

**AGREEMENT WITH STEER DAVIES AND GLEAVE, INC.
FOR PROFESSIONAL CONSULTANT SERVICES
FOR
TRANSPORTATION DEMAND MANAGEMENT PLAN PREPARATION**

This Agreement, made and entered into this day of _____, by and between the **CITY OF SAN MATEO**, a municipal corporation existing under the laws of the State of California ("CITY"), and **STEER DAVIES AND GLEAVE, INC.**, a Delaware Corporation ("CONSULTANT"), whose address is 45 Main Street, Suite 1036, New York, NY 11201.

RECITALS:

A. CITY desires certain transportation demand management (TDM) plan preparation services hereinafter described.

B. CITY desires to engage CONSULTANT to provide these transportation demand management (TDM) plan preparation services by reason of its qualifications and experience for performing such services and CONSULTANT has offered to provide the required services on the terms and in the manner set forth herein.

NOW, THEREFORE, IT IS AGREED as follows:

SECTION 1 - SCOPE OF SERVICES

The scope of services to be performed by CONSULTANT under this Agreement is as described in Exhibit A to this Agreement, attached and incorporated by reference.

SECTION 2 - DUTIES OF CONSULTANT

CONSULTANT shall be responsible for the professional quality, technical accuracy and coordination of all work furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its work.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement.

CONSULTANT shall be responsible for employing or engaging all persons necessary to perform the services of CONSULTANT.

CONSULTANT agrees to comply with the City's minimum wage ordinance as codified in Municipal Code Chapter 5.92, which differs from the state minimum wage and includes a Consumer Price Index escalator.

SECTION 3 - DUTIES OF CITY

CITY shall provide pertinent information regarding its requirements for the project.

CITY shall examine documents submitted by CONSULTANT and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of CONSULTANT's work.

SECTION 4 - TERM

The services to be performed under this Agreement shall commence on September 20, 2022 and be completed on or about June 30, 2024.

SECTION 5 - PAYMENT

Payment shall be made by CITY only for services rendered and upon submission of a payment request upon completion and CITY approval of the work performed. In consideration for the full performance of the services set forth in Exhibit A, CITY agrees to pay CONSULTANT a fee in an amount of \$250,000, pursuant to rates stated in Exhibit B to this Agreement, attached and incorporated by reference.

SECTION 6 - TERMINATION

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall have the right to terminate this Agreement or suspend work on the Project for any reason, upon ten (10) days' written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement upon receipt of said written notice.

Upon termination and upon CITY's payment of the amount required to be paid, documents become the property of CITY, and CONSULTANT shall transfer them to CITY upon request without additional compensation.

SECTION 7 - OWNERSHIP OF DOCUMENTS

All documents prepared by CONSULTANT in the performance of this Agreement, although instruments of professional service, are and shall be the property of CITY, whether the project for which they are made is executed or not.

SECTION 8 - CONFIDENTIALITY

All reports and documents prepared by CONSULTANT in connection with the performance of this Agreement are confidential until released by CITY to the public. CONSULTANT shall not make any such documents or information available to any individual or organization not employed by CONSULTANT or CITY without the written consent of CITY before any such release.

SECTION 9 - INTEREST OF CONSULTANT

CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services under this Agreement.

SECTION 10 - CONSULTANT'S STATUS

It is expressly agreed that in the performance of the professional services required under this Agreement, CONSULTANT shall at all times be considered an independent contractor as defined in Labor Code Section 3353, under control of the CITY as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make CONSULTANT an agent or employee of CITY while providing services under this Agreement.

SECTION 11 - INDEMNITY

CONSULTANT agrees to hold harmless and indemnify CITY, its elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of CONSULTANT's performance of this Agreement, except those claims arising out of CITY's sole negligence or willful misconduct. CONSULTANT agrees to defend City, its elected and appointed officials, employees, and agents against any such claims.

SECTION 12 - INSURANCE

CONSULTANT shall procure and maintain for the duration of the contract and three years thereafter (five years for building or major improvements) the insurance specified in Exhibit C to this Agreement.

SECTION 13 - NON-ASSIGNABILITY

Both parties hereto recognize that this Agreement is for the personal services of CONSULTANT and cannot be transferred, assigned, or subcontracted by CONSULTANT without the prior written consent of CITY.

SECTION 14 - RELIANCE UPON PROFESSIONAL SKILL OF CONSULTANT

It is mutually understood and agreed by and between the parties hereto that CONSULTANT is skilled in the professional calling necessary to perform the work agreed to be done under this Agreement and that CITY relies upon the skill of CONSULTANT to do and perform the work in the most skillful manner, and CONSULTANT agrees to thus perform the work. The acceptance of CONSULTANT's work by CITY does not operate as a release of CONSULTANT from said obligation.

SECTION 15 - WAIVERS

The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance, or law. The subsequent acceptance by either party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

SECTION 16 - SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

SECTION 17 - COSTS AND ATTORNEY FEES

Attorney fees in total amount not exceeding \$5000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing party in any action or actions to enforce the provisions of this Agreement. The above \$5000 limit is the total of attorney fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this Agreement that neither party shall have to pay the other more than \$5000 for attorney fees arising out of an action, or actions to enforce the provisions of this Agreement.

SECTION 18 - NON-DISCRIMINATION

CONSULTANT warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither CONSULTANT nor any of its subcontractors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

SECTION 19 - MEDIATION

Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the State Mediation and Conciliation Service, or other agreed-upon service. The mediator shall be selected by a blind draw.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once

commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.

SECTION 20 - LITIGATION

CONSULTANT shall testify at CITY'S request if litigation is brought against CITY in connection with CONSULTANT's services under this Agreement. Unless the action is brought by CONSULTANT, or is based upon CONSULTANT's wrongdoing, CITY shall compensate CONSULTANT for preparation for testimony, testimony, and travel at CONSULTANT's standard hourly rates at the time of actual testimony.

SECTION 21 - NOTICES

All notices hereunder shall be given in writing and mailed, postage prepaid, addressed as follows:

To CITY: Sue-Ellen Atkinson
City of San Mateo
300 W. 20th Ave.
San Mateo CA 94403

To CONSULTANT: Steer Davies and Gleave, Inc.
Attn: Julia Wean
800 Wilshire Blvd. Suite 1320
Los Angeles, CA 90017

SECTION 22 - AGREEMENT CONTAINS ALL UNDERSTANDINGS; AMENDMENT

This document represents the entire and integrated agreement between CITY and CONSULTANT and supersedes all prior negotiations, representations, and agreements, either written or oral.

This document may be amended only by written instrument, signed by both CITY and CONSULTANT.

SECTION 23 - AUTHORITY TO ENTER INTO AGREEMENT

CONSULTANT has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

SECTION 24 - GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of California and, in the event of litigation, venue will be in the County of San Mateo.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, CITY OF SAN MATEO and STEER DAVIES AND GLEAVE, INC. have executed this Agreement the day and year first above written.

CITY OF SAN MATEO

CONSULTANT

Azalea Mitch
Public Works Director

Date

Alasdair Dawson	Date
Its Authorized Agent	
North America Regional Director	

If a Corporation, can be either 1) President or 2) Vice President plus an additional corporate officer (i.e., Secretary, Treasurer) who shall sign below.

APPROVED AS TO FORM

ADDITIONAL CORPORATE
OFFICER
(if necessary per the above)

Mazarin Vakharia	Date
Assistant City Attorney	

Carmen Correa Lafuente Date

Attachments:

Exhibit A: Scope of Services
Exhibit B: Fee Rates
Exhibit C: Insurance Requirements

EXHIBIT A

SCOPE OF SERVICES

Steer will support the City of San Mateo to develop TDM Plans on an as-needed basis. When the City receives a development application with which they'd like Steer's support, Steer will provide a scope of work, fee proposal and schedule to prepare and deliver a TDM plan.

TDM plans will include, at a minimum:

Existing Conditions

Each TDM Plan will begin with an Existing Conditions section, which will examine the physical conditions and access to services attributed to the site, as well as, based on available information about future use or target tenants, expectations for modal travel trends and barriers to alternative travel for users. This section will set the stage for the development of the TDM Strategy:

Physical Attributes

Physical attributes describe features that are built into the project sites, as well as features that help define the way the project sites themselves are set up. Important physical conditions that will likely be documented include:

- Distance from transit, including information about type, frequency, and locations served by accessible transit options. This will include Caltrain and Samtrans, as well as Commute.org shuttles
- Accessibility of site by foot and bicycle
- Accessibility of other nearby destinations (will likely be deemed relevant based on proposed use of site) by foot and bicycle
- Additional bicycle and pedestrian facilities on or in close proximity to project site
- Any other mobility options serving the site, in particular those which could meet first last mile needs
- Parking facilities planned vs. expected number of trips generated

Available TDM Services

In addition to providing information about a project site's physical attributes, Steer will also explore and document any existing TDM services to which future users of the site will likely have access. This will likely include services such as trip planning and carpool matching offered through the Connect San Mateo and umbrella Commute.org programs, but may extend beyond that to include more specific local knowledge about future tenants if available or resources being utilized by nearby sites that could potentially be shared.

Travel Trends

In addition to existing facilities, the Existing Conditions section of each TDM Plan will examine expected travel trends and barriers to alternative travel that exist for projects of similar uses in the site area, or of the current projects when TDM plans are addressing project expansion. While the Trip Generation data will likely be developed through ITE calculations, many projects in the South Bay Area collect annual survey data, or even real-time trip count data that is likely much more accurate. Steer will work with the City of San Mateo and neighboring cities to identify collect and examine real data from projects that are expected to generate similar types and amounts of trips.

Recommended TDM Strategies

Steer will identify recommended TDM strategies applicable to the proposed project. The measures will be specific to each project's location and intended use, and will include the following sections:

Site Elements

Site elements include design features that can be included in project design, such as the inclusion of bicycle facilities, on-site showers and amenities, parking, or ease of access to transit through improved sidewalk conditions. In some cases, these may already have been identified as part of trip reduction calculations in the TIA for a specific site, so Steer will work with the consultant preparing each project's TIA to ensure that there is no 'double-dipping' when calculating trip reductions.

Education and Incentives

The Education and Incentives section will identify marketing tactics that will be used by the developer, property manager or tenants in order to promote existing transportation options and other TDM strategies being offered. Incentives will include giveaways or subsidies for tenants who take advantage of alternative transportation options and will be tailored to fit the project site.

In addition to providing incentives, developers will need to ensure that their future occupants have methods of obtaining information about TDM programming and available transportation options. This may include the distribution of information through online or physical platforms, tenant events, and the use of mobile applications.

Service Provision

In the Bay Area where public transit service often does not cross county lines, many employers and developers have chosen to provide their own service, through long-distance vanpools, fixed route shuttles, and even microtransit flexible route service. Service recommendations will vary greatly based on access to public or private transit services, jurisdictional boundaries, and level of congestion along arterials, among others.

Monitoring and Reporting

Each TDM plan will include a strategy geared toward monitoring its effectiveness. As with the other TDM strategy elements, the recommended strategy for monitoring and reporting will depend on the project. Some may be equipped to measure individual trips to and from the project site through underground monitors or smart parking facilities. Others may collect better data through an annual survey of resident tenants or retail or office tenant employees.

Based on the trip generation reduction calculations for each recommended TDM strategy and the trip reduction goals assigned to the project site, each strategy will be designated as either 'required' or 'optional.'

Steer will calculate the estimated trip reductions for each recommended strategy. Recommendations will include evaluation of users that would benefit from each recommended measure and estimated trip reductions based on implementation of each recommended measure.

Current and Projected Trip Generation

Steer will work with the consultant in charge of developing the TIA for each project site to learn the current projected trips based on site location, surrounding transportation and density. From there, we will calculate the estimated trip reductions for each of the TDM strategies marked 'required.' Tools used to calculate trip reductions will be determined between Steer, the City and the TIA consultant.

EXHIBIT B

FEE RATES

Title	Billing Rate (Hourly)
Director	\$270
Associate Director	\$230
Associate	\$195
Principal Consultant	\$170
Senior Consultant	\$150
Consultant	\$135
Assistant Consultant	\$120
Intern	\$60

EXHIBIT C

INSURANCE REQUIREMENTS

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONSULTANT has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions):** Insurance appropriate to the CONSULTANT's profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate

If the CONSULTANT maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the CONSULTANT.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, its elected and appointed officials, employees, and agents are to be covered as insureds on the auto policy for liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CONSULTANT; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **CONSULTANT's insurance coverage shall be primary** insurance as respects the City, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by the City, its elected and appointed officials, employees, or agents shall be excess of the CONSULTANT's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that **coverage shall not be canceled, except after thirty (30) days' prior written notice** (10 days for non-payment) has been given to the City.

Waiver of Subrogation

CONSULTANT hereby grants to City a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the City by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the CONSULTANT to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Verification of Coverage

CONSULTANT shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.