

AGENDA ITEM NO. **2 E**  
COUNCIL MEETING: **3/20/14**  
APPROVED BY \_\_\_\_\_

Date: **March 20, 2014**

DEPARTMENT DIRECTOR \_\_\_\_\_

CITY MANAGER 

**FROM:** BRUCE A. RUDD, City Manager/Interim Director  
Department of Transportation

**SUBJECT:** Award a contract in the amount of \$1,481,230 to Parsons Brinkerhoff, Inc. (PB) for the revised FAX Q Bus Rapid Transit (BRT) project management services agreement – Bid File No. 3288

**RECOMMENDATION**

Staff recommends Council award a contract in the amount of \$1,481,230 to PB for project management services for the design, engineering and construction of a revised Blackstone and Ventura/Kings Canyon BRT Project.

**EXECUTIVE SUMMARY**

On January 30, 2014, the Fresno City Council elected not to approve two contracts that would complete the design and engineering work, as well as hiring a firm to provide project management services for a proposed 15.7 mile BRT project. The proposed BRT project is intended to complement the City's General Plan Update, which assumes reductions in vehicle miles traveled and related emissions (i.e., greenhouse, nitrous oxides, particulate matter) through rehabilitation of existing neighborhoods, increased densities in new growth areas, the use of public transportation or other alternative modes of transportation, and incentivizing housing close to transit areas. While the items were not approved, a number of Councilmembers indicated support for the project if changes were made to the scope of work. Others also expressed an interest in improving service levels on other routes, specifically Shaw Avenue.

Staff has reviewed the proposed scope of work, as well as the capital costs for vehicles and bus stations, and has determined that the project can still provide the same level of convenience and efficiencies as originally envisioned, but at a cost that is approximately \$13.5 million lower than the previous iteration. The savings in capital costs also provide a unique opportunity to complement this project by augmenting service levels along a five mile segment of Shaw Ave. The ability to fund improve service levels along Shaw Avenue can be accomplished by reallocating funds that were needed to match the original Blackstone and Ventura/Kings Canyon BRT Project and leveraging other grants and investments already made by the City.

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Award a contract to Parsons Brinkerhoff for Bus Rapid Transit Project Management Services

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## BACKGROUND

On January 30, 2014, the Fresno City Council chose not to approve two contracts related to the Fresno Area Express' (FAX) proposed Q BRT Project. During what were extensive deliberations regarding the project, a number of Councilmembers also indicated that they would support the project if changes could be made to reduce the overall cost. In addition to lowering the cost of the project, some Councilmembers also expressed a desire to improve the level of service for other routes operated by FAX, specifically Shaw Avenue.

Since that time, staff has reviewed the different cost components associated with the project and **has identified changes that would reduce the capital cost of the project by approximately \$13.5 million.** While these changes reduce the cost of the project, none of them would compromise the intent of the project, which was to provide a level of service that will be more convenient and efficient than the existing service.

The revised FAX Q BRT Project, and subsequent cost reductions, has also provided a unique chance to augment service levels along a five mile segment of Shaw Avenue that would operate between California State University Fresno (CSUF) and West Avenue. The introduction of BRT along the Blackstone and Ventura/Kings Canyon corridors, complemented by improvements in service along Shaw Avenue, are consistent with the City's General Plan Update, which calls for reductions in vehicle miles traveled by rehabilitating properties and filling in vacant and underutilized parcels along the transit corridors. The frequencies along the proposed segment of Shaw Avenue would be the same as what will be provided along the original Blackstone and Kings Canyon/Ventura BRT corridors. The seven new 40 foot buses needed for this service would be identical to those used on the Blackstone and Kings Canyon/Ventura BRT corridors.

For Shaw Avenue, buses would serve existing bus stops located at half mile intervals, including West Avenue, Palm Avenue, Maroa, Blackstone, Fresno Street, Angus, First Street, Sixth, Cedar and Maple Avenues. The new, limited stop service, would operate in addition to the current service that operates on 30 minute frequencies that operates along Shaw Avenue from Willow Avenue to west of State Route 99. Existing bus stops will be upgraded with newer shelters and would include many of the features that will be found at BRT stations located along the Blackstone and Ventura/Kings Canyon BRT corridors. Traffic signal priority will be achieved by traffic synchronization investments already in place along Shaw Avenue.

Funding for buses, improvements to bus stops and traffic signal priority integration will be funded by reallocating grant funds originally dedicated to the original Blackstone and Ventura/Kings Canyon BRT Project and/or by using other grant funds currently available for these purposes. For example, the original FAX Q BRT Project included a \$3 million grant from the San Joaquin Valley Air Pollution Control District to purchase three articulated BRT buses. These grant dollars will no longer be needed to support the Revised Q BRT Project and could be used to purchase six new 40 foot buses that would be used to support new service along Shaw Avenue.

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It is estimated that the annual operating cost of providing the new service along Shaw Avenue would be approximately \$1.27 million. In an abundance of fiscal conservatism, as is the case with the Blackstone and Kings Canyon/Ventura BRT service, the revised pro forma (Attachment A) does not assume any increases in ridership from new passengers or changes in travel patterns from existing customers due to the improved levels of service. While staff is confident that the improved levels of service will increase ridership, the attached pro forma assumes no increase in ridership to ensure that in a "worst case" scenario, the FAX Department could still absorb the additional operating costs of BRT as well as enhanced service along Shaw Avenue once the initial grant funds are expended.

It should be noted though that the construction of housing units at Campus Pointe/CSUF is already underway. The Department is also in discussions with representatives from CSUF to implement a student pass program that takes advantage of a new farebox system recently installed in all FAX buses. It is anticipated that both of these variables, in conjunction with other land use changes, will also provide opportunities that will result in an increase in ridership and operating revenues.

In the interim, staff is also pursuing Federal grant funds that would be used to fund the operating cost of this service for three years and expects to know if the Department is successful within the next 30 days.

### **REVISED FAX Q BRT Project: Project Description**

The original FAX Q BRT Project operated along a 15.7-mile BRT line connecting the major north-south corridor (Blackstone Avenue) and a major east-west corridor (Ventura Avenue and Kings Canyon Road). Staff has evaluated the scope of work and associated capital cost originally contemplated for the project and has identified revisions that would reduce the cost of the project without compromising the ability to improve service levels as well as operational efficiencies. These revisions, and subsequent savings, could be used to fund a comparable level of service along a five mile segment of Shaw Avenue that would operate between Campus Pointe/CSUF and West Avenue.

### **Frequencies/Vehicles**

Service frequencies in the morning peak period, from 6:30 to 9:00 a.m., and the afternoon peak period, from 3:30 to 6:30 p.m., are 10-minutes in each direction. Midday service frequency will be reduced to 15-minutes, and late evening service frequency will be 30-minutes. These proposed service levels would apply to the Blackstone and Kings Canyon/Ventura BRT corridors as well as the new service along Shaw Avenue. Weekend service levels for all three corridors would be based on 30 minute frequencies.

All three corridors will operate using standard length (40-foot) coaches rather than 60 foot articulated coaches as originally envisioned. **The change in vehicle use will result in a savings of approximately \$7.5 million.** The buses will still utilize special BRT styling and branding and other features designed to accommodate BRT operations.

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### **BRT Stops/Stations**

In addition to using 40 foot buses, the revised FAX Q BRT Project will use “at grade” minor bus stations rather than elevated minor stations. This revision will help reduce capital costs and provide flexibility in the event that travel patterns warrant changes to the proposed alignments and station locations. In addition to constructing stations at grade, the Revised FAX Q BRT Project will include minor stations that utilize bus shelters that are readily available from different manufacturers that can be relocated if needed. **The changes in the minor station design and construction are projected to reduce the overall cost of the Revised FAX Q BRT Project by another \$6 million (Attachment B).**

Even with the changes noted above, the Revised FAX Q BRT Project will result in improvements required to increase bus speeds and ensure high schedule adherence. Although the type of vehicle and minor station design has been changed, the Revised FAX Q BRT Project will still include the following features:

- Queue jump lanes at five locations along the alignment (Blackstone and Shields, Blackstone and Stanislaus, Fresno and N Streets, Van Ness Avenue BRT Station, and Abby and Belmont)
- Transit signal priority treatments and signal coordination throughout the BRT corridors
- Station features including: Shelters, boarding platforms, benches, fare machines, and other passenger amenities
- Pre-paid ticketing and proof-of-payment fare verification
- Low-floor, multi-door, low-emission BRT vehicles
- Real time passenger information (information display signs)
- Branding of the service to create a unique identity and image

All of the above features are designed to provide a higher level of service on these transit-intense corridors and create more convenience for the rider by getting them to their destination faster than is possible with the current fixed-route system. The proposed BRT service will be supported by the existing local bus network.

### **ENVIRONMENTAL FINDINGS**

Council approved the Supplemental Mitigated Negative Declaration (SMND) on January 30, 2014. The SMND is the California environmental Quality Act (CEQA) approval.

### **LOCAL PREFERENCE**

Not applicable as due to the use of Federal funds.

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**FISCAL IMPACT**

Capital funding for the attached contract as well as the revised FAX Q BRT Project is provided through a \$38 million Federal Transit Administration Very Small Starts grant, which is matched using funding from the State of California Proposition IB grant funds. The amount needed to fund the revised scope of work will reduce both the amount of Federal and state funds needed to complete the project.

The annual cost of operating the Blackstone and Kings Canyon/Ventura BRT service is estimated to be approximately \$2.28 million. This is the net difference between the cost of providing BRT service and existing fixed route services. The revised pro forma, which includes the cost of improved service levels along Shaw Avenue, will increase the FAX's operating expenses by \$1.27 million for a total annual increase of approximately \$3.6 million beginning in Fiscal Year 2017. It is projected that prior to the implementation of BRT and Shaw Avenue services the Department will fund a \$9 million operating reserve.

Because FAX operates as an "enterprise" department, meaning that General Fund dollars are not used to provide public transit services, it is essential that an operating reserve is established in order to ensure that the General Fund is not affected by implementation of BRT. As the attached pro forma indicates, FAX services are primarily funded by Federal and state transit funds, and a portion of local Measure C funds that are specifically earmarked to fund public transportation services and cannot be used on other transportation projects.

Attachments: Revised Pro Forma  
Letter from Kimley-Horn  
Contract

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Department of Transportation FY2014 Budget Estimate  
 FY2012-FY2024 Operating Revenue and Expenditure Projections  
 Bus Rapid Transit & Shaw Avenue Increased Service Operating Costs Included Beginning in FY2017

|                                          | FY2012 Actual     | FY2013 Actual     | FY2014 Estimate   | FY2015            | FY2016            | FY2017            | FY2018            |
|------------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| <b>Resources</b>                         |                   |                   |                   |                   |                   |                   |                   |
| <b>One-Time Resources</b>                |                   |                   |                   |                   |                   |                   |                   |
| 6 Carryover                              | (2,294,271)       | 2,288,900         | 12,860,600        | 13,262,300        | 13,118,884        | 12,912,350        | 11,722,469        |
| 4 Prior Year Grant Revenues*             | 8,889,707         | 8,886,600         | 2,570,600         | 5,249,000         | 5,479,000         | 5,715,100         | 5,957,200         |
| Federal Stimulus Funds                   | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 |
| <b>Total Prior Year Resources</b>        | <b>6,595,436</b>  | <b>11,275,500</b> | <b>15,431,200</b> | <b>18,511,300</b> | <b>18,597,884</b> | <b>18,627,450</b> | <b>17,679,669</b> |
| <b>Operating Revenue</b>                 |                   |                   |                   |                   |                   |                   |                   |
| 1 State TDALTF Funds                     | 19,792,745        | 20,064,500        | 22,110,300        | 20,462,701        | 20,667,328        | 21,080,675        | 21,502,288        |
| 2 Passenger Fares                        | 9,347,359         | 9,994,500         | 9,460,800         | 9,994,500         | 9,994,500         | 9,994,500         | 9,994,500         |
| 3 Measure C                              | 7,650,285         | 8,297,300         | 8,602,400         | 8,632,611         | 8,805,261         | 8,981,364         | 9,160,990         |
| 4 Federal 5307 Grant Funds*              | 807,565           | 5,975,200         | 4,339,400         | 4,000,000         | 4,000,000         | 4,000,000         | 4,000,000         |
| 5 Federal CMAQ Grant Funds**             | 0                 | 0                 | 0                 | 0                 | 0                 | 1,400,000         | 1,422,000         |
| Advertising and Other Govt Rev           | 559,121           | 642,000           | 378,100           | 416,400           | 416,400           | 416,400           | 416,400           |
| CNG Tax Rebate                           | 97,110            | 612,700           | 701,300           | 650,013           | 689,514           | 689,599           | 710,287           |
| Transfers                                | (671,700)         | 0                 | (26,300)          | 0                 | 0                 | 0                 | 0                 |
| Misc Revenue/Interest                    | 147,798           | 113,800           | 178,700           | 392,393           | 466,582           | 577,050           | 651,089           |
| Transfer to/from Operating Reserve       | 0                 | 0                 | (2,500,000)       | (2,500,000)       | (2,500,000)       | (1,500,000)       | 0                 |
| Transfer to Asset Maintenance Capital    | 0                 | (500,000)         | (500,000)         | (500,000)         | (500,000)         | (500,000)         | (500,000)         |
| Transfer to Capital Match fund           | 0                 | (1,000,000)       | (1,000,000)       | (1,000,000)       | (1,000,000)       | (1,000,000)       | (1,000,000)       |
| Fare Increase                            | 0                 | 0                 | 0                 | 290,700           | 290,700           | 581,300           | 581,300           |
| <b>Total Operating Revenue</b>           | <b>37,730,283</b> | <b>44,200,000</b> | <b>41,744,700</b> | <b>40,548,618</b> | <b>41,310,284</b> | <b>44,720,889</b> | <b>46,938,854</b> |
| <b>Total Resources</b>                   | <b>44,325,719</b> | <b>55,475,500</b> | <b>57,175,900</b> | <b>59,059,918</b> | <b>59,908,169</b> | <b>63,348,338</b> | <b>64,618,523</b> |
| <b>Expenditures</b>                      |                   |                   |                   |                   |                   |                   |                   |
| <b>Operating Expenditures</b>            |                   |                   |                   |                   |                   |                   |                   |
| Employee Services                        | 26,536,527        | 26,286,800        | 25,650,100        | 26,781,528        | 27,317,159        | 29,126,202        | 29,708,726        |
| Employee Reductions                      | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 |
| Purchased Prof and Tech                  | 5,116,921         | 5,040,400         | 5,768,600         | 5,998,514         | 6,178,469         | 6,363,824         | 6,554,738         |
| Purchased Property Services              | 1,031,184         | 905,900           | 1,440,700         | 1,605,667         | 1,653,837         | 1,703,452         | 1,754,556         |
| Other Purchased Services                 | 80,718            | 131,900           | 174,700           | 178,499           | 183,854           | 189,370           | 195,051           |
| Supplies                                 | 4,841,271         | 4,259,200         | 5,070,800         | 5,305,427         | 5,464,590         | 7,915,828         | 8,153,302         |
| Property                                 | 7,568             | 79,800            | 42,800            | 170,040           | 170,596           | 171,169           | 171,759           |
| Other Objects                            | 443,966           | 701,400           | 767,700           | 792,791           | 816,575           | 841,072           | 866,304           |
| Interdepartmental Charges                | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 |
| Insurance Liability Reserve              | 3,958,830         | 5,257,900         | 4,995,200         | 5,108,568         | 5,210,738         | 5,314,954         | 5,421,253         |
| <b>Total Operating Expenditures</b>      | <b>42,016,985</b> | <b>42,663,300</b> | <b>43,913,600</b> | <b>45,941,034</b> | <b>46,995,819</b> | <b>51,625,870</b> | <b>52,825,689</b> |
| <b>Total Resources less Expenditures</b> | <b>2,308,734</b>  | <b>12,812,200</b> | <b>13,262,300</b> | <b>13,118,884</b> | <b>12,912,350</b> | <b>11,722,469</b> | <b>11,792,833</b> |

**Department of Transportation FY2014 Budget Estimate  
FY2012-FY2024 Operating Revenue and Expenditure Projections  
Bus Rapid Transit & Shaw Avenue Increased Service Operating Costs Included beginning in FY2017**

|                                                                | FY2019            | FY2020            | FY2021            | FY2022            | FY2023            | FY2024            |
|----------------------------------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| <b>Resources</b>                                               |                   |                   |                   |                   |                   |                   |
| <b>One-Time Resources</b>                                      |                   |                   |                   |                   |                   |                   |
| 6 Carryover                                                    | 11,792,833        | 10,893,641        | 9,106,083         | 7,021,630         | 4,626,793         | 2,095,675         |
| 4 Prior Year Grant Revenues*<br>Federal Stimulus Funds         | 6,205,600         | 6,460,500         | 6,722,000         | 6,990,300         | 7,265,600         | 7,548,000         |
| <b>Total Prior Year Resources</b>                              | <b>17,998,433</b> | <b>17,354,141</b> | <b>15,828,083</b> | <b>14,011,930</b> | <b>11,892,393</b> | <b>9,643,675</b>  |
| <b>Operating Revenue</b>                                       |                   |                   |                   |                   |                   |                   |
| 1 State TDALTF Funds                                           | 21,932,334        | 22,370,980        | 22,818,400        | 23,274,768        | 23,740,263        | 24,215,069        |
| 2 Passenger Fares                                              | 10,094,445        | 10,195,389        | 10,297,343        | 10,400,317        | 10,400,317        | 10,400,317        |
| 3 Measure C                                                    | 9,344,207         | 9,531,090         | 9,721,709         | 9,916,142         | 10,114,462        | 10,316,750        |
| 4 Federal 5307 Grant Funds*                                    | 4,000,000         | 4,000,000         | 4,000,000         | 4,000,000         | 4,000,000         | 4,000,000         |
| 5 Federal CMAQ Grant Funds**<br>Advertising and Other Govt Rev | 678,000           | 0                 | 0                 | 0                 | 0                 | 0                 |
| CNG Tax Rebate                                                 | 416,400           | 416,400           | 416,400           | 416,400           | 416,400           | 416,400           |
| Transfers                                                      | 731,596           | 753,544           | 776,150           | 799,435           | 823,418           | 848,120           |
| Misc Revenue/Interest                                          | 665,741           | 704,921           | 667,391           | 626,384           | 589,406           | 546,476           |
| Transfer to/from Operating Reserve                             | 0                 | 0                 | 0                 | 0                 | 0                 | 0                 |
| Transfer to Asset Maintenance Capital                          | (500,000)         | (500,000)         | (500,000)         | (500,000)         | (500,000)         | (500,000)         |
| Transfer to Capital Match fund                                 | (1,000,000)       | (1,000,000)       | (1,000,000)       | (1,000,000)       | (1,000,000)       | (1,000,000)       |
| Fare Increase                                                  | 587,100           | 593,000           | 598,900           | 604,900           | 895,400           | 1,185,900         |
| <b>Total Operating Revenue</b>                                 | <b>46,949,823</b> | <b>47,065,324</b> | <b>47,796,294</b> | <b>48,538,345</b> | <b>49,479,666</b> | <b>50,429,031</b> |
| <b>Total Resources</b>                                         | <b>64,948,256</b> | <b>64,419,466</b> | <b>63,624,377</b> | <b>62,550,275</b> | <b>61,372,059</b> | <b>60,072,707</b> |
| <b>Expenditures</b>                                            |                   |                   |                   |                   |                   |                   |
| <b>Operating Expenditures</b>                                  |                   |                   |                   |                   |                   |                   |
| Employee Services                                              | 30,302,900        | 30,909,958        | 31,527,137        | 32,157,680        | 32,800,834        | 33,456,850        |
| Employee Reductions                                            |                   |                   |                   |                   |                   |                   |
| Purchased Prof and Tech                                        | 6,751,380         | 6,953,922         | 7,162,539         | 7,377,416         | 7,598,738         | 7,826,700         |
| Purchased Property Services                                    | 1,807,192         | 1,861,408         | 1,917,250         | 1,974,768         | 2,034,011         | 2,095,031         |
| Other Purchased Services                                       | 200,902           | 206,929           | 213,137           | 219,531           | 226,117           | 232,901           |
| Supplies                                                       | 8,387,901         | 8,649,838         | 8,909,334         | 9,176,614         | 9,451,912         | 9,735,469         |
| Property                                                       | 172,367           | 172,993           | 173,638           | 174,302           | 174,986           | 175,680           |
| Other Objects                                                  | 882,293           | 919,062           | 946,634           | 975,033           | 1,004,284         | 1,034,412         |
| Interdepartmental Charges                                      |                   |                   |                   |                   |                   |                   |
| Insurance Liability Reserve                                    | 5,529,678         | 5,640,272         | 5,753,077         | 5,868,139         | 5,985,502         | 6,105,212         |
| <b>Total Operating Expenditures</b>                            | <b>54,054,615</b> | <b>55,313,383</b> | <b>56,602,747</b> | <b>57,923,482</b> | <b>59,276,383</b> | <b>60,662,267</b> |
| <b>Total Resources less Expenditures</b>                       | <b>10,893,641</b> | <b>9,106,083</b>  | <b>7,021,630</b>  | <b>4,626,793</b>  | <b>2,095,675</b>  | <b>(589,560)</b>  |

Department of Transportation FY2014 Budget Estimate  
 FY2012-FY2024 Operating Revenue and Expenditure Projections  
 Bus Rapid Transit & Shaw Avenue Increased Service Operating Costs Included beginning in FY2017

\* Beginning in FY2014, 50% or \$4 million in FTA 5307 Federal operating revenue will be received in the same year it is expended.  
 Larger agencies are now allowed to apply for and drawdown 5307 revenue, when a continuing appropriations resolution is passed.  
 \*\* BRT CMAQ funds are received in FY2017, 2018 & FY2019, with BRT service beginning in Nov/Dec 2017

**Assumptions:**

- Revenue
- Economy will continue to show modest improvement
  - Federal revenues will remain stable, increasing 2% - 3% annually.
  - State TDA revenues will increase 1% annually through FY2016 and then increase 2% in future years
  - Measure C revenues will increase 2% annually
  - Passenger Fares will remain flat through 2018
    - Fares are estimated flat through FY2018, with 1% annual increases until the fare increase in FY2023

Fare Increase

--Fare increases of \$0.10 are shown in FY2016 and FY2023

Expenditures

- Employee costs fall 2.5%, from FY 2013 budgeted, in FY2014 and rises 2% annually in future years
- Contracts, parts, services and consumables fall slightly in FY2013, due to increased reliance on CNG fuel instead of diesel
- Contracts, parts, services and consumables increase 8% in FY2014, primarily due to a new Paratransit Service contract
- Contracts, parts, services and consumables increase 3% annually beginning in FY2015
- Internal City service charges decrease 4.7% in FY2014, when the cost of FAX police officers is not considered

Bus Rapid Transit (BRT) Costs - \$2.3 million annually with \$3.5 million in CMAQ Operating Revenue

--\$818,200 in personnel costs, beginning in FY2017 and increasing 2% each year  
 --\$1,461,800 in fuel, equipment and supplies beginning in FY2017 and increasing 3% annually

Shaw Avenue Increased Service Costs - \$1.27 million annually

--\$444,500 in personnel costs, beginning in FY2017 and increasing 2% each year  
 --\$825,500 in fuel, equipment and supplies beginning in FY2017 and increasing 3% annually

Revenue Definitions

- <sup>1</sup> State Transportation Development Act (TDA) funds are derived from diesel taxes & related sales taxes - this revenue source trends with sales taxes
- <sup>2</sup> Transit Passenger Fares are trending as expected after the recent fare increase.
- <sup>3</sup> Measure C is a local sales tax and tend with overall sales tax
- <sup>4</sup> Federal 5307 grant revenues are received annually through the Department of Transportation
- <sup>5</sup> Federal CMAQ revenues can be received for operating expenses for the first three years of a demonstration project.
- <sup>6</sup> Carryover is the total Resources less the total Expenditures that is available to use in the next fiscal year.

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Kimley-Horn  
and Associates, Inc.

February 27, 2014

John Downs  
City of Fresno  
2223 "G" Street  
Fresno, CA 93706-1600



Suite 200  
6150 Stoneridge Mall Road  
Pleasanton, CA 94588-3279

Office: 925-398-4840

Re: Revised BRT Construction Cost Estimate

Dear John:

The City of Fresno requested that Kimley-Horn and Associates, Inc. determine the estimated construction cost savings to the Blackstone/Van Ness/Kings Canyon BRT project based on the following scope changes:

- Replacement of the custom-designed shelter with a less-expensive, pre-fabricated option for the minor stations, and
- Elimination of the raised (level boarding) platforms, and instead utilizing standard 6-inch high curb. Bulb-out geometry would be maintained.

In addition, we made the following assumptions in preparing this revised cost estimate:

- Platform to remain 60-feet in length,
- Railings to be eliminated from the front and rear of the minor stations,
- Two major stations utilizing the existing shelter design to be maintained; these two major stations would be at Van Ness and Manchester Center,
- Pre-fabricated shelters at minor stations estimated at \$40,000 each,
- Off-board fare collection to remain in scope, and
- Traffic signal priority, electrical, and communications improvements to remain in scope.

Our analysis shows that incorporating these changes and assumptions into project will save approximately **\$6 million**, lowering the estimated



Kimley-Horn  
and Associates, Inc.

construction contract cost from **\$27,657,000** to **\$21,712,000**. These costs include a built-in 20% contingency.

The attached Word document contains the revised cost estimate breakout as requested by the City.

It should be noted that although this estimate was determined from the 60% project quantities, this estimate is to be considered preliminary, as a 60% cost estimate cannot be prepared until the 60% plans are re-designed to incorporate the revised scope.

If you have any questions, please do not hesitate to call me at (925) 398-4856.

Very truly yours,

***KIMLEY-HORN AND ASSOCIATES, INC.***

A handwritten signature in black ink, appearing to read "John Pulliam".

John Pulliam, P.E.  
RCE#68897

ATTACHMENTS: FRESNO CONSTRUCTION ESTIMATE 2-27-2014.DOCX

**AGREEMENT  
CITY OF FRESNO, CALIFORNIA  
CONSULTANT SERVICES**

THIS AGREEMENT is made and entered into effective the 31<sup>th</sup>, day of March, 2014, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Parsons Brinckerhoff, Inc., a New York corporation (hereinafter referred to as "CONSULTANT").

CITY desires to obtain professional services and CONSULTANT is capable, legally qualified and willing to furnish said services.

**THE PARTIES THEREFORE AGREE** as follows:

1. Scope of Services. CONSULTANT shall perform to the satisfaction of CITY the Scope of Services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.

2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above and shall continue in full force and effect through the earlier of complete rendition of the services hereunder or Decembert 31<sup>st</sup> 2016, subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit A** are to commence upon CITY'S issuance of a written "Notice to Proceed." Work shall be undertaken and completed in a professional and expeditious manner.

3. Compensation.

(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee not to exceed \$1,481,230 payable on such terms and in such amounts as set forth in the Schedule of Fees in **EXHIBIT A**. Such fees include all expenses incurred by CONSULTANT in performance of such services.

(b) Detailed statements shall be rendered monthly and will be payable in the normal course of CITY business.

(c) The parties may modify this Agreement to provide for the rendition of services not required by this Agreement so long as such change(s) is within the general scope of this Agreement, which modification shall include an adjustment to CONSULTANT'S compensation. Any change in the scope of services must be in compliance with all Federal Transit Administration ("FTA") procurement guidelines, and be made by written amendment to the Agreement signed by an authorized representative for each party. CONSULTANT shall not be entitled to any additional compensation if services are performed prior to a signed written amendment. Notwithstanding the foregoing, any "Cardinal Change" which is outside the scope of this Agreement, as set forth in the *Best Practices Procurement Manual* published by the FTA, must be processed as a new procurement pursuant to the requirements of FTA Circular 4220.1E, paragraph 9.h.

4. Termination, Remedies and Force Majeure.

(a) This Agreement shall terminate without any liability of CITY to CONSULTANT upon the earlier of: (i) CONSULTANT'S filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against CONSULTANT; (ii) 7 calendar days prior written notice with or without cause by CITY to CONSULTANT; (iii) CITY'S non-appropriation of funds sufficient to meet its obligations hereunder during any CITY fiscal year of this Agreement, or insufficient funding for the services provided hereunder; or (iv) expiration of this Agreement.

(b) Upon any termination or expiration of this Agreement, CONSULTANT shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) immediately return to CITY any and all unearned payments and all properties and materials in the possession of CONSULTANT that are owned by CITY. Subject to the terms of this Agreement, CONSULTANT shall be paid compensation for services satisfactorily performed prior to the effective date of termination. CONSULTANT shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

(c) In the event of termination due to failure of CONSULTANT to satisfactorily perform in accordance with the terms of this Agreement, CITY may withhold an amount that would otherwise be payable as an offset to, but not in excess of, CITY'S damages caused by such failure. In no event shall any payment by CITY pursuant to this Agreement constitute a waiver by CITY of any breach of this Agreement which may then exist on the part of CONSULTANT, nor shall such payment impair or prejudice any remedy available to CITY with respect to the breach.

(d) Upon any breach of this Agreement by CONSULTANT, CITY may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that CITY improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

(e) CONSULTANT shall provide CITY with adequate written assurances of future performance, upon Director's request, in the event CONSULTANT fails to comply with any terms or conditions of this Agreement.

(f) CONSULTANT shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of CONSULTANT and without its fault or negligence such as, acts of God or the public enemy, acts of CITY in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. CONSULTANT shall notify Director in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Director of the cessation of such occurrence.

(g) CONSULTANT agrees that, notwithstanding any contrary provision in this Agreement, any dispute arising from or relating to this Agreement (including, without limitation, disputes based on contract, tort, equity or statute) may, at CITY'S option, be joined and

consolidated with any other dispute or disputes arising from or relating to the services provided hereunder so that all disputes arising from or relating to the services provided hereunder may be resolved in a single proceeding. CONSULTANT hereby specifically waives any objection it may otherwise have to such joinder and consolidation and specifically consents to mediation, arbitration or any other dispute resolution mechanism, forum or proceeding necessary to effectuate the joinder and consolidation contemplated by this provision.

(h) Any notice of termination sent to CONSULTANT shall include the reason(s) for such termination or state that it is without cause.

(i) FTA Protest Notification: CONSULTANT is hereby notified that this contract is funded in whole or in part by the Federal Department of Transportation, the Federal Transit Administration (FTA) may entertain a protest that alleges that the CITY failed to have or follow written protest procedures. CONSULTANT must file a protest with the FTA not later than five (5) days after the CITY renders a final decision or five (5) days after the CONSULTANT knows or has reason to know that the CITY has failed to render a final decision. Protests to the FTA must be filed in accordance with FTA Circular 4220.1F (as periodically updated). If a protest has been filed with the FTA, the CITY will not make an award of contract unless the CITY determines that: (1) the items to be procured are urgently required; (2) delivery of performance will be unduly delayed by failure to make the award promptly; or (3) failure to make prompt award will otherwise cause undue harm to the CITY or the Federal Government.

#### 5. Confidential Information.

(a) Any reports, information, or other data prepared or assembled by CONSULTANT pursuant to this Agreement shall not be made available to any individual or organization by CONSULTANT without the prior written approval of CITY. During the term of this Agreement, and thereafter, CONSULTANT shall not, without the prior written consent of CITY, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of CITY, including but not limited to business plans, marketing plans, financial information, designs, drawings, specifications, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in CITY.

- i. Permission granted to CONSULTANT to disclose information on one occasion shall not authorize CONSULTANT to further disclose such information or any other information or disseminate the same on any other occasion.
- ii. CONSULTANT shall not comment publicly to the press or any other media regarding the Agreement or CITY'S actions on the same, except to CITY'S personnel or CONSULTANT'S personnel involved in the performance of this Agreement at public hearings or in response to questions from a Legislative committee.
- iii. CONSULTANT shall not issue any news releases or any public relations item of any nature, whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by CITY and receipt of CITY'S written permission.

(b) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this Section 5.

(c) This Section 5 shall survive expiration or termination of this Agreement.

6. Licenses. It is further mutually understood and agreed by and between the parties hereto that inasmuch as CONSULTANT represents to CITY that CONSULTANT and its employees and subcontractors, if any, are skilled and properly licensed by the State of California to perform in accordance with the standards necessary to perform the services agreed to be done by it under this Agreement, CITY relies upon the skill of CONSULTANT and any subcontractors to do and perform such services in a skillful manner and CONSULTANT agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by CITY shall not operate as a release of CONSULTANT or any subcontractors from said standards.

7. Indemnification. To the furthest extent allowed by law, CONSULTANT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, CONSULTANT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. CONSULTANT's obligations under the preceding sentence shall apply regardless of whether CITY or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the sole negligence or willful misconduct of CITY or any of its officers, officials, employees, agents or volunteers, except when such officers, officials, employees, agents or volunteers are under the direct supervision and control of CONSULTANT.

If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall require each subcontractor to indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. Insurance.

(a) Throughout the life of this Agreement, CONSULTANT shall pay for and maintain in full force and effect all insurance as required in **Exhibit B** or as may be authorized in writing by CITY'S Risk Manager or his/her designee at any time and in his/her sole discretion.

(b) If at any time during the life of the Agreement or any extension, CONSULTANT or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to CONSULTANT shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve CONSULTANT of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced

proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by CONSULTANT shall not be deemed to release or diminish the liability of CONSULTANT, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONSULTANT, its principals, officers, agents, employees, persons under the supervision of CONSULTANT, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) Upon request of CITY, CONSULTANT shall immediately furnish CITY with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

(e) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall require each subcontractor to provide insurance protection in favor of CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with CONSULTANT and CITY prior to the commencement of any services by the subcontractor.

9. Conflict of Interest and Non-Solicitation.

(a) Prior to CITY'S execution of this Agreement, CONSULTANT shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, CONSULTANT shall have the obligation and duty to immediately notify CITY in writing of any change to the information provided by CONSULTANT in such statement.

(b) CONSULTANT shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.), the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.) and Section 4-112 of the Fresno Municipal Code (Ineligibility to Compete). At any time, upon written request of CITY, CONSULTANT shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, CONSULTANT and the respective subcontractor(s) are in full compliance with all laws and regulations. CONSULTANT shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, CONSULTANT shall immediately notify CITY of these facts in writing.

(c) In performing the work or services to be provided hereunder, CONSULTANT shall not employ or retain the services of any person while such person either is employed by CITY or is a member of any CITY council, commission, board, committee, or

similar CITY body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.

(d) CONSULTANT represents and warrants that it has not paid or agreed to pay any compensation, lawful or unlawful, contingent or otherwise, direct or indirect, to any party to solicit or procure this Agreement or any rights/benefits hereunder. CITY shall have the right, in its discretion, to deduct from any payment to CONSULTANT under this Agreement, or otherwise recover the full amount of, any rebate, kickback or other consideration paid by CONSULTANT in violation of any representation or warranty under this section.

(e) Neither CONSULTANT, nor any firm affiliated with CONSULTANT, nor any of CONSULTANT'S subcontractors performing any services provided hereunder, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Agreement with the exception of any subcontractor whose services are limited to providing surveying or materials testing information. CONSULTANT and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Agreement unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. An affiliated firm is one which is subject to the control of the same person(s) through joint-ownership or otherwise.

(f) CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this Agreement or any ensuing CITY project or agreement. CONSULTANT shall also disclose any current clients who may have a financial interest in the outcome of this Agreement or any ensuing CITY project or agreement, which will follow.

(g) CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(h) If CONSULTANT should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, CONSULTANT shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.

(i) This Section 9 shall survive expiration or termination of this Agreement.

10. Recycling Program. In the event CONSULTANT maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, CONSULTANT at its sole cost and expense shall:

- (i) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
- (ii) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.

- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

11. General Terms, Federal and State Assurances and Requirements.

(a) Except as otherwise provided by law, all notices expressly required of CITY within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Director or his/her designee.

(b) Records of CONSULTANT'S expenses pertaining to the services provided under this Agreement shall be kept on a generally recognized accounting basis. CONSULTANT and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement including, but not limited to, the costs of administering the Agreement. CONSULTANT and its subcontractors shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for 3 years, or longer if required by law, from the date of final payment under the Agreement. CITY, the State, the State Auditor, FTA or any duly authorized representative of the federal government shall have access to any books, records, papers, accounting records and other documents of CONSULTANT and its subcontractors that are pertinent to the Agreement for audit, examinations, excerpts, and transcriptions. Copies thereof shall be furnished by CONSULTANT, if requested.

If any litigation, claim, negotiations, audit or other action is commenced before the expiration of the 3-year time period, all records shall be retained and made available until such action is resolved, or until the end of said time period whichever shall later occur. If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this section and in the event a subcontract is entered into for an amount in excess of \$25,000 the subcontract shall include this paragraph in its entirety. This Section 11(b) shall survive expiration or termination of this Agreement.

(c) Prior to execution of this Agreement by CITY, CONSULTANT shall have provided evidence to CITY that CONSULTANT is licensed to perform the services called for by this Agreement (or that no license is required). If CONSULTANT should subcontract all or any portion of the work or services to be performed under this Agreement, CONSULTANT shall require each subcontractor to provide evidence to CITY that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

(d) CONSULTANT'S services pursuant to this Agreement shall be provided under the supervision of Cheryl Creson, and he/she shall not assign another to supervise CONSULTANT'S performance of this Agreement without the prior written approval of the Director.

(e) CITY will carry out any applicable federal requirements in the administration of this Agreement. Notwithstanding Section 25 herein, CONSULTANT agrees to comply with and give precedence to all applicable federal and state assurances and requirements, if any, identified in **Exhibit D along with any attachments it may have** and

require that each subcontract include the same assurances by and requirements of each of its subcontractors.

12. Nondiscrimination. To the extent required by controlling federal, state and local law, CONSULTANT shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, CONSULTANT agrees as follows:

(a) CONSULTANT will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

(b) CONSULTANT will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. CONSULTANT shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to CONSULTANT'S employment practices including, 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. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

(d) CONSULTANT 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 advising such labor union or workers' representatives of CONSULTANT'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this Section 12.

13. Independent Contractor.

(a) In the furnishing of the services provided for herein, CONSULTANT is acting solely as an independent contractor. Neither CONSULTANT, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of CITY for any purpose. CITY shall have no right to control or supervise or direct the manner or method by which CONSULTANT shall perform its work and functions. However, CITY shall retain the right to administer this Agreement so as to verify that CONSULTANT is performing its obligations in accordance with the terms and conditions thereof.

(b) This Agreement does not evidence a partnership or joint venture between CONSULTANT and CITY. CONSULTANT shall have no authority to bind CITY absent CITY'S express written consent. Except to the extent otherwise provided in this Agreement, CONSULTANT shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, CONSULTANT and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to CITY employees. CONSULTANT shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, CONSULTANT shall be solely responsible, indemnify, defend and save CITY harmless from all matters relating to employment and tax withholding for and payment of CONSULTANT'S employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in CITY employment benefits, entitlements, programs and/or funds offered employees of CITY whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, CONSULTANT may be providing services to others unrelated to CITY or to this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

16. Assignment.

(a) This Agreement is personal to CONSULTANT and there shall be no assignment by CONSULTANT of its rights or obligations under this Agreement without the prior written approval of the City Manager or his/her designee. Any attempted assignment by CONSULTANT, its successors or assigns, shall be null and void unless approved in writing by the City Manager or his/her designee.

(b) CONSULTANT hereby agrees not to assign the payment of any monies due CONSULTANT from CITY under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). CITY retains the right to pay any and all monies due CONSULTANT directly to CONSULTANT.

17. Compliance With Law. In providing the services required under this Agreement, CONSULTANT shall at all times comply with all applicable laws of the United States, the State of California and CITY, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

27. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both CITY and CONSULTANT.

29. RFQ or RFP Document. Any Request for Qualifications, Request for Proposal, or Request for Qualifications and Proposal, and documents issued therewith (collectively referred to herein as "RFQ") by CITY that resulted in selection of CONSULTANT for entry into this Agreement are hereby incorporated into and made a part of this Agreement. In the event of a conflict between the RFQ and this Agreement (including any Exhibit hereto), this Agreement (including any Exhibit hereto) shall take precedence.

30. Prompt Progress Payment to Subcontractors.

(a) CONSULTANT 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 CONSULTANT 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 City's prior written approval. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the CONSULTANT 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 and non-DBE prime contractors and subcontractors.

(b) The City shall hold retainage from the CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the City of the contract work and pay retainage to the CONSULTANT based on these acceptances. The CONSULTANT or subcontractor shall return all monies withheld in retention from a subcontractor within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the City. Federal regulations (49 CFR 26.29) require that any delay or postponement of payment over thirty (30) days may take place only for good cause and with the City's prior written approval. Any violation of this provision shall subject the violating contractor or subcontractor to penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. 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 and non-DBE prime contractors and subcontractors.

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IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, effective the day and year first above written.

CITY OF FRESNO,  
a California municipal corporation

Parsons Brinckerhoff, Inc,  
New York corporation

By: \_\_\_\_\_  
Brude A. Rudd,  
Interim Director  
Fresno Area Express/  
Transportation Department

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
(if corporation or LLC, Board  
Chair, Pres. or Vice Pres.)

ATTEST:  
YVONNE SPENCE, CMC  
City Clerk

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
(if corporation or LLC, CFO,  
Treasurer, Secretary or Assistant  
Secretary)

By: \_\_\_\_\_  
Deputy

No signature of City Attorney required.  
Standard Document "FAX-S +100K  
CONSULT FED" has been used without  
modification, as certified by the  
undersigned.

Any Applicable Professional License:  
Number: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date of Issuance: \_\_\_\_\_

By: \_\_\_\_\_  
Jim Schaad Date  
Assistance Director  
Fresno Area Express/  
Transportation Department

REVIEWED BY:

\_\_\_\_\_  
John Downs, Planning Division Manager  
Fresno Area Express/ Transportation  
Department

CONSULTANT:  
Parsons Brinckerhoff, Inc.  
Attention: Cheryl Creson,  
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2329 Gateway Oaks Drive, Suite 200  
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City of Fresno  
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2223 G Street  
Fresno, CA 93706  
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- Attachments:
1. Exhibit A - Scope of Services
  2. Exhibit B - Insurance Requirements
  3. Exhibit C - Conflict of Interest Disclosure Form
  4. Exhibit D - Federal Requirements

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## Exhibit A

### **SCOPE OF SERVICES** **Consultant Service Agreement between City of Fresno (“City”)** **and Parsons Brinckerhoff (“Consultant”)** Blackstone/Kings Canyon BRT Project Management Services SERVICES TITLE

#### Introduction

This scope of work is for Project Management Consultant (PMC) Services for the Blackstone/Kings Canyon Bus Rapid Transit (BRT) Project. The project involves a new 15.7 mile BRT corridor that includes 27 BRT stations or station pairs. Parsons Brinckerhoff (Contractor) will provide PMC services for the BRT Project through to the start of service, which is currently estimated to occur in December of 2016.

The scope of services provided by the PMC includes overall project management, project controls, oversight of the design, engineering, and construction services, utility coordination, permitting support, public involvement, meeting safety and security requirements, and coordination with FTA.

#### General Scope Assumptions

Parsons Brinckerhoff has been working as the PMC for FAX on this project since the summer of 2011. That original PMC contract will terminate when this contract begins, and any remaining tasks on the original PMC contract are to be incorporated into this new PMC contract. It is assumed that the transition between the two PMC contracts is approximately March 31, 2014. Tasks scheduled to occur after March 31, 2014 are included in this scope of work. Therefore, this scope of services assumes a 30-month duration from mid April 2014 through mid December, 2016.

Where applicable, assumptions used to develop the fee proposal associated with each specific project task have been identified as part of the task scope of work. General assumptions used in this scope of services are as follows:

1. This scope of work is based on the information available as of January 2014 which modified the Q BRT project description and some of the design elements .
2. This scope of work covers the period from 60 percent design through to the completion of construction and the start of service.
3. It is assumed that this work is completed within a 30-month period from the Notice to Proceed.
4. It is assumed that a design, bid, build method will be used for project delivery.
5. Costs will be charged on a time and materials basis, not to exceed the maximum indicated in this budget. The PMC can adjust costs between items so long as the maximum project cost is not exceeded.

The following identifies activities that are not included in this scope and have not been budgeted:

1. Construction management, which is to be handled by a separate construction management contractor.
2. Project Controls and document control for the Construction management/inspection program.
3. Record Drawings

4. Start-up testing
5. Traffic impact analysis for the Van Ness station Environmental Clearance (to be provided by others-KHA)
6. Maintenance facility expansion activities.
7. Public Art Coordination

#### Task 1: Management and Coordination

Effective coordination and communication between the PMC and the FAX Project Manager and the FAX Project Team is critical to the success of the project. The scope of work includes regular project coordination meetings, attendance at meetings of the Technical Advisory Committee, as well as PMC time for other meetings as needed. In addition, the PMC will be available on a daily basis for assistance as needed by the FAX Project Manager. This task also includes the development of project controls and coordination with subcontractors.

##### Task 1.1 Technical Advisory Committee (TAC) Meetings

PMC will attend up to six (6) meetings of the TAC during the contract period. TAC meetings will be scheduled on an as-needed basis, with the assumption that the need for TAC meetings during construction will be infrequent. For each TAC meeting, the Contractor will provide and distribute a meeting agenda at least three days prior to the meeting, will facilitate the meeting, and will provide meeting notes within one week of the meeting. Each meeting is assumed to be held in Fresno and to last two (2) hours.

##### Deliverables:

- TAC Meeting agendas
- TAC Meeting notes

##### Task 1.2 Bi-Weekly Coordination Meetings

PMC will schedule and facilitate a bi-weekly project coordination call to include key project staff from FAX and on the PMC. An agenda will be distributed at least one day prior to the call, and call notes will be provided within three days of the call. It is assumed that there will be fifty (50) calls during the 30- month duration of the contract. Each call is assumed to last up to one (1) hour.

##### Deliverables:

- Project Coordination Call agendas
- Project Coordination Call notes

##### Task 1.3 Coordination with FAX Project Manager

PMC will be available on a daily basis to respond to phone calls or emails from the FAX Project Manager. If the PMC Project Manager is not available, the Deputy Project Manager or another key PMC staff person will be available.

##### Task 1.4 Public Meetings

PMC will be available to attend up to four (4) public meetings during the contract period. These meetings are assumed to be in Fresno and to last up to three (3) hours each. Meeting can be with the general public, or with groups or committees, such as the City Council.

##### Deliverable:

- Attendance at up to four (4) public meetings

## Task 1.5 Project Controls

This Task includes the establishment and maintenance of project controls including baseline schedule updates, cost to complete analysis, earned value reports, quality management/quality assurance reports, document control, change configuration management, cost and budget tracking, billings, and project administration.

The PMC will use a document control system from PB's web based "Project Solve" Software to store project documents and will be organized in files tailored for this project. This system will allow other sub-consultants, FAX staff and other City of Fresno Departments to have access, review and retrieval of all documents. It is assumed the Construction manager will provide the master document control system for all construction administration and close out.

Deliverables:

- Web based document system
- Policies controlling the collection, transmittal and distribution of information within the document control system.
- Cost and budget status reports
- Retention of controlled documents to comply with all applicable laws and FTA requirements.
- Document system organization WBS (Work Breakdown System)
- Baseline project schedule
- Quarterly project schedule updates

## Task 1.6 PMC Team Coordination

This work element involves the coordination of the work by the PMC team, including management of subcontractors Provost & Pritchard, and Newlands. Coordination will occur through teleconferences, in-person meetings, and email.

## Task 1.7 Negotiations to amend Kimley-Horn (KHA) Contract.

The PMC shall provide technical and scope input to the City for its negotiations of an amended professional design services contract with KHA. The amendment is intended to reflect the revised work scope and budget due to changes in designs associated with the revised Q BRT project description, as accepted by FTA and the City of Fresno council.

PMC will review and verify the costs and scope are reasonable, and provide that input to the city and to document that as part of the procurement process.

This work includes:

- Review remaining budget status and scoped items in original contract.
- Participate in meeting to establish physical completion of original scoped tasks and deliverables
- Participate in initial scoping meeting to establish new or amended task items and deliverables based on the revised project description. Document assumptions.
- Review KHA and KHA's sub-consultants costs for reasonableness and provide input to the city. (assumes up to 3 proposal revisions and corresponding negotiation sessions.)
- Document and provide negotiation meeting minutes to FAX

## Task 2: Design and Construction Oversight

### Task 2.1 Design Phase Oversight

This work element involves the coordination and oversight of the BRT design plan documents as they advance from their current 60% design mile stone through the development to the 100% design level.

The PMC shall assist FAX by providing overall coordination and compliance monitoring of the design review comment process that takes place between the other contractors and consultants. This includes coordination with the Design consultant (KHA), the City design reviewers and the Construction management consultant in the review of the plans, technical specifications and construction cost estimates. In this task, the PMC will develop and provide a master Comment tracking matrix. Contractor to ensure that all review comments are tracked and comment log is maintained such that that the disposition of all comments have been answered and/or addressed in the 100% final design documents.

Design Review and Design compliance. In order to maintain compliance to the original basis of design, The PMC will provide oversight and review comments of the Design Consultant's design and engineering work. This work includes design review which will evaluate consistency with generally accepted BRT design principles. The PMC will conduct design reviews at 60 percent, and 90/100 percent of design milestones. At each review milestone, PMC will develop a list of comments for insertion into a master comment tracking spreadsheet. This design review is not intended to be a comprehensive review. It is assumed The City's design review scope of services will provide the comprehensive design reviews.

"Plan-In Hand" comment disposition. After each milestone design reviews are completed, The PMC will convene and facilitate or participate in a "plan in hand" full day work session at the conclusion of each milestone submittal with the City of Fresno public works staff, affected agency representatives and the design consultant. The objective of the Plan-in-Hand meetings is to establish a final disposition or resolution for each comment.

Design Quality process Auditing

The PMC will provide oversight of the design quality by performing an audit of the Design quality control process of KHA. A formal quality assurance review of the design process will be conducted by the Contractor along with any corrective action documented. The audits will be documented and maintained in the project record.

Deliverables:

- Design review Comments at 60% and 100% milestones.
- 100% Capital cost estimate review
- Master comment matrix
- Participation in the Plan-in-hand work session
- Design Quality assurance audits and corrective reports.

Task 2.2 Pre-Construction Phase Oversight

The PMC will coordinate the disposition of review comments generated from the from the Construction Manager's constructability review comments. This task element involves close liaison with the Construction Manager Consultant and the City in order to determine which comments are to implemented that may deviate from the original basis of design or earlier TAC decisions.

Support the Design consultant (KHA) in answering Contractor's questions during the Bidding Phase.

Participate in the Pre-construction Conference with Contractor to respond to questions.

Deliverables:

- Written responses to Constructability review comments
- Participation in the Preconstruction Conference with contractor

### Task 2.3 Construction Phase Oversight

PMC to provide oversight and compliance aspects of the construction activities between the Construction Manager, City Resident Engineer and the various Public works divisions only as it relates to the continued compliance with FTA requirements during the construction phase of the project.

Attend weekly construction meetings facilitated the Construction management consultant to maintain awareness of issues and to provide input to key program level issues. (Provost & Pritchard)

Perform compliance audit that a satisfactory Requests for Information (RFI) and submittals and response system has been established and that the process provides timely responses. Monitor for timely review and approval of necessary design and construction documents are satisfactory.

Disputes: Participate in the dispute resolution process when necessary for FTA compliance. When necessary, provide input to Value Engineering Change Proposals received so that they are evaluated as to total cost impact and effects on the FTA small starts applicant scope Full Funding grant agreement. The impacts can include operating and maintenance cost implications, criteria variances, Environmental Impact Statement conflicts, and schedule impacts.

Interface with utilities, stakeholders, and other third parties throughout the project to facilitate good working relations with those parties. Coordinate input from these parties through a Utility Coordinator and/or Public Involvement Coordinator. Serve as a liaison with local municipalities. Perform field site visits to verify utility coordination during construction.

Contingency task: This work assumes up to three instances of changed field condition, unforeseen issues or Client re-direction that requires additional level of effort of design oversight and coordination in order to resolve an issue, require emergency re-design or optional alternative solutions. This work assumes a level of effort estimated at 40 consultant hours per occurrence. The total level of effort budgeted is assumed to be 120 hours.

Deliverables:

- Attend, participate and report on weekly contractor –construction manager meetings
- Audit reports and monitoring for RFI- submittal response system
- Participate with written reports in disputes resolution and VE proposals
- Interface meetings for utility and affected third party issues as needed to support the construction management consultant
- Contingency field adjustment deliverables (up to three instances)

### Task 2.4 Post Construction Phase Oversight

Monitor to confirm coordination of construction activities between the Construction Manager, various City departments and local municipalities during the testing, training and start-up of the BRT system.

## Start-up process Schedule

Support FAX in development of a schedule for the Start-up program. Planning the schedule for implementation of the plan will be prepared as a separate document, referred to as the "Start-Up Schedule." Functional groupings of start-up activities will be represented. Activity groups will include:

- completion of construction
- bus service planning
- operating budgets programming
- personnel hiring and training
- Opening Day Plans
- Ride-Free Break-In Period
- maintenance of facilities/equipment
- system safety certification
- systems activation, and
- Marketing/customer services/community relations activities.

Punch List: contractor to provide/and or coordinate a punch list with Construction manager. This list will include any TSP testing and calibration for the traffic signals.

Deliverables:

- Participation in Planning meetings for the start-up process and opening day
- Schedule of start-up activities
- Punch list

## Task 3: Document Preparation and Updates

PMC will provide three (3) updates to the Project Management Plan (PMP) and associated sub plans, as required by the Federal Transit Administration. Updates are to occur at the 60% and 100% design milestones, and one during the construction phase when there has been a significant change in the project. Sub plans to be updated are:

- Risk Management Plan
- Quality Plan
- Operations Plan
- Safety & Security Management Plan

PMC will update the Fleet Management Plan, as needed. For the PMPO and all sub plans, it is assumed that the Contractor will provide a draft for review by FAX. This draft will be revised as needed and submitted to the Project Management Oversight Consultant (PMOC). Following one round of comments, a final document will be submitted to FTA.

Deliverables:

- PMP update following 60 percent design
- PMP update following 100 percent design
- One (1) PMP update during construction
- Update of the Risk Management Plan at 60 percent and 100 percent design milestones
- Update of the Quality Plan at 60 percent and 100 percent design milestones
- Update of the Operations Plan at 60 percent and 100 percent design milestones
- Update of the Safety & Security Management Plan at 60 percent and 100 percent design milestones
- Update of the Fleet Management Plan

## Task 4: Environmental Analysis and Documentation

PMC will provide environmental review of work elements associated with the Mariposa and Van Ness improvements that are to be funded by a Bus and Bus Livability Grant. It is assumed that these improvements will require an addendum to the Documented Categorical Exclusion (DCE) for purposes of meeting the requirements of the National Environmental Policy Act (NEPA) and will result in a Mitigated Negative Declaration (MND) for the purposes of meeting the requirements of the California Environmental Quality Act (CEQA). Should more extensive environmental documentation be required, this scope of work will need to be adjusted. The scope of work includes analysis required to meet NEPA and CEQA requirements.

## PROJECT UNDERSTANDING

The current project is comprised of three primary elements: a signalized mid-block crosswalk and median island with station structure on Van Ness Avenue and Mariposa; a pedestrian bridge; and new or rehabilitated restrooms. Two approaches for improving pedestrian access and restrooms are under consideration. Option 1 would construct a pedestrian bridge over the parking structure and install new restrooms at street level. The design team is developing concepts for this option. Option 2 would upgrade the existing pedestrian underpass by installing new, brighter lighting fixtures, and renovate the restrooms in the pedestrian underpass. This option was presented in the Applicant and Proposal Profile FTA submittal. The mid-block signalized crosswalk/ median island with station structure concept is included in both options. Our work program includes preparation of a CEQA document for both options.

## ENVIRONMENTAL APPROACH

The project is not anticipated to generate impacts that cannot be mitigated and we are therefore anticipating that the CEQA document will be an Addendum to the 2013 IS/MNDs or a Subsequent IS/MND. Based on our project understanding, Option 1 could be processed as an Addendum to the IS (Initial Study) /MND (Mitigated Negative Declaration), while Option 2 would most likely require preparation of a Subsequent IS/MND.

The PMC will prepare the CEQA document for either Option 1 or Option 2 in concert with the selected design and engineering teams. In our experience we have found that close coordination with the engineering team facilitates a more efficient process and a better project. Working with the City, we will establish a schedule for the delivery and review of the required environmental document.

### Preparing an Addendum to the IS/MNDs – Option 1

An Addendum to the IS/MND is prepared when the project involves minor technical changes and impacts of the proposed changes have already been considered in the previously approved IS/MNDs (CEQA Guidelines Section 15164). Should Option 1 be selected as the preferred project we propose preparing an Addendum to the IS/MND under the following assumptions.

1. All work continues to occur within the existing right-of-way as per the previously approved IS/MNDs or if not, it is clear that any work outside of the right-of-way would not generate new significant impacts or increase the severity of already identified significant impacts. In particular, work outside of the existing right-of-way could require updated evaluations of historic and visual resources because of the proximity of the pedestrian bridge and restrooms to Courthouse Park.

2. No new significant transportation impacts are generated by the mid-block stations requiring new mitigation measures. One lane of traffic will be removed by the mid-block stations and a new signal will be installed. An updated traffic analysis will be provided (by others) to evaluate the potential for new significant impacts.

3. No new significant visual or historic impacts are generated by the pedestrian bridge. The pedestrian bridge concept under consideration would not appear to generate new significant impacts. It would be connected to the roof of the parking structure, essentially becoming part of the parking structure. A concrete slab bridge with a gentle arch profile and vertical curves is anticipated. The bridge railing and concrete finishes would be connected to the existing Courthouse Park Architecture.

4. No new significant visual or historic impacts are generated by the new restroom structures. It is our understanding that detailed concepts for the new restrooms are not yet developed. The integration of their design into the existing urban fabric will need to be considered as restrooms were not identified as part of the previously approved project.

Preparing an Addendum to the IS/MNDs will not require circulation for public review, but the City will need to consider the addendum with the adopted IS/MNDs prior to making a decision on the project.

#### Preparing a Subsequent IS/MND – Option 2

A Subsequent IS/MND is prepared when there are new significant impacts not considered in the previously approved IS/MNDs or there is a substantial increase in the severity of the previously identified significant impacts (CEQA Guidelines Section 15162). Should Option 2 be selected as the preferred project, we propose preparing a Subsequent IS/MND under the following assumptions.

1. Repairing the existing public restrooms located in the pedestrian underpass and adjacent underground parking garage will require asbestos, lead paint and mold removal. These activities would expose people to these hazardous materials, either through their transport or disposal, which would be a new significant impact not evaluated in the previous IS/MNDs. New mitigation measures would be required to reduce the impact to a less than significant level.

2. Upgrading the pedestrian underpass by installing new brighter lighting fixtures to improve pedestrian comfort and safety implies an existing “unsafe” condition that was not identified in previous IS/MNDs. This upgrade could be considered a new mitigation measure for an unsafe existing condition and could also be considered a substantial change to the circumstances under which the project is undertaken, which requires preparation of a Subsequent IS/MND.

In general, modifications to the parking structure/pedestrian underpass were not part of the previous project. As noted in the IS/MNDs:

“The proposed project includes minimal construction activities. The project would be constructed entirely at-grade, with no tunnels, bridges, or other aerial structures and would occur entirely within the existing right-of-way. There are no right-of-way or property acquisitions included as part of the proposed project. Construction would consist primarily of the bus shelters and associated amenities, as well as minor modifications to the existing right-of-way such as to curbs, street trees, or existing driveway ingress/egress points.”

This Subsequent IS/MND will require circulation for public and agency review, review and response to public and agency comments, and preparation of a Final Subsequent IS/MND.

## WORK PROGRAM

The following tasks identify the steps to be undertaken in preparing either an Addendum to the IS/MND or a Subsequent IS/MND. An addendum will focus its narrative on how the changes to the project have already been considered and why the new impacts will not be significant. A Subsequent IS/MND will use the Appendix G template, focusing on the specific issue areas impacted by the changes to the proposed project and any new significant impacts and new mitigation measures. The level of detail for the analyses will be driven by which option is selected as the project to be evaluated in the CEQA document.

### Task 4.1: COORDINATION AND PROJECT MANAGEMENT

It is anticipated that the PMC will work with the City and the engineering team, including the traffic consultant, when preparing the CEQA document. We will maintain ongoing communication through phone, email and in-person meetings when requested.

### Task 4.2: PREPARING ADMINISTRATIVE DRAFT AND DRAFT CEQA DOCUMENT

#### 4.2.1 Information Review and Data Collection

PMC has already reviewed the previous IS/MNDs. Additional documents to be reviewed include the City of Fresno Master Plan, Fulton Corridor Specific Plan, and Downtown Neighborhoods Community Plan. We anticipate visiting the project site to fully document existing conditions and meeting with City staff during this site visit to confirm our assumptions and approach for the environmental document.

#### 4.2.2 Preparing the CEQA Document

The environmental team will work closely with the engineering team, the traffic consultant, and the City to prepare the CEQA document. The document will consider only the resource area affected by the portions of the project that have been modified or not previously evaluated by the 2013 IS/MND and 2013 Subsequent IS/MND (i.e., aesthetics, parks, historic resources, hazardous materials, public safety and transportation). The document will include a project description, discussion of the environmental review process, and project methodology. It is anticipated that a draft version will be circulated to the City for review and comment. We will then respond to City comments and produce a final environmental document based on the City's comments.

Specific issue areas to be evaluated in the CEQA document will include:

- Aesthetics (pedestrian bridge and at-grade restrooms)
- Cultural Resources – Historic (pedestrian bridge and new at-grade restrooms)
- Hazards and Hazardous Materials (under Option 2 rehabilitation of existing restrooms)
- Public Services (improved access to park affect on park performance)
- Recreation (improved access to park potential to increase users)
- Transportation/Traffic (mid-block station traffic impacts as per updated traffic study prepared by others)

Deliverables:

Administrative Draft and Draft CEQA document

#### Task 4. 3- PUBLIC REVIEW AND RESPONSE TO COMMENTS

Should the project generate new potentially significant impacts requiring new mitigation measures not considered in the previously approved IS/MNDs, Parsons Brinckerhoff will prepare a Subsequent IS/MND, which will require public review and response to comments. The tasks associated with this part of the process are identified below.

##### 4.3.1 Public Review Draft Subsequent MND

A Subsequent IS/MND will require circulation for public and agency review, review and response to public and agency comment, and preparation of a Final Subsequent IS/MND. A Draft Subsequent IS/MND will be prepared for circulation along with a “pdf” version that can be posted on the City’s website. If a public hearing is held, our team will be available to address public comments on the document and supporting environmental studies.

Deliverable: Draft Subsequent IS/MND

##### 4.3.2 Response to Comments on Draft Subsequent MND and Prepare Final Subsequent IS/MND

We will prepare written responses to comments received on the Draft Subsequent MND, and submit them for City staff review after the close of the public comment period. We will incorporate the final comments and responses into the Final Subsequent IS/MND and submit 4 copies of the approved document to the City for distribution along with a “pdf” version for posting in the City’s website.

Deliverables: Preliminary Final Subsequent IS/MND; Final Subsequent IS/MND

#### Task 5: FTA Coordination

The Blackstone/Kings Canyon BRT Project is funded primarily through an FTA Very Small Starts funding grant. This task includes work associated with the continued coordination with FTA throughout the project. Major work items include the preparation of a Small Starts Grant Agreement (SSGA), submittal of quarterly FTA project reports, preparation of a Before and After Study Plan, coordination of monthly call with FTA, and tracking of project grant appropriations.

##### Task 5.1 FTA Coordination Calls

Participate in monthly calls with FTA Headquarters and Region staff and the Project Management Oversight Consultant (PMOC). This assumes that there will be twenty four (24) calls during the duration of the contract. Although calls have been occurring on a monthly basis, it is assumed that calls will be infrequent once the SSGA has been completed and the project starts construction. For each call, Contractor will distribute an agenda, with necessary attachments, prior to the call, and provide call notes after the call.

##### Task 5.2 Project Management Oversight Consultant (PMOC) Coordination

FTA has assigned a PMOC to this project. This task includes coordination with the PMOC, including regularly scheduled project calls and responding to PMOC requests for information and documents.

#### Task 5.3 Quarterly Reports

This task is to assist FAX with quarterly project reports to FTA. This assumes that there will be ten (10) quarterly reports during the duration of this contract. Reports will be submitted to FTA within ten working days of the end of the quarter.

#### Task 5.4 Small Starts Grant Agreement (SSGA)

Work with FTA and FAX staff to prepare an SSGA that meets FTA requirements. This will occur following the completion of the 60 percent review of the design and cost estimate. The Contractor will assist in the preparation of the various attachments to the SSGA. FTA will provide the actual agreement.

#### Task 5.5 Before and After Plan

Prepare a "Before and After Study Plan" that meets FTA requirements. Included in this task is to assist FAX with the collection of the "before" data, which includes ridership and other operational data along the corridor prior to the start of service. The "after" data, which is typically collected two years after the service starts, is not part of this scope of work

#### Task 5.6 Monitor Funding

Monitor FTA and congressional funding allocations and identify opportunities for FAX to request the allocation of full project funding.

#### Task 5.7 VSS Submittal

Update Very Small Starts project description and finance templates.

#### Deliverables:

- Agenda and notes for FTA Coordination Calls
- Quarterly Reports
- SSGA attachments for FTA
- Before and After Study Plan
- VSS updated Submittal

#### Task 6: Safety and Security

PMC will provide the specific safety and security related tasks discussed below during final design activities. These tasks are intended to meet FTA guidelines and will assist FAX in determining the level of safety and security of the final project design. Although Contractor will provide the lead services, completion of the tasks will require participation by others.

##### Task 6.1 Safety and Security Meetings:

PMC will participate in regular Safety and Security Certification Review Team (SSCRT) and/or Fire-Life Safety Committee meetings (up to 6 total). When possible, the meetings will be scheduled in coordination with project TAC and other meetings in order to save travel expenses.

Contractor will provide presentations to the committee related to safety and security related activities requiring the committees' attention.

#### Task 6.2 Safety and Security Design Criteria

General safety and security design criteria will be developed for the FAX Project. The design criteria contribute to the safety and security of passengers, employees, and the general public, as well as the protection of FAX physical assets. The design criteria will be supported by codes, standards, and commonly accepted BRT and bus transit industry practice. The security criteria will include the concepts of Crime Prevention through Environmental Design (CPTED). The proposed revisions to the criteria will be submitted via email for one review by FAX prior to finalization. Final documents will be transmitted via email.

##### Deliverables:

- Safety and Security Design Criteria – Draft Document (1 review)
- Safety and Security Design Criteria – Final Document

#### Task 6.3 Safety and Security Analysis

##### a. Preliminary Hazard Analysis

A Preliminary Hazard Analysis (PHA) is part of a formalized process to identify, evaluate and control hazards. The purpose of the PHA is to provide an early assessment of the hazards associated with a design. Its goal is to systematically assess conditions that could potentially affect a system's safe operation.

A PHA will be conducted for the FAX Project in accordance with the Federal Transit Administration (FTA) Hazard Analysis Guidelines for Transit Projects and adapted guidelines from Mil Standard 882D. The PHA will present a detailed assessment of potential hazards that may be associated with the system and civil elements of the FAX system. For each identified hazard, a qualitative risk assessment will be conducted by assigning severity and probability followed with risk categorization and ranking for acceptability or undesirability. Recommended mitigating measures will be developed. The qualitative approach to risk assessment will aid the decision-making process for determining whether a hazardous condition should be eliminated by design, controlled by safety devices, warning devices, training and written instructions/procedures, or accepted as-is. A draft PHA will be submitted via email for one review by FAX prior to finalization. Final documents will be transmitted via email.

##### b. Threat and Vulnerability Assessment

Providing passengers and employees with a safe and secure transit environment requires planning in advance of criminal or terrorist acts. A security risk assessment will be conducted to evaluate the proposed BRT system susceptibility to threats and to identify vulnerabilities. Open source terrorism intelligence and crime statistics will be gathered to support the threat evaluation. The assessment will form the basis for design measures to be incorporated to reduce or mitigate the risk of serious consequences. The severity of threat and likelihood of occurrence (vulnerability) will be combined into a risk level matrix to show the impact to the FAX system. The risk impact will be assessed in terms of severity and consequence and probability of occurrence for a given threat. Risk categorization helps prioritize the risk impact and identify opportunities for changes to the design, procedures and other asset controls. Additionally, the principles of Crime Prevention through Environmental Design (CPTED) will be applied to the

physical environment design of the FAX Project in order to reduce opportunities for violence and crime. A draft Threat and Vulnerability Assessment will be submitted via email for one review by FAX prior to finalization. Final documents will be transmitted via email.

Deliverables:

- Preliminary Hazard Analysis Report – Draft (1 review by FAX)
- Preliminary Hazard Analysis Report – Final
- Threat and Vulnerability Assessment Report – Draft (1 review by FAX)
- Threat and Vulnerability Assessment Report – Final

Task 6.4 Safety and Security Certification

The goal of safety and security certification is to verify that all safety hazards and security vulnerabilities have been identified, evaluated, and properly mitigated to a level acceptable to the agency. and to provide objective evidence that the elements of the project are safe to use. Contractor will provide following services related to Safety and Security Certification:

PMC will develop a Safety and Security Certification Program Plan based on the Federal Transit Administration's Handbook for Transit Safety and Security Certification. The Safety and Security Certification Program will:

- Finalize a formalized process to document conformance with the safety and security requirements, Safety and Security Certification Plan (SSCP);
- Delineate the roles and responsibilities in the certification process
- Identify the elements of the FAX BRT System that will be subject to safety/security certification
- Confirm that safety and security are an integral part of design, procurement, construction, and testing
- Define the process for resolving hazards that become apparent during analyses, design review, inspections, or system testing

a. Finalize Safety and Security Certification Plan

PMC will finalize the Safety and Security Certification Program Plan for the FAX Project. The Plan will be distributed via email for one review and comment by FAX and FTA. The Consultant will revise the Plan, as required. Final documents will be transmitted via email.

Deliverables:

- Safety and Security Certification Plan (SSCP) (1 review by FAX and FTA)
  - Final Safety and Security Plan (SSCP)
- b. Safety and Security Certification Implementation

PMC will coordinate with Project staff to explain the Safety and Security Certification Program. The coordination will be by phone and email unless otherwise arranged.

PMC will develop design criteria and specification conformance checklists, integrated tests conformance checklist, and operations conformance checklists in consultation with Project designers. These will be provided to appropriate project staff for completion.

Deliverables:

- Design criteria and specification conformance checklists
- Integrated tests conformance checklist
- Operations conformance checklist

c. Review Checklists and Audit Documentation

PMC will review the completed checklists and verify that the documentation supports conformance with the safety and security requirements.

Deliverable:

- Completed conformance checklists that support compliance with the safety and security requirements

d. Prepare Safety and Security Certification Certificates

PMC will prepare Certificates of Conformance and the System Certificate for the FAX BRT Project

Deliverables:

- Certificates of Conformance for system element
- System Certificate

e. Safety and Security Certification Report

PMC will prepare a draft Safety and Security Certification Report and submit via email to the FAX BRT Project for review and comment. Contractor will finalize the draft, based on the comments received and submit a final report via email.

Deliverables:

- Safety and Security Certification Report Draft (1 review)
- Safety and Security Certification Report Final

#### Task 6.5 Establish Construction Safety and Security Program Plan

PMC will develop a construction safety and security program plan during the final design phase. The program plan will be applicable to all construction activities under the direct control of the Project and will include appropriate provisions for inclusion in all construction contracts. The program will set forth program goals, responsibilities and requirements for all participants involved in the system construction and include a strategy for compliance inspections and audit.

Deliverable:

- Construction Safety and Security Program Plan

#### Task 6.6 Monitor Compliance of Construction Safety and Security Program Plan

PMC will monitor and perform compliance inspections of the construction contractors's safety and security program plan during the construction phase. The PMC will coordinate inspection and audit monitoring frequencies with the Construction manager and will be applicable to all construction activities of this Project. The PMC will develop a report of compliance and any follow-up corrective actions taken to be forwarded to the City and FTA. Up to 6 compliance inspections/audits will be performed during the construction phase. Notwithstanding the foregoing, PMC shall not be responsible for the means and methods of construction, including safety precautions and site safety, all of which remain the responsibility of the construction contractor(s).

Deliverable:

- Up to six (6) Construction Safety and Security Program Plan audit reports

#### Task 7: Public Involvement

### Task 7.1 Update Outreach Plan:

The PMC shall develop an updated plan that will focus on attracting new or “choice” riders, promote benefits of faster and more frequent service, and awareness of BRT coming to Fresno. The plan will incorporate the feedback received from meeting with, listening to, and collaborating with stakeholders during the design and pre-construction phase of the project. Communicate design and construction-related activities to facilitate the management of community issues. (Note: the construction team will be responsible to communicate specific road closures and construction.)

#### Tasks:

- Draft updated Public Outreach Plan for FAX review
- Final updated Public Outreach Plan
- Update and maintain a stakeholder database

#### Deliverables:

- Updated Outreach Plan
- Updated Project stakeholder database – (current database to be provided by FAX)

### Task 7.2 Project Consulting:

Attend the TAC meetings and participate on project coordination conference calls to advise and inform project team of on-going public outreach activities. It is anticipated that the TAC will meet up to ten (10) times throughout the course of the project. Project coordination calls will be scheduled on a bi-weekly basis. It is anticipated that 4 TAC meetings will be held during the completion of the design phase and 6 TAC meetings held during the construction phase.

#### Tasks:

- Attend TAC meetings on a bi-monthly schedule
- Participate on project conference calls on a bi-weekly schedule

### Task 7.3 Public Meetings:

The PMC shall facilitate up to four public meetings/open house events. Meetings will be held with key stakeholder groups along the BRT corridor route. For the Ventura/Kings Canyon section, we will coordinate a meeting at a free community venue, such as a school or community center. For the Downtown area, we will coordinate a meeting at a Downtown venue. For the Blackstone corridor, we are planning on doing one event on the south stretch of Blackstone either near Manchester Center or Fresno City College. For the north stretch of Blackstone, since the new “choice” riders are targeted for that meeting, we would like to invite the mayor to speak and make it more of an informational reception with a party-type atmosphere. These meetings will provide updates on project developments, inform the public about the BRT, and the development and construction processes. The scope includes scheduling, organizing, and hosting these meetings. Graphics for the project (plans and drawings) will be provided by the design firm. The communication team will develop display boards as necessary up to 10. At least two PMC staff will attend each meeting/open house. The events will include directional signage, audio/visual equipment rental, translators for the three southern events, and light refreshments. A brief summary of public comments from each meeting/open house will be prepared.

#### Tasks:

- Coordination of meeting logistics

Development of meeting support materials  
Development and distribution of event invitations  
Outreach to media outlets to promote participation at events  
Develop four versions of a :15 TV spot and purchase media time to promote events to larger public

Deliverables:

Up to 4 public meetings

Task 7.4 Special Events Coordination:

The PMC shall coordinate three special events as the project reaches major milestones to promote the benefit of the project.

Event 1: Ground Breaking Ceremony: Focus on elected officials (local, state, and federal), community stakeholders, and media. The event will include rentals, such as a tent, heaters, fans, chairs, audio/visual equipment, stage, and lectern, and will include light refreshments, signage, and support communication material.

Event 2: Ribbon Cutting Ceremony: Focus on elected officials (local, state, and federal), community stakeholders, media, and general public. Use :15 TV commercials to promote the event. Create a fair-like atmosphere by coordinating with a community resource, such as a high school, to provide entertainment such as a marching band and pep squad. The event will include rentals, such as a tent, heaters, fans, chairs, audio/visual equipment, stage, and lectern, and will include light refreshments, signage, and support communication material.

Event 3: "Go Live" Event: Hire temporary employees through an employment agency to be ambassadors at strategic stations upon launch of revenue service. Train them and provide polo shirts and hats for them to wear. There will be two ambassadors for two shifts of eight hours each at each of ten stations for two days to assist riders with purchasing and boarding the Q.

Tasks:

Coordination of event logistics  
Development of event support materials  
Development and distribution of event invitations  
Outreach to media outlets to promote participation at events  
Develop one :15 TV spot and purchase media time to promote ribbon cutting event to larger public

Deliverables:

Up to 3 special events

Task 7.5 One-on-One, Small Group, and Business Owner Meetings:

The PMC shall provide contact and communication with, business owners, affected individuals, or small groups directly impacted by construction activity and the diverse ethnic populations in the surrounding project area (such as neighborhood groups, community based organizations and others). Community meetings/presentations will be conducted to provide an overview and project updates. This work scope includes scheduling, organizing, and hosting these meetings. This strategy will be an effective method to communicate with business owners and diverse communities, including the Hmong, Cambodian and monolingual Hispanics that are not likely to

participate in public meetings. "Trusted messengers" in the community will be utilized to communicate with these groups in a non-threatening environment to facilitate a useful one-on-one exchange of information. At least one PMC staff will attend each meeting.

**Tasks:**

- Outreach to and collaborate with trusted cultural and neighborhood leaders
- Scheduling and coordination of presentations or meetings
- Coordination of event logistics
- Preparing publicity materials for meetings

**Deliverables:**

- Up to 20 small group or individual meetings

**Task 7.6 Public Outreach of construction activities:**

Not part of this scope. To be provided by the City. The City's construction management department will provide all initial contact, continued communication, and coordination of the construction activities including locations and durations to affected parties along the route or affected by the construction.

**Task 7.7 Newsletters/e-News:**

Prepare and distribute project updates through a newsletter. The e-news will be distributed to the stakeholder email list. The website will be updated with the newsletter as well. Postcards will be sent to the businesses along the BRT route letting them know of the newsletter updates posted to the website. Include the newsletter in The Fresno Bee newspaper on Wednesday when the paper has a wider distribution than its subscriber base and is distributed to most of the City's population. Publish the newsletter in the Spanish language paper as well. Printed copies of the newsletter will be distributed at community meetings and other outreach efforts as appropriate. The purpose of the newsletter/e-news is to inform the public and key stakeholders about the project, provide updates on the activities, and the overall improvement to the quality of life in Fresno that Q provides. The publication materials will also be used to properly set the expectations of the citizens during the course of the project with respect to safety, transportation, inconvenience, noise, etc.

**Tasks:**

- Develop graphic design concept
- Write content for articles
- Oversee production and printing
- Distribution of newsletters and e-News

**Deliverables:**

- Produce 6 newsletters and e-news

**Task 7.8 Media Relations:**

PMC will provide content to the mainstream and ethnic media to promote the project benefits, highlight public meetings and special events, and encourage greater participation. Contractor will forward information provided by the City's construction management team regarding construction activities and current construction-related traffic information for the public as needed. However the construction management team will primarily be handling communication

for road closures and construction directly. Respond to media request and media coverage generated from other sources. Media relations will be coordinated with the appropriate City Public Information Office to properly inform the community.

**Tasks:**

- Prepare media advisories and distribute to outlets
- Pitch stories to media outlets
- Coordinate interviews as necessary
- Follow up communications to secure coverage

**Deliverables:**

- 10-20 media materials developed

**Task 7.9 Electronic (Website) and Social Media:**

The project website and social media accounts (Twitter and Facebook) will be used as a repository of project information for the public. The communications team will create these online channels. The maintenance of the site and social media will be provided both by the communications team (newsletters, media advisories, and design inquiries) and the construction management team (road closures, construction, and construction inquiries). The communications team will spend on average five hours per month for 24 months to update the online channels. This ensures that the information will be kept up to date and relevant to inform the public in real time regarding any traffic restrictions caused by construction activity along the BRT corridor and house information about the project, digital version of collateral materials and media advisories. The website address will be referenced on all communication tools and will include optimization for both computer and mobile device access. The site will be in English only.

**Tasks:**

- Develop website in WordPress including usage guide
- Set up Twitter and Facebook accounts
- Manage updates (newsletters, media advisories, and design inquiries)
- Prepare project materials/information for posting

**Deliverables:**

- Website in WordPress optimized for both computer and mobile device access
- Website management guide for construction team
- Social Media account set up (Facebook & Twitter) and login/passwords to construction management team
- Monthly updates at meetings

**Task 7.10 Advertising: Not part of this scope**

**Task 7.11 Video Simulation:**

Update the existing simulation video to reflect the changes in route alignment, lane configurations and station locations since the initial video was completed. Be sure to add any selling points or overcome any concerns discovered in the public outreach process. Develop new script, direct, and produce video with both an English and Spanish voice over.

Tasks:

Gather feedback from public outreach meetings to determine if additional content is needed

Update script/storyboard

Translate script to Spanish

Record voiceover in English and Spanish

Coordinate production updates and release of video

Note: Video simulation footage provided by Newlands

Deliverables:

Video optimized for web, authored on DVD, and desktop version

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## **Exhibit B**

### **INSURANCE REQUIREMENTS**

#### **Consultant Service Agreement between City of Fresno ("CITY") and Parsons Brinckerhoff ("Consultant")**

Blackstone/Kings Canyon BRT Project Management Services  
SERVICES TITLE

#### **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, which shall include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability.
2. The most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, which shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the California Labor Code and Employer's Liability Insurance.
4. Professional Liability (Errors and Omissions) insurance appropriate to CONSULTANT'S profession. Architect's and engineer's coverage is to be endorsed to include contractual liability.

#### **Minimum Limits of Insurance**

CONSULTANT shall maintain limits of liability of not less than:

1. General Liability:  
\$1,000,000 per occurrence for bodily injury and property damage  
\$1,000,000 per occurrence for personal and advertising injury  
\$2,000,000 aggregate for products and completed operations  
\$2,000,000 general aggregate applying separately to the work performed under the Agreement
2. Automobile Liability:  
\$1,000,000 per accident for bodily injury and property damage
3. Worker's Compensation:  
As required under the California Labor Code

4. Employer's Liability:
  - \$1,000,000 each accident for bodily injury
  - \$1,000,000 disease each employee
  - \$1,000,000 disease policy limit
5. Professional Liability (Errors and Omissions):
  - \$1,000,000 per claim/occurrence
  - \$2,000,000 policy aggregate

### **Umbrella or Excess Insurance**

In the event CONSULTANT purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

### **Deductibles and Self-Insured Retentions**

CONSULTANT shall be responsible for payment of any deductibles contained in any insurance policy(ies) required hereunder and CONSULTANT shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the CITY'S Risk Manager or his/her designee. At the option of the CITY'S Risk Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and volunteers; or (ii) CONSULTANT shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

### **Other Insurance Provisions**

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers.
3. CONSULTANT'S insurance coverage shall be primary and no contribution shall be required of CITY.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: CONSULTANT and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and volunteers.

If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by CONSULTANT.
2. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after any expiration or termination of the Agreement or, in the alternative, the policy shall be endorsed to provide not less than a 5-year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by CONSULTANT, CONSULTANT must purchase extended reporting coverage for a minimum of 5 years following the expiration or termination of the Agreement.
4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice by certified mail, return receipt requested, has been given to CITY. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, CONSULTANT shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, CONSULTANT shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

#### **Acceptability of Insurers**

All policies of insurance required hereunder shall be placed with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide; or authorized by CITY'S Risk Manager.

#### **Verification of Coverage**

CONSULTANT shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences.

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**Exhibit C**

**DISCLOSURE OF CONFLICT OF INTEREST**

Blackstone/Kings Canyon BRT Project Management Services  
SERVICES TITLE

|                                                                       |                                                                                                                                                                                                               | <b>YES*</b>              | <b>NO</b>                |
|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 1                                                                     | Are you currently in litigation with the City of Fresno or any of its agents?                                                                                                                                 | <input type="checkbox"/> | <input type="checkbox"/> |
| 2                                                                     | Do you represent any firm, organization or person who is in litigation with the City of Fresno?                                                                                                               | <input type="checkbox"/> | <input type="checkbox"/> |
| 3                                                                     | Do you currently represent or perform work for any clients who do business with the City of Fresno?                                                                                                           | <input type="checkbox"/> | <input type="checkbox"/> |
| 4                                                                     | Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5                                                                     | Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?                 | <input type="checkbox"/> | <input type="checkbox"/> |
| 6                                                                     | Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Agreement?                                                      | <input type="checkbox"/> | <input type="checkbox"/> |
| * If the answer to any question is yes, please explain in full below. |                                                                                                                                                                                                               |                          |                          |

Explanation: \_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
(name)

\_\_\_\_\_  
(company)

\_\_\_\_\_  
(address)

Additional page(s) attached.

\_\_\_\_\_  
(city state zip)

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## Exhibit D

### FEDERAL REQUIREMENTS Consultant Service Agreement between City of Fresno And Parsons Brinckerhoff

This contract is subject to a financial assistance contract between the City of Fresno (CITY) and the Federal Transit Administration (FTA), including American Recovery and Reinvestment Act (ARRA) funding, which requires that this contract contain the following clauses:

#### **No Government Obligations to Third Parties**

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

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

#### **Program Fraud and False or Fraudulent Statements or Related Acts**

(1) The CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the services provided under this Agreement. Upon execution of the underlying contract, the CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONSULTANT 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 CONSULTANT to the extent the Federal Government deems appropriate.

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

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

## **Access to Records and Reports**

(1) Where the CITY is a local government and is the FTA Recipient in accordance with 49 CFR 18.36(i), the CONSULTANT agrees to provide the CITY, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the CONSULTANT's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C.5307, 5309 or 5311.

(2) Where the CITY is an FTA Recipient, CONSULTANT agrees to provide the CITY, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the CONSULTANT's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

(3) Where the CITY enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 CFR 19.48, CONSULTANT agrees to provide the CITY, 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 CONSULTANT which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

(4) Where the CITY, which is the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other competitive bidding, the CONSULTANT shall make available records related to the contract to the CITY, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

(5) The CONSULTANT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(6) The CONSULTANT agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case CONSULTANT agrees to maintain same until the CITY, the FTA Administrator, the Comptroller General, or any of their duly authorized representative, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

(7) FTA does not require the inclusion of these requirements in subcontracts.

## **Federal Changes**

CONSULTANT shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between The CITY and FTA, as they may be amended or promulgated from time to

time during the term of this contract. CONSULTANT's failure to so comply shall constitute a material breach of this contract.

### **Termination**

**Termination for Convenience:** The CITY, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the City 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:** If the CONSULTANT fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the CONSULTANT fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the CONSULTANT a Notice of Termination specifying the nature of the default. The CONSULTANT 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 CONSULTANT 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 CITY.

The CITY in its sole discretion may, in the case of a termination for breach or default, allow the Consultant thirty (30) days 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 Consultant fails to remedy to City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Consultant of written notice from City setting forth the nature of said breach or default, City shall have the right to terminate the Contract without further obligation to Consultant. Any such termination for default shall not in any way operate to preclude City from also pursuing all available remedies against Consultant and its sureties for said breach or default.

### **Civil Rights**

(1) Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 20000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102, section 202 of the Americans with disabilities Act of 1990, 42 U.S.C. 12132, and Federal transit law at 49 U.S.C. 5332, the CONSULTANT agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONSULTANT agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract.

(a) Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000e, and Federal transit laws at 49 U.S.C. 5332, the CONSULTANT agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulation, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as

amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity, "42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations and Federal policies that may in the future affect construction activities undertaken in the course of performing under this Agreement. The CONSULTANT 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 CONSULTANT agrees to comply with any implementing requirements FTA may issue.

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

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. 12112, the CONSULTANT agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "regulations to Implement the Equal employment Provisions of the Americans with Disabilities Act, "29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the CONSULTANT agrees to comply with any implementing requirements FTA may issue.

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

### **Disadvantaged Business Enterprise (DBE)**

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is **1.5%** . A separate contract goal **has not been established for this procurement.**

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

The CONSULTANT is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the Consultant's receipt of payment for that work from City. In addition, the Consultant may not hold retainage from its subcontractors.

The CONSULTANT must promptly notify City 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 CONSULTANT may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of CITY.

### **Incorporation of FTA Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, as most recently updated, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any City of Fresno request, which would cause the CITY to be in violation of the FTA terms and conditions.

Flow Down – The incorporation of FTA terms has unlimited flow down.

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency (31 U.S.C. Chapter 61).

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **Resolution of Disputes, Breaches, or other Litigation**

(1) The validity of this Agreement and of any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of California. In the event of litigation between the two parties, proper venue shall be laid in a court of competent jurisdiction in the County of Fresno, State of California.

(2) Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City's Maintenance Manager. This decision shall be final and conclusive unless with ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Maintenance Manager. 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 Maintenance Manager shall be binding upon the contractor and the Contractor shall abide by the decision.

(3) Pending final resolution of a dispute hereunder, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the City's decision.

### **Lobbying**

The Consultant certifies, by signing and submitting this bid or proposal, 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 any Federal 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 Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

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

### **Clean Air**

(1) 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. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

### **Clean Water**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that

the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

### **Energy Conservation**

The CONSULTANT 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.

Flow Down – The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and sub-recipients and their sub-agreements at every tier.

### **FTA Protest Notification**

Bidders are hereby notified that, if this contract is funded in whole or in part by the Federal Department of Transportation, the Federal Transit Administration (FTA) may entertain a protest that alleges that Fresno Area Express/ Transportation Department failed to have or follow written protest procedures. Bidders must file a protest with the FTA not later than five (5) days after Fresno Area Express/ Transportation Department renders a final decision or five (5) days after the Bidder knows or has reason to know that Fresno Area Express/ Transportation Department has failed to render a final decision. Protests to the FTA must be filed in accordance with FTA Circular 4220.1F (as periodically updated). If a protest has been filed with the FTA, Fresno Area Express/ Transportation Department will not make an award of contract unless Fresno Area Express/ Transportation Department determines that: (1) the items to be procured are urgently required; (2) delivery of performance will be unduly delayed by failure to make the award promptly; or (3) failure to make prompt award will otherwise cause undue harm to Fresno Area Express/ Transportation Department or the Federal Government.

### **THIRD PARTY CONTRACTING CAPACITY**

Because bids and offers can at times be ambiguous, in its solicitation documents, City reserves the right to request additional information before making an award. City also reserves the right to seek clarification from any bidder or offeror about any statement in its bid or proposal that City finds ambiguous.

### **ADDITIONAL FEDERAL REQUIREMENTS RELATED TO THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)**

#### **DUNS Registration for Contractors and Vendors**

Contractors and Vendors must have a DUNS (Data Universal Numbering System) number, which can be searched for and/or registered for at: <http://fedgov.dnb.com/webform>. Contractors and direct vendors will be required to provide their DUNS number to Fresno Area Express/ Transportation Department ("FAX").

#### **Reporting – Monthly Jobs Statistics**

All first-tier contractors and vendors will be expected to provide job creation/retention information to FAX on a monthly basis. This will include the number of direct, on-job FTE

(fulltime equivalent) employees, hours, and payroll. In the case of a first-tier contractor that utilizes subcontractors or vendors to complete all or a portion of the work funded through ARRA, it will be the contractor's responsibility to collect jobs data from said subcontractors / vendors and report that data to FAX as well. Reporting templates and deadlines will be provided to contractors/vendors prior to the first reporting deadline.

**Other FTA (Federal) Requirements**

Includes, but is not limited to, 49 U.S.C. Chapter 53, e.g., clauses noted in other sections of this contract like, ADA; Civil Rights; Waste, Fraud, & Abuse; Whistleblower Rights Notice, etc. The ARRA "Whistleblower" poster, which **must** be posted at your worksite, can be found at: [http://www.fta.dot.gov/documents/ARRA\\_09-06766\\_OIG\\_Whistleblower\\_Poster\\_JI-3.pdf](http://www.fta.dot.gov/documents/ARRA_09-06766_OIG_Whistleblower_Poster_JI-3.pdf).

**Additional Information**

The Federal Recovery website ([www.recovery.gov](http://www.recovery.gov)) provides a great deal of information about the Recovery Act, including links to ARRA legislation, news, reports, and frequently asked questions (FAQs). If you have a question specific to this Agreement, please contact your FAX project manager to discuss.