

1 **Jefferson Transit Authority**
2 **Resolution No. 20-28**
3 **Contract for Comprehensive Plan**

4
5 **A RESOLUTION** of the Board of Directors of the Jefferson County Public Transportation
6 Benefit Area, hereinafter called the "Authority," authorizing the General Manager
7 to Sign a Contract with KPFF Consulting Engineers
8

9 **WHEREAS**, the contract with KPFF Consulting Engineers is to provide
10 design/consulting services for the Haines Place Transit Center Bus Loop Redesign; and
11

12 **WHEREAS**, Jefferson Transit Staff and Attorney have negotiated terms with KPFF
13 Consulting Engineers that it deems reasonable for the scope of work and recommends a
14 contract be awarded to KPFF Consulting Engineers; and
15

16 **WHEREAS**, Jefferson Transit Authority is ready to proceed with this project and now
17 requires authorization from the Authority for the General Manager to sign said Contract;
18


19 **NOW, THEREFORE, BE IT RESOLVED** that the Jefferson Transit Authority Board
20 does hereby authorize the General Manager to sign and execute the attached Contract with
21 KPFF Consulting Engineers.
22

23 **CERTIFICATION**

24 The undersigned duly qualified Clerk of the Board, acting on behalf of the Jefferson County
25 Public Transportation Benefit Area, certifies that the foregoing is a true and correct copy of a
26 resolution adopted at a legally convened meeting of the Jefferson Transit Authority Board held
27 on this 15th day of December, 2020.


Chair


Member


Member

 excused ^{GP}
Vice Chair


Member

Attest:


Clerk of the Board



Jefferson Transit Authority

63 Four Corners Road, Port Townsend, WA 98368,
(360) 385-3020, Fax: (360) 385-2321

PROFESSIONAL SERVICES CONTRACT

MASTER CONTRACT NO. 2019-20

HPTC BUS LOOP REDESIGN

This CONTRACT is made this 15th day of December 2020, between Jefferson Transit Authority (hereinafter referred to as "JTA") and KPFF Consulting Engineers (hereinafter referred to as "Contractor").

WHEREAS, JTA desires to retain the services of Contractor to provide Design Services for the Haines Place Transit Center Bus Loop redesign (hereinafter referred to as HPTC Bus Loop Redesign); and

WHEREAS, Contractor is qualified, willing, and able to perform said services; and

WHEREAS, said services are temporary in duration.

NOW, THEREFORE, In consideration of the mutual promises and covenants herein contained, to be kept, performed, and fulfilled by the respective parties hereto, and other good consideration, it is mutually agreed as follows:

1. **DOCUMENTS INCORPORATED IN THIS CONTRACT:** Contractor shall comply with the terms and conditions of this Contract and with the terms and conditions of the documents listed below, if any, and by reference made a part hereof. The Contract and the documents incorporated herein constitute the entire Contract between JTA and the Contractor, except for modifications as provided, and in case of dispute shall govern in the following order of precedence:
 - A. Amendments to this Contract;
 - B. This Contract;
 - C. Requirements of the Federal Transit Administration (FTA);
 - D. Contractor's Proposed Scope of Work dated November 15th, 2020 (Attachment A).
2. **SCOPE OF WORK:** The Contractor shall provide Consultant Services for Project Management and Coordination, Master Planning Review, Alternatives Analysis, Scope Development and Permitting, Design and Bidding Support, and Construction Support for JTA's HPTC Bus Loop Redesign. Services required will be assigned by written Task Order. A detailed scope of work for the two (2) optional extension years of the Contract, the hourly rates of compensation shall increase by a rate not to exceed by more than one percent (1%) the amount of the increase in the previous year in the November to November Seattle/Tacoma/Bellevue Consumer Price Index (CPI-U). Including a required performance period will be developed for each Task Order. Each Task Order shall be subject to the conditions of this Master Contract and shall be executed by duly authorized representatives of JTA and the Contractor and upon such execution shall become part of this Master Contract. A scope of work is included in this contract as Attachment A.
3. **TASK ORDER BUDGETS:** The authorized budget for each Task Order under this Master Contract shall be only for the total amount stipulated in the Task Order and may be altered only by written Amendment executed by the parties hereto. Each Task Order budget shall be attached to its related Task Order and shall contain the amounts

Jefferson Transit Authority PROFESSIONAL SERVICES AGREEMENT

for allowable costs and fees, as defined herein Section 4(a). The Contractor shall not exceed the Task Order budget without written approval by JTA.

The Contractor may be required to furnish detailed cost information to JTA prior to execution of each Task Order to allow JTA to perform costs/price analysis to determine fair and reasonable pricing.

4. **OBLIGATIONS OF JTA:** The Contractor shall be paid for services rendered under this Master Contract as provided hereinafter. Such payment shall be full compensation for the services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the services as defined and authorized in each Task Order.
 - A. **Compensation:** Payment for work accomplished under the terms of this Master Contract shall be on the basis of the Contractor's Fee Schedule (Attachment A) negotiated for each Task Order. Pricing shall be firm and fixed for the first two (2) years of the contract. For the two (2) optional extension years of the Contract, the hourly rates of compensation shall increase by a rate not to exceed by more than one percent (1%) the amount of the increase in the previous year in the November to November Seattle/Tacoma/Bellevue Consumer Price Index (CPI-U).
 - B. **Maximum Compensation:** The maximum total compensation which may be paid for all Task Orders for the work described in Section 2 of this Master Contract shall be \$150,000.00. This amount may not be exceeded without prior written approval by JTA in the form of an amendment.
 - C. **Funding for this Project** is contingent upon the annual adoption of the Agency budget.
 - D. **Payment** shall be made by JTA within thirty (30) days of receipt of a correct invoice from the Contractor. Incorrect invoices are subject to rejection or correction by JTA.
 - E. **Subcontractor Billing:** The Contractor shall audit and review all invoicing and billing of subcontractor and assure JTA that all proper personnel and rates are applied in strict conformance with the Contract.
5. **PROPERTY RIGHTS:** All records or papers of any sort relating to JTA and to the Project will at all times be the property of JTA and shall be surrendered to JTA upon demand. All information concerning JTA and said projects, which is not otherwise a matter of public record or required by law to be made public, is confidential, and the Contractor will not, in whole or in part, now or at any time disclose that information without the express written consent of JTA.
6. **CONFIDENTIAL MATERIALS AND PUBLIC DISCLOSURE:**
 - A. This Contract and all records provided to JTA by Contractor hereunder may be public records subject to disclosure under the Washington State Public Records Act and/or other laws requiring disclosure or discovery of records. In the event JTA receives a request for such disclosure of materials reasonably marked as "Confidential", or "Proprietary", JTA will provide Contractor with fifteen (15) days' written notice prior to release of responsive records. The parties acknowledge that JTA is not liable for any release of records pursuant to public disclosure or discovery laws. The applicability or exercise of any exemption to redact or withhold a record is in JTA's sole and absolute discretion, and JTA is not liable for a good faith production of records under RCW 42.56.060.

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- B. Contractor shall mark certain record(s) as "Confidential" or "Proprietary" as appropriate given the potential sensitive subject of Contractor's work under this Contract. If Contractor fails to so mark record(s), then JTA, upon receipt of a request for disclosure, may release said record(s) without the need to satisfy the requirements of subsection A above.

7. INDEPENDENT CONTRACTOR RELATIONSHIP:

- A. The Contractor is and shall be at all times during the term of this Contract an independent contractor and not an employee of JTA and shall not be entitled to any of the usual benefits incident to employment with JTA.
- B. Any and all employees of the Contractor, while engaged in the performance of any work or service required by the Contractor under this Contract, shall be considered employees of the Contractor only and not of JTA and any and all claims that may or might arise under the Workers' Compensation Act on behalf of said employees, while so engaged and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Contractor's employees, while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Contractor.
- C. The Contractor shall not engage, on a full or part-time basis, or other basis, during the period of the Contract, any professional or technical personnel who are, or have been at any time during the period of this Contract, in the employ of JTA, except regularly retired employees, without written consent of JTA.

- 8. DESIGNATED EMPLOYEES:** The employees who will perform the services on behalf of the Contractor shall be designated by the Contractor and a list of such designated employees shall be provided to JTA at the commencement of Contractor's work. No other individuals may perform the services required by this Contract without express written notice to JTA.

- 9. SUBCONTRACTORS:** Subcontractors, if any, who will perform work under this Contract shall be the firms designated in this Contract, if any. No other subcontractors shall perform the services required under this Contract without the express written permission of JTA. The Contractor is expected to audit and review all invoicing and billing by subcontractors and will ensure that all personnel and billing rates are applied in strict conformance of the Contract.

10. ETHICS:

- A. The Contractor warrants that it has not employed nor retained any company, firm or person, other than a bona fide employee working solely for it, to solicit or secure this Contract, and that it has not paid or agreed to pay any company, firm or person, other than a bona fide employee working solely for it, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent up on or resulting from the award or making of this Contract. For breach or violation of this warranty, JTA shall have the right to annul this Contract without liability.
- B. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising there from.
- C. No member, officer, or employee of JTA or of a local public body during his tenure shall have any interest, direct or indirect, in this Contract or its proceeds.

- D. Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, disability, age, marital status, political affiliation, national origin, and/or any protected classifications under state or federal laws.

11. TERM OF CONTRACT: This Contract shall be effective as of the date first written above and shall expire on December 15th, 2021. This Contract may be extended for two (2) additional one-year periods upon the consent of both parties hereto.

12. ASSIGNMENT: This Contract may not be assigned or otherwise transferred by either party hereto, nor will the Contractor delegate, nor hire additional persons to perform services and duties under this Contract, without the advance written consent of JTA.

13. WAGE AND HOURS LAW COMPLIANCE: Contractor shall comply with all applicable provisions of the Fair Labor Standards Act and all other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save JTA free, clear and harmless from all actions, claims and expenses arising out of said Act and rules and regulations that are or may be promulgated in connection herewith.

14. SOCIAL SECURITY AND OTHER TAXES: Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which is now or may during the term of the Contract be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work on this Project and under this Contract and shall assume exclusive liability thereof, and meet all requirements there under pursuant to any rules or regulations.

15. INSURANCE:

- A. The Contractor shall procure and maintain for the duration of this Contract professional liability insurance with coverage limits of at least \$1,000,000 per occurrence against claims for errors and omissions causing injury to persons or damage to property or business losses that may arise from or be in connection with the Contractor's own acts, errors, or omissions including those of the Contractor's agents, representatives, employees, Subcontractors or Subcontractors' employees.
- B. JTA shall be named as additional insureds on the following Contractor's liability insurance policies, and before beginning work, Contractor shall provide Certificates of Insurance listing JTA as additional insureds on policies providing the types and minimum limits of coverage as follows:
1. Business auto coverage for any auto no less than \$1,000,000 per accident limit.
 2. Commercial general liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, personal and bodily injury (including death), and employer's liability.

JTA reserves the right to receive a certified and complete copy of all of the Contractor's current insurance policies with all endorsements upon fifteen (15) days' notice.

- C. The Contractor is responsible for the payment of any deductible or self-insured retention that is required by any of the Contractor's insurance carriers. If JTA is required to contribute to the deductible under any of the Contractor's insurance policies, the Contractor shall reimburse JTA the full amount of the deductible.
- D. It is the intent of this Contract for the Contractor's insurance to be considered primary in the event of a loss, damage or suit. JTA's own insurance will be considered excess coverage in respect to JTA. Additionally, the Contractor's commercial general liability policy must provide cross-liability coverage as would be achieved under a standard Insurance Services Organization (ISO) separation of insureds clause.
- E. The Contractor shall request from its insurer a modification of the ACORD certificate to include language that notification will be given to JTA for any cancellation, suspension or material change in the Contractor's coverage.

16. DEFENSE AND INDEMNIFICATION AGREEMENT: To the extent permitted by law, the Contractor shall specifically and expressly defend, indemnify, and hold harmless, JTA, its commissioners, officers, agents and employees at its own expense from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatsoever kind in nature, including reasonable attorneys' fees and claims by the employees of the Contractor, arising out of and in connection with performance of this Contract and the obligations hereunder as a result of Contractor's own negligence or alleged negligence, or negligence or alleged negligence of its officers, agents, employees and subcontractors. Contractor agrees that JTA is entitled to select and appoint its own counsel for defense of any suit, claim or action subject to the defense and indemnity provisions herein. If such suits, claims, actions, losses, costs, penalties, and damages are caused by or result from the concurrent negligence of the Contractor and JTA, then this defense and indemnity provision shall be valid and enforceable only to the extent of the Contractor's negligence. In instances of alleged concurrent negligence, Contractor shall provide a defense to JTA pending the final determination of Contractor and JTA's proportionate share of negligence, if any. Further, Contractor shall not be required to hold JTA harmless or defend JTA, its officers, agents, and employees from any and all suits, claims, actions, losses, costs, penalties, and damages arising from the sole negligence of JTA, its officers, agents, and employees. This indemnification obligation shall include, but is not limited to, all claims brought against JTA by an employee or former employee of the Contractor.

The indemnification provided herein shall apply to and require each party to defend, indemnify and hold harmless the other party for claims brought by an employee of one party against the other party if said claims are alleged to have arisen from the alleged negligent actions or omissions of the employee's employer, and in such case, the Contractor and JTA, with respect to each other only, waive and will not assert against each other, any immunity under the Washington State Insurance Act (RCW Title 51). This waiver is limited to actions by and between the Contractor JTA and does not extend to the employees of either party. The Contractor and JTA expressly do not waive their immunity against claims brought by their own employees.

The parties' rights and obligations with regard to defense and indemnity provisions will survive the termination or expiration of this Agreement.

17. CONTENT AND UNDERSTANDING: This Contract contains the complete and integrated understanding and agreement between the parties and supersedes any previous understanding, agreement or negotiation with oral or written.

18. NOTICES: Any notice given by either party to the other hereunder shall be served, if delivery in person, to the office of the representative authorized and designated in writing to act for the respective party, or if deposited in the mail, properly stamped with the required postage and addressed to the office of such representative or address it may have given to the other party by giving such other party due notice in writing of such change.

To the Contractor: Ronald Leimkuhler, PE, Principal
 KPFF Consulting Engineers
 1601 5th Avenue, Suite 1600
 Seattle, WA 98101
 Tel: (206) 926-0525
 E-mail: ronl@kpff.com

To JTA: Tammi Rubert, General Manager
 Jefferson Transit Authority
 Port Townsend, WA 98368
 Tel: (360) 385-3020x107
 Fax: (360) 385-2321
 E-mail: trubert@jeffersontransit.com

19. CHANGES: No change, alteration, modification, or addition to this Contract will be effective unless it is in writing and properly signed by both parties hereto.

20. SEVERABILITY: If one or more of the Contract clauses is found to be unenforceable, illegal or contrary to public policy, the Contract will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.

21. AUTHORIZED REPRESENTATIVE: In performing the services defined herein, Contractor shall report to Nicole Gauthier, Project Manager, or Jayme Brooke, Grants & Procurement Coordinator. Contractor's Representative is Zach Gray, Project Manager.

22. ENERGY CONSERVATION: The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

23. ACCESS TO RECORDS AND REPORTS: The Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of

making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

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

In the case of all negotiated contracts and contracts for construction, reconstruction or improvement of facilities and equipment, which were entered into under other than competitive bidding procedures, contractor agrees that JTA, the Comptroller General of the United States or any of their duly authorized representatives, shall, for the purpose of audit, examination, excerpts and transcriptions be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, contractor agrees to maintain all required records for at least three (3) years after JTA makes final payment and all other pending matters pertaining to the contract are closed.

- 24. APPLICABILITY AND FEDERAL GRANT CONTRACT (FEDERAL CHANGES):** This procurement is subject to a financial assistance contract between JTA and the U.S. Department of Transportation. The contractor will be required to comply with all terms and conditions that have been included in this procurement specification.

In addition, Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between JTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to comply shall constitute a material breach of this contract. The Contractor agrees to accept all changed requirements that apply to this contract.

- 25. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES:** The Purchaser and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express, written consent by the Federal Government the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to JTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

- 26. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS:** The contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U. S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Project.

Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the contractor further acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification to JTA in connection with this project, JTA and/or the Federal Government reserve the right to the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent that JTA and/or the Federal Government deems appropriate.

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

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

27. TERMINATION OF CONTRACT:

A. Termination for Convenience:

JTA for its convenience may terminate this contract, in whole or in part, at any time by written notice to the Contractor. After receipt of a Notice of Termination, and except as directed by JTA, the Contractor shall immediately stop work as directed in the Notice, and comply with all other requirements in the Notice. The Contractor shall be paid its costs, including necessary and reasonable contract close-out costs and profit on that portion of the work satisfactorily performed up to the date of termination as specified in the Notice. The Contractor shall promptly submit its request for the termination payment, together with detailed supporting documentation. If the Contractor has any property in its possession belonging to JTA, the Contractor will account for the same and dispose of it in the manner JTA directs. All termination payment requests are subject to cost/price analysis to determine reasonableness and compliance with the contract, the contract termination agreement, applicable laws and regulations.

B. Termination for Default:

In addition to termination for convenience, if the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services and the Contractor fails to perform in the manner called for in the contract, or if the contractor fails to comply with any other material provisions of the contract, JTA may terminate this contract, in whole or in part, for default. Termination shall be effected by serving a Notice of Termination on the Contractor, setting forth the manner in which the Contractor is in default and the effective date of termination. The Contractor will only be paid the contract price for goods delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract less any damages to JTA caused by such default. All termination payment requests are subject to cost/price analysis to determine reasonableness and compliance with the contract, the contract termination agreement,

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applicable laws and regulations. If the Contractor has any property in its possession belonging to JTA, the Contractor will account for the same and dispose of it in the manner JTA directs.

If the contract is terminated, the rights, duties and obligations of the parties, including compensation to the Contractor, shall be determined in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract. The termination of this contract shall in no way relieve the Contractor from any of its obligations under this contract nor limit the rights and remedies of JTA hereunder in any manner.

If it is later determined by JTA that the Contract had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, JTA, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

JTA in its sole discretion may, in the case of a termination for breach or default, allow the contractor fourteen (14) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to JTA's satisfaction the breach or default or any of the terms, covenants, or conditions of the Contract within fourteen (14) calendar days after receipt by Contractor of written notice from JTA setting forth the nature of said breach or default, JTA shall have the right to terminate the Contract with a written 30-day cancellation notice without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude JTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

C. Termination or Suspension for Non-Appropriation:

JTA's Board of Commissioners may cancel this contract at the end of the then current fiscal period for non-appropriation of funds. Such cancellation shall be upon thirty (30) days written notice to the Contractor. JTA's fiscal period ends December 31 of each year. If the contract is terminated as provided in this subsection JTA will be liable only for payment in accordance with the terms of this contract for costs incurred prior to the effective date of termination; and the Contractor shall be released from any obligation to provide further services pursuant to the contract as are affected by the termination. If the Contractor has in its possession any property belonging to JTA, the Contractor shall account for same and dispose of it in the manner JTA directs.

Funding under this contract beyond the current appropriation year is conditional upon the appropriation by the JTA Authority Board of sufficient funds to support the activities described in this contract. Should such an appropriation not be approved, the contract will terminate at the close of the current appropriation year and the termination will be processed as a termination for convenience. Termination may be for all or part of the contract. In addition, JTA reserves the right to suspend delivery of all or part of an order if it is in the best interest of the Agency.

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28. REQUIREMENTS: The following requirements apply to the underlying contract:

- A. Nondiscrimination: In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity: The following equal employment opportunity requirements apply to the underlying contract:
 - 1. Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - 2. Age: In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - 3. Disabilities: In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary, to identify the affected parties.

29. CONTRACT BREACHES AND DISPUTE RESOLUTION: Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be subject to the dispute resolution procedures in this Subparagraph. Prior to the initiation of any action or proceeding to resolve disputes between JTA and Contractor, the parties shall make a good faith effort to resolve any such disputes by negotiation between representatives with decision-making power,

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who shall not have substantive involvement in the matters involved in the dispute, unless the parties otherwise agree. Failing resolution, the parties shall attempt to resolve the dispute through a mediation conducted by a person(s) or organization experienced in mediation initiated within thirty (30) days from the date of the request unless extended by agreement of both parties. The positions expressed and mediator's recommendations, if any, shall not be admissible as evidence in any subsequent proceeding. . If either party seeks and receives legal counsel, the prevailing party shall be awarded reasonably attorney's fees paid and/or billed whether the dispute is resolved through settlement or arbitration. The prevailing party is defined as the single party in whose favor a net monetary settlement or arbitration award is received after all offsets, back charges and counterclaims are resolved and regardless of which party may have prevailed on which issue. The determination of the prevailing party shall supersede all statutes, court rules and offers of settlement.

At all times during the course of any unresolved dispute between the parties, the Contractor shall supervise, direct and perform the Work in a diligent and professional manner and without delay as provided under the terms of the Contract. The good faith completion of negotiation efforts and mediation pursuant to this Article shall be a prerequisite to the filing of any litigation.

Venue for any such litigation between the parties arising out of this Contract or related to the Project shall be exclusively in Jefferson County Superior Court in Port Townsend, Washington.

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

30. DISADVANTAGED BUSINESS ENTERPRISES (DBE):

- A. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. Contractors are encouraged to cooperate with JTA in its effort to ensure equal and open access to JTA's contracting opportunities for DBEs. A separate contract goal for DBE participation has not been established for this procurement.
- B. The contractor or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as JTA deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- D. The prime contractor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than thirty days from the receipt of each payment the prime contractor receives from JTA. The prime contractor agrees to not withhold retainage from sub-contractors' payments.

Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of JTA. This clause applies to both DBE and non-DBE sub-contractors.

- E. The contractor must promptly notify JTA whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of JTA.
- F. JTA will require contractors to submit regular reports of the actual payments made to DBE firms for work committed to at the time of contract award. JTA will review the reports submitted by the prime contractor and seek confirmation, as needed, that payment was actually made to the DBE firm.
- G. If a prime contractor is found not to be in compliance with its DBE commitment, it shall be so notified by JTA and directed to cure the problem within an appropriate time period. Failure by the prime contractor to comply may result in monetary penalties and partial or total termination for default with re-solicitation costs to be borne by the prime contractor or its bond. In addition, JTA may consider a contractor's non-compliance when evaluating contractor responsibility in future bids or proposals.

31. PROMPT PAYMENT:

- A. JTA will require contractors to submit regular reports of the actual payments made to DBE firms for work committed to at the time of contract award. JTA will review the reports submitted by the prime contractor and seek confirmation, as needed, that payment was actually made to the DBE firm.
- B. If a prime contractor is found not to be in compliance with its DBE commitment, it shall be so notified by JTA and directed to cure the problem within an appropriate time period. Failure by the prime contractor to comply may result in monetary penalties and partial or total termination for default with re-solicitation costs to be borne by the prime contractor or its bond. In addition, JTA may consider a contractor's non-compliance when evaluating contractor responsibility in future bids or proposals.

32. INCORPORATION OF FTA TERMS: The provisions contained herein include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in these contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated April 15, 1996, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any JTA requests that would cause JTA to be in violation of the FTA terms and conditions.

33. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES: JTA and contractors are required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 et seq. and 49 U.S.C. § 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. § 1612; and the following regulations and any amendments thereto:

- A. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)", 49 C.F.R. Part 37;
- B. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance", 49 C.F.R. Part 27;

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- C. U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles", 49 C.F.R. Part 38;
- D. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services", 28 C.F.R. Part 35;
- E. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities", 28 C.F.R. Part 36;
- F. General Services Administration regulations, "Construction and Alteration of Public Buildings", "Accommodations for the Physically Handicapped", 41 C.F.R. Part 101-19;
- G. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act", 29 C.F.R. Part 1630;
- H. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled", 47 C.F.R. Part 64, Subpart F; and
- I. FTA regulations, "Transportation for Elderly and Handicapped Persons", 49 C.F.R. Part 609.

34. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- A. **Overtime Requirements.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.
- B. **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- C. **Withholding for Unpaid Wages and Liquidated Damages.** JTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- D. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
- E. **Payrolls and Basic Records (Nonconstruction).** Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of work. Such records shall contain the name, address, and social security number of each such worker, his or her classification, hourly rates of wages paid, daily and weekly

number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- 35. CERTIFICATION REGARDING DEBARMENT SUSPENSION AND OTHER RESPONSIBILITY MATTERS (applicable to contracts over \$25,000):** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

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

The certification in this clause is a material representation of fact relied upon by JTA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to JTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Jefferson Transit Authority PROFESSIONAL SERVICES AGREEMENT
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IN WITNESS WHEREOF, the parties hereto have signed this Contract on the day and year written below.

JEFFERSON TRANSIT AUTHORITY



Tammi Rubert, General Manager

1.25.2021

Date

KPFF CONSULTING ENGINEERS



Ronald Leimkuhler, PE

578-063-612

WA UBI No.

12/3/20

Date

	Jefferson Transit Authority PROFESSIONAL SERVICES AGREEMENT
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November 15, 2020

Jayne Brooke
Grants and Procurement Coordinator
Jefferson Transit Authority
634 Corners Road
Port Townsend, Washington 98386

Subject: Haines Place Transit Center

Dear Jayne:

KPFF Consulting Engineers (KPFF) is pleased to submit this proposal to provide engineering and professional design services for the Haines Place Transit Center (HPTC). The existing transit center facility is located at 440 12th Street, Port Townsend, Washington 98368.

We understand Jefferson Transit Authority is interested in having KPFF and our team assist in providing transit center planning and design services to increase capacity at the HPTC facility to allow for more bus parking, improve traffic flow, provide additional ingress and egress for buses, and enhance safety. KPFF will assist JTA in evaluating short-term and long-term upgrades that will be required to support the desired improvements for the transit center facility.

Jefferson Transit Authority may elect to construct improvements in a phased approach to accommodate interim and final build-out conditions and dependent upon available project funding sources. KPFF will work with Jefferson Transit Authority to identify programmatic needs and requirements, identify suitable alternatives to allow for the expansion of the existing HPTC facility, and prepare preliminary and final design construction documents for a modified HPTC facility.

Jefferson Transit Authority may request KPFF's support in determining potential Federal Transit Authority (FTA) grants that may be sought after to provide necessary project funding. Support may be needed from the consultant team to assist the agency through the grant acquisition process and associated requirements for obtaining approvals.

KPFF will provide Prime Management, Civil and Structural Engineering, Survey and Master Planning services. KPFF subconsultants are as follows:

Fehr & Peers	Traffic Study and Engineering
IBI Group	Architecture and Electrical Engineering
FSi Consulting Engineers	Mechanical Engineering
Nakano Associates	Landscape Architecture
Aspect Consulting	Geotechnical Engineering
Watershed Science & Engineering	Hydraulic Engineering

SCOPE OF WORK

The scope of work presented below is based on our understanding that Jefferson Transit Authority intends to issue a Master Contract Agreement to KPFF for the work and individual task orders will be issued as the project progresses. Included with this proposal is a detailed scope and fee breakdown for Task Order 1 – Master Planning Review, Alternatives Analysis, & Planning Level Estimating.

Subsequent work orders will be issued at the discretion of Jefferson Transit Authority. KPFF has prepared a scope of work in bullet list for Task Order 2 through 5, which are anticipated to complete the project. The estimated fees for each work order are based in part on the following assumptions.

Assumptions:

1. The project budget for design and professional services is \$150,000.
2. Construction funding is unsecured and there no federal funds allocated to this project.
3. Jefferson Transit Authority may seek Federal Transit Authority (FTA) grant funding to support project funding.
4. Depending on available funding, project definition may vary.

TASK ORDER 1 – MASTER PLANNING REVIEW, ALTERNATIVES ANALYSIS, AND PLANNING LEVEL ESTIMATING

KPFF will work with Jefferson Transit Authority to determine short and long-term goals and objectives for the HPTC project to determine programmatic needs, project requirements, and information needed to support subsequent phases of design for the transit center improvements. KPFF will evaluate the existing facility and ongoing operations to determine phasing and sequencing necessary for maintaining operations during construction and for future phased improvements depending on available project funding.

Tasks:

1. Prepare for and attend kickoff meeting.
2. Review and confirm base map information from previous survey work.
3. Coordinate with design team subconsultants to acquire input needed for consideration of master planning and alternatives evaluation process.
4. Identify and confirm short and long-term goals for HPTC facility.
5. Prepare up to three (3) alternative layouts to be reviewed and confirmed by Jefferson Transit Authority and appropriate stakeholder parties for interim and final build-out condition. Selection of a preferred alternative will lead to an effort to define the implementation phases and priorities.
6. Identify planning level construction costs for the three (3) alternatives.
7. Support for public engagement process.
8. Project Management, subconsultant contracts, invoicing and monthly reports.

Deliverables:

1. Meeting agendas and minutes.
2. Up to three (3) alternative layout plans for the modified transit center.

3. Planning level project cost estimates for the various alternatives to assist with determining project budgetary needs.
4. A brief 2 to 3 page memorandum identifying outcome of master planning effort, alternatives evaluation process, and future phasing to allow for additional growth and expansion.

Assumptions:

1. Kick off meeting will occur 3rd or 4th week of January 2021.
2. Master planning effort with alternatives evaluation completed by mid to late-March 2021.
3. Preferred site identified by early May 2021.
4. Board approval of preferred site by end of June 2021.

TASK ORDER 2 – GRANT ACQUISITION SUPPORT AND ENVIRONMENTAL PERMITTING EVALUATION

KPFF will work with Jefferson Transit Authority to review and identify potential FTA funding sources, requirements, and project schedule relative to the grant acquisition and environmental permitting process that will need to be evaluated. The following scope items are anticipated during this phase of work:

- Collaborate with Jefferson Transit Authority to understand how the FTA requirements may apply to project, determine the process in order to utilize FTA funding for project delivery, and identify potential funding ranges
- Evaluate environmental permitting requirements, including nexus to United States Army Corps of Engineers permits relative to flood zone requirements, and evaluate timeline for necessary approvals.
- Develop an overall project schedule for project completion to assist in the decision making process relative to grant acquisition and funding execution.
- Identify public engagement process as needed to comply with FTA requirements.

TASK ORDER 3 – PRELIMINARY ENGINEERING (30-PERCENT DESIGN)

The KPFF team will move into the Preliminary Engineering design phase for the modified HPTC project upon direction from Jefferson Transit Authority. The project will be designed to meet the agency's needs and available project funding for the anticipated improvements. This phase may be dependent on the outcome of the grant acquisition and environmental permitting evaluation process, the selection of a preferred alternative with a suitable funding source, and other considerations to be made by the agency.

The following scope items are anticipated during this phase of work:

- Update Topographic Survey
- Plans
- Environmental Documentation, Permitting
- Specification Outline

- Cost Estimate
- Public Engagement
- Project Management

TASK ORDER 4 – FINAL ENGINEERING (60, 90, & 100-PERCENT DESIGN)

The KPFF team will continue advancing design effort and coordination from the previous Preliminary Engineering design phase into the Final Engineering design phase in an effort to prepare construction bid documentation for the modified HPTC facility. The following scope items are anticipated during this phase of work:

- Soils Investigation and Geotechnical Report
- Draft and Final Hydraulic Report
- Traffic Study (If Required)
- Updated and Final Plans
- Draft and Final Specifications
- Updated and Final Cost Estimate
- Construction and Building Permit Support
- Public Engagement
- Project Management

TASK ORDER 5 – CONSTRUCTION SUPPORT SERVICES

The KPFF team will assist Jefferson Transit Authority with the Construction Support Services phase starting with bid assistance through project closeout. The following scope items are anticipated during this phase of work.

- Provide Addenda and Clarifications
- Attend Preconstruction Meeting
- Review Submittals and RFIs
- Review Project Closeout and FTA Funding Stipulations

SCHEDULE

The schedule for Task Orders 1 through 5 is assumed to be as follows:

Task Order	Begin Date	End Date
1. Master Planning, Alternatives Analysis and Planning Level Estimating	January 25, 2021	June 4, 2021

2. Grant Acquisition Support and Environmental Permitting Evaluation	June 7, 2021	July 30, 2021
3. Preliminary Engineering Jefferson Transit Authority Review	August 2, 2019 September 13, 2021	September 10 2021 September 24, 2021
4. Final Engineering	September 27, 2021	May 27, 2022
5. Construction Support Services	TBD	TBD
5. Advertise and Award	TBD	TBD
5. Contractor NTP	TBD	
5. Construction	TBD	TBD

ESTIMATED FEES

We propose to provide the above services for Task Orders 1 through 3 in accordance with the Master Contract Conditions, which are tied to this proposal. Task Orders 4 and 5 will be determined upon a preferred design solution that is supported by available funding, therefore these task amounts are undetermined at this stage. Additional coordination with Jefferson Transit Authority will be required to negotiate appropriate level of effort for preferred modifications to the HPTC facility.

Task Order 1	\$35,000	estimated
Task Order 2	\$15,000	estimated
Task Order 3	\$45,000	estimated
Task Order 4	N/A	undetermined
Task Order 5	N/A	undetermined
Total	<u>\$95,000</u>	estimated

We appreciate the opportunity to continue working with you on this project. If this proposal meets your approval, please sign below and return one copy for our files. If you have any questions concerning this proposal, please feel free to call me at (206) 926-0590.

Sincerely,

Zachary R. Gray, PE, ENV SP
Associate

Initials:

Enclosure