

**AGREEMENT WITH KITTELSON AND ASSOCIATES
FOR PROFESSIONAL CONSULTANT SERVICES
FOR
ON-CALL TRANSPORTATION ANALYSIS REPORT 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 KITTELSON & ASSOCIATES, INC., a CORPORATION ("CONSULTANT"), whose address is 155 Grand Avenue, Suite 900, Oakland, CA 94612.

RECITALS:

A. CITY desires certain on-call transportation analysis report preparation services hereinafter described.

B. CITY desires to engage CONSULTANT to provide these 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.

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 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 not to exceed \$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. Notwithstanding the foregoing, CONSULTANT retains all right, title and interest to any pre-existing confidential information or intellectual property.

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 with the care and skill used by members of CONSULTANT'S profession practicing under similar circumstances and the same time and in the same locality, and CONSULTANT agrees to thus perform the work.

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, 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
330 W. 20th Avenue
San Mateo, CA 94403

To CONSULTANT: Kittelson and Associates, Inc.
Attn: Damian Stefanakis
155 Grand Avenue, Suite 505
Oakland, CA 94612

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 KITTELSON AND ASSOCIATES have executed this Agreement the day and year first above written.

CITY OF SAN MATEO

CONSULTANT

Azalea Mitch
Public Works Director

Dave Mills
Its Authorized Agent
Vice President

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
Assistant City Attorney

Marc Butorac
Vice President

Attachments:

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

EXHIBIT A

SCOPE OF SERVICES

TASK 1 - TRAFFIC IMPACT ANALYSIS & LOS

- **Coordination** - Coordinate with City staff and attend a kickoff meeting.
- **Site Reconnaissance** - Visit the site and review the physical characteristic of the site and surrounding roadways, including roadway cross-sections, pedestrian facilities, bike lanes, traffic control devices and nearby land uses.
- **Observe Existing traffic conditions** - Observe existing traffic to identify any operational deficiencies. Particularly any hyper congested conditions on select corridors to determine if saturated conditions exist and whether they need to be accounted for in Synchro or Simtraffic analysis.
- **Data Collection** – Collect existing data when all schools are back in session for the following locations:
 - Existing intersection turning movement counts, bicycle and pedestrian volumes at a determined number of local study intersections and freeway ramps during the a.m. peak period (7:00-9:00 am) and p.m. peak period (4:00-6:00 pm);
 - 24-hour driveway inbound/outbound counts at any existing project driveways to quantify the existing demand.
- **Existing Conditions** – Conduct and document existing traffic, transit, bicycle, and pedestrian components of the transportation system within the study area, including intersection level of service (LOS) based on City of San Mateo Traffic Impact Study Guidelines using Synchro or Simtraffic. City uses 2010 HCM methodology, unless infeasible. City still uses level of service but will be transitioning to VMT by July 1, 2020. The current LOS thresholds used by the City are described above.
- **Approved/Background Conditions** – Develop Approved/Background transportation conditions and LOS based on approved land use development and transportation projects in the study area (to be provided by the City staff).
- **Cumulative Conditions** – Develop cumulative transportation conditions and LOS in the study area based on approved, proposed and planned land use development forecasts (provided by the City) and planned transportation projects (or use approved City or Countywide model).
- **Trip Generation** - Develop trip generation for the existing and proposed uses using ITE Trip Generation Manual 10th Edition and determine the net new trips (credit for existing uses). Apply appropriate trip reduction for internal capture and pass-by per City or ITE. Submit a trip generation memorandum to the City. If the City determines that a traffic study is still needed, then we would proceed with the more detailed traffic impact assessment.
- **Trip Distribution and Assignment** - Develop project trip distribution using the City traffic model or C/CAG Countywide model, as appropriate and then assign these volumes to the study intersections. Submit this to the City for review and approval.
- **Impact Analysis** – Identify the transportation impacts associated with the Project for the following scenarios:
 - Existing plus Project Conditions
 - Approved/Background plus Project Conditions
 - Cumulative plus Project Conditions – 2030 per City Model

The types of transportation impacts include:

- Intersection Operations (quantitative analysis)
- Queuing at key intersections and left turn pockets (quantitative analysis)
- Transit (qualitative analysis)
- Bicycle (qualitative analysis)
- Pedestrian (qualitative analysis)
- **Congestion Management Program Analysis** – Should the Project generate more than 100 PM peak hour trips, assess the potential traffic volume impacts of the Project on the San Mateo City/County Association of Government (C/CAG) Congestion Management Program (CMP) roadway system.
- **Site Access and On-Site Circulation Review** - Review project site access for circulation, parking, EVA, loading, truck turning templates, and onsite queuing to identify any potential design/access/circulation issues.
- **Parking** – Evaluate proposed project parking supply compared to the Site Zone Code parking requirements. Use the ITE parking Generation for projected demand and identify any parking shortfall.
- **Vehicle Queuing** – Evaluate queueing for project that add significant trips to left turn pockets. Use Synchro's 90th percentile expected maximum queues and identify any queueing issues.
- **Impacts and Mitigation Measures** – identify Project generated impacts to the transportation network and develop mitigation measures for these impacts.
- **Draft Transportation Impact Study Report** – document all the assumptions and findings in a draft report and submit to City. Address one round of comments from City.
- **Final Transportation Impact Study Report** – incorporate the responses to comments from City staff into a final Transportation Impact Study Report.
- **Meetings** – attend one (1) Project team meeting to discuss findings.

TASK 2 - VMT

This portion of the scope addresses VMT analysis per SB 743.

Pursuant of SB 743, the Governor's Office of Planning and Research (OPR) published the finalized Updates to the CEQA Guidelines in November 2017. The guidelines stated that Level of Service will no longer be considered to be an environmental impact under CEQA and considers vehicle-miles-travelled (VMT) the most appropriate measure of transportation impact. Given that no standard approach or guidelines have been adopted by the City of San Mateo (adoption is not required until July 1, 2020), the VMT analysis will rely on OPR's guidelines and suggested target thresholds.

- Before July 1, 2020, Kittelson will conduct a dual LOS and VMT analysis using either C/CAG guidelines (should these be available), or use OPR's suggested targets and thresholds. Kittelson will base VMT per capita on mapping provided either by MTC or C/CAG to define the regional average.
- After July 1, 2020, Kittelson will conduct a VMT (and LOS where appropriate) using the newly adopted City VMT guidelines, tools and thresholds. Kittelson will base VMT per capita on mapping developed specifically for the City of San Mateo. These mapping tools are currently being developed by Kittelson

under a separate contract, and they will either be based on the new City GP model or the C/CAG Countywide model.

Kittelson will provide a discussion of vehicle miles traveled (VMT) for the region and the project's transportation analysis zones for the proposed use. Kittelson will compute the projects VMT per capita. Kittelson will review the City's map-based screening criteria for VMT to assess whether or not the project screens out of a detailed VMT analysis. Kittelson will document compliance with these screening criteria and established thresholds for the proposed use.

If the Project generates an impact for VMT, then Kittelson will develop the TDM plan and related trip reduction as mitigation measure. This is discussed below.

TASK 3 - TDM PLAN

A TDM Plan will be developed based on City and or C/CAG TDM guidelines. The TDM Plan is a record of the project sponsor's commitment to implement strategies to achieve reductions in vehicle traffic and parking demand and increase sustainable modes of travel. The plan should include at a minimum:

- **Existing Transportation Facilities and Services** - Document existing transportation options within a reasonable distance from the proposed project site, including frequency, distance by foot and bicycle, and locations served. Identify all existing bicycle and pedestrian facilities at and near the project site.
- **Recommended TDM Strategies** - Identify recommended TDM strategies applicable to the proposed project. The measures will be specific to each project and location, and be designated as 'required' or 'optional' based on the required trip reduction goal for the proposed project. Recommendations will identify the project users that would benefit from each recommended measure and estimated trip reductions based on implementation of each recommended measure.
- **Current and Projected Trip Generation** - Utilizing the trip generation findings from the TIA, and the estimated combined trip reductions based on site location, surrounding transportation, density, and implementation of TDM measures designated as 'required', Kittelson will evaluate the total estimated trip generation and compare to the required project trip reduction goals.
- **TDM as Mitigation** – Should the Project be impacted for VMT, Kittelson will identify the TDM strategies and trip reductions that reduce the project to less than significant for VMT.

DELIVERABLES

- Draft Transportation Impact Study Report
- Final Transportation Impact Study Report
- VMT Analysis
- TDM Plan

DATA TO BE OBTAINED FROM THE CITY BY KITTELSON

- Signal timing sheets for all study signalized intersections.
- Any available Synchro files City may have in this area for the following scenarios:

- Figures showing the existing bicycle facilities in the study area, preferably in GIS format.
- Figures showing the existing pedestrian facilities in the study area, preferably in GIS format.
- A list of roadway system, pedestrian facility, and bicycle facility improvements to be included under the Approved/Background Conditions.
- A list of roadway system, pedestrian facility, and bicycle facility improvements as identified in the City General Plan to be included in the Cumulative Conditions.
- A list of approved projects to be included under the Approved/Background Conditions, including trip generation, trip distribution, and trip assignment information for these approved projects.
- Cumulative No Project a.m. and p.m. peak hour intersection turning volumes for the study intersections, or if not available, then access to appropriate 2030 City General Plan model so that Kittelson can develop the cumulative volumes.

DATA TO BE OBTAINED FROM APPLICANT

- Final Project description
- Existing land use information at the project site.

SCHEDULE

Typical schedules for TIA's can vary. Kittelson can usually commit to submitting a draft TIA within 4-8 weeks of receiving a project description and the traffic counts.

This schedule would be equitably adjusted as the work progresses, allowing for changes in scope, character or size of the Project requested by the Applicant, or for delays or other causes beyond our reasonable control.

TASK 4 – ON-CALL SERVICES

Provide, on task order basis, transportation engineering and planning services to the City, including but not limited to, parking demand studies, traffic operations analyses, and parking occupancy studies.

EXHIBIT B

FEE RATES



KITTELSON & ASSOCIATES, INC. BILLING RATE SCHEDULE

Effective July 1, 2022

The current billing rates for Kittelison & Associates, Inc., staff are as follows and are subject to change:

Staff	Billing Rate
Principal / Senior Principal	\$255 - \$345
Associate Engineer/Planner	\$220 - \$250
Senior Engineer/Planner	\$190 - \$210
Engineer/Planner	\$170 - \$190
Transportation Analyst	\$150 - \$165
Principal Data Scientist/Developer	\$245 - \$330
Senior Data Scientist/Developer	\$200 - \$240
Data Scientist/Developer	\$170 - \$200
Data Analyst/Software Developer	\$130 - \$165
Software Technician	\$100 - \$125
Associate Technician	\$180 - \$200
Senior Technician	\$160 - \$180
Technician II	\$140 - \$155
Technician I	\$120 - \$135
Office Support	\$90 - \$110
Service & Other Direct Costs	Billing Rate
Mileage	\$.625/mile
Travel & Other Direct Costs	Actual plus 10% markup
Subconsultants	Actual plus 10% markup

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.