost	$56,513.93
Health and Welfare, Pension, Vacation	$35,514.55
Other Burden	$15,295.96
Fees	$2,204.76
Other (Please describe in row below)	$707.55
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 47)	$110,236.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 4
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$62.34	1	$10,130.25
3	Janitor - Swing Shift	$56.81	2	$18,463.25
4	Janitor - Night Shift	$56.81	2	$18,463.25
5	Utility Worker	$57.84	2	$18,798.00
6	Zero Waste Sorter	$57.92	1	$9,412.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$110,236.75

Total Cleaning Assumptions	Year 1 - Month 4
Wage Cost	$56,513.93
Health and Welfare, Pension, Vacation	$35,514.55
Other Burden	$15,295.96
Fees	$2,204.76
Other (Please describe in row below)	$707.55
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 61)	$110,236.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 5
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$62.34	1	$10,130.25
3	Janitor - Swing Shift	$56.81	2	$18,463.25
4	Janitor - Night Shift	$56.81	2	$18,463.25
5	Utility Worker	$57.84	2	$18,798.00
6	Zero Waste Sorter	$57.92	1	$9,412.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$110,236.75

Total Cleaning Assumptions	Year 1 - Month 5
Wage Cost	$56,513.93
Health and Welfare, Pension, Vacation	$35,514.55
Other Burden	$15,295.96
Fees	$2,204.76
Other (Please describe in row below)	$707.55
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 75)	$110,236.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 6
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$63.14	1	$10,260.25
3	Janitor - Swing Shift	$57.61	2	$18,723.25
4	Janitor - Night Shift	$57.61	2	$18,723.25
5	Utility Worker	$58.64	2	$19,058.00
6	Zero Waste Sorter	$58.72	1	$9,542.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$111,276.75

Total Cleaning Assumptions	Year 1 - Month 6
Wage Cost	$57,047.09
Health and Welfare, Pension, Vacation	$35,849.61
Other Burden	$15,440.27
Fees	$2,225.56
Other (Please describe in row below)	$714.22
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 89)	$111,276.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 7
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$63.14	1	$10,260.25
3	Janitor - Swing Shift	$57.61	2	$18,723.25
4	Janitor - Night Shift	$57.61	2	$18,723.25
5	Utility Worker	$58.64	2	$19,058.00
6	Zero Waste Sorter	$58.72	1	$9,542.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$111,276.75

Total Cleaning Assumptions	Year 1 - Month 7
Wage Cost	$57,047.09
Health and Welfare, Pension, Vacation	$35,849.61
Other Burden	$15,440.27
Fees	$2,225.56
Other (Please describe in row below)	$714.22
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 103)	$111,276.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 8
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$63.14	1	$10,260.25
3	Janitor - Swing Shift	$57.61	2	$18,723.25
4	Janitor - Night Shift	$57.61	2	$18,723.25
5	Utility Worker	$58.64	2	$19,058.00
6	Zero Waste Sorter	$58.72	1	$9,542.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$111,276.75

Total Cleaning Assumptions	Year 1 - Month 8
Wage Cost	$57,047.09
Health and Welfare, Pension, Vacation	$35,849.61
Other Burden	$15,440.27
Fees	$2,225.56
Other (Please describe in row below)	$714.22
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 117)	$111,276.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 9
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$63.14	1	$10,260.25
3	Janitor - Swing Shift	$57.61	2	$18,723.25
4	Janitor - Night Shift	$57.61	2	$18,723.25
5	Utility Worker	$58.64	2	$19,058.00
6	Zero Waste Sorter	$58.72	1	$9,542.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$111,276.75

Total Cleaning Assumptions	Year 1 - Month 9
Wage Cost	$57,047.09
Health and Welfare, Pension, Vacation	$35,849.61
Other Burden	$15,440.27
Fees	$2,225.56
Other (Please describe in row below)	$714.22
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 131)	$111,276.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 10
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$63.14	1	$10,260.25
3	Janitor - Swing Shift	$57.61	2	$18,723.25
4	Janitor - Night Shift	$57.61	2	$18,723.25
5	Utility Worker	$58.64	2	$19,058.00
6	Zero Waste Sorter	$58.72	1	$9,542.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$111,276.75

Total Cleaning Assumptions	Year 1 - Month 10
Wage Cost	$57,047.09
Health and Welfare, Pension, Vacation	$35,849.61
Other Burden	$15,440.27
Fees	$2,225.56
Other (Please describe in row below)	$714.22
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 145)	$111,276.75

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 11
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$66.59	1	$10,820.88
3	Janitor - Swing Shift	$59.68	2	$19,396.00
4	Janitor - Night Shift	$59.68	2	$19,396.00
5	Utility Worker	$60.72	2	$19,734.00
6	Zero Waste Sorter	$60.80	1	$9,880.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$114,196.88

Total Cleaning Assumptions	Year 1 - Month 11
Wage Cost	$58,544.13
Health and Welfare, Pension, Vacation	$36,790.37
Other Burden	$15,845.45
Fees	$2,283.96
Other (Please describe in row below)	$732.97
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 159)	$114,196.88

Line No	Direct Labor, including Subcontractor Labor, Costs	Year 1 Fully Loaded Rate/Hour	Number of Staff	Year 1 - Month 12
		Hours Per Month Per FTE>>>		162.5
1	Janitor - Day Shift	$53.80	4	$34,970.00
2	Foreperson - Day Shift	$66.59	1	$10,820.88
3	Janitor - Swing Shift	$59.68	2	$19,396.00
4	Janitor - Night Shift	$59.68	2	$19,396.00
5	Utility Worker	$60.72	2	$19,734.00
6	Zero Waste Sorter	$60.80	1	$9,880.00
7	Project Manager	$0.00	1	$0.00
8	N/A	$0.00	0	$0.00
9	N/A	$0.00	0	$0.00
10	N/A	$0.00	0	$0.00
			Monthly Total	$114,196.88

Total Cleaning Assumptions	Year 1 - Month 12
Wage Cost	$58,544.13
Health and Welfare, Pension, Vacation	$36,790.37
Other Burden	$15,845.45
Fees	$2,283.96
Other (Please describe in row below)	$732.97
N/A	$0.00
Cost Breakdown Monthly Total (Totals should match Amount in Row 173)	$114,196.88

Explanation of Total Cleaning Assumptions Costs (Provide detail of items below)	
Other Burden:	PT&I, sick, floating holiday
Fees:	1% overhead, 1% fee.
Other:	Chemicals, uniforms. Discount provided on project manager.

Additional Services

Line No	Service Description	Frequency	Visits Per Year	Application Cost	Annual Amount
1	Carpet Cleaning (flat rate)	Annual	2	$2,565.00	$5,130.00
2	Window Cleaning (flat rate)	Annual	1	$35,000.00	$35,000.00
				Year 1 Total	$40,130.00

Annual Total	$1,376,091.25	<<< Amount used to determine Lowest Bid
Sum of Monthly Direct Labor Costs and Additional Services		

APPENDIX C
ADDITIONAL INSUREDS

Transbay Joint Powers Authority

The Member Agencies of the TJPA:

Alameda-Contra Costa Transit District
California High-Speed Rail Authority
City and County of San Francisco
Peninsula Corridor Joint Powers Board – Caltrain
State of California, Department of Transportation

The following entities involved in the naming rights for the transit center:

> Salesforce.com and all legal entities controlling, controlled by, or under common control with, directly or indirectly, salesforce.com

And all of the officers, directors, agents, permitted assigns, and employees of each of the above.

The Additional Insureds listed in this Appendix shall also include such other parties as the TJPA may request from time to time.

Appendix D

USDOT REQUIREMENTS FOR AGREEMENTS WITH THE TJPA

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

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

1. DEFINITIONS

*** The Definitions apply to all Agreement and all Subcontracts.*

a) **Agreement** means a contract, purchase order, memorandum of understanding or other agreement awarded by the TJPA to a Contractor, financed in whole or in part with Federal assistance awarded by Federal Transit Administration (FTA) or Federal Railroad Administration (FRA).

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

c) **Contractor** means the individual or entity awarded an Agreement financed in whole or in part with Federal assistance originally derived from FTA.

d) **Federal Cooperative Agreement** means the instrument by which FRA or FTA awards Federal assistance to the TJPA to support a particular Project, and in which FRA or FTA takes an active role or retains substantial control

e) **Federal Grant Agreement** means the instrument by which FTA or FRA awards Federal assistance to the TJPA to support a particular Project, and in which FTA or FRA does not take an active role or retain substantial control, in accordance with 31 U.S.C. Section 6304.

f) **FRA** is the acronym for the Federal Railroad Administration, one of the operating administrations of the U.S. DOT.

g) **FRA Directive** includes any FRA regulation, policy, procedure, directive, circular, notice, order or guidance providing information about FRA's programs, application processing procedures, and Project management guidelines.

h) **FTA** is the acronym for the Federal Transit Administration, one of the operating administrations of the U.S. DOT.

i) **FTA Directive** includes any FTA regulation, policy, procedure, directive, circular, notice, order or guidance providing information about FTA's programs, application processing procedures, and Project management guidelines, including the Master Agreement between FTA and the TJPA.

j) **Government** means the United States of America and any executive department thereof.

k) **Project** means the Transbay Program, which will replace the Transbay Terminal with the new transit center building and extend Caltrain to the transit center. Total project consists of three major components: a new, multi-modal transit center on the site of the former Transbay Terminal; the extension of Caltrain commuter rail from its current San Francisco terminus at 4th and Townsend streets to a new underground terminus under a new transit center; and the establishment of a Redevelopment Area with related development projects, including transit-oriented development on publicly owned land in the vicinity of the transit center.

l) **Recipient** means the TJPA or another entity that provides fund to the TJPA as a subgrantee.

m) **Secretary** means the U.S. DOT Secretary, including his or her duly authorized designee.

n) **Subcontract** means a subcontract at any tier entered into by Contractor or its subcontractor relating to the Agreement, financed in whole or in part with Federal assistance originally derived from FTA or FRA. Unless otherwise specified, the Contractor must include each of these Federal provisions in any Subcontract related to this Agreement.

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

p) **U.S.DOT Directives** means any U.S. DOT regulation, policy, procedure, directive, circular, notice, order or guidance providing information about U.S.DOT's programs, application processing procedures, and Project management guidelines.

2. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

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

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

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

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

4. ACCESS TO DOCUMENTS

***This requirement applies to all Agreements, and Subcontracts in excess of $150,000.*

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

a) Where the TJPA is considered a "local government" and is a Recipient or a subgrantee of a Recipient, in accordance with 49 CFR Section 18.36(i), the Contractor agrees to provide the TJPA, the FTA or FRA Administrator, the Comptroller General of the United States and/or any of their authorized representatives access to any books, documents, accounts papers and records of the Contractor which are directly pertinent to this Agreement ("Documents") for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR Section 633.17, to provide the FTA or FRA Administrator or its authorized representatives, including any project management oversight Contractor, access to Contractor's Documents and construction sites pertaining to a major capital project, defined at 49 U.S.C. Section 5302(a)1, which is receiving Federal financial assistance through the programs described at 49 U.S.C. sections 5307, 5309 or 5311.

b) Where the TJPA is a Recipient or a subgrantee of a Recipient, in accordance with 49 U.S.C. Section 5325(a), and enters into a contract for a capital project or improvement (defined at 49 U.S.C. Section 5302[a]1) through other than competitive bidding, the Contractor agrees to provide the TJPA, the Secretary and the Comptroller General, or any authorized officer or employee of any of them, access to any Documents for the purposes of conducting an audit and inspection.

c) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. (If applicable)

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

e) The Contractor agrees to maintain all Documents required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the TJPA, the FTA or FRA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. (See 49 CFR Section 18.39[i][11]).

5. FEDERAL CHANGES

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

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

6. CIVIL RIGHTS REQUIREMENT

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

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

a) Under this Contract, the Contractor will be required to comply with these applicable civil rights, nondiscrimination, and equal employment opportunity laws and regulations: i. 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 26, 49 CFR Part 27, 49 CFR Part 37, 49 CFR Part 38, 49 CFR Part 39, 20 U.S.C. §§ 1681 – 1683 and 1685 – 1687, 21 U.S.C. § 1101, 29 U.S.C. § 794, et seq., 42 U.S.C. § 290dd – 290dd-2, 42 U.S.C. § 2000d, 42 U.S.C. § 3601, 42 U.S.C. § 4541, 42 U.S.C. § 6101 – 6107, 42 U.S.C. § 12101, et seq., 42 U.S.C § 12132, 49 U.S.C § 5307 (c)(1)(D)(ii), 49 U.S.C § 5332, California Civil Code § 51, California Government Code § 11135. ii. 29 CFR Part 1630, 41 CFR Part 60, 29 U.S.C. § 623, 42 U.S.C. § 2000e, 42 U.S.C. § 12112, California Government Code § 12900 – 12996. iii. 49 U.S.C. § 5325 (k). iv. Fixing America's Surface Transportation (FAST) Act, Public Law No: 114-94, as may be amended.

b) Nondiscrimination - In accordance with U.S. Department of Transportation (DOT), Federal, and State of California regulations 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 27, 49 CFR Part 37, 49 CFR Part 38, 49 CFR Part 39, the Rehabilitation Act of 1973, as amended, 20 U.S.C. §§ 1681 – 1683 and 1685 – 1687, 21 U.S.C. § 1101, 29 U.S.C. § 794, Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 290dd – 290dd-2, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 3601, 42 U.S.C. § 4541, 42 U.S.C. § 6102, 42 U.S.C. § 6101 – 6107, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, 42 U.S.C. § 12132, Federal transit law 49 U.S.C § 5307 (c)(1)(D)(ii), Federal transit law 49 U.S.C. § 5332, FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients.", DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order No. 13166 and DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (70 FR 74087, Dec. 14, 2005), the Unruh Civil Rights Act, California Civil Code § 51, and California Government Code § 11135, the Contractor agrees that it will comply with the identified Federal and State of California laws and regulations, pertaining to the Agency programs and activities, to ensure that no person will be denied the benefits of, or otherwise be subjected to, discrimination (particularly in the level and quality of transportation services and transportation-related benefits) on the bases of race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, age, marital status, genetic information, medical condition, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations, other implementing requirements that DOT or FTA may issue, and any other applicable Federal and State of California statutes and/or regulations that may be signed into law or promulgated.

c) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the Agreement:

   1) **Race, Color, Creed, National Origin, Sex -** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e, and Federal transit laws at 49 U.S.C. Section 5332, the Contractor agrees to comply with all applicable equal employment opportunity

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

2) **Nondiscrimination on Basis of Age** - In accordance with section 4 of the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3) **American with Disabilities** - In 12112, accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, " 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4) **Americans with Disabilities Act (ADA)** - The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 et seq. The Contractor acknowledges that pursuant to the Americans with Disabilities Act (ADA), programs, services, and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state, and local disability rights legislation. The Contractor agrees not to discriminate against disabled persons in the provision of services, benefits, or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of the Contractor, its employees, agents, or assigns will constitute a material breach of this Agreement. The ADA Access requirements apply to all contracts. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.
5) **Special DOL EEO Clause** – Applies to construction contracts >$10,000; Contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit against all individuals based on their race color, religion, age, sex, sexual orientation, gender identity, status as a parent, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment

individuals without regard to race, color, religion, age, sex, sexual orientation, gender identity, national origin, disability, status as a parent, or veteran status.

d) Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

e) During the performance of this contract, the contractor agrees as follows:

    1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
    2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
    3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or other action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
    4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
    5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
    6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
    7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies

invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

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

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

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

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

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

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

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

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

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

d) DBE Contract Assurance (49 CFR 26.13)
The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to

carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate, which may include, but is no limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

The non-Federal entity must take all necessary affirmative steps to assure that contracting with small and minority business, women's business enterprises, and labor surplus area firms are used when possible. (2 CFR 200.321)
Affirmative steps must include:

1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.
7) Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

e) DBE Prompt Payment (49 CFR 26.29)
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract:

1) Not later than ten (10) days after receipt of each progress payment from the Agency, the successful Proposer shall pay to any sub-contractor performing any work, the respective amounts allowed to the successful Proposer for work performed by the sub-contractor, to the extent of each subcontractor's interest therein, unless otherwise agreed to in writing. In addition, for projects that invoice only at the completion of the project, within seven (7) days of the successful Proposers receipt of released retention from the Agency upon completion of the project as defined in California Public Contract Code section 7107 the successful Proposer shall pay each of its sub-contractors from whom retention has been withheld, each sub-contractors share of the retention received, in accordance with the provisions of California Public Contract Code section 7107. For projects that issue progress payment invoices, upon incremental acceptance of any portion of the work by the Agency, the successful Proposer shall pay each of its sub-contractors from whom retention has been withheld, each sub-contractors share of the retention received, in accordance with the provisions of California Public Contract Code section 7107. This clause applies to both DBE and non-DBE sub-contractors.
2) Failure to comply with these provisions or delay in payment without prior written approval from the Agency will constitute noncompliance, which may result in appropriate administrative sanctions.

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

The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

Payment Deductions – Noncompliance with DBE Requirements

1) For Federally funded contracts that exceed $150,000 and to which the Disadvantage Business Enterprise (DBE) Requirements apply, the failure to perform in accordance with requirements may result in a partial or full suspension of payment, including progress payments, if applicable.
2) If the Contractor is found to be in noncompliance with the DBE requirements of the progress of the work shall also be deemed to be unsatisfactory, and an amount equal to the DBE participation in the Contract shall be retained from payment (or progress payments, if any) made to the Contractor.
3) If the contract value is over $150,000, the prime contractor may be responsible for submitting a monthly report on the status of its DBE subcontractors as outlined by the Contracting Officer.
4) If the Contractor fails to submit the required monthly DBE reports, the Contracting Officer may suspend payment (or progress payments) until such time as the monthly reports are submitted and accepted by the Agency.

f) Civil Rights Policy Statements: It is the policy of the Department of Transportation and the Agency that Disadvantaged Business Enterprises (“DBE’”) as defined in 49 CFR part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirement of 49 CFR applies to this Agreement.

8. AMERICANS WITH DISABILITIES ACT

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

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 et seq. The Contractor acknowledges that pursuant to the Americans with Disabilities Act (ADA), programs, services, and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state, and local disability rights legislation. The Contractor agrees not to discriminate against disabled persons in the provision of services, benefits, or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of the Contractor, its employees, agents, or assigns will constitute a material breach of this Agreement. The ADA Access requirements apply to all contracts. The ADA Access requirements flow down to all third-party contractors and their contracts at every tier. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, Department of Justice, U.S. General Services Administration, U.S. Equal Employment Opportunity Commission, U.S. Federal Communications Commission, any subsequent amendments thereto, and any other nondiscrimination statute(s) that may apply to the Project.

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

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

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

10. FLY AMERICA REQUIREMENTS

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

a) The Contractor agrees to comply with 49 U.S.C. Section 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act.

b) The Contractor shall submit the "Fly America Certification" if the regulation is applicable to the Agreement.

c) The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier.

d) Notwithstanding the foregoing, transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the U.S. DOT has determined meets the requirements of the Fly America Act.

11. CARGO PREFERENCE REQUIREMENTS

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

The Contractor agrees to:

a) use privately owned United States flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Agreement to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels;

b) furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-landing in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the TJPA (through the Contractor in the case of a subcontractor's bill-of-landing).

12. ENERGY CONSERVATION REQUIREMENTS

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

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Section 6201 et seq. The Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, "Requirements for Energy Assessments," 49 CFR part 622, subpart C.

13. ASSIGNABILITY CLAUSE

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

Procurements through assignments: Neither Agency nor the contractor shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other.

14. SEVERABILITY

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

The Contractor agrees that if any provision of these Federal Requirements is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

15. FEDERAL STANDARDS

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

The Contractor agrees to comply with FTA Circular 4220.1G, "Third Party Contracting Requirements," including any revision or replacement thereof, and applicable Federal regulations or requirements, including FTA third party contracting regulations when promulgated. The FTA Best Practices Procurement Lessons Learned Manual provides additional procurement guidance. Nevertheless, successful Proposer should be aware that the FTA Best Practices Procurement Lessons Learned Manual is focused on procurement processes and may omit certain Federal requirements applicable to the work to be performed.

16. NOTICE TO THIRD PARTY PARTICIPANTS

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

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

17. TRAFFICKING IN PERSONS

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

The contractor agrees that it and its employees that participate in the Recipient's Award, may not: Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect; Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or Use forced labor in the performance of the Recipient's Award or sub agreements thereunder.

18. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

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

The contractor certifies that it: (a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and (b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months. The Contractor shall flow this requirement down to participants at all lower tiers, without regard to the value of any sub agreement.

19. SUBSTANCE ABUSE REQUIREMENTS (SAFETY SENSITIVE FUNCTION)

*** This provision applies to all Contractors who perform a safety-sensitive function and Subcontractors performing same.*

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or the Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Part 655 before June 30 and to submit the Management Information System (MIS) reports before January 15 to the Agency. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

a) Drug-Free Workplace. The Recipient agrees to:
    1) Comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103, et seq.
    2) Comply with U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR Part 32.
    3) Follow and facilitate compliance with U.S. OMB regulatory guidance, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 2 CFR Part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 CFR Part 32.

b) Alcohol Misuse and Prohibited Drug Use.
    1) The Recipient agrees to comply and assures that its Third Party Participants will comply with:
        a. Federal transit laws, specifically 49 U.S.C. § 5331;
        b. FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR Part 655; and
        c. Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR Part 40.
    2) Remedies for Non-Compliance: The Recipient agrees that if FTA determines that the Recipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR Part 655, the Federal Transit Administrator may bar that Recipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

20. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

*** This provision applies to all Agreements involving Federal Privacy Act requirements and Subcontracts involving same. When the Contractor maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Federal Privacy Act requirements apply.*

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract: (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor, or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

21. INDIRECT RATES

*** This provision applies to all Architect and Engineering Agreements and Subcontracts for same.*

The Architect and Engineering Contractor will only be reimbursed for indirect rates that comply with Federal Acquisition Regulations (FAR) Part 31.2. The Agency will accept approved rates by the Defense Contract Audit Agency (DCAA) or another approved governmental entity. Said proposed indirect rates will be subject to audit. The Agency reserves the right to audit the proposed rates and make an appropriate adjustment to the prior billings at any time prior to final payment of the Contractor.

22. SAFE OPERATION OF MOTOR VEHICLES

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

Contractor agrees to comply with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402.

The Contractor agrees to comply with the following:

<u>Seat Belt Use.</u> The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

<u>Distracted Driving.</u> The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

23. PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES AND EQUIPMENT

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

The Contractor is prohibited from using federal funds to:

a) Procure or obtain
b) Extend or renew a contract to procure or obtain; or
c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services, described in Public Law 115-232, section 889, as a substantial or essential component of any system, or as critical technology as part of any system.

The Contractor or subcontractor shall not provide covered telecommunications equipment or services, as described in Public Law 115-232, in the performance of this contract.

24. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS

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

The Contractor agrees to conform to the national ITS architecture and standards to the extent required by Section 5307(c) of SAFETEA-LU, FTA notice, "FTA National ITS Architecture Policy on Transit Projects," 66 C.F.R. 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue.

25. PATENT AND RIGHTS IN DATA

*** This provision applies to all Agreements involving experimental, developmental or research work and Subcontracts involving same.*

***This provision does not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.*

a) Rights in Data

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

The following restrictions apply to all subject data first produced in the performance of the contract:

1) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
2) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
3) Unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to

adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

4) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
5) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
6) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.
7) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

b) Patent Rights
   1) If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
   2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
   3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

26. RECYCLED PRODUCTS

*** This provision applies to all Agreements to procure $10,000 or more of any one item designated by the EPA under 40 CFR Part 247, Subpart B in a single fiscal year, and to all Agreements to procure any items designated in*

40 CFR Part 247, Subpart B where the TJPA or the Contractor has used Federal funds to procure $10,000 or more of any one item in the previous fiscal year, and Subcontracts involving same.

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

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

27. TERMINATION

*** This provision applies to all Agreements and Subcontracts in excess of $10,000.*

Pursuant to 2 C.F.R. § 200.340 The federal award may be terminated in whole or in part:

a) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
b) By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
c) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
d) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety; or
e) By the Federal awarding agency or pass-through entity pursuant to termination provisions included in the Federal award.

<u>Termination for Convenience (General Provision)</u>
The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to the Agency, the Contractor will account for the same, and dispose of it in the manner the Agency directs.

<u>Termination for Default [Breach or Cause] (General Provision)</u>
If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)
The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach In the event that the Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)
The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)
If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)
If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)
If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may

take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work. The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)
The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency 's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials. If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Cost-Type Contracts)
The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor. If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

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

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

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

b) The Contractor shall submit the "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

29. NOTICE TO FTA AND U.S. INSPECTOR GENERAL OF FRAUD, WASTE, OR ABUSE, OR OTHER LEGAL MATTERS

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

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the Agency, which will promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Agency is located. The Contractor must include an equivalent provision in its sub-agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement between the FTA and the Agency, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

<u>Additional Notice to U.S. DOT Inspector General</u>

The Contractor must promptly notify the Agency, which will promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Agency is located, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement with the Agency involving a principal, officer, employee, agent, or Third Party Participant of the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.

30. CLEAN AIR

*** This provision applies to all Agreements in excess of $150,000, and to Subcontracts in excess of $150,000.*

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

b) The Contractor also agrees to include these requirements in each Subcontract exceeding $50,000.

31. CLEAN WATER REQUIREMENTS

*** This provision applies to all Agreements in excess of $150,000, and to Subcontracts in excess of $150,000.*

a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq. The Contractor agrees to report each violation to the TJPA and understands and agrees that the TJPA will, in turn, report each violation as required to assure notification to FTA and FRA and the appropriate EPA Regional Office.

b) The Contractor also agrees to include these requirements in each Subcontract exceeding $50,000 financed in whole or in part with Federal assistance provided by FTA and FRA.

32. BUY AMERICA REQUIREMENTS

*** This provision applies only to the following types of Agreements and Subcontracts: construction agreements of any value; agreements for the acquisition of goods or rolling stock of any value if funded by FRA, in excess of $150,000.*

a) The Contractor agrees to comply with 49 U.S.C. Section 5323(j), 49 CFR Part 661, and 49 U.S.C. 24405, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA- and FRA-funded projects, such as the Transbay Transit Center Program that is the subject of this Agreement, are produced in the United States, unless a waiver has been granted by FTA, FRA, or the product is subject to a general waiver. General waivers, when FTA funds are used, are listed in 49 CFR Section 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. Section 5323(j)(2)(C) and 49 CFR Section 661.11 when FTA funds are used, and 49 CFR 24405(a) when FRA funds are used.

b) The Contractor shall submit the “Buy America Certification” at the time of bid/offer if the regulation is applicable to the particular agreement. The Prime Contractor is responsible for ensuring that lower tier subcontractors are in compliance.

33. BREACHES AND DISPUTE RESOLUTION

*** This requirement applies to all Agreements and Subcontracts in excess of $250,000.*

a) **Disputes** - Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of TJPA's Executive Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

b) **Performance During Dispute** - Unless otherwise directed by the TJPA, Contractor shall continue performance under this Agreement while matters in dispute are being resolved.

c) **Breach of Contract -** The successful bidder shall be deemed in breach of contract if it fails to comply with any terms of the contract, fails to cure such noncompliance from the date of written notice from the Agency, or fails to submit a written response to the notification from the Agency within the amount of time specified from the Agency.

d) **Force Majeure -** The successful bidder shall not be in breach of the contract as long as its default was due to causes beyond reasonable control (force majeure) and occurred without any fault or negligence on the part of both the successful bidder and its subcontractors.

e) **Claims for Damages -** Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

f) **Remedies -** Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Agency and the successful Proposer arising out of or relating to the Agreement or any breach thereof, will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction.

g) **Rights and Remedies of the Agency -** The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract:

1) The right to take over and complete the work or any part thereof and at the expense of the Contractor, either directly or through other contractors;
2) The right to cancel this contract as to any or all of the work yet to be performed;
3) The right to specific performance, an injunction or any other appropriate equitable remedy; and
4) The right to money damages.

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

i) **Fees -** All costs, expenses and attorney fees incurred by the Contractor in connection with any appeal, suit or claim regarding a dispute that is brought by the Contractor shall be paid by the Contractor.

34. LOBBYING

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

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

a) The contractor shall submit the "New Restrictions on Lobbying Certification" if the regulation is applicable to the particular agreement.

b) No Federal appropriated funds have been or will be paid by or on behalf of the Contractor to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance, or the extension, continuation, renewal, amendment, or modification of any Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance;

c) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance, the Applicant assures that it will complete and submit Standard Form- LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions. Such forms are forwarded from tier to tier up to the TJPA.

35. AGREEMENT WORK HOURS AND SAFETY STANDARDS ACT

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

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

b) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

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

36. BUILD AMERICA, BUY AMERICA ACT

*** This provision applies to all construction Agreements and Subcontracts.*

The Contractor agrees that the Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

37. SEISMIC SAFETY REQUIREMENTS

*** This provision applies to Agreements and Subcontracts for the construction of new buildings or additions to existing buildings.*

The Contractor agrees that any new building or addition to an existing building that is the subject of this Agreement will be designed and constructed in accordance with the standards for Seismic Safety required in U.S. DOT Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance with such regulations to the extent required by the regulations. The Contractor also agrees to ensure that all work performed under this Agreement, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

38. BONDING REQUIREMENTS

*** This provision applies to Agreements and Subcontracts for construction or facility improvements. For those Agreements or Subcontracts exceeding $100,000, however, USDOT may accept the bonding policy and requirements of the TJPA, provided that the TJPA's bonding policy and requirements meet the minimum requirements as follows:*

a) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b) A performance bond on the part of the Contractor for 100 percent of the Agreement price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.

c) A cash deposit, certified check or other negotiable instrument may be accepted by the TJPA in lieu of performance and payment bonds, provided the TJPA has established a procedure to assure that the interest of USDOT is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

TJPA requirements regarding payment bonds are more stringent than USDOT amounts stated below. The TJPA requires a payment bond on the part of the Contractor for 100 percent of the Agreement price.

a) **Bid Bond Requirements (Construction)**

    1) Bid Security

A Bid Bond must be issued by a fully qualified surety company acceptable to TJPA and listed as a company currently authorized under 31 CFR Part 223 as possessing a Certificate of Authority.

2) Rights Reserved
In submitting a bid, it is understood and agreed by bidder that the right is reserved by TJPA to reject any and all bids, or part of any bid, and it is agreed that a bid may not be withdrawn for a period of ninety (90) days subsequent to the opening of bids, without the written consent of the TJPA.

It is also understood and agreed that if a bidder should withdraw any part or all of its bid within ninety (90) days after the bid opening without the written consent of the TJPA, shall refuse or be unable to enter into this Agreement, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, or refuse or be unable to furnish adequate and acceptable insurance, it shall forfeit its bid security to the extent of TJPA's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by the TJPA) shall prove inadequate to fully recompense the TJPA for the damages occasioned by default, then a bidder agrees to indemnify the TJPA and pay over to the TJPA the difference between the bid security and the TJPA's total damages, so as to make the TJPA whole.

A bidder understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

b) **Performance and Payment Bonding Requirements (Construction)**
The Contractor shall be required to obtain performance and payment bonds as follows:

1) Performance Bonds
   a. The penal amount of performance bonds shall be 100 percent of the original Agreement price, unless the TJPA determines that a lesser amount would be adequate for the protection of the TJPA.
   b. The TJPA may require additional performance bond protection when an Agreement price is increased. The increase in protection shall generally equal 100 percent of the increase in Agreement price. The TJPA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

2) Payment Bonds
   a. The penal amount of the payment bonds shall equal:
      (i) 50 percent of the Agreement price if the Agreement price is not more than $1 Million;
      (ii) 40 percent of the Agreement price if the Agreement price is more than $1 Million but not more than $5 Million; or
      (iii) $2.5 Million if the Agreement price is more than $5 Million.
   b. If the original Agreement price is $5 Million or less, the TJPA may require additional protection, as required by subparagraph 1, if the Agreement price is increased.

c) **Performance and Payment Bonding Requirements (Non-Construction)**
The Contractor also may be required to obtain performance and payment bonds when necessary to protect the TJPA's interest.

1) The following situations may warrant a performance bond:
   a. TJPA property or funds are to be provided to the Contractor for use in performing the Agreement or as partial compensation (as in retention of salvaged material).
   b. A Contractor sells assets to or merges with another concern, and the TJPA, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
   c. Substantial progress payments are made before delivery of end items starts.
   d. Agreements are for dismantling, demolition, or removal of improvements.

2) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:
   a. The penal amount of performance bonds shall be 100 percent of the original Agreement price, unless the TJPA determines that a lesser amount would be adequate for the protection of the TJPA.
   b. The TJPA may require additional performance bond protection when an Agreement price is increased. The increase in protection shall generally equal 100 percent of the increase in Agreement price. The TJPA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

3) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the TJPA's interest.

4) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

   a. The penal amount of payment bonds shall equal:
      (i) 50 percent of the Agreement price if the Agreement price is not more than $1 Million;
      (ii) 40 percent of the Agreement price if the Agreement price is more than $1 Million but not more than $5 Million; or
      (iii) $2.5 Million if the Agreement price is increased.

d) **Advance Payment Bonding Requirements**
The Contractor may be required to obtain an advance payment bond if the Agreement contains an advance payment provision and a performance bond is not furnished. The TJPA shall determine the amount of the advance payment bond necessary to protect the TJPA.

e) **Patent Infringement Bonding Requirements (Patent Indemnity)**
The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The TJPA shall determine the amount of the patent indemnity to protect the TJPA.

f) **Warranty of the Work and Maintenance Bonds**
1) The Contractor warrants to the TJPA, the architect and/or engineer that all materials and equipment furnished under this Agreement will be of highest quality and new unless otherwise specified by the TJPA, free from faults and defects and in conformance with the Agreement documents. All work not so conforming to these standards shall be considered

defective. If required by the Executive Director, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2) The work furnished under the Agreement must be of first quality and the workmanship must be the best obtainable in the various trades. The work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by the TJPA and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to the TJPA. As additional security for these guarantees, the Contractor shall, prior to the release of final payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to the TJPA written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Agreement. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after final payment and shall be written in an amount equal to 100 percent of the Agreement sum, as adjusted (if at all).

39. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

***This provision applies to all Agreements and Subcontracts for construction in excess of $2,000. "Construction," for purposes of this requirement, includes "actual construction, alteration and/or repair, including painting and decorating." (29 CFR Section 5.5[a]).*

(a). **Minimum Wages**

(1). All laborers and mechanics employed or working upon the site of the work that is the subject of this Agreement (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act [29 CFR Part 3]), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(2). (A). The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Agreement shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i). Except with respect to helpers as defined as 29 CFR Section 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
(ii). The classification is utilized in the area by the construction industry; and
(iii). The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
(iv). With respect to helpers as defined in 29 CFR Section 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B). If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C). In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D). The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this Agreement from the first day on which work is performed in the classification.

(3). Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(4). If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the

Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(5). (A). The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Agreement shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(i). The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(ii). The classification is utilized in the area by the construction industry; and
(iii). The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B). If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C). In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D). The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this Agreement from the first day on which work is performed in the classification.

(b). **Withholding** - The TJPA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Agreement or any other Federal contract with the same Contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Agreement. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Agreement, the TJPA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(c). **Payrolls and Basic Records**

(1). Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR Section 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(2). (A). The Contractor shall submit weekly for each week in which any Agreement work is performed a copy of all payrolls to the TJPA for transmission to the USDOT. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Section 5.5(a)(3)(i) of Regulations, 29 CFR Part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B). Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Agreement and shall certify the following:

(i). That the payroll for the payroll period contains the information required to be maintained under Section 5.5(a)(3)(i) of Regulations, 29 CFR Part 5 and that such information is correct and complete;

(ii). That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Agreement during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(iii). That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Agreement.

(C). The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D). The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(3). The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the USDOT or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Section 5.12.

(d). **Apprentices and Trainees**

(1). Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S.

Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2). Trainees - Except as provided in 29 CFR Section 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(3). Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e). **Compliance with Copeland Act Requirements** - The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Agreement.

(f). **Subcontracts** - The Contractor or subcontractor shall insert in any Subcontracts the clauses contained in 29 CFR Section 5.5(a)(1) through (10) and such other clauses as the USDOT may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier Subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Section 5.5.

(g). **Agreement Termination: Debarment** - A breach of the contract clauses in 29 CFR Section 5.5 may be grounds for termination of the Agreement, and for debarment as a contractor and a subcontractor as provided in 29 CFR Section 5.12.

(h). **Compliance with Davis-Bacon and Related Act Requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Agreement.

(i). **Disputes Concerning Labor Standards** - Disputes arising out of the labor standards provisions of this Agreement shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(j). **Certification of Eligibility**

(1). By entering into this Agreement, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR Section 5.12(a)(1).

(2). No part of this Agreement shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR Section 5.12(a)(1).

(3). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. Section 1001.

FLY AMERICA CERTIFICATION

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

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

Certificate of Compliance

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

Date ______________________________

Signature ______________________________

Company Name ______________________________

Title ______________________________

Certificate of Non-Compliance

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

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

Date ______________________________

Signature ______________________________

Company Name ______________________________

Title ______________________________

Explanation: ______________________________

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BUY AMERICA CERTIFICATION

*** This certificate applies only to the following types of Agreements and Subcontracts: construction agreements of any value; agreements for the acquisition of goods or rolling stock of any value if funded by FRA in excess of $150,000*

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

Certificate of Compliance

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

Date ____

Contractor Name____

Authorized Representative Name ________________________________

Signature ____

Title ____

OR

Certificate of Non-Compliance

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

Date ____

Contractor Name____

Authorized Representative Name ________________________________

Signature ____

Title ____

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

Certificate of Compliance

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

Date ____

Contractor Name____

Authorized Representative Name _____________________________________

Signature ____

Title ____

OR

Certificate of Non-Compliance

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

Date ____

Contractor Name____

Authorized Representative Name _____________________________________

Signature ____

Title ____

NEW RESTRICTIONS ON LOBBYING CERTIFICATION

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

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

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

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

Date ____

Contractor Name ____

Authorized Representative Name ______________________________

Signature ____

Title ____

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

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

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

(1) The prospective participant certifies to the best of its knowledge and belief that it and its principals:

a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) b. of this certification; and

d. Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) The prospective proposer also certifies that if, later it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide that information to the TJPA.

(3) Where the prospective proposer is unable to certify to any of the statements in this certification, such prospective primary participant shall attach and provide a written explanation to the TJPA.

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

Bidder/Offeror Name:____

Authorized Representative Name: ________________________________

Authorized Representative Title: ________________________________

Authorized Representative Signature: ______________________________

Date: ___________________________