Summary Title: Amendment Three to Capitol Advocates Contract HSR

Title: Approval of Amendment Three to Contract S1013554 with Capitol Advocates, Inc. to Extend the Term and Add $42,900 for a Total Not to Exceed Amount of $136,400 Legislative Advocacy Services Related to High Speed Rail

From: City Manager

Lead Department: City Manager

Recommendation

Staff recommends that the Council approve

(1) Amendment number three to the contract with Capitol Advocates Inc. (CAI)
   To extend the term to include March 1, 2011 through August, 2011 and add $42,900 for legislative advocacy services which includes a monthly retainer of $5,000; monthly expenses not to exceed $500; $5,000 contingency and $4,900 in expenses for Washington, DC legislative trip taken in March 2011

(2) Reimbursement from the budget stabilization reserves to cover the additional costs for this contract extension.

Executive Summary

The City Council Rail Committee met February 3rd and April 4th and discussed extension of the contract with CAI for an additional six months taking the contract through August of this year. The Committee recommended that the Council approve such extension.

Background and Discussion

The City originally retained the services of CAI from February 2010 to June 30, 2010 (original contract). The City then entered into a contract amendment one which extended the original contract to October 31, 2010. The City then entered into contract amendment two which extended the contract to February 28, 2011. Staff seeks contract amendment three to extend the contract to August 31, 2011.

Contract amendment number two was at a rate not to exceed $5,000 per month, including expenses, which CAI has been billing the City since that amendment was executed. It was recently called to the City’s attention that CAI has been billing for expenses during this period, which were not eligible for reimbursement. This issue has been rectified and, with payment of
the February invoice, the City will have paid CAI the total $30,000 authorized for the period
covered by contract amendment number two.

Contract amendment number three has three components. First, it proposes to pay the CAI a
monthly retainer of $5,000 per month for legislative advocacy services, as well as up to $500
per month in expense reimbursement. CAI has requested to add reimbursement for expenses
because it splits the costs of expenses related to high speed rail advocacy between the three
cities (i.e., Atherton, Menlo Park and Palo Alto). CAI has communicated to the City it would not
be fair and equitable to not charge Palo Alto for its share of expenses while charging the other
two cities. Second, it would provide for payment for legislative advocacy services that the
contractor performed in March 2011 on a trip to Washington, DC. The Palo Alto share of the
cost is $4,900 dollars. This includes both CAI’s time and expenses (time $3,900 + $1,000
expenses). Finally, given that there may be a need for services above and beyond normal
legislative advocacy services, an additional $5,000 has been included in the contract amount as
a contingency. These funds would not be authorized without written approval of the City
Manager or designee. Thus, the total contact amount requested is $42,900 as follows:

- Monthly retainer at $5,000/month x 6 months = $30,000
- Monthly expenses up to $500/month x 6 months = $3,000
- March 2011 Washington, DC trip expenses = $4,900
- Contract contingency amount = $5,000

The City Council Rail Committee reviewed extending the contract through August 2011 and
recommended approval. In addition, staff is seeking approval to fund the extension via
reimbursement from the budget stabilization reserves.

**Timeline**

Contract amendment number three will take the contract through August 31, 2011.

**Attachments:**

- Attachment A: Capitol Advocates Contract (PDF)
- Attachment B: Amendment one to Capitol Advocates, Inc. Contract (PDF)
- Attachment C: Amendment Two to Capitol Advocates, Inc. Contract (PDF)
- Attachment D: Amendment Three to Capitol Advocates, Inc. Contract (DOC)

Prepared By: Rob Braulik, Project Manager

Department Head: James Keene, City Manager

City Manager Approval: James Keene, City Manager
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
CAPITOL ADVOCATES
FOR PROFESSIONAL SERVICES

This AGREEMENT is entered into on this 18th day of February, 2010, by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and CAPITOL ADVOCATES, a Professional Services Firm Consultant, located at Sacramento, California ("CONSULTANT").

RECVTALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to retain consultant pertaining to the High Speed Rail Project ("Project") and desires to engage a consultant to provide Government Affairs services in connection with the Project ("Services").

B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit "A", attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in Exhibit "A" in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM.
The term of this Agreement shall be from the date of its full execution through June 30, 2010 unless terminated earlier pursuant to Section 19 of this Agreement.
SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit "B", attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY's agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit "A", including both payment for professional services and reimbursable expenses, shall not exceed Twenty Two Thousand Five Hundred Dollars ($22,500.00). In the event Additional Services are authorized, the total compensation for services and reimbursable expenses shall not exceed Twenty Five Hundred Dollars ($2,500)

Thereby the value of this agreement shall not exceed $25,000 (Contract plus Contingency) Dollars.

The applicable rates and schedule of payment are set out in Exhibit "C-1", entitled "HOURLY RATE SCHEDULE," which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C". CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described in Exhibit "A".

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT's billing rates (set forth in Exhibit "C-1"). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT's payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City's project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT's supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the
professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT shall correct, at no cost to CITY, any and all errors, omissions, or ambiguities in the work product submitted to CITY, provided CITY gives notice to CONSULTANT. If CONSULTANT has prepared plans and specifications or other design documents to construct the Project, CONSULTANT shall be obligated to correct any and all errors, omissions or ambiguities discovered prior to and during the course of construction of the Project. This obligation shall survive termination of the Agreement.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of the CITY’s stated construction budget, CONSULTANT shall make recommendations to the CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of the CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT’s obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Ravi Mehta as the Firm's Representative to have supervisory responsibility for the performance, progress, and execution of the Services and to represent CONSULTANT during the day-to-day work on the
Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY’s project manager. CONSULTANT, at CITY’s request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property.

The City’s project manager is Steve Emelie, Deputy City Manager Department, City of Palo Alto Palo Alto, CA 94303, Telephone: 650-329-2354. The project manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of the Services. The CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT’s records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements (“Claims”) resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT’s services and duties by CITY shall not...
operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best's Key Rating Guide ratings of A-VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY’s Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days prior written notice of the cancellation or modification, CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY’s Purchasing Manager during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

Section Deleted from Agreement.
SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the project director
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING. CONSULTANT shall comply with the City’s Environmentally Preferred Purchasing policies which are available at the city’s Purchasing Department which are incorporated by reference and may be amended from time to time.

SECTION 24. NON-APPROPRIATION
24.1. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This Section 24.8 shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

24.2. The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

SECTION 25. MISCELLANEOUS PROVISIONS.

25.1. This Agreement will be governed by the laws of the State of California.

25.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

25.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

25.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This document may be amended only by a written instrument, which is signed by the parties.

25.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

25.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

25.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

25.10 If, pursuant to this contract with CONSULTANT, City shares with CONSULTANT personal information as defined in California Civil Code section 1798.81.5(d) about a California resident ("Personal Information"), CONSULTANT shall maintain reasonable and
appropriate security procedures to protect that Personal Information, and shall inform City immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. CONSULTANT shall not use Personal Information for direct marketing purposes without City’s express written consent.

24.11 All unchecked boxes do not apply to this agreement.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

CAPITOL ADVOCATES

Purchasing Manager (Required for contracts over $25,000)

By:  
Name:  
Title:  

Attachments:

EXHIBIT "A":  SCPE OF WORK
EXHIBIT "B":  SCHEDULE OF PERFORMANCE
EXHIBIT "C":  COMPENSATION
EXHIBIT "C-1":  SCHEDULE OF RATES
EXHIBIT "D":  INSURANCE REQUIREMENTS
EXHIBIT “A”
SCOPE OF SERVICES

Professional Services for State High Speed Rail Advocacy

Introduction

The City of Palo Alto is actively participating in the implementation of the California High Speed Rail Project (CAHSR) since the passage of Proposition 1A in November 2008. Because CAHSR is proposed to utilize the existing Caltrain right-of-way owned collectively by the Joint Powers Board (JPB), the project has the potential to profoundly change the character and quality of the community. Because decisions effecting Palo Alto are happening in Sacramento, the City of Palo Alto desires to retain effective advocacy.

The City of Palo Alto also recognizes the statewide importance of CAHSR in providing a sustainable alternate transportation. CASHR has the potential, if done correctly, to benefit and enhance Palo Alto.

The Palo Alto City Council has formed a High Speed Rail Subcommittee comprised of four Council Members appointed by the Mayor. The City Council has also adopted a set of guiding principles which provide direction to the subcommittee when advocating various City positions. The guiding principles are attached to the Scope of Services and shall be used by the consultant when advocating on behalf of the City.

Scope of Services

High Speed Rail Authority

High Speed Rail Authority oversees the implementation of the project statewide. The consultant will be required to keep the City informed of Authority issues, proposals and other activities. The consultant shall provide regular reports, highlight pending issues and advocate City positions within the parameters of the Council adopted Guiding Principles.

Legislative

Because of the fast paced and dynamic nature of CAHSR pending legislature, the consultant will need to report and highlight proposed bills and amendments impacting the implementation in Palo Alto. Typical consultant activities may include meetings, phone calls and email with elected officials and their staff. The consultant shall represent City positions within the parameter of the Guiding Principles. The consultant shall frequently check in and coordinate with the Palo Alto City Manager or his designee on legislative matters impacting the City of Palo Alto.

Local Elected and Appointed Officials
The CAHSR San Jose to San Francisco segment is managed through a Memorandum of Understanding with Caltrain Joint Power Board (JPB). Consequently the consultant will need to advocate City positions to local elected and appointed officials. City positions shall be as directed by the City Council, Council Subcommittee or in conformance with the City's Guiding Principles. Regular reports highlighting potential issues shall be provided to the City.

CAHSR Project Team

CAHSR utilizes numerous contractors to manage the implementation of the project. The consultant will need to coordinate with designated project team members on a regular basis. The consultant will provide regular updates and status reports to the City Manager or his designee.

Meetings

The consultant will from time to time be required to meet with City of Palo Alto City Council, Committees, Board and Commission as well as community groups. The purpose of these meetings will be to provide status reports and to receive direction. Consultant may be required to provide advice and recommendations on political and administrative strategies relative to CAHSR.

EXHIBIT "B"
SCHEDULE OF PERFORMANCE

CONSULTANT shall perform the Services as indicated in the Scope of Services (Exhibit A).
EXHIBIT “C”
COMPENSATION

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement based on the hourly rate schedule attached as Exhibit C-1.

The compensation to be paid to CONSULTANT under this Agreement for all services described in Exhibit “A” (“Services”) shall be at a monthly retainer rate of $5000 dollars per month, plus reimbursable expenses, and shall not exceed $22,500. CONSULTANT agrees to complete all Services, including reimbursable expenses, within this amount. In the event CITY authorizes any Additional Services, the maximum compensation shall not exceed $2500 dollars. Therefore maximum value of this agreement shall not exceed $25,000 dollars. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost.

A. Travel outside the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost subject to the City of Palo Alto’s policy for reimbursement of travel and meal expenses for City of Palo Alto employees.

B. Long distance telephone cellular phone, facsimile transmission and postage charges are reimbursable at actual cost.

All requests for payment of expenses shall be accompanied by appropriate backup information. Any expense anticipated to be more than $500 shall be approved in advance by the CITY’s project manager.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY’s project manager’s request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT’s proposed maximum compensation, including reimbursable expenses, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY’s Project Manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.
EXHIBIT “C-1”
HOURLY RATE SCHEDULE

Hourly Rate is $325 dollars per hour.

Monthly Retainer is $5000 plus expenses.
AMENDMENT NO. ONE TO CONTRACT NO. S10135594
BETWEEN THE CITY OF PALO ALTO AND
CAPITOL ADVOCATES, INC.

This Amendment No. One to Contract No. S10135594 ("Contract") is entered into by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and Capitol Advocates, a Professional Services Firm, located at 1215 K Street, 17th Floor, Sacramento, California 95814 ("CONSULTANT").

RE C I T A L S:

WHEREAS, the Contract was entered into in February 2010 between the parties for the provision of governmental affairs services and legislative advocacy on the High Speed Rail Project; and

WHEREAS, the parties wish to retroactively extend the term of this agreement to include the period of July 2010 through February 2011, and to increase the total compensation under the contract by an additional Forty-Five Thousand Dollars ($45,000) for a total not to exceed amount of Seventy Thousand Dollars ($70,000);

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the parties agree:

SECTION 1. Section 2 (Term) is hereby amended to read as follows:

"SECTION 2. TERM. The term of this agreement shall be from the date of its full execution through February 28, 2011 unless terminated earlier pursuant to Section 19 of this Agreement."

SECTION 2. Section 4 (Compensation) is hereby amended to read as follows:

"SECTION 4. NOT TO EXCEED COMPENSATION. The Compensation to be paid to CONSULTANT for performance of the Services described in Exhibit "A," including both payment for professional services and reimbursable expenses, shall not exceed Seventy Thousand Dollars ($70,000). In the event Additional Services are authorized, the total compensation for services and reimbursable expenses shall not exceed $70,000.

The applicable rates and schedule of payment are set out in Exhibits "C" and "C-1," entitled "COMPENSATION" and "HOURLY RATE SCHEDULE," respectively, which are attached to and made a part of this Agreement.

Additional services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C." CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper
completion of the Project, but which is not included within the Scope of services described in Exhibit “A.”

SECTION 3. Section 19 is hereby amended to read as follows:

"SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, and 25.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.”

SECTION 4. The following exhibit to the Contract is hereby added to read as set forth in the attachment to this Amendment, which is incorporated in full by this reference:

a. Exhibit “C” entitled “COMPENSATION”.

SECTION 5. Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives executed this Amendment on the date first above written.
APPROVED AS TO FORM:

Sr. Deputy City Attorney

APPROVED:

Director of Administrative Services

Insurance Review

CITY OF PALO ALTO

City Manager

[CONSULTANT FIRM]

By: ______________________

Name: ____________________

Title: ____________________

By: ______________________

Name: ____________________

Title: ____________________

Taxpayer Identification No.

Attachments:
EXHIBIT "C": COMPENSATION
EXHIBIT “C”
COMPENSATION

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement based on the hourly rate schedule attached as Exhibit C-1.

The total compensation to be paid to CONSULTANT under this Agreement for the full contract term (February 2010 through February 2011) for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed a total of Seventy Thousand Dollars ($70,000). For the period of September 2010 through February 2011, the compensation to be paid to CONSULTANT under this Agreement for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed Five-Thousand Dollars ($5,000) per month. CONSULTANT agrees to complete all Services, including reimbursable expenses, within the amounts set forth in this Exhibit C.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY’s project manager’s request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT’s proposed maximum compensation, including reimbursable expenses, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY’s Project Manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.
AMENDMENT NO. TWO TO CONTRACT NO. S10135594
BETWEEN THE CITY OF PALO ALTO AND
CAPITOL ADVOCATES, INC.

This Amendment No. Two to Contract No. S10135594 ("Contract") is entered into October 5, 2010, by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and Capitol Advocates Inc., a Professional Services Firm, located at 1215 K Street, 17th Floor, Sacramento, California 95814 ("CONSULTANT").

RECIPIENTS:

WHEREAS, the Contract was entered into in February 2010 between the parties for the provision of governmental affairs services and legislative advocacy on the High Speed Rail Project; and

WHEREAS, the parties entered into a contract for legislative services that initially ended June 30, 2010 and whereas this contract was amended to provide for services through October 31, 2010; and

WHEREAS, the parties wish to extend the term of this agreement to include the period of November 1, 2010, through February 28, 2011, amend the Scope of Services to include additional legislative advocacy services as requested by CITY, and to increase the total compensation under the contract by an additional Forty Thousand Dollars ($40,000) for a total not to exceed amount of Eighty Five Thousand Dollars ($85,000).

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the parties agree:

SECTION 1. Section 2 (Term) is hereby amended to read as follows:

"SECTION 2. TERM. The term of this agreement shall be from the date of its full execution through February 28, 2011 unless terminated earlier pursuant to Section 19 of this Agreement."

SECTION 2. Section 4 (Compensation) is hereby amended to read as follows:

"SECTION 4. NOT TO EXCEED COMPENSATION. The Compensation to be paid to CONSULTANT for performance of the Services described in Exhibit "A," including both payment for professional services and reimbursable expenses, shall not exceed Eighty Five Thousand Dollars ($85,000). In the event Additional Services are authorized, the total compensation for services and reimbursable expenses shall not exceed $93,500.00.
The applicable rates and schedule of payment are set out in Exhibits "C" and "C-1," entitled "COMPENSATION" and "HOURLY RATE SCHEDULE," respectively, which are attached to and made a part of this Agreement.

Additional services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C." CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not specifically included within the Scope of Services described in Exhibit "A.", including, but not limited to, planning and facilitation of additional meetings and other legislative advocacy activities.

SECTION 3. Section 19 is hereby amended to read as follows:

"SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, and 25.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement."

SECTION 4. The following exhibit to the Contract is hereby added to read as set forth in the attachment to this Amendment, which is incorporated in full by this reference:

a. Exhibit "C" entitled "COMPENSATION".

Date -- #
Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives executed this Amendment on the date first above written.

CITY OF PALO ALTO

City Manager (Required on contracts over $85,000)
Purchasing Manager (Required on contracts over $25,000)
Contracts Administrator (Required on contracts under $25,000)

APPROVED AS TO FORM:

Senior Asst. City Attorney
(Required on Contracts over $25,000)

CAPITOL ADVOCATES, INC.

By: ________________________
Name: ________________________
Title: ________________________

Attachments:
EXHIBIT "C": COMPENSATION
EXHIBIT "C"
COMPENSATION

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement based on the hourly rate schedule attached as Exhibit C-1.

The total compensation to be paid to CONSULTANT under this Agreement for the full contract term (February 2010 through February 2011) for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed a total of Eighty Five Thousand Dollars ($85,000), which shall include a monthly fee of $5,000, plus fees for any additional services requested and approved in writing by the City Manager/or designee. For the period of August 15, 2010 through September 15, 2010 the compensation to be paid to CONSULTANT under this Agreement for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed Fifteen Thousand Dollars. For the period of October, 2010, through February, 2011, the compensation to be paid to CONSULTANT under this Agreement for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed Five Thousand Dollars ($5,000) per month. CONSULTANT agrees to complete all Services, including reimbursable expenses, within the amounts set forth in this Exhibit C.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY’s project manager’s request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT’s proposed maximum compensation, including reimbursable expenses, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY’s Project Manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.
This Amendment No. Three to Contract No. S10135594 ("Contract") is entered into March 1, 2011, by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and Capitol Advocates Inc., a Professional Services Firm, located at 1215 K Street, 17th Floor, Sacramento, California 95814 ("CONSULTANT").

RECITALS:

WHEREAS, the Contract was entered into in February 2010 between the parties for the provision of governmental affairs services and legislative advocacy on the High Speed Rail Project; and

WHEREAS, the parties entered into a contract for legislative services that was amended twice to provide for services through February 28, 2011; and

WHEREAS, the parties wish to extend the term of this agreement to include the period of March 1, 2011 through August 31, 2011, and to increase the total compensation under the contract by an additional Thirty-Two Thousand Dollars ($42,900) for a total not to exceed amount of One-Hundred Thirty-Six Thousand Four Hundred Dollars ($136,400).

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the parties agree:

SECTION 1. Section 2 (Term) is hereby amended to read as follows:

"SECTION 2. TERM. The term of this agreement shall be from the date of its full execution through August 31, 2011 unless terminated earlier pursuant to Section 19 of this Agreement."

SECTION 2. Section 4 (Compensation) is hereby amended to read as follows:

"SECTION 4. NOT TO EXCEED COMPENSATION. The Compensation to be paid to Consultant for performance of the Services described in Exhibit "A," including both payment for professional services and reimbursable expenses, shall not exceed One Hundred Thirty-Six Thousand Four Hundred Dollars ($136,400)."

The applicable rates and schedule of payment are set out in Exhibits "C".
And “C-1,” entitled “COMPENSATION” and “HOURLY RATE SCHEDULE,” respectively, which are attached to and made part of this Agreement.

Additional services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C.” CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of the CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not specifically included within the Scope of Services described in Exhibit “A.,” including, but not limited to, planning and facilitation of additional meetings and other legislative advocacy activities.

SECTION 3. The following exhibit to the Contract is hereby amended to read as set forth in the attachment to this Amendment, which is incorporated in full by this reference:

a. Exhibit “C” entitled “COMPENSATION”.

Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives executed this Amendment on the date first above written.

CITY OF PALO ALTO

__________________________________ By:_________________________
City Manager

Name:_________________________
Title:_________________________

CAPITOL ADVOCATES, INC.

_________________________________
Senior Asst. City Attorney

APPROVED AS TO FORM:

_____________________________

Attachments:
EXHIBIT "C": COMPENSATION
EXHIBIT “C”
COMPENSATION

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement based on the hourly rate schedule attached as Exhibit C-1.

The total compensation to be paid to CONSULTANT under this Agreement for the full contract term for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed a total of One Hundred Thirty-Six Thousand Four Hundred Dollars ($136,400). For the period of March 1, 2011 through August, 2011 the compensation to be paid to CONSULTANT under this Agreement for all services described in Exhibit “A” (“Services”) and reimbursable expenses shall not exceed Five Thousand Dollars ($5,000) per month plus reimbursable expenses up to five hundred ($500) dollars per month. The City has also authorized reimbursement and compensation for services performed on March 9th and 10th, 2011 for legislative trip to Washington DC as follows (a) $3,900 in compensation and b) $946.46 for expenses. Compensation also includes CONSULTANT agrees to complete all Services, including reimbursable expenses, within the amounts set forth in this Exhibit C.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY’s project manager’s request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT’s proposed maximum compensation, including reimbursable expenses, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing be the CITY’s project Manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.
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