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Chair of MTC and BATA

DAVE CORTESE, VICE CHAIR
Vice Chair of MTC and BATA

TOM BATES
Vice Chair,
BATA Oversight Committee

BILL DODD
Chair,
BATA Oversight Committee

SCOTT WIENER
Vice Chair,
MTC Administration Committee

ADRIENNE TISSIER
Chair,
MTC Administration Committee

STEVE HEMINGER
Executive Director

ANN FLEMER
Deputy Executive Director, Policy

ANDREW B. FREMIER
Deputy Executive Director, Operations

August 9, 2013

REQUEST FOR QUALIFICATIONS
for
Utility Relocation Coordination and Design

Dear Firm:

The Bay Area Headquarters Authority (“BAHA”) invites your firm to submit a Statement of Qualifications (SOQ) to provide services related to the design and coordination of the relocation of utilities, including power and telecommunications. This Request for Qualifications (RFQ) is intended to result in the selection of a coordinator for the undergrounding of utilities around BAHA’s property at 390 Main Street. The term of the contract will be through December 31, 2014, and may be renewed for an additional two-year period.

This letter and its enclosures comprise the formal RFQ for the above-described project. Responses to this RFQ should be submitted in accordance with the instructions set forth herein.

I. Statement of Qualifications Due Date

Interested firms must submit an original and five (5) hard copies, and one (1) electronic copy in PDF format, of their SOQ by 4:00 p.m., Thursday, August 29, 2013. ***Statements of Qualifications received after that date and time will not be considered.***

II. BAHA Point of Contact

SOQs and all inquiries relating to this RFQ shall be submitted to the Project Manager at the address shown below. For telephone inquiries call (510) 817-5742. E-mail inquiries may be addressed to gszeto@mtc.ca.gov.

Gary Szeto, Project Manager
Bay Area Headquarters Authority
Joseph P. Bort MetroCenter
101 8th Street
Oakland, CA 94607-4700

III. Notice of Addenda and Pre-Submittal Requests for Clarifications and Exceptions

Any addenda released for this RFQ and responses to questions will be published on MTC's website, <http://procurements.mtc.ca.gov/>. Respondents are responsible for checking MTC's website for any addenda and responses to questions released.

Requests for clarification or exceptions to RFQ provisions must be received by BAHA no later than 4:00 p.m., Thursday, August 15, 2013, to guarantee response or consideration.

IV. Background

BAHA was created as a Joint Powers Authority (JPA) between the Bay Area Toll Authority (BATA) and the Metropolitan Transportation Commission (MTC) to purchase and develop 390 Main Street, San Francisco for the Regional Agency Headquarters Facility. BAHA purchased the building in October 2011 and intends to renovate and retrofit the building. MTC, BATA, the Bay Area Air Quality Management District (Air District), and the Association of Bay Area Governments (ABAG) intend to relocate to the building within two years. The co-location of the regional agencies encourages further integration of regional planning efforts currently under the umbrella of One Bay Area. Other regional agencies have indicated interest in relocating into the building as tenants.

V. Minimum Qualifications

To be eligible to be selected for this contract, a Firm must have completed a minimum of three (3) projects involving coordinating the relocation of PG&E utilities in San Francisco in the last five (5) years.

VI. Scope of Work and Schedule

The selected Firm will coordinate the relocation of existing overhead utilities that run along Harrison Street between Main and Beale Streets. The existing power poles carry primary power for PG&E, telecommunication lines, and San Francisco fire alarm lines. The proximity of the lines to the exterior face of the building at 390 Main Street (the "Building") does not provide enough clearance to perform work on the exterior.

BAHA intends to erect scaffolding at the corner of Main and Harrison Streets to perform selective demolition of concrete to enlarge certain window openings. This work is expected to start in July 2014. In addition, BAHA intends to repaint the exterior of the building and to clean windows on a semi-annual basis, which will require relocating the utility lines on a permanent solution. PG&E has presented options to extend the power lines on alley arms or to underground the utilities. BAHA's intention is to have the utilities relocated prior to July 2014.

1. The selected Firm will be responsible for leading the coordination of the utility relocation project. Tasks include: coordinating between PG&E and other service providers using the power poles (and identifying points of contact for utilities where such are unknown); developing design and construction schedules and tracking progress; coordinating between BAHA and the contractor who will perform this work; and coordinating with contractors for other construction projects performing civil work around the Building.
2. In addition, should BAHA pursue undergrounding of the utilities, the selected Firm will be responsible for completing a joint trench design that will allow all the utilities to be placed below grade and the power poles to be removed. The designer of record must be licensed in the State of California to design this work.

Because no new PG&E service is being provided to the Building, PG&E has stated it will be responsible for designing the solution that relocates their utilities. If otherwise permitted, the selected Firm may be required to prepare this design for PG&E.

After completion of the work, BAHA may retain the selected Firm to perform other similar utility relocation design work at 390 Main Street or for other projects performed by BAHA, BATA, or MTC.

The term of the contract resultant of this RFQ will commence on or about September 1, 2013 and extend through December 2014. At BAHA's sole option the contract may be renewed for an additional two (2) year term.

VII. Form of Statement of Qualification

Sections that should be included in each SOQ are described below. Proposers are encouraged to print double-sided copies to save paper.

1. A transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm, or the consortium, and include the name, telephone number, and email address of a contact person, if different from the signatory;
2. A detailed statement of the qualifications and relevant experience of the firm and its dedicated project personnel, including a brief firm history; and the number of current regular professional employees;
3. A staffing plan for the project, including an organizational chart and resumes of those individuals who will be assigned to work on the resulting contract. Identify the percentage of time available proposed staff has to work on this project, assuming a September 2013 start date. Separately or within the resumes, for each key personnel (including but not limited to Principal and Project Manager), provide summaries of similar projects and key personnel's role on that project.
4. A description of any similar work (minimum of three (3) projects), including the name of the client and a contact person (with telephone number). This section must show that the firm meets the minimum qualifications described above.
5. In a SEPARATE SEALED ENVELOPE, provide fully loaded hourly rates for all personnel who will be charging to the project.
6. A signed California Levine Act Statement (*Appendix B*); and
7. A completed, signed *Appendix C-1, Insurance Requirements* document.

VIII. Proposal Evaluation Factors

The SOQs will be reviewed by an evaluation team consisting of staff from BAHA based on the following criteria, all relatively equal in importance:

- Firm's experience with similar projects (including references);
- Skills, experience and background of key personnel assigned to this project, and of management/executive team members; and
- Firm's proven and current capability to perform the required services as described in the work scope in a timely manner.

The evaluation team may interview one or more firms prior to selection or may recommend a firm without interviews.

BAHA reserves the right to select a firm based solely on written qualifications, and not convene oral interviews. Further, BAHA reserves the right to accept or reject any and all SOQs submitted, to waive minor irregularities in SOQs, and to request additional information from the firms submitting SOQs. Any award made will be to the firm whose qualifications are most advantageous to BAHA, based on the evaluation criteria outlined above.

The firms will be ranked and the ranking will be forwarded to the BAHA Executive Director. If the Executive Director agrees with the evaluation teams' recommendations, he will authorize the negotiation and award of the contract to the top ranked firm.

Firms' hourly rates will not be a factor in the evaluation. However, BAHA reserves the right to negotiate with or to decline to enter into a contract with a firm whose rates are unreasonable in BAHA's sole discretion.

IX. Consultant Selection Timetable*

4:00 p.m., Thursday, August 15, 2013	Closing date and time for receipt of requests for exceptions to, or modifications of, RFQ requirements
No later than three (3) working days prior to the date SOQs are due	Deadline for protesting RFQ provisions
4:00 p.m., Thursday, August 29, 2013	Closing date and time for receipt of Statements of Qualifications at BAHA
Week of September 2, 2013*	Interviews, if held
Week of September 2, 2013*	Recommendation to Executive Director
Week of September 9, 2013*	Execution of Contract

***Dates are approximate, and BAHA reserves the right to change the Selection Timetable.**

X. Selection Disputes

A Respondent may object to a provision of this RFQ on the grounds that it is unduly restrictive, arbitrary or biased, or to the selection of a particular consultant on the grounds that BAHA procedures, the provisions of this RFQ or applicable provisions of federal, state, or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than three (3) working days prior to the date SOQs are due, for objections to RFQ provisions; or
2. No later than three (3) working days after the date the firm/team is notified that it did not meet the minimum qualifications or was found to be non-responsive; or
3. No later than three (3) working days after the date the firm is notified that it was not selected, for objections to consultant selection.

Protests must clearly and specifically describe the basis for the protest in sufficient detail for the BAHA review officer to recommend a resolution. The evaluation record shall remain confidential until the BAHA Executive Director authorizes award.

The BAHA Section Director responsible for the procurement will respond to the protest in writing, based on the recommendation of a staff review officer. Should the protesting Proposer wish to appeal the decision of the BAHA Section Director it may file a written appeal with the BAHA Executive Director no later than three (3) working days after receipt of the written response from the Section Director. The Executive Director's decision will be the final agency decision.

Authorization to award a contract to a particular consultant shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the BAHA Section Director, or by the Executive Director, should the BAHA Section Director's resolution of the initial protest be appealed.

XI. General Conditions

BAHA will not reimburse any firm for costs related to preparing and submitting an SOQ.

All materials submitted by Respondents are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt.

SOQs will remain confidential until the BAHA Executive Director has authorized award. Other than proprietary information or other information exempt from disclosure by law, the content of the SOQ submitted to BAHA will be made available for inspection consistent with its policy regarding Public Records Act requests.

If a Respondent believes any information in its SOQ contains trade secrets or other proprietary information that the Respondent believes would cause substantial injury to the Respondent's competitive position if disclosed, the Respondent shall mark each page containing propriety information as confidential and shall include the following notice at the front of its SOQ:

“The data on the following pages of this SOQ, marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the Respondent's competitive position. The Respondent requests that such data be used for review by BAHA only, but understands that exemption from disclosure will be limited by BAHA's obligations under the California Public Records Act. If a contract is awarded to the Respondent submitting this SOQ, BAHA shall have the right to use or disclose the data to the extent it is incorporated into the contract, unless otherwise provided by law.
[List pages]”

Failure to include this notice with relevant page numbers shall render any individual “confidential/proprietary” markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire SOQ confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Respondent may not designate any required SOQ Forms or the price proposal as confidential.**

In the event properly marked data is requested pursuant to the California Public Records Act, the Respondent will be advised of the request and given the opportunity to provide to BAHA a detailed statement indicating the reasons it believe the information should be withheld from disclosure. If BAHA complies with the Respondent's request, the Respondent shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend BAHA and hold it harmless from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting such Respondent information) and pay any and all costs and expenses relating to the withholding of the Respondent information.

If the Respondent does not request that BAHA withhold information marked as confidential and requested under the California Public Records Act, BAHA shall have no obligation to withhold the information from disclosure, and the Respondent shall not have a right to make a claim or maintain any legal action against BAHA or its Commissioners, officers, employees, or agents in connection with such disclosure.

A sample of BAHA's standard consultant agreement is enclosed for your reference as *Appendix C, BAHA's Standard Consultant Agreement*. If a proposer wishes to propose a change to any standard BAHA contract provision, the provision and the proposed alternative language must be submitted prior to the closing date for receipt of requests for clarifications/exceptions listed above. If no such change is requested, the Consultant will be deemed to accept BAHA's standard contract provisions, unless such language is protested in accordance with the procedures listed above.

The selected consultant will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix C-1, Insurance Requirements*. Consultant agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix C-1, Insurance Requirements*, within ten (10) days of BAHA's notice to firm that it is the successful firm.

Requests to change BAHA's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions listed above. BAHA will review the requests and issue an addendum if material changes requested by a prospective Respondent are acceptable. Objections to BAHA determinations on requests to change insurance requirements must be brought to BAHA's attention no later than the date for protesting RFQ provisions above. If such objections are not brought to BAHA's attention consistent with the protest provisions of this RFQ, compliance with all material insurance requirements will be assumed.

BAHA reserves the right in its sole discretion not to enter into any contract as a result of this RFQ.

XII. Organizational Conflicts of Interest

Firms shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the agreement resulting from this and other BAHA solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to BAHA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Project. Whenever BAHA is awarding a contract that involves the rendering of advice, it will consider whether there exists

the potential for bias, because of other activities, relationships or contracts of the Consultant, and if so, whether any potential bias can be mitigated acceptably by BAHA and the Consultant.

Consultant shall not engage the services of any subcontractor or independent contractor on any work related to this Agreement if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

XIII. Authority to Commit BAHA

Based on the recommendation of the selection panel, the Executive Director of BAHA will commit to the negotiation of a contract with the top ranked firm and to the expenditure of funds in connection with this RFQ.

We appreciate your interest in this RFQ and look forward to receiving your SOQ.

Sincerely,



Ann Flemer

Deputy Executive Director, Policy

ABF:sw:gs

J:\CONTRACT\Procurements\Engineer&Architect\BAHA\Utility Underground Coordination 2013_final.doc

APPENDIX A
ALTA SURVEY AND PICTURES

Attached below are the ALTA survey and photographs of overhead wires for relocation.



Photo 1 – Main and Harrison - East View



Photo 2 – Harrison Street South -West view



Photo 3 – Main and Harrison - West View



Photo 4 – Harrison Street West View



Photo 5 – Main and Harrison – North-West View



Photo 6 – Harrison Street – North West View



Photo 7 – Harrison Street – West View



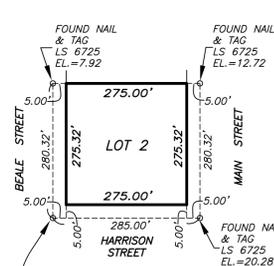
Photo 8 – Harrison Street – North View



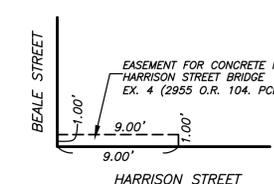
Photo 9 – Harrison Street – North View



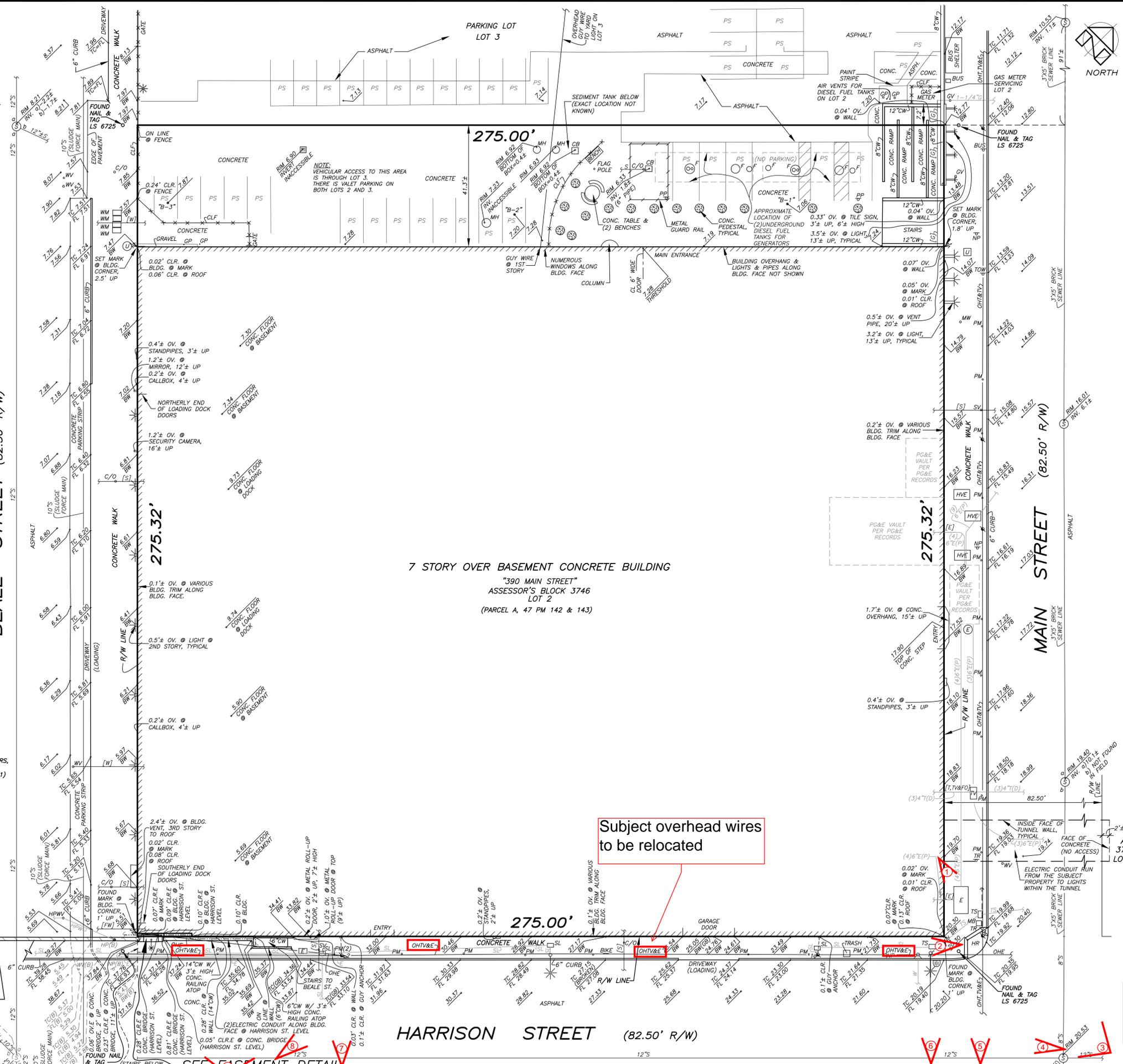
VICINITY MAP
NO SCALE



CONTROL DETAIL
NO SCALE



EASEMENT DETAIL
NOT TO SCALE



7 STORY OVER BASEMENT CONCRETE BUILDING
"390 MAIN STREET"
ASSESSOR'S BLOCK 3746
LOT 2
(PARCEL A, 47 PM 142 & 143)

Subject overhead wires
to be relocated

LEGEND

CLR.	CLEAR OF PROPERTY LINE	○	ELECTROLIER & TRAFFIC SIGNALS	
OV.	OVER PROPERTY LINE	○	FILLER CAPS	
CLRE	CLEAR OF EASEMENT	○	FILLER CAP	
OV.E	OVER EASEMENT	○	GAS VALVE	
BLDG.	BUILDING	○	UNKNOWN COVER	
TC	TOP OF CURB	○	UNKNOWN MANHOLE	
FL	FLOW LINE	○	HVE	HIGH VOLTAGE ELECTRIC VAULT
BW	BACK OF WALK	○	E	ELECTRIC MANHOLE
GB	GRADE BREAK	○	TV	TELEVISION PULLBOX
INV.	INVERT	○	HP	HANDICAP RAMP
TC(B)	TOP OF CURB (BELOW BRIDGE)	○	GP	GUARD POST
FL(B)	FLOW LINE (BELOW BRIDGE)	○	JP	JOINT POLE
BW(B)	BACK OF WALK (BELOW BRIDGE)	○	W	WATER LINE
RIM(B)	RIM (BELOW BRIDGE)	○	HPW	HIGH PRESSURE WATER LINE
R/W	RIGHT OF WAY	○	P	PIPE
AB	ASSESSOR'S BLOCK	○	HPW	HIGH PRESSURE WATER VALVE
CONC.	CONCRETE	○	SM	SEWER MANHOLE
CLF	CHAIN LINK FENCE	○	MH	MANHOLE COVER MARKED "S"
CW	CONCRETE WALL	○	B-3	BORING HOLE
CLDG.	CONCRETE LANDING	○	BS	BUS SHELTER PULLBOX
ASPH.	ASPHALT	○	BUS	BUS STOP SIGN
PS	PARKING SPACE	○	TOW	TOW AWAY SIGN
PP	"PRIVATE PARKING" SIGN	○	MW	MONITORING WELL
HP	HANDICAP RAMP	○	TR	TRAFFIC SIGN
GP	GUARD POST	○	MB	MAIL BOX
JP	JOINT POLE	○		
W	WATER LINE	○		
HPW	HIGH PRESSURE WATER LINE	○		
P	PIPE	○		
HPW	HIGH PRESSURE WATER VALVE	○		
SM	SEWER MANHOLE	○		
MH	MANHOLE COVER MARKED "S"	○		
B-3	BORING HOLE	○		
BS	BUS SHELTER PULLBOX	○		
BUS	BUS STOP SIGN	○		
TOW	TOW AWAY SIGN	○		
MW	MONITORING WELL	○		
TR	TRAFFIC SIGN	○		
MB	MAIL BOX	○		

LEGAL DESCRIPTION
ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:
PARCEL A, AS SAID PARCEL IS SHOWN ON THE MAP RECORDED JULY 15, 2008 IN BOOK 47 OF PARCEL MAPS, PAGES 142 AND 143, SAN FRANCISCO COUNTY RECORDS.
BEING PART OF 100 VARA BLOCK NO. 332.
ASSESSOR'S LOT 002; BLOCK 3746

SURVEY REFERENCE
FIRST AMERICAN TITLE INSURANCE COMPANY PRELIMINARY REPORT NO. NCS-497391-CG, DATED JULY 11, 2011.
THE FOLLOWING IS AN EXCEPTION TO TITLE WITHIN THE ABOVE REFERENCED PRELIMINARY REPORT:
4. AN EASEMENT IN FAVOR OF THE CITY AND COUNTY OF SAN FRANCISCO FOR CONCRETE PIERS THAT SUPPORT THE HARRISON STREET BRIDGE RECORDED APRIL 29, 1936, IN BOOK 2955, PAGE 104, OFFICIAL RECORDS, PLOTTED HEREON.

BASIS OF SURVEY
CITY OF SAN FRANCISCO MONUMENT MAP NO. 317 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

GENERAL NOTES
1. DETAILS NEAR PROPERTY LINES MAY NOT BE TO SCALE.
2. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
3. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
4. ELEVATIONS ARE ON SAN FRANCISCO CITY DATUM.

UTILITY NOTES
1. THE UTILITIES EXISTING ON THE SURFACE AND SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. ALL UNDERGROUND UTILITIES SHOWN ON THIS DRAWING ARE FROM RECORDS OF THE VARIOUS UTILITY COMPANIES AND THE SURVEYOR DOES NOT ASSUME RESPONSIBILITY FOR THEIR COMPLETENESS, INDICATED LOCATION OR SIZE. RECORD UTILITY LOCATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY. DUE TO THE PROLIFERATION OF TELECOMMUNICATION COMPANIES, NOT ALL UNDERGROUND RECORDS ARE AVAILABLE. THEREFORE, THERE MAY BE TELECOMMUNICATION LINES NOT SHOWN HEREON.
2. UNDERGROUND UTILITY LINES SHOWN IN BRACKETS [] ARE PER VISIBLE INSPECTION, AVAILABLE BUILDING PLANS OR PER THE BUILDING ENGINEER. LOCATIONS ARE APPROXIMATE. NOT ALL UTILITY LINES ARE SHOWN HEREON.

Direction and Framing of Photo and Corresponding Photo Number (#)

SITE SURVEY AT 390 MAIN STREET CALIFORNIA

SCALE: 1" = 16'	SURV: JR/DD
DATE: 3/6/12	DES: []
SHEET: 1	DRW: JP
DF: 1	CHK: BR
JOB NO. S-7982	REV. NO. []

MARTIN M. RON ASSOCIATES
LAND SURVEYORS
859 HARRISON STREET, SUITE 200
SAN FRANCISCO, CA 94107
(415) 543-4500

**APPENDIX B
CALIFORNIA LEVINE ACT STATEMENT**

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

BAHA’s commissioners include:

- Adrienne J. Tissier
- Tom Bates
- Amy Rein Worth
- Bill Dodd
- Dave Cortese
- Scott Wiener

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any BAHA commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

YES NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any BAHA commissioners in the three months following the award of the contract?

YES NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude BAHA from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

APPENDIX C
SAMPLE STANDARD CONSULTANT AGREEMENT

Date, 2013

Name
Address
City, State, Zip Code + Four

RE: Professional Services Agreement

Dear insert name:

This letter, effective as of _____, 201_ (“Effective Date”) is the agreement between insert name of selected Firm (“Consultant”) and the Bay Area Headquarters Authority (“BAHA”) for the performance of professional services in connection with Utility Relocation Coordination and Design (“the Agreement”).

1. It is agreed that Consultant will perform all the services specified in Attachment A, Scope of Work and Schedule.
2. Work will be performed under the direction of Gary Szeto or a designated representative (herein "Project Manager") who will approve a work plan prior to your beginning work.
3. Consultant will be compensated for performing of all services specified in Attachment A, Scope of Work and Schedule. The maximum amount payable to Consultant, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors costs (including mark-up), travel, equipment, materials and supplies, and expenses shall not exceed [spell out amount in whole dollars (\$_____)] (“Maximum Payment”).
4. The term of the Agreement shall begin on the Effective Date and conclude on December 31, 2014, unless BAHA terminates this agreement earlier as provided below. The Agreement may be extended for an additional two-year period, through December 31, 2016, subject to the parties’ agreement on terms, unless either Consultant or BAHA terminates the Agreement earlier, as provided below.
5. Either Consultant or BAHA may terminate this Agreement without cause upon sixty (60) days’ prior written notice.

indemnification shall survive the termination or expiration of this Agreement.

10. Not Used.
11. All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials (“BAHA Data”) made available to Consultant by BAHA for use by Consultant in the performance of its services under the Agreement shall remain the property of BAHA and shall be returned to BAHA at the completion or termination of the Agreement. No license to such BAHA Data, outside of the Scope of Work of the Project, is conferred or implied by your use or possession of such BAHA Data. Any updates, revisions, additions or enhancements to such BAHA Data made by Consultant in the context of the Project shall be the property of BAHA and subject to the provisions of the following paragraph.
12. BAHA may be required to make available to Consultant certain confidential, non-public or proprietary information (“Confidential Information”) for purposes of carrying out the Project. Confidential Information may be tangible, intangible, visual, oral, written, and/or electronic information, present or future, and includes: (i) proprietary information learned through inspection of drawings, specifications or equipment; (ii) descriptions of proprietary processes, designs, functionality or know-how; (iii) proprietary software, programming data, code or information; and (iv) other information disclosed in writing and marked as “Confidential” or with a similar notice. As between BAHA and Consultant, Confidential Information shall remain the sole and exclusive property of BAHA, and no license or other rights to Confidential Information or any works deriving from Confidential Information is granted or implied hereby. Confidential Information does not include information that: a) is now or subsequently becomes generally available to the public through no fault of Consultant; b) Consultant can demonstrate to have had rightfully in its possession prior to disclosure by BAHA or its contractors, vendors or licensors; c) Consultant rightfully obtains from a third party who has the right to transfer or disclose it; or (d) is required to be disclosed by law or applicable legal process. Consultant agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized in writing by BAHA. Consultant further agrees to disclose Confidential Information only to its directors, officers, employees and consultants who need to know such information, and who have agreed to be bound by the terms and conditions of this Agreement. Promptly upon the request of BAHA, at any time and for any reason, Consultant shall destroy or return to BAHA, at BAHA’s option, all documents, computer files and other tangible materials that contain Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing by BAHA.

13. All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products (“Work Products”) prepared or assembled and furnished to BAHA by Consultant or its subconsultants pursuant to the Agreement shall be and are the property of BAHA. BAHA shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the Consultant or in the hands of any subconsultant upon completion or termination of the work shall be immediately delivered to BAHA. Consultant hereby assigns to BAHA ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. Consultant also agrees to execute all papers necessary for BAHA to perfect its ownership of the entire copyright in the Work Product. Consultant shall be responsible for the preservation of any and all such Work Products prior to transmittal to BAHA, and shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to BAHA. Notwithstanding the above, Work Products are not intended to include Consultant’s pre-existing intellectual property secured, developed, written, or produced by Consultant prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; Consultant shall retain all right, title and interest in any such pre-existing intellectual property.
14. Consultant agrees to retain all documents, working papers, records, accounts and other materials relating to its performance under the Agreement for four years following the fiscal year of the last expenditure under the Agreement or until completion of any litigation, claim or audit, whichever is longer, and BAHA may inspect and audit such records during that period of time.
15. No member, officer, employee or agent of BAHA, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, Consultant further covenants that it has made a complete disclosure to BAHA of all facts of which it is aware upon due inquiry bearing upon any possible interest, direct or indirect, which it believes any member, officer, agent or employee of BAHA (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by BAHA.
16. Consultant shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts,

a firm or person is unable, or potentially unable, to render impartial assistance or advice to BAHA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement. Consultant shall not engage the services of any subconsultant or independent contractor on any work related to this Agreement if the subconsultant or independent contractor, or any employee of the subconsultant or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement. If at any time during the term of this Agreement, Consultant becomes aware of an organizational conflict of interest in connection with the work performed hereunder, Consultant shall immediately provide BAHA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. Consultant's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, BAHA becomes aware of an organizational conflict of interest in connection with Consultant's performance of the work hereunder, BAHA shall similarly notify Consultant. In the event a conflict is presented, whether disclosed by Consultant or discovered by BAHA, BAHA will consider the conflict presented and any alternatives proposed and meet with Consultant to determine an appropriate course of action. BAHA's determination as to the manner in which to address the conflict shall be final.

17. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between BAHA and Consultant that cannot be resolved through the informal, good faith efforts of the parties may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. Consultant must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action. The prevailing party in any dispute shall be entitled to payment of its attorneys' fees and costs. This section shall survive the termination or expiration of the Agreement.
18. All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.
19. Consultant will not assign or subcontract any part of the Agreement without the prior written consent of BAHA, and any attempt to do so will be void and unenforceable.

20. This Agreement constitutes the complete agreement between the parties and supersedes any prior written or oral communications. Any amendment of the Agreement must be in writing, specifically identified as an amendment to the Agreement, and signed by both Consultant and the Executive Director of BAHA, or his designated representative. The Project Manager is not a designated representative, for purposes of approving an amendment.

If you agree, please sign both copies of this letter in the space provided below and return one to us. The other copy is for your files.

Very truly yours,

Steve Heminger
Executive Director

SH: sw

J:\CONTRACT\Contracts-New\Con BAHA\FY 13-14__Document1

Accepted and Agreed to this _____ day
of September, 2013.

insert name and, if known, title

ATTACHMENT A SCOPE OF WORK AND SCHEDULE

The Consultant shall coordinate the relocation of existing overhead utilities that run along Harrison Street between Main and Beale Streets. The existing power poles carry primary power for PG&E, telecommunication lines, and San Francisco fire alarm lines. The proximity of the lines to the exterior face of the building at 390 Main Street (the “Building”) does not provide enough clearance to perform work on the exterior.

BAHA intends to erect scaffolding at the corner of Main and Harrison Streets to perform selective demolition of concrete to enlarge certain window openings. This work is expected to start in July 2014. In addition, BAHA intends to repaint the exterior of the building and to clean windows on a semi-annual basis, which will require relocating the utility lines on a permanent solution. PG&E has presented options to extend the power lines on alley arms or to underground the utilities. BAHA’s intention is to have the utilities relocated prior to July 2014.

1. The Consultant shall be responsible for leading the coordination of the utility relocation project. Tasks include: coordinating between PG&E and other service providers using the power poles (and identifying points of contact for utilities where such are unknown); developing design and construction schedules and tracking progress; coordinating between BAHA and the contractor who will perform this work; and coordinating with contractors for other construction projects performing civil work around the Building.
2. In addition, should BAHA pursue undergrounding of the utilities, the Consultant shall be responsible for completing a joint trench design that will allow all the utilities to be placed below grade and the power poles to be removed. The designer of record must be licensed in the State of California to design this work.

Because no new PG&E service is being provided to the Building, PG&E will be responsible for designing the solution that relocates their utilities. If otherwise permitted, the Consultant may be required to prepare this design for PG&E.

After completion of the work, BAHA may retain the Consultant to perform other similar utility relocation design work at 390 Main Street or for other projects performed by BAHA, BATA, or MTC.

ATTACHMENT B
Insurance Requirements

PART 1

A. Minimum Coverages. The insurance requirements specified in this section shall cover CONSULTANT's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that CONSULTANT authorizes to work under this Agreement (hereinafter referred to as "Agents.") CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

CONSULTANT is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, CONSULTANT shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONSULTANT's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event CONSULTANT or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that CONSULTANT's insurance be primary without right of contribution from BAHA. Prior to beginning work under this contract, CONSULTANT shall provide BAHA with satisfactory evidence of compliance with the insurance requirements of this section.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of BAHA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of BAHA.

BAHA and those entities listed in Part 2 of this Attachment B (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Umbrella Insurance in the amount of \$2,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to BAHA and having minimum limits of \$1,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage.

The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.

6. Property Insurance. Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement AND materials or property to be purchased and/or installed on behalf of BAHA (if any). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of BAHA.

Such policy shall contain a Waiver of Subrogation in favor of BAHA.

BAHA (and those entities listed in Part 2 of this Attachment, if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to BAHA, generally with a Best's Rating of A-VIII or better.

C. Self-Insurance. CONSULTANT's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to BAHA.

D. Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from BAHA. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that BAHA seeks coverage as an additional insured under any CONSULTANT insurance policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONSULTANT, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONSULTANT or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, CONSULTANT shall:

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- (3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONSULTANT shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT's personnel, subcontractors, and equipment have been removed from BAHA's property, and the work or services have been formally accepted. CONSULTANT must notify BAHA if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, CONSULTANT shall deliver to BAHA Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the

liabilities and obligations otherwise assumed by CONSULTANT pursuant hereto, including, but not limited to, liability assumed pursuant to Section 9 of this Agreement.

PART 2

The following entities are to be named as Additional Insureds under applicable sections of this Attachment B and as BAHA Indemnified Parties, pursuant to Section 9 of the Agreement.

- Bay Area Headquarters Authority (BAHA)
- Metropolitan Transportation Commission (MTC)
- Bay Area Toll Authority (BATA)
- Bay Area Air Quality and Management District (BAAQMD)
- Association of Bay Area Governments (ABAG)

APPENDIX C-1 INSURANCE REQUIREMENTS

Minimum Insurance Coverages. Consultant shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, placed with insurers with a Best’s rating of A-VIII or better.

Yes (✓)	<p>Please certify by checking the boxes at left that required coverages will be provided within ten (10) days of BAHA’s notice to firm that it is the successful Respondent.</p>
—	<p><u>Workers' Compensation Insurance</u> in the amount required by the applicable laws, and Employer’s Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence, and any and all other coverage of Consultant’s employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation endorsement in favor of BAHA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as Consultant is a sole proprietor with no employees.</p>
—	<p><u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of Consultant and Consultant’s officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Expense for Indemnitee’s defense costs shall be outside of policy limits and such policy shall be issued on a Duty to Defend Primary Occurrence Form.</p> <p>BAHA, Metropolitan Transportation Commission (MTC), Bay Area Toll Authority (BATA), Bay Area Air Quality and Management District (BAAQMD), and the Association of Bay Area Governments (ABAG) and their directors, commissioners, officers, representatives, agents and employees are to be named as additional insureds. Such insurance as afforded by this endorsement shall be primary as respects any claims, losses or liability arising directly or indirectly from Consultant’s operations.</p>
—	<p><u>Business Automobile Insurance</u> for all automobiles owned, used or maintained by Consultant and Consultant’s officers, agents and employees, including but not limited to owned, leased, non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence.</p>
—	<p><u>Umbrella Insurance</u> in the amount of \$2,000,000 providing excess limits over Employer’s Liability, Automobile Liability, and Commercial General Liability Insurance.</p>
—	<p><u>Errors and Omissions Professional Liability Insurance</u> (if applicable) in an amount no less than \$1,000,000. If such policy is written on a “Claims-Made” (rather than an “occurrence”) basis, Consultant agrees to maintain continuous coverage in</p>

	effect from the date of the commencement of services to at least three (3) years beyond the termination or completion of services or until expiration of any applicable statute of limitations, whichever is longer. The policy shall provide coverage for all work performed by the Consultant and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the Consultant. No contract or agreement between the Consultant and any subcontractor/consultant shall relieve the Consultant of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by the Consultant and any subcontractor/consultant working on behalf of the Consultant on the project.
_____	<u>Property Insurance</u> covering Consultant's own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of BAHA (if any), debris removal, and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" ("All Risk") that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of BAHA. If such insurance coverage has a deductible, the Consultant shall also be liable for the deductible.

Deductibles: Any deductibles or self-insurance retentions over \$100,000 are subject to the approval of BAHA.

Notice of Termination: All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of Consultant's personnel, subcontractors, and equipment have been removed from BAHA's property, and the work or services have been formally accepted. Consultant must notify BAHA if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of Consultant's contract.

Additional Provisions: Each policy or policies of insurance described in Commercial General Liability Insurance, above shall contain the following provisions:

- Inclusion of BAHA, Metropolitan Transportation Commission (MTC), Bay Area Toll Authority (BATA), Bay Area Air Quality and Management District (BAAQMD), and the Association of Bay Area Governments (ABAG), their directors, commissioners, officers, representatives, agents and employees, as additional insured's with respect to work or operations in connection with this Agreement.
- Endorsement providing that such insurance is primary insurance and no insurance of BAHA will be called on to contribute to a loss.

Certificates of Insurance: Promptly on execution of this Agreement and prior to commencement of any work hereunder, Consultant shall deliver to BAHA Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof. Consultant agrees, upon written request by BAHA, to furnish copies of such policies or endorsements required under the Agreement prior to the Effective Date of the Agreement.

Disclaimer: The foregoing requirements as to the types of limits of insurance coverage to be maintained by Consultant are not intended to and shall not in any manner limit or qualify the liabilities

and obligations otherwise assumed by Consultant pursuant hereto, including, but not limited to, liability assumed pursuant to *Appendix C*, Indemnification.

By signing below, you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within ten (10) days of BAHA's notice to firm that it is the successful Respondent.	
Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

NOTE: If you were unable to check "Yes" for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to BAHA's attention no later than the closing date for requesting clarifications or exceptions to RFQ provisions. If such objections are not brought to BAHA's attention consistent with the protest provisions of this RFQ, compliance with the insurance requirements will be assumed.