

**THIS PRINT COVERS CALENDAR ITEM NO.: 10.2**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Parking and Traffic

**BRIEF DESCRIPTION:**

Approving various routine traffic and parking modifications as consent calendar items per the attached resolution.

**SUMMARY:**

- Under Proposition A, the SFMTA Board of Directors has authority to adopt parking and traffic regulations changes

**ENCLOSURES:**

1. SFMTAB Resolution

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO \_\_\_\_\_ Maxine Louie

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## PURPOSE

To approve various routine traffic and parking modifications.

## GOAL

### Benefit to the SFMTA 2008 – 2012 Strategic Plan:

- Goal 1 - Customer Focus: To provide safe, accessible, reliable, clean and environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy  
Objective - 1.1 - Improve safety and security across all modes of transportation
- Goal 2 - System Performance: To get customers where they want to go, when they want to be there  
Objective - 2.4 - Reduce congestion through major corridors  
Objective - 2.5 - Manage parking supply to align with SFMTA and community goals

## ITEMS:

- A. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "J" (2-HOUR TIME LIMIT, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - 8<sup>th</sup> Avenue, both sides, between Lincoln Way and Irving Street (1200 Block). **PH 11/14/08 Requested by Resident**
- B. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "Z" (2-HOUR TIME LIMIT, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - San Jose Avenue, both sides, between 29<sup>th</sup> and 30<sup>th</sup> Streets (700 Block). **PH 11/14/08 Requested by Resident**
- C. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "L" (2-HOUR TIME LIMIT, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - Blake Street, both sides, between Geary Boulevard and Euclid Avenue (1-99 block). **PH 11/14/08 Requested by Resident**
- D. ESTABLISH - UNMETERED MOTORCYCLE PARKING - Filbert Street, south side, between the driveways of 1879 and 1885 Filbert Street (a 13 foot zone); and Florida Street, west side, from the driveway of 24 Florida Street to 24 feet southerly. **PH 12/5/08 Requested by Residents**
- E. ESTABLISH - YIELD SIGN - Pacheco Street, northbound, at 14<sup>th</sup> Avenue. **PH 12/5/08 Requested by Resident**
- F. RESCIND - LIMOUSINE STAND AND ESTABLISH - TOUR BUS LOADING ZONE, 10-MINUTE TIME LIMIT, 7 AM TO 6 PM EVERYDAY AS A 6-MONTH TRIAL - Geary Street, north side, from Powell Street to 130 feet easterly. **PH 12/5/08 Requested by William Taylor on behalf of the Open Top Sightseeing company**
- G. ESTABLISH - NO PARKING ANYTIME - Golden Gate Avenue, south side, between the west and east property line extensions of Chabot Terrace (to paint crosswalk on east leg of intersection). **PH 12/5/08 Requested by USF**
- H. RESCIND - NO PARKING ANYTIME AND ESTABLISH - TOW-AWAY, NO

PARKING ANYTIME - Holyoke Street, east side, from Campbell Street to 40 feet southerly. **PH 12/5/08 Requested by Resident**

- I. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "J" (2-HOUR TIME LIMIT, 8 AM TO 5 PM, MONDAY THROUGH FRIDAY) - 10<sup>th</sup> Avenue, both sides, between Lawton and Moraga Streets (1600 Block). **PH 12/5/08 Requested by Resident**
- J. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "O" (2-HOUR TIME LIMIT, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - 21st Avenue, both sides, between Ulloa and Vicente Streets (2500 Block). **PH 12/5/08 Requested by Resident**
- K. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "W" - 2211 and 2221 26th Street, between Kansas and Rhode Islands Streets. (Includes specific addresses only; signs will not be installed on the street, but residents will be eligible for permits). **PH 12/5/08 Requested by Resident**
- L. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "I" - 7 and 9 Cypress Street, between 24<sup>th</sup> and 25<sup>th</sup> Streets. (Includes specific addresses only; signs will not be installed on the street, but residents will be eligible for permits). **PH 12/5/08 Requested by Resident**
- M. ESTABLISH - STOP SIGNS - 39<sup>th</sup> Avenue at Kirkham Street, making this intersection All-Way STOP controlled. **PH 12/5/08 Requested by Supervisor Chu**
- N. ESTABLISH - STOP SIGNS - Moultrie Street at Crescent Avenue, stopping the Moultrie Street approaches; Gates Street at Crescent Avenue, stopping the Gates Street approaches. **PH 12/5/08 Requested by Resident**
- O. ESTABLISH - STOP SIGNS - 19<sup>th</sup> Street at Florida Street, making this intersection All-Way STOP controlled. **PH 12/5/08 Requested by Resident**
- P. ESTABLISH - STOP SIGNS - Santos Street at Brookdale Avenue, making this intersection All-Way STOP controlled. **PH 12/5/08 Requested by Mayor/SFHA**
- Q. ESTABLISH - BUS ZONE - Santos Street, east side, at Brookdale Avenue (100-foot nearside bus zone); and Santos Street, west side, at Brookdale Avenue (100-foot nearside bus zone). **PH 12/5/08 Requested by Mayor/SFHA**

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency has received a request, or identified a need for traffic modifications as follows:

- A. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "J" (2-HOUR TIME LIMIT,  
8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - 8<sup>th</sup> Avenue, both sides, between  
Lincoln Way and Irving Street (1200 Block).
- B. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "Z" (2-HOUR TIME  
LIMIT,  
8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - San Jose Avenue, both sides,  
between 29<sup>th</sup> and 30<sup>th</sup> Streets (700 Block).
- C. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "L" (2-HOUR TIME  
LIMIT,  
8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - Blake Street, both sides, between  
Geary Boulevard and Euclid Avenue (1-99 block).
- D. ESTABLISH - UNMETERED MOTORCYCLE PARKING - Filbert Street, south side,  
between the driveways of 1879 and 1885 Filbert Street (a 13 foot zone); and Florida  
Street, west side, from the driveway of 24 Florida Street to 24 feet southerly.
- E. ESTABLISH - YIELD SIGN - Pacheco Street, northbound, at 14<sup>th</sup> Avenue.
- F. RESCIND - LIMOUSINE STAND AND ESTABLISH - TOUR BUS LOADING ZONE,  
10-MINUTE TIME LIMIT, 7 AM TO 6 PM EVERYDAY AS A 6-MONTH TRIAL -  
Geary Street, north side, from Powell Street to 130 feet easterly.
- G. ESTABLISH - NO PARKING ANYTIME - Golden Gate Avenue, south side, between  
the west and east property line extensions of Chabot Terrace (to paint crosswalk on east  
leg of intersection).
- H. RESCIND - NO PARKING ANYTIME AND ESTABLISH - TOW-AWAY, NO  
PARKING ANYTIME - Holyoke Street, east side, from Campbell Street to 40 feet  
southerly.
- I. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "J" (2-HOUR TIME LIMIT,  
8 AM TO 5 PM, MONDAY THROUGH FRIDAY) - 10<sup>th</sup> Avenue, both sides, between  
Lawton and Moraga Streets (1600 Block).
- J. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "O" (2-HOUR TIME  
LIMIT, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY) - 21st Avenue, both sides,  
between Ulloa and Vicente Streets (2500 Block).
- K. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "W" – 2211 and 2221  
26th Street, between Kansas and Rhode Islands Streets. (Includes specific addresses  
only; signs will not be installed on the street, but residents will be eligible for permits).
- L. ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "I" – 7 and 9 Cypress  
Street, between 24<sup>th</sup> and 25<sup>th</sup> Streets. (Includes specific addresses only; signs will not be

installed on the street, but residents will be eligible for permits).

- M. ESTABLISH - STOP SIGNS - 39<sup>th</sup> Avenue at Kirkham Street, making this intersection All-Way STOP controlled.
- N. ESTABLISH - STOP SIGNS - Moultrie Street at Crescent Avenue, stopping the Moultrie Street approaches; Gates Street at Crescent Avenue, stopping the Gates Street approaches.
- O. ESTABLISH - STOP SIGNS - 19<sup>th</sup> Street at Florida Street, making this intersection All-Way STOP controlled.
- P. ESTABLISH - STOP SIGNS - Santos Street at Brookdale Avenue, making this intersection All-Way STOP controlled.
- Q. ESTABLISH - BUS ZONE - Santos Street, east side, at Brookdale Avenue (100-foot nearside bus zone); and Santos Street, west side, at Brookdale Avenue (100-foot nearside bus zone).

WHEREAS, The public has been notified about the proposed modifications and has been given the opportunity to comment on those modifications through the public hearing process; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors, upon recommendation of the Executive Director/CEO and the Director of Parking and Traffic, does hereby approve the changes.

I hereby certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.3**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Finance and Information Technology

**BRIEF DESCRIPTION:**

Resolution authorizing the San Francisco Municipal Transportation Agency (1) to acknowledge and adhere to procedures and conditions set forth by the Metropolitan Transportation Commission for allocation of Regional Measure 2 (RM-2) funds; and (2) to accept and expend \$940,500 of RM-2 funds for a Safe Routes to Transit project, for the purpose and amount included in the project application.

**SUMMARY:**

- On March 2, 2004, Bay Area voters passed Regional Measure 2 (RM-2), raising the toll on the seven State-owned toll bridges in the San Francisco Bay Area by \$1.00, effective July 1, 2004. Under the Regional Traffic Relief Plan, this extra dollar provides transit operating assistance and funding to specified capital projects within the region that reduce congestion or make improvements to travel in the toll bridge corridors.
- The RM-2 program provides \$20 million for Safe Routes to Transit projects that reduce congestion on State-owned Bay Area bridges by improving pedestrian and bicycle access to transit facilities.
- The San Francisco Municipal Transportation Agency (SFMTA) has applied for \$940,500 in RM-2 funds to implement a Safe Routes to Transit project to construct pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco.
- As the transportation planning, coordinating and financing agency of the nine-county Bay Area, the Metropolitan Transportation Commission (MTC) allocates RM-2 funds. MTC has adopted procedures and conditions that must be acknowledged and adhered to by recipients of RM-2 funds. The attached resolution incorporates the procedures and conditions established by the MTC that must be acknowledged and adhered to by the SFMTA in regard to the SFMTA's allocation of RM-2 funds.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Application: Initial Project Report and Cash Flow Plan
3. Opinion of Legal Counsel for Application

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION BE RETURNED TO: Leda Young, 1 South Van Ness Avenue, 7<sup>th</sup> Floor

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## PAGE 2.

### PURPOSE

The SFMTA Board approval of this resolution would authorize the SFMTA to accept and expend \$940,500 in RM-2 capital funds to implement a Safe Routes to Transit project to construct pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco. Also, the SFMTA Board approval of this resolution would authorize the SFMTA to approve and adhere to procedures and conditions set forth by the MTC in regard to the SFMTA receiving an allocation of RM-2 funds. .

### GOAL

The SFMTA will further the following goals of the Strategic Plan through acceptance of these funds:

- Goal 1 – To provide safe, accessible, reliable, clean and environmentally sustainable service.  
Objective 1.5 – Increase percentage of trips using more sustainable modes (such as transit, walking, bicycling, and rideshare).
- Goal 4 – To ensure financial stability and effective resource utilization.  
Objective 4.2 – Ensure efficient and effective use of resources.

### DESCRIPTION

On March 2, 2004, voters in San Francisco, Alameda, Contra Costa, Marin, San Mateo, Santa Clara and Solano Counties cumulatively passed Regional Measure 2 (RM-2), which will raise an estimated \$125 million each year to implement the Regional Traffic Relief Plan. The Regional Traffic Relief Plan will provide transit operating assistance and funding for specified capital projects within the region that reduce congestion or make improvements to travel in the toll bridge corridors. Funding for the Regional Traffic Relief Plan derives from a \$1.00 increase, effective July 1, 2004, in tolls on the region's seven State-owned toll bridges. As the transportation planning, coordinating and financing agency of the nine-county Bay Area, the Metropolitan Transportation Commission (MTC) allocates RM-2 funds.

The RM-2 program provides \$20 million to public agencies for Safe Routes to Transit projects that help reduce congestion on State-owned Bay Area bridges by improving pedestrian and bicycle access to transit facilities. Specifically, funding is provided for the planning and construction of pedestrian and bicycle access improvements in close proximity to transit facilities. The San Francisco Municipal Transportation Agency (SFMTA) has applied for funds for the following project:

- **Mission & Geneva Pedestrian Improvements:** This project will address conflicts between pedestrian and vehicular movements and improve multimodal access for commuters and passengers. Specific project activities include: installing bus bulbs; reconfiguring the northwest corner, which currently has a free right turn pocket, towards a more pedestrian-friendly design; installing transit rider amenities, including NextMuni in bus shelters; installing a new left turn pocket on Mission Street; implementation of infrastructure upgrades such as relocating fire hydrants and catch basins; installing ADA curb ramps; relocating Muni and signal poles as required by sidewalk bulbs; and repainting traffic/crosswalk markings.

In lieu of a separate funding agreement, MTC expects the SFMTA, through its governing board, to certify that the agency acknowledges and will adhere to the following conditions with respect to the project:

- compliance with provisions of MTC's RM-2 Policy Guidance (MTC Resolution No. 3636);
- consistency with the Regional Transportation Plan;

- SFMTA has taken into consideration the time necessary to obtain applicable environmental clearance and permitting approval for the project in requesting RM-2 funding;
- the RM-2 phase of the project is fully funded based on programmed and planned funding allocations, and results in an operable and useable segment;
- the enclosed Initial Project Report (IPR), which is the SFMTA's application document to MTC that describes the project and includes a detailed financial plan, has been approved by the SFMTA;
- approval of the cash flow plan for the project;
- SFMTA has adequate staffing resources to complete the project within the schedule set forth in the IPR;
- the project and purpose for which RM-2 funds are being requested are in compliance with applicable environmental requirements and regulations;
- the City and County of San Francisco, through the SFMTA, indemnifies and holds harmless MTC and its representatives against all claims, demands, liability, losses and expenses in connection with the allocation of RM-2 funds;
- any revenues or profits from any non-governmental use of property shall be used for public transportation services for which the project was initially approved;
- assets purchased with RM-2 funds shall be used for public transportation uses as intended; and
- the SFMTA will post signs at construction sites as applicable stating that the project is funded with RM-2 funds.

In conjunction with the IPR, which must be submitted to the MTC, also attached is the required Opinion of Counsel for the project, which states that (1) the SFMTA is an eligible implementing agency of projects in the RM-2 Regional Traffic Relief Plan; (2) the SFMTA is authorized to submit an allocation request for RM-2 funding; (3) no legal impediment exists that would preclude the SFMTA from making allocation requests for RM-2 funding; and (4) no pending or threatened litigation exists that might adversely affect the project or the ability of the MTA to carry out the project.

## **ALTERNATIVES CONSIDERED**

Not applicable.

## **FUNDING IMPACT**

The capital funds for this project are from:

- Regional Measure 2 (as explained above) - (\$940,500), and
- Proposition K (Prop. K)- a 2003 voter approved half-cent local transportation sales tax program administered by the San Francisco County Transportation Authority (\$110,000).

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The SFMTA received \$27,000 in Prop. K funds from the San Francisco County Transportation Authority for environmental and design work. The SFMTA must still apply for \$83,000 in Prop. K funds for construction work.

The SFMTA has issued a Notice of Exemption that these projects are categorically exempt from Environmental Review (Categorical Exemption, Class 1 State CEQA Guidelines Section 15301(c)).

## **RECOMMENDATION**

The SFMTA Board approval of this resolution would authorize the SFMTA to approve and adhere to

procedures and conditions set forth by the MTC in regard to the SFMTA receiving an allocation of RM-2 funds. Also, the SFMTA Board approval of this resolution would authorize the SFMTA, through its Executive Director/CEO, to accept and expend \$940,500 in RM-2 capital funds to implement a Safe Routes to Transit project to construct pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 (RM-2), identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

WHEREAS, The Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for RM-2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

WHEREAS, The MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for RM-2 funding; and

WHEREAS, Allocations to MTC must be submitted consistent with procedures and conditions as outlined in RM-2 Policy and Procedures; and

WHEREAS, The Safe Routes to Transit Grant Program is eligible for consideration in the Regional Traffic Relief Plan of RM-2, as identified in California Streets and Highway Code Section 30914(c) or (d); and

WHEREAS, Under the Safe Routes to Transit Grant Program, the San Francisco Municipal Transportation Agency (SFMTA) of the City and County of San Francisco has applied for funding in the amount of \$940,500 to implement a Safe Routes to Transit project to construct pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco; and

WHEREAS, The SFMTA is an eligible implementing agency of transportation project(s) in RM-2 Regional Traffic Relief Plan funds; and

WHEREAS, The RM-2 allocation request, contained in the Initial Project Report (IPR) submitted for the project and incorporated by reference herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which the SFMTA is requesting that MTC allocate RM-2 funds; and

WHEREAS, The application for RM-2 funds includes the certification by Legal Counsel of SFMTA of assurances required for the allocation of funds by MTC; and

WHEREAS, Under Charter Section 8A.102(b).12 , the SFMTA has authority to apply for, accept and expend federal, State, or other grants involving any project or program on behalf of the Agency; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the San Francisco Municipal Transportation Agency, through its Executive Director/CEO (or his designee), to accept and expend \$940,500 of RM-2 funds for a Safe Routes to Transit project to construct pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco; and, be it further

RESOLVED, That the SFMTA and its agents agree to comply with the provisions of the MTC's RM-2 Policy Guidance (MTC Resolution No. 3636); and be it further

RESOLVED, That the project to construct pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco is consistent with the Regional Transportation Plan (RTP); and be it further

RESOLVED, That the year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project; and be it further

RESOLVED, That the RM-2 phase or segment is fully funded based on programmed and planned funding allocations, and will result in an operable and useable segment; and be it further

RESOLVED, That the SFMTA Board of Directors approves the IPR submitted with this resolution; and be it further

RESOLVED, That the SFMTA Board of Directors approves the cash flow plan submitted with this resolution; and be it further

RESOLVED, That the SFMTA has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the IPR submitted with this resolution; and be it further

RESOLVED, That the SFMTA Board of Directors certifies that the project and purpose for which RM-2 funds is being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.) and, if relevant, the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et. seq., and the applicable regulations there under; and be it further

RESOLVED, That the City and County of San Francisco, through the SFMTA, indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of SFMTA, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM-2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM-2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages; and be it further

RESOLVED, That if any revenues or profits from any non-governmental use of property (or project) are collected, the SFMTA shall use those revenues or profits exclusively for the public transportation services for which the project(s) was initially approved, either for capital improvements or maintenance and operational costs; otherwise, MTC is entitled to a proportionate share equal to MTC's percentage participation in the project(s); and be it further

RESOLVED, That assets purchased with RM-2 funds, including facilities and equipment, shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that RM-2 funds were originally used; and be it further

RESOLVED, That the SFMTA shall post on both ends of the construction site(s) at least two signs visible to the public stating that the project is funded with RM-2 Toll Revenues; and be it further

RESOLVED, That the SFMTA Board of Directors delegates to the Executive Director/CEO (or his designee) the authority to make non-substantive changes or minor amendments to the IPR as he/she deems appropriate; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO (or his designee) to furnish whatever additional information may be requested by MTC in connection with this request; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO (or his designee) to execute any and all agreements necessary to complete the transfer of funds; and be it further

RESOLVED, That a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the SFMTA application referenced herein

I certify that the foregoing resolution was adopted by San Francisco Municipal Transportation Agency Board of Directors at its meeting of\_\_\_\_\_.

---

Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

# Regional Measure 2 Initial Project Report (IPR)

---

**Project Title:**

Mission & Geneva Pedestrian Improvements

**RM2 Project No.**

20.26

**Allocation History:**

	<b>MTC Approval Date</b>	<b>Amount</b>	<b>Phase</b>
<b>#1:</b>			
<b>#2</b>			
<b>#3</b>			

Total: \$

**Current Allocation Request: \$940,500**

<b>IPR Revision Date</b>	<b>Amount Being Requested</b>	<b>Phase Requested</b>

## I. OVERALL PROJECT INFORMATION

### A. Project Sponsor / Co-sponsor(s) / Implementing Agency

San Francisco Municipal Transportation Agency (SFMTA)

### B. Project Description (please provide details)

☒ Checked **Project Graphics to be sent electronically with This Application**

The intersection of Mission Street and Geneva Avenue in San Francisco is vital to the Bay Area's regional transportation network. It is an important hub in the Municipal Railway's (Muni) transit system, with several major bus routes (9AX, 9BX, 14, 14L, 29, 43, 54 bus lines) linking here and connecting to the Balboa Park BART Station located less than 0.5 miles away. With approximately 25,500 daily users, the Balboa Park BART Station is the 5th busiest station in the BART system while also serving as a major terminus for Muni's J, K, and M light rail vehicle lines. Mission Street is an arterial that connects downtown with Daly City in San Mateo County. Geneva Avenue connects the Bayshore Corridor and the I-280 corridor. Continuing to the west via Ocean Avenue, Geneva is also a major route for many of those traveling to western neighborhoods.

This project addresses conflicts between pedestrian and vehicular movements and improves multimodal access for commuters and passengers in the area. Specific project activities include:

1. installation of up to three transit bulbs,
2. the reconfiguration of the northwest corner, which currently has a free right turn pocket, towards a more pedestrian-friendly design,
3. installation of transit rider amenities including NextBus real-time bus arrival information and bus shelters,
4. installation of new left turn pockets on Mission Street to increase safety and discourage drivers from using residential streets to make this movement,
5. implementation of infrastructure upgrades (relocate fire hydrants, catch basins, and water valves),
6. installation of ADA curb ramps at all corners,
7. relocation of Muni and signal poles as required by the sidewalk bulbs, and
8. repainting of traffic/crosswalk markings.

### C. Project Purpose

This project addresses conflicts between pedestrian and vehicular movements in the Geneva/Mission intersection in San Francisco and improves multimodal access for transit passengers making regional trips using the nearby Balboa Park BART Station. For example, by reconfiguring/eliminating a large radius "free" right turn, the SFMTA improves safety for pedestrians crossing the intersection. Also, the installation of left turn pockets on Mission Street provides refuge areas for waiting vehicles, and thereby, expedites bus travel. Specific benefits and goals are:

#### Increase travel by foot and transit

Sidewalk congestion and street crossing hazards discourage some regional travelers from riding local transit to and from BART. This project calms traffic, reduces crossing distances, and widens bus stop sidewalks at an on-street transit center. By expanding sidewalk space in an aesthetically pleasing way, it also enhances the outdoor environment.

#### Reduce congestion

The Bay Bridge, San Mateo Bridge and Dumbarton Bridge carry drivers to San Francisco from many Bay Area cities such as Oakland, Berkeley, Hayward, San Leandro, Union City, and Fremont. The Balboa Park BART Station is a key regional transit facility that also connects these cities to San Francisco.

The largest potential for congestion reduction from this project is on the Bay Bridge. In San Francisco, the 101

and 280 state and interstate highways run parallel to the BART line. Congestion reduction on area bridges can be made possible by improving the ease of use and experience of passengers accessing BART stations such as at Balboa Park. Improving access to the Balboa Park BART Station can help to attract drivers to make these trips on BART, reducing traffic congestion on I-280, U.S. Highway 101, and I-80.

#### Improve safety

Average Daily Traffic volumes for Mission Street and Geneva Avenue are 13,716 and 25,997, respectively. Although posted speed limits are 25 in each direction, actual speeds range from 30 – 34 miles per hour at the present time. Out of 19 reported collisions during a five year period (from 2001 to 2006), seven involved pedestrians and one involved a bicycle. Leading primary causes were: DUI (3); unsafe speed (2); pedestrian violation (2); pedestrian right-of-way violation (2); and improper turning (2). The implementation of traffic calming effects and reduced crossing distances will help to improve safety.

#### Implement Innovative Countermeasures

This project tests the effectiveness of reconfiguring/eliminating a “free right turn movement” and installing bus bulbs (usually implemented to speed buses) as a traffic calming “combination.”

### **D. Impediments to Project Completion**

The SFMTA is reviewing the cost implications of removing the right turn pocket. A number of utilities will need to be relocated including catch basins, a Muni overhead wire pole and traffic signal poles in addition to the sidewalk work and regarding. Given the amount of allocated funds for this project, the SFMTA will explore reconfiguring the free right turn pocket as an option instead of a full removal. The SFMTA will need to explain this design change to the community first to obtain their approval.

### **E. Operability**

The SFMTA is responsible for the maintenance of pedestrian signals, traffic signs and bus stop signage. Funding for maintenance will derive from operating funds and/or the San Francisco County Transportation Authority Prop. K 30-year, ½-cent Sales Tax funds. The SFMTA’s bus shelter contractor owns and maintains the bus shelters. The curb bulb-outs at the corners and bus stops, crosswalk overlays and curb ramps will be the responsibility of the Department of Public Works.

## **II. PROJECT PHASE DESCRIPTION and STATUS**

### **F. Environmental –**

Does NEPA Apply: ☐ Yes Not Checked ☒ No Checked

The project is anticipated to receive environmental clearance through a Negative Declaration or Categorical Exemption and brief Initial Study. The improvements would not significantly affect traffic level of service or the natural environment. There would be minor impacts on parking supply, which is not considered an environmental impact by the City of San Francisco.

### **G. Design –**

State standards and/or best practices are being used to design the project, specifically in regard to pedestrian and bicycle access. ADA design standards will also be incorporated.

#### **H. Right-of-Way Activities / Acquisition –**

The project does not involve any right of way acquisition.

#### **I. Construction / Vehicle Acquisition -**

The project will be divided into two parts for budgetary purposes:

Part I consists of the installation of bus bulbs and left turn pockets on Mission Street and related corner bulbs and related utility relocations, and signal improvements.

Part II consists of activities related to the reconfiguration or elimination of the free right turn from southbound Mission Street onto westbound Geneva Avenue. These elements are contingent on a reroute of Bus Line 29-Sunset, which requires a public involvement process and approval by the SFMTA Board of Directors.

### **III. PROJECT BUDGET**

#### **J. Project Budget (Escalated to year of expenditure)**

<b>Phase</b>	<b>Total Amount - Escalated - (Thousands)</b>
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	14
Design - Plans, Specifications and Estimates (PS&E)	153
Right-of-Way Activities /Acquisition (R/W)	
Construction / Rolling Stock Acquisition (CON)	883
Total Project Budget (in thousands)	1,050

#### **K. Project Budget (De-escalated to current year)**

<b>Phase</b>	<b>Total Amount - De-escalated - (Thousands)</b>
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	14
Design - Plans, Specifications and Estimates (PS&E)	153
Right-of-Way Activities /Acquisition (R/W)	
Construction / Rolling Stock Acquisition (CON)	883
Total Project Budget (in thousands)	1,050

### **IV. OVERALL PROJECT SCHEDULE**

<b>Phase Milestone</b>	<b>Planned (Update as needed)</b>	
	<b>Start Date</b>	<b>Completion Date</b>
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	11/2008	1/2009
Final Design - Plans, Specs. & Estimates (PS&E)	2/2009	6/2009
Right-of-Way Activities /Acquisition (R/W)	n/a	

Phase Milestone	Start Date	Completion Date
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	8/2009	6/2010

## **V. ALLOCATION REQUEST INFORMATION**

### **L. Detailed Description of Allocation Request**

Amount being requested (in escalated dollars)	\$940,500
Project Phase being requested	Design and Construction Phases
Are there other fund sources involved in this phase?	Yes No
Date of anticipated Implementing Agency Board approval the RM2 IPR Resolution for the allocation being requested	January 2009
Month/year being requested for MTC Commission approval of allocation	January 2009

### **M. Status of Previous Allocations (if any)**

Not applicable.

### **N. Workplan**

Workplan in Alternate Format Enclosed ☐ Not Checked

TASK NO.	Description	Deliverables	Completion Date
1	Environmental Approval	Copy of design chosen	1/2009
2	Finish detailed design	Copy of detailed designs	6/2009
3	Finish bid package	Copy of bid package	6/2009
4	Advertise and award contract	Letter sent to winning contractor	8/2009
5	Begin construction	Meeting notes from Pre-Con meeting	8/2009
6	Finish construction	Pictures of intersection	6/2010

### **O. Impediments to Allocation Implementation**

At this time, the SFMTA does not anticipate any impediments to project completion

## **VI. RM-2 FUNDING INFORMATION**

### **P. RM-2 Funding Expenditures for funds being allocated**

**X Checked**            **The companion Microsoft Excel Project Funding Spreadsheet to this IPR is included**

**Next Anticipated RM-2 Funding Allocation Request**

## **VII. GOVERNING BOARD ACTION**

**Check the box that applies:**

☐ **Not Checked**    **Governing Board Resolution attached**

**X Checked**            **Governing Board Resolution to be provided on or before: January 2009**

## **VIII. CONTACT / PREPARATION INFORMATION**

### **Contact for Applicant's Agency**

Name: Manito Velasco  
Phone: (415) 701-4447  
Title: Project Manager  
E-mail: [manito.velasco@sfmta.com](mailto:manito.velasco@sfmta.com)  
Address: 1 South Van Ness Avenue, 7th Floor, San Francisco, CA 94103

Name: Antonio Piccagli  
Phone: (415) 701-4481  
Title: Project Manager  
E-mail: [antonio.piccagli@sfmta.com](mailto:antonio.piccagli@sfmta.com)  
Address: 1 South Van Ness Avenue, 7th Floor, San Francisco, CA 94103

### **Information on Person Preparing IPR**

Name: Leda Young  
Phone: (415) 701-4336  
Title: Principal Grants Analyst  
E-mail: [Leda.Young@sfmta.com](mailto:Leda.Young@sfmta.com)

### **Applicant Agency's Accounting Contact**

Name: Linda Coquia  
Phone: (415) 701-4519  
Title: Principal Accountant  
E-mail: [Linda.Coquia@sfmta.com](mailto:Linda.Coquia@sfmta.com)  
:

Revised IPR 120905.doc

## RM-2 Initial Project Report

### TOTAL PROJECT FUNDING PLAN

(Amounts Escalated in Thousands)

Project Title:	Mission and Geneva Pedestrian Improvements	Project ID:	<b>20.2</b>
Agency:	San Francisco Municipal Transportation Agency	Plan Date:	<b>12/8/2008</b>
<b>TOTAL PROJECT: COMMITTED + UNCOMMITTED+TO BE DETERMINED</b>			

Fund Source	Phase	Prior	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Future Committed	TOTAL
<b>COMMITTED FUNDING PLAN (PROGRAMMED, ALLOCATED, APPROVED FUNDING)</b>															
RM-2	PS&E						140								140
RM-2	CON						800								800
SFCTA-Prop K	ENV/PE/PA&ED						14								14
SFCTA-Prop K	PS&E						13								13
<b>UNCOMMITTED FUNDING PLAN (NON-PROGRAMMED/ALLOCATED, BUT PLANNED FUNDING)</b>															
SFCTA-Prop K	CON						83								83
<b>FUNDING SOURCE STILL TO BE DETERMINED (LIST POTENTIAL SOURCES THAT WILL LIKELY BE PURSUED)</b>															
<b>TOTAL PROJECT: COMMITTED + UNCOMMITTED + TBD FUNDING TOTAL</b>															
Total							967	83							1,050

Comments:

--

Enter all funding for the project – both Committed and Uncommitted. Enter amounts in thousands and escalated to the year of funding

Eligible Phases: ENV (or PA&ED), PS&E, R/W or CON. For planning activates use ENV. For Vehicles, Equipment or Operating use CON. OK to use CT R/W SUP or CT CON SUP for Caltrans support, but not necessary (optional).

# **DELIVERABLE SEGMENT FUNDING PLAN**

(Amounts Escalated in Thousands)

Project Title:	Mission and Geneva Pedestrian Improvements	Project ID:	<b>20.2</b>
Agency:	San Francisco Municipal Transportation Agency	Plan Date:	12/8/08
<b>RM-2 DELIVERABLE SEGMENT - Fully Funded Phase or Segment of Total Project</b>			

Fund Source	Phase	Prior	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Future Committed	TOTAL
Fund Source	Phase	Prior	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Future Committed	TOTAL
<b>RM-2 SEGMENT FUNDING TOTAL</b>															
Total															

Comments:

**(Complete this spreadsheet only if RM-2 funds are dedicated to deliver a specific phase or deliverable segment of the overall total project)**

Enter funds on the RM-2 Deliverable Phase or Segment, ONLY if the RM-2 Phase or Segment is different from the overall total project. The RM-2 Segment must be Fully Funded and result in an operable or useable segment.

Enter only funds **Committed** to the RM-2 Funded Segment and only if different from Total Project. Enter amounts in thousands and escalated to the year of funding. DO NOT enter uncommitted funding - The RM-2 Phase or Segment must be fully funded.

Eligible Phases: ENV (or PA&ED), PS&E, R/W or CON. For planning activates use ENV. For Vehicles, Equipment or Operating use CON. OK to use CT R/W SUP or CT CON SUP for Caltrans support, but not necessary (optional).

### EXPENDITURES TO-DATE BY PHASE AND FUND SOURCES

Phase	Fund Source	Date of Last Expenditure	Amount Expended to date (Thousands)	Available Balance Remaining (Thousands)
ENV / PA&ED				
PS&E				
R/W				
CON / Operating				
Total to date (in thousands)				None

Comments:

--

As required by RM-2 Legislation, provide funds expended to date for the total project. Provide both expenditure by Fund Source and Expenditure by Phase, with the date of the last expenditure, and any available balance remaining to be expended.

Project ID: 20.2  
Date: 12/8/2008

### Estimated Budget Plan

Please complete this form based the proposed allocation for your project. The scope should be consistent with the funding you are requesting the MTC allocate. Projects with complementary fund sources, should list the estimated cost of the entire work scope. Note that this information may not only represent the RM2 funding. A separate EBP needs to be completed for each allocation request or each phase of such request.

TITLE OF PROJECT	RM2 Legislation ID: 20.2
------------------	--------------------------

Mission-Geneva Pedestrian Improvements	
NAME AND ADDRESS OF IMPLEMENTING AGENCY San Francisco Municipal Transportation Agency 1 South Van Ness Avenue – 7 <sup>th</sup> floor San Francisco, CA 94103	

DETAIL DESCRIPTION	ESTIMATED HOURS	BASE RATE	TOTAL ESTIMATED COST (Dollars)
1. DIRECT LABOR of Implementing Agency (Specify by task)			
ENV / PE / PA&ED - Engineer 5241 DPT	0	58.96	0
ENV / PE / PA&ED - Associate Engineer 5207 DPT	0	50.94	0
ENV / PE / PA&ED - Engineer Associate 5366 DPT	0	41.91	0
PS&E - Engineer 5241 DPT	33	58.96	1,940
PS&E - Associate Engineer 5207 DPT	110	50.94	5,593
PS&E - Engineer Associate 5366 DPT	33	41.91	1,379
PS&E - Engineer 5211 DPW	73	68.25	4,996
PS&E - Associate Engineer 5207 DPW	695	50.94	35,422
PS&E - Engineer Associate 5364 DPW	183	36.20	6,625
CON - Administrative Engineer 5174 DPW	56	63.45	3,572
CON- Construction Inspector 6318 DPW	216	44.21	9,541
CON - Engineer 5241 DPT	13	58.96	737
CON - Associate Engineer 5207 DPT	88	50.94	4,462
CON - Engineer Associate 5366 DPT	25	41.91	1,048
CON - Senior Engineer 5211 DPW	78	68.25	5,330
CON - Associate Engineer 5207 DPW	516	50.94	26,289
CON - Engr Associate 5364 DPW	122	36.20	4,416
TOTAL DIRECT LABOR			111,350

2. DIRECT BENEFITS (Specify)	Benefit Rate	X BASE	Total
	31%	111,350	34,685
TOTAL BENEFIT			34,685

3. DIRECT CAPITAL COSTS (include construction, right-of-way, or vehicle acquisition)	Unit (if applicable)	Cost per Unit (\$)	Total
CON – Construction Contract			660,000
Contingency			61,500
<b>TOTAL DIRECT CAPITAL COSTS</b>			<b>721,500</b>

4. CONSULTANTS (Identify purpose and or consultant)			Total
TOTAL CONSULTANTS			0

5. OTHER DIRECT COSTS (Specify - explain costs, if any)	Overhead Rate	X BASE + Benefits	Total
Reimbursable Overhead, capped at 50%	50%	146,035	73,018
<b>TOTAL OTHER DIRECT COSTS</b>			<b>73,018</b>
<b>6. TOTAL ESTIMATED COST</b>			<b>940,553</b>

Comments:

The SFMTA has provided 3 Allocation EBP sheets with varying overhead rates to account for overhead costs funded by the different funding sources for specific city departmental personnel. Overall, these estimated budgets comprise the total estimated project cost.

Date: 12/8/2008

## Estimated Budget Plan

Please complete this form based the proposed allocation for your project. The scope should be consistent with the funding you are requesting the MTC allocate. Projects with complementary fund sources, should list the estimated cost of the entire work scope.

TITLE OF PROJECT	RM2 Legislation ID: 20.2
Mission-Geneva Pedestrian Improvements	
NAME AND ADDRESS OF IMPLEMENTING AGENCY	
San Francisco Municipal Transportation Agency	
1 South Van Ness Avenue – 7 <sup>th</sup> floor	
San Francisco, CA 94103	


DETAIL DESCRIPTION	ESTIMATED HOURS	BASE RATE	TOTAL ESTIMATED COST (Dollars)
ENV / PE / PA&ED - Engineer 5241 DPT	15	58.96	884
ENV / PE / PA&ED - Associate Engineer 5207 DPT	70	50.94	3,566
ENV / PE / PA&ED - Engineer Associate 5366 DPT	35	41.91	1,467
PS&E - Engineer 5241 DPT	3	58.96	183
PS&E - Associate Engineer 5207 DPT	10	50.94	520
PS&E - Engineer Associate 5366 DPT	3	41.91	130
PS&E - Engineer 5211 DPW	0	68.25	0
PS&E - Associate Engineer 5207 DPW	0	50.94	0
PS&E - Engineer Associate 5364 DPW	0	36.20	0
CON - Administrative Engineer 5174 DPW	0	63.45	0
CON- Construction Inspector 6318 DPW	0	44.21	0
CON - Engineer 5241 DPT	8	58.96	442
CON - Associate Engineer 5207 DPT	52	50.94	2,669
CON - Engineer Associate 5366 DPT	15	41.91	629
CON - Senior Engineer 5211 DPW	0	68.25	0
CON - Associate Engineer 5207 DPW	0	50.94	0
CON - Engr Associate 5364 DPW	0	36.20	0
<b>TOTAL DIRECT LABOR</b>			<b>10,489</b>

2. DIRECT BENEFITS (Specify)	Benefit Rate	X BASE	Total
	0%	10,489	
<b>TOTAL BENEFIT</b>			<b>0</b>

3. DIRECT CAPITAL COSTS (include construction, right-of-way, or vehicle acquisition)	Unit (if applicable)	Cost per Unit (\$)	Total
			0
<b>TOTAL DIRECT CAPITAL COSTS</b>			<b>0</b>

4. CONSULTANTS (Identify purpose and or consultant)	Total
---	-------

<b>TOTAL CONSULTANTS</b>			<b>0</b>

5. OTHER DIRECT COSTS (Specify - explain costs, if any)	Overhead Rate	X BASE + Benefits	Total
Reimbursable Overhead, %	137.00%	10,489	14,370
<b>TOTAL OTHER DIRECT COSTS</b>			<b>14,370</b>
<b>6. TOTAL ESTIMATED COST</b>			<b>24,860</b>

Comments:

The SFMTA has provided 3 Allocation EBP sheets with varying overhead rates to account for overhead costs funded by the different funding sources for specific city departmental personnel. Overall, these estimated budgets comprise the total estimated project cost.

Date: 12/8/2008

### Estimated Budget Plan

Please complete this form based the proposed allocation for your project. The scope should be consistent with the funding you are requesting the MTC allocate. Projects with complementary fund sources, should list the estimated cost of the entire work scope.

TITLE OF PROJECT  Mission-Geneva Pedestrian Improvements	RM2 Legislation ID: 20.2
NAME AND ADDRESS OF IMPLEMENTING AGENCY San Francisco Municipal Transportation Agency 1 South Van Ness Avenue – 7 <sup>th</sup> floor San Francisco, CA 94103	

DETAIL DESCRIPTION	ESTIMATED HOURS	BASE RATE	TOTAL ESTIMATED COST (Dollars)
ENV / PE / PA&ED - Engineer 5241 DPT	0	58.96	0
ENV / PE / PA&ED - Associate Engineer 5207 DPT	0	50.94	0
ENV / PE / PA&ED - Engineer Associate 5366 DPT	0	41.91	0

PS&E - Engineer 5241 DPT	0	58.96	0
PS&E - Associate Engineer 5207 DPT	0	50.94	0
PS&E - Engineer Associate 5366 DPT	0	41.91	0
PS&E - Engineer 5211 DPW	7	68.25	464
PS&E - Associate Engineer 5207 DPW	65	50.94	3,291
PS&E - Engineer Associate 5364 DPW	17	36.20	615
CON - Administrative Engineer 5174 DPW	34	63.45	2,138
CON- Construction Inspector 6318 DPW	129	44.21	5,712
CON - Engineer 5241 DPT	0	58.96	0
CON - Associate Engineer 5207 DPT	0	50.94	0
CON - Engineer Associate 5366 DPT	0	41.91	0
CON - Senior Engineer 5211 DPW	47	68.25	3,201
CON - Associate Engineer 5207 DPW	309	50.94	15,740
CON - Engr Associate 5364 DPW	73	36.20	2,643
<b>TOTAL DIRECT LABOR</b>			<b>33,804</b>

2. DIRECT BENEFITS (Specify)	Benefit Rate	X BASE	Total
	0%	33,804	
<b>TOTAL BENEFIT</b>			<b>0</b>

3. DIRECT CAPITAL COSTS (include construction, right-of-way, or vehicle acquisition)	Unit (if applicable)	Cost per Unit (\$)	Total
			0
<b>TOTAL DIRECT CAPITAL COSTS</b>			<b>0</b>

4. CONSULTANTS (Identify purpose and or consultant)			Total
<b>TOTAL CONSULTANTS</b>			<b>0</b>

5. OTHER DIRECT COSTS (Specify - explain costs, if any)	Overhead Rate	X BASE + Benefits	Total
Reimbursable Overhead, %	153.00%	33,804	51,719
<b>TOTAL OTHER DIRECT COSTS</b>			<b>51,719</b>
<b>6. TOTAL ESTIMATED COST</b>			<b>85,523</b>

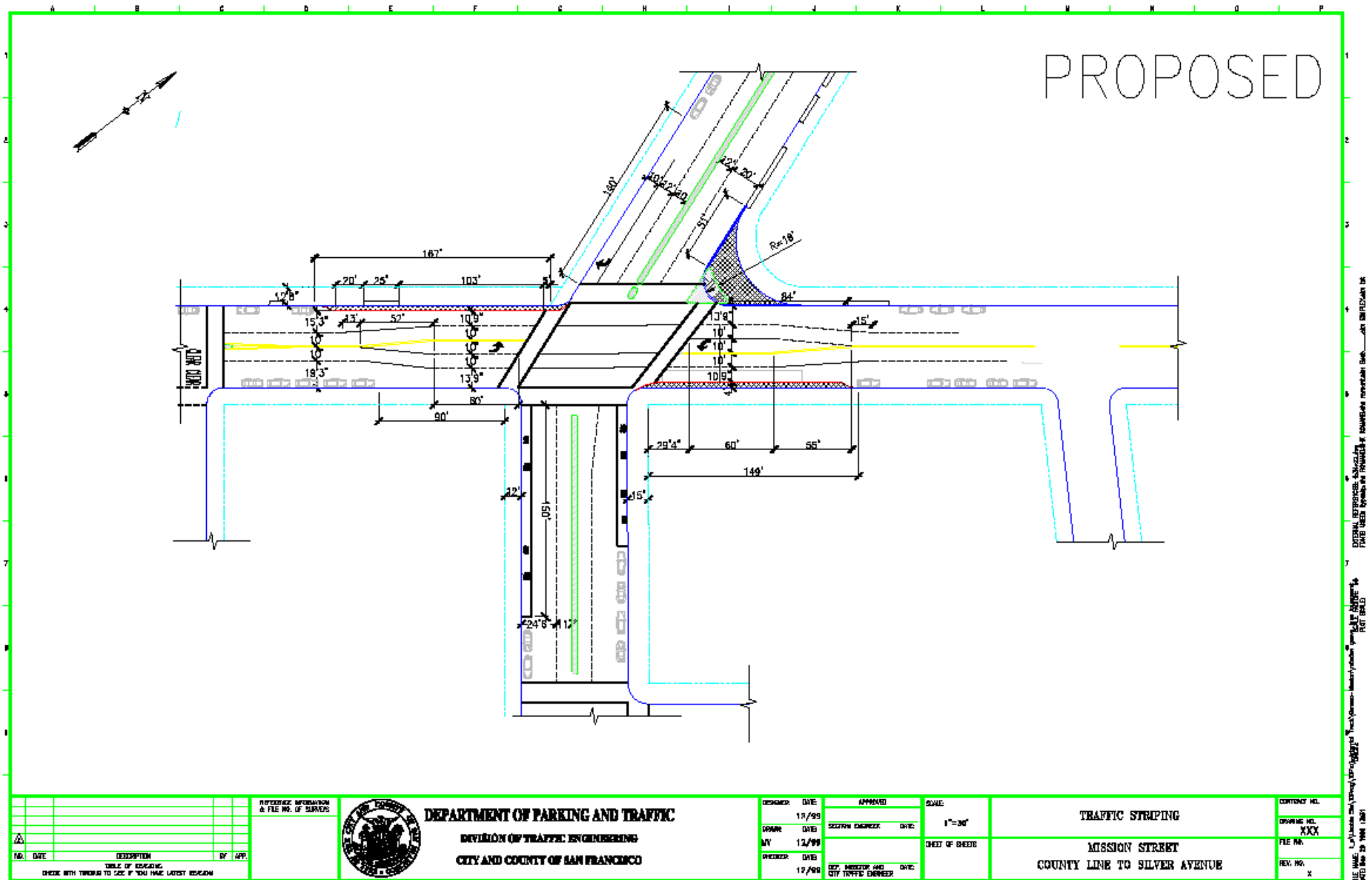
Comments:

The SFMTA has provided 3 Allocation EBP sheets with varying overhead rates to account for overhead costs funded by the different funding sources for specific city departmental personnel. Overall, these estimated budgets comprise the total estimated project cost.

Date:

12/8/2008





Proposed configuration of Mission Street and Geneva Avenue intersection.



**NOTICE OF CATEGORICAL EXEMPTION**  
**California Environmental Quality Act (CEQA)**

**TO:**

City and County of San Francisco  
City Hall  
County Clerk  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102

**FROM:**

City and County of San Francisco  
San Francisco Municipal Transportation Agency/Dept.  
of Parking and Traffic  
1 South Van Ness Ave  
San Francisco, CA 94103

**DATE:** September 11, 2008

**Project Title:** Mission - Geneva Pedestrian Improvements

**Project Location – Specific:** intersection of Mission Street and Geneva Avenue

**Description of Nature, Purpose, and Beneficiaries of Project:**

The Mission-Geneva Pedestrian Improvements project will help enhance the safety of pedestrians crossing by addressing conflicts between pedestrian and vehicular movements and to improve multimodal access for commuters and passengers.

This project will provide pedestrian safety improvements at the intersection of Mission Street and Geneva Avenue. These include: transit bulbs (corner sidewalk extensions) plus pedestrian countdown signals, curb ramps (improved to standard), the curb bulbs will be within the parking lane and will be designed not to adversely affect vehicle turning movements or traffic capacity. Additionally the traffic island at the northeast corner of the intersection will be removed.

**Name of Public Agency Approving Project:** City and County of San Francisco

**Name of Person or Agency Carrying Out Project:** Municipal Transportation Agency / Department of Parking and Traffic

**Exempt Status:** Categorical Exemption

**Reason why project is exempt:** Categorically exempt from Environmental Review Class 1(c)(13) installation, modification and replacement of traffic signals, where no more than a negligible increase in the use of the street will result; 1(c)(5) All work on sidewalks, curbs and gutters without changes in curb lines, including...additions of sidewalk bulbs when not in conjunction with a program for extensive replacement or installation and 1(c)(9) changes in the traffic and parking regulations where such changes do not establish a higher speed limit or result in more than a negligible increase in the use of the street.

---

Gerald Robbins                      Date  
SFMTA/Department of Parking and Traffic

**Contact Person:** Adam Gubser, Project Manager

**Telephone:** (415) 701-4465

December 11, 2008

Metropolitan Transportation Commission  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700

Re: Eligibility for Regional Measure 2 funds

To Whom It May Concern:

This communication will serve as the requisite opinion of counsel in connection with the allocation to the Municipal Transportation Agency for funding from Regional Measure 2 Regional Traffic Relief Plan made available pursuant to Streets and Highways Code Section 30914(c) and (d) to implement pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco.

1. The Municipal Transportation Agency is an eligible implementing agency for the Regional Measure 2 funding.
2. The Municipal Transportation Agency is authorized to submit an allocation request for Regional Measure 2 funding to implement pedestrian improvements along the intersection of Mission Street & Geneva Avenue in San Francisco.
3. I have reviewed the pertinent state laws and I am of the opinion that there is no legal impediment to the Municipal Transportation Agency making an application for Regional Measure 2 funds. Furthermore, as a result of my examinations, I find that there is no pending or threatened litigation that might in any way adversely affect the proposed project, or the ability of the Municipal Transportation Agency to carry out such project.

Yours very truly,

DENNIS J. HERRERA  
City Attorney

Robin M. Reitzes  
Deputy City Attorney

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.4**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Finance & Information Technology

**BRIEF DESCRIPTION:**

Authorizing SFMTA, through its Executive Director/CEO or his designee, to accept and expend up to \$648,000 in FY 2009/10 Bicycle Transportation Account Funds and to commit up to \$72,000 in local funds as match for bicycle lane maintenance and educational, training and promotional activities.

**SUMMARY:**

- The Bicycle Transportation Account ("BTA") is managed by Caltrans and annually awards funds (\$7.2 million for FY 2009/10) competitively to local agencies for projects that improve safety and convenience for bicycle commuters.
- The SFMTA requests authority to accept and expend up to \$648,000 in BTA Funds and up to \$72,000 in local match funds for repairing and upgrading pavement along the City's bicycle lanes and designing, procuring, and distributing safety booklets, maps and amenities to support bicycle commuting.
- Because the BTA Program is competitive, \$648,000 is the maximum amount the SFMTA would receive.
- Local match of \$72,000 equaling 10% of the total project cost satisfies the grant requirement of a 10% local match.

**ENCLOSURES:**

1. SFMTAB Resolution

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Suzanne Wang, Principal Grants Analyst

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

SFMTA seeks \$648,000 in State Bicycle Transportation Account (“BTA”) Funds from Caltrans for maintenance activities along the City’s bicycle lanes; and designing, procuring, and distributing safety booklets, maps and amenities to support bicycle commuting. SFMTA is required to provide a resolution from this Board committing up to 10% of the project cost in local matching funds.

### **GOAL**

This item is consistent with the following goals in the SFMTA Strategic Plan:

Goal 1: Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy

Objectives: 1.1 Improve safety and security across all modes of transportation  
1.5 Increase percentage of trips using more sustainable modes (such as transit, walking, bicycling, rideshare)

Goal 2: Customer Focus: To get customers where they want to go, when they want to be there

Objective: 2.3 Fulfill bicycle and pedestrian network connectivity

### **DESCRIPTION**

On November 25, 2008, SFMTA staff submitted a request for \$648,000 in State Bicycle Transportation Account (“BTA”) Funds to Caltrans. At this time staff is requesting that the SFMTA Board approve the following:

1. That the SFMTA commit up to \$72,000 in local funds as match to the BTA funds; and,
2. That the SFMTA accept and expend up to \$648,000 in BTA grant funds in a timely manner and for eligible purposes.

Local match would be provided by Proposition K funds allocated by the San Francisco Transportation Authority. Through the Proposition K Five Year Prioritization Plan under the category of “Bicycle Circulation and Safety,” there are enough funds programmed under the line titled, “Spot Improvements” that can be utilized as local match to the BTA grant.

SFMTA is an eligible applicant because it has adopted a Bicycle Transportation Plan that both complies with relevant sections of the State’s Streets and Highways Code and has been approved by the Metropolitan Transportation Commission.

It should be noted that the BTA Program is competitive. In that context, the \$648,000 in BTA

Funds requested is the maximum amount the SFMTA would receive. The final amount, and requisite match, will depend on how well the application fares.

The application commits a local match of \$72,000, equal to 10% of the total project cost. The actual match amount could be lower, but the 10% share will not change.

The scope of the project includes repairing and upgrading pavement along the City's bicycle lanes; and designing, procuring, and distributing safety booklets, maps and amenities to support bicycle commuting.

The injunction prohibiting implementation of the Bicycle Plan does not preclude the SFMTA from "[a]pproving, implementing or continuing with any on-going maintenance activities of any existing bicycle facility" or "[i]mplementing any educational or training program, enforcement activities or promotional activities as outlined" in the Bicycle Plan.

## **ALTERNATIVES CONSIDERED**

Not applicable.

## **FUNDING IMPACT**

The ten percent local match of \$72,000 will be provided by the San Francisco County Transportation Agency through Proposition K (Sales Tax) funding. Through the Proposition K Five Year Prioritization Plan under the category of "Bicycle Circulation and Safety," there are sufficient funds programmed under the line titled, "Spot Improvements" to be utilized as local match for the BTA grant.

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

None.

The City Attorney's Office has reviewed this calendar item.

## **RECOMMENDATION**

Staff is requesting that the SFMTA Board approve the following:

1. That the SFMTA commit up to \$72,000 in local funds as match to the BTA funds; and,
2. That the SFMTA accept and expend up to \$648,000 in BTA grant funds in a timely manner and for eligible purposes.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) is responsible for the City and County of San Francisco's public bicycling facilities; and,

WHEREAS, The SFMTA recently applied for \$648,000 in Fiscal Year 2009-10 State Bicycle Transportation Account (BTA) funds; and,

WHEREAS, Local matching funds amounting to 10% of the total project cost would come from Proposition K Sales Tax funds; and

WHEREAS, The requested BTA funds would be spent in a timely manner for eligible purposes on repairing and upgrading pavement along the City's bicycle lanes; and designing, procuring, and distributing safety booklets, maps and amenities to support bicycle commuting; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO (or his designee) to accept and expend up to \$648,000 in FY 2009-10 Bicycle Transportation Account funds; and be it further

RESOLVED, That the SFMTA Board commits to expending Proposition K Sales Tax funds amounting to 10% of the total project cost (not to exceed \$72,000); and be it further

RESOLVED, That SFMTA will expend such grant funds funds in a timely manner and for eligible purposes on maintenance activities along the City's bicycle lanes; and designing, procuring, and distributing safety booklets, maps and amenities to support bicycle commuting; and be it further

RESOLVED, That the SFMTA Board authorizes the Executive Director/CEO (or his designee) to execute agreements and other documents required for receipt of these funds.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.5**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Finance and Information Technology

**BRIEF DESCRIPTION:**

Authorizing the San Francisco Municipal Transportation Agency (SFMTA) to accept and expend \$50,000 to produce a Mini-Short Range Transit Plan.

**SUMMARY:**

- The Metropolitan Transportation Commission (MTC) requires the SFMTA to produce a Short Range Transit Plan (SRTP) every four years, with Mini-SRTP updates annually in between those years, as a condition of federal funding.
- The SRTP is the SFMTA's primary transit planning document for the Municipal Railway (Muni), presenting Muni's future service plans, service standards, Capital Investment Program, and Operating Financial Plan in a public document.
- MTC provides Federal Transit Administration (FTA) Planning Funds to support production of SRTPs and Mini-SRTPs by transit agencies.
- This action authorizes the SFMTA, through its Executive Director/CEO (or his designee), to accept and expend \$50,000 in FTA Planning Funds to produce a Mini-SRTP in 2009.

**ENCLOSURES:**

1. SFMTAB Resolution

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

\_\_\_\_\_

FINANCE \_\_\_\_\_

\_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

\_\_\_\_\_

SECRETARY \_\_\_\_\_

\_\_\_\_\_

ADOPTED RESOLUTION BE RETURNED TO: Leda Young, 1 South Van Ness Avenue, 7<sup>th</sup> Floor

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **Purpose**

The SFMTA Board approval of this resolution would authorize the SFMTA, through its Executive Director/CEO (or his designee), to accept and expend \$50,000 in Federal Transit Administration Planning Funds from the Metropolitan Transportation Commission (MTC) to produce a Mini-Short Range Transit Plan (SRTP) in FY 2009.

### **Goal**

The SFMTA will further the following goal of the Strategic Plan through acceptance of these funds:

- Goal 4 - Financial Capacity: To ensure financial stability and effective resource utilization.

Objective 4.2 - Ensure efficient and effective use of resources.

### **Description**

The SRTP is the primary planning document for Muni service and facilities. The SRTP presents Muni's service plans, service standards, Capital Investment Program, and Operating Financial Plan for a 20-year period in a public document. The SRTP is used to document Muni's priorities, and to show how the SFMTA intends to accomplish its goals and objectives. It provides input into a variety of funding programs, and helps to evaluate the agency's capacity to build and operate future improvements. The SRTP provides justification, support and prioritization for Muni's capital projects contained in regional and local transportation plans and funding documents. The SFMTA Board adopted Muni's last full SRTP on January 15, 2008.

The MTC requires the SFMTA to produce a full SRTP every four years (previously, a full SRTP was required every two years) as a condition of receiving federal funding. Mini-SRTP updates are required in every year that a full SRTP update is not required. The MTC provides FTA Planning Funds to support production of SRTPs and Mini-SRTPs by transit agencies.

According to detailed MTC guidelines, the scope of the Mini-SRTP is limited. It primarily provides technical updates to the performance evaluation, the Operating Financial Plan, fleet program, and Capital Investment Program. The detailed description of service, facilities, and projects is provided by the previously published full SRTP. However, besides the required data, the Mini-SRTP will also contain a summary of progress on the TEP and SFMTA sustainability initiatives.

MTC requires that Mini-SRTPs that include policy changes be presented and adopted by the transit agency's Board. The FY 2009 Mini-SRTP will focus on incorporating information that has been approved by the Board, so a separate Board action on the Mini-SRTP will not be required.

The Draft Mini-SRTP is expected to be submitted to MTC by January 2009. The Final Mini-SRTP should be submitted to MTC by March 2009 and then posted on the SFMTA website.

## **ALTERNATIVES CONSIDERED**

Not applicable.

## **FUNDING IMPACT**

The capital funds for this project are from:

- FTA Planning Funds from MTC (\$50,000), and
- SFMTA Operating Funds to serve as a match to the Federal Funds (\$6,478).

The total project cost is \$56,478.

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The MTC has programmed \$50,000 in FTA Planning Funds to the SFMTA to produce a Mini-SRTP in FY 2009.

## **RECOMMENDATION**

The SFMTA Board approval of this resolution would authorize the SFMTA, through its Executive Director/CEO (or his designee), to accept and expend \$50,000 in FTA Planning Funds from the MTC to produce a Mini- SRTP in FY 2009.

The City Attorney's Office has reviewed this calendar item.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The Short Range Transit Plan (SRTP) is the primary planning document for Municipal Railway service and facilities; the purpose of the SRTP is to present in a public document Muni's service plans, service standards, Capital Investment Program, and Operating Financial Plan for a 20-year period; and

WHEREAS, The Metropolitan Transportation Commission (MTC) requires the San Francisco Municipal Transportation Agency (SFMTA) to produce a full SRTP every four years and Mini-SRTPs in years that a full SRTP is not produced; and

WHEREAS, The SFMTA adopted the last full SRTP in January 2008, and is required to produce a Mini-SRTP in Fiscal Year (FY) 2009; and

WHEREAS, The MTC provides Federal Transit Administration (FTA) Planning Funds to support production of SRTPs by transit agencies; and

WHEREAS, The MTC has programmed \$50,000 in FTA Planning Funds to the SFMTA to produce a Mini-SRTP in FY 2009; and

WHEREAS, Under Charter Section 8A.02(b)12, the SFMTA has authority to apply for, accept and expend federal, state, or other grants involving any project or program on behalf of the Agency; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the San Francisco Municipal Transportation Agency, through its Executive Director/CEO (or his designee), to accept and expend a total of \$50,000 of Federal Transit Administration Planning Funds from the Metropolitan Transportation Commission to produce a Mini-SRTP in FY 2009 and, be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO (or his designee) to execute any and all agreements necessary to complete the transfer of funds.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors

## San Francisco Municipal Transportation Agency

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Parking and Traffic

**BRIEF DESCRIPTION:**

Authorizing the Department of Public Works ("DPW") to award Contract No. 1099J: SFgo Various Locations Contract, to Phoenix Electric Company, 1300 Van Dyke Avenue, San Francisco, California 94124 for a total contract amount not to exceed \$1,073,888.

**SUMMARY:**

- On September 29, 2008, Nathaniel Ford, Executive Director/CEO approved DPW to issue a bid call for DPW Contract 1099J, SFgo Various Locations Contract.
- This contract will install seven variable message signs, 11 closed circuit television cameras, and related communication network links along Third Street, Fell & Oak Street corridor, Octavia Blvd., and South of Market area.
- SFMTA Parking and Traffic ("DPT") staff performed the initial conceptual design and some of the detailed design for this contract. DPW staff completed the detailed design, prepared the contract documents and contract advertisement. DPW staff will also provide construction management services.
- The contract work will be funded through Proposition K Sales Tax revenues.
- On October 29, 2008, five bids were received and publicly opened.
- DPW has determined that Phoenix Electric Company is the lowest responsive and responsible bidder.
- The Contract Compliance Officer from the Human Rights Commission ("HRC") has reviewed this calendar item and has confirmed that Phoenix Electric Company is the lowest responsive and responsible bidder that met the 20% Local Business Enterprise subcontracting participation goal and the "Good Faith Outreach" requirements under the HRC provisions of Chapter 14B – Section 14B.8(C) for this project.
- SFMTA staff recommends awarding the contract to Phoenix Electric Company in an amount not to exceed \$1,073,888, as the lowest responsive and responsible bidder.
- The completion date for this project is 250 calendar days after written Notice to Proceed.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Project Budget and Financial Plan

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Cathal Hennessy

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

SFMTA staff requests that the SFMTA Board authorize the Department of Public Works (“DPW”) to award DPW Contract No. 1099J: SFgo Various Locations Contract, to Phoenix Electric Company for a total contract amount not to exceed \$1,073,888.

### **GOAL**

The SFMTA will further the following goals of the Strategic Plan through the award and execution of this contract:

Goal 1 – Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy.

- 1.1 Improve safety and security across all modes of transportation
- 1.3 Reduce emissions as required by the SFMTA Clean Air Plan
- 1.5 Increase percentage of trips using more sustainable modes (such as transit, walking, bicycling, and rideshare)

Goal 2 – System Performance: To get customers where they want to go, when they want to be there.

- 2.1 Transit reliability: Improve on-time performance to 85%
- 2.3 Fulfill bicycle and pedestrian network connectivity
- 2.4 Reduce congestion through major corridors

Goal 3 – External Affairs/Community Relations: To improve the customer experience, community value, and enhance the image of the SFMTA, as well as ensure SFMTA is a leader in the industry.

- 3.2 Pursue internal and external customer satisfaction through proactive outreach and heightened communication conduits.
- 3.4 Enhance proactive participation and cooperatively strive for improved regional transportation.

Goal 6 – Information Technology: To improve service and efficiency, the SFMTA must leverage technology

- 6.1 Information and Technology Leadership: Identify, develop, and deliver the enhanced systems and technologies required to support SFMTA’s 2012 goals.

### **DESCRIPTION**

#### **Scope of Work**

The SFMTA’s Parking and Traffic Division (“DPT”), utilizing DPW Contract No. 1099J: SFgo Various Locations Contract, proposes to install seven variable message signs and 11 closed circuit television cameras in San Francisco (“the work”). The variable message signs will be located along Third Street, Fell and Oak Street corridor, and South of Market area. In addition, 11 closed circuit television cameras will be installed along Third Street, Fell and Oak Street corridor, Octavia Blvd., and South of Market area.

## **PAGE 3.**

These locations were selected to allow SFgo to monitor traffic conditions from the Transportation Management Center (“TMC”) and verify incidents on these corridors via the closed circuit television cameras. The variable message signs would be used to display traveler information regarding traffic conditions, roadway incidents, or any other important messages to the public. Furthermore, some variable message signs will be incorporated as part of the SFpark – Parking Guidance System to display real-time garage space information.

DPT staff performed the initial conceptual design and some of the detailed design for this contract. DPW staff completed the detailed design, prepared the contract documents, and contract advertisement. DPW staff will provide construction management services.

The Human Rights Commission has established a 20% Local Business Enterprise (“LBE”) subcontractor participation goal for this project.

### **Solicitation for Bids and Bid Opening**

On September 29, 2008, the City solicited bids for the work through public advertisements in the San Francisco Chronicle and the Small Business Exchange. In addition, the public advertisement was listed until the day of the bid opening on the City’s internet website at <http://www.sfgov.org/oca/purchasing>.

On October 29, 2008, the Department of Public Works received and publicly opened the following five bids for DPW Contract No. 1099J:

- Edward W. Scott Electric Company, Inc.  
1150 25<sup>th</sup> Street  
San Francisco, California 94124  
Bid Amount: \$899,000
- Steiny and Company, Inc.  
27 Sheridan Street  
Vallejo, California 94590  
Bid Amount: \$1,007,600
- Phoenix Electric Company  
1300 Van Dyke Avenue  
San Francisco, California 94124  
Bid Amount: \$1,073,888
- F. Connolly Company  
1224 Montgomery Avenue  
San Bruno, California 94066  
Bid Amount: \$1,186,000

## **PAGE 4.**

- AAA Construction Group, Inc.  
530 Howard Street, Suite 250  
San Francisco, California 94105  
Bid Amount: \$1,284,347.41

The Engineer's Estimate is \$886,885. The total bid amount by Phoenix Electric Company, Inc. is \$1,073,888, but is below the contract budget of \$1,181,277.

The Contract Compliance Officer from the Human Rights Commission has reviewed this calendar item and has confirmed that Phoenix Electric Company met the 20% Local Business Enterprise subcontractor participation goal and the "Good Faith Outreach" requirements under the HRC provisions of Chapter 14B – Section 14B.8(C) for this project. The two apparent low bidders, Edward W. Scott Electric Company, Inc. and Steiny and Company, Inc., failed to meet the "Good Faith Outreach" requirements under the HRC provisions of Chapter 14B – Section 14B.8(C) and the 20% Local Business Enterprise subcontracting participation goal, respectively.

Phoenix Electric Company is a responsible contractor with extensive experience in traffic signal installations in the City. Phoenix Electric Company has completed or is in the process of completing the following recent Sales Tax funded traffic signal contracts: DPW Contract No. 0481J: Columbus Avenue Traffic Signal Upgrade (completed February 2005), DPW Contract No. 0872J: Contract 31 Traffic Signal Modifications (completed April 2007), and DPW Contract No. 1387J: Contract 58 New Traffic Signals (currently under construction).

In its bid for DPW Contract No. 1099J, Phoenix Electric Company listed the following subcontractors:

- Ace Drilling and Excavation (San Francisco, California)
- Sullivans Concrete Paving (San Francisco, California)
- Bay Area Lightworks (San Francisco, California)
- A. Ruiz Construction (San Francisco, California)
- Omega Pacific Electrical Suppliers, Inc. (San Francisco, California)

## **ALTERNATIVES CONSIDERED**

Instead of contracting out using the competitive bid process for the construction of DPW Contract No. 1099J: SFgo Various Locations Contract, the following alternatives were also considered:

- Replacement and/or Refurbishment – This option does not apply since there is no existing equipment. New equipment, including conduits, variable message signs, closed circuit television cameras and all related cabling and wiring need to be installed, although the closed circuit television cameras will typically be mounted onto existing equipment such as streetlight or traffic signal poles.

## **PAGE 5.**

- **No-Build Option** – This option was not chosen because this contract was found to promote several of SFMTA's goals; in particular, the customer focus goal of improving safety across all modes of transportation.
- **Rebidding and/or Renewing an Existing Contract** – This option does not apply to Contract No. 1099J since there is no existing contract.
- **Use of SFMTA In-House Staff** – Construction of the new variable message signs and closed circuit television camera installations through in-house staff is not feasible because SFMTA does not have the staff resources to perform such work. SFMTA facilities such as the Municipal Railway Maintenance Division and DPT Traffic Signal Shop are primarily staffed and equipped to maintain and repair existing systems and equipment, and are not prepared for larger-scale construction projects.

Staff concluded that contracting out through the use of the competitive bidding process is the best alternative for the execution of DPW Contract No. 1099J. Historically, competitive bidding has been the City's primary means of awarding transportation infrastructure construction contracts, and the SFMTA has found this method to be the most efficient and cost-effective.

## **FUNDING IMPACTS**

This contract is funded through Proposition K Sales Tax revenues.

The time allotted for substantial completion of the work is 250 calendar days from the written Notice to Proceed. Liquidated damages are \$3,000 per day for contractor's delays that result in failure to complete the work on time.

The project is categorically exempt under the California Environmental Quality Act.

Operating funds required for the maintenance of transportation infrastructure being constructed as part of DPW Contract No. 1099J: Various Locations Contract will be included in the SFMTA operating budget in future years.

See Enclosure #2 to this item for funding details.

**PAGE 6.**

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The Department of Public Works will proceed with advertising and awarding Department of Public Works Contract No. 1099J: *SFgo* Various Locations Contract, after the SFMTA Board's approval of this item.

The City Attorney's Office has reviewed this report.

**RECOMMENDATION**

Staff recommends that the SFMTA Board authorize DPW to award DPW Contract No. 1099J: *SFgo* Various Locations Contract, to Phoenix Electric Company, 1300 Van Dyke Avenue, San Francisco, California 94124, for a total contract amount not to exceed \$1,073,888.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, SFMTA's Parking and Traffic Division ("DPT") has been seeking appropriate locations for new variable message signs and closed circuit television cameras to be funded by Propositions K Sales Tax revenues; and,

WHEREAS, DPT has identified seven locations for new variable message sign installations along Third Street, Fell and Oak Street corridor, and South of Market area; and 11 locations for new closed circuit television camera installations along 3<sup>rd</sup> Street, Fell and Oak Street corridor, and Octavia Blvd.; and,

WHEREAS, DPT proposes to install variable message signs and closed circuit television cameras at these locations under Department of Public Works ("DPW") Contract No. 1099J: *SFgo Various Locations Contract*; and,

WHEREAS, Funding for the work will be provided through Proposition K sales tax revenues; and,

WHEREAS, Five bids were received and opened publicly on October 29, 2008; and,

WHEREAS, DPW has determined that Phoenix Electric Company is the lowest responsive and responsible bidder, with a bid of \$1,073,888; and,

WHEREAS, The Human Rights Commission has confirmed that Phoenix Electric Company met the established Local Business Enterprise subcontractor participation goal of 20% and the "Good Faith Outreach" requirements; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Department of Public Works to award Contract No. 1099J: *SFgo Various Locations Contract* for the installation of seven variable message sign displays and 11 closed circuit television cameras at various locations along 3<sup>rd</sup> Street, Fell and Oak Street corridor, Octavia Blvd., and South of Market area, for a total contract amount not to exceed \$1,073,888.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**Enclosure #2**

**Department of Public Works Contract No. 1099J: SFgo Various Locations Contract  
Project Budget and Financial Plan**

**PROJECT BUDGET**

<b>Category</b>	<b>Budget Amount</b>
DPT Traffic Engineering & DPW Bureau of Engineering (Planning and Design)	\$136,000
Construction Contract Cost plus 10% Contingency	\$1,181,277
Other construction activities	\$860,662
Construction Support to be provided by DPW and SFMTA - DPT	\$366,471
<b>TOTAL (DESIGN AND CONSTRUCTION PHASES)</b>	<b>\$2,544,410</b>

**FINANCIAL PLAN**

<b>Funding Source</b>	<b>Amount</b>	<b>Percentage</b>
Local Half Cent Sales Tax - Proposition K	<b>\$2,544,410</b>	100%
<b>TOTAL</b>	<b>\$2,544,410</b>	<b>100%</b>

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.7**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Muni Service Delivery and Operations

**BRIEF DESCRIPTION:**

Authorizing the Executive Director/CEO to execute an agreement with Systra Consulting, Inc. to conduct railway core capacity and reliability analyses, including simulations and recommendations for improvements, for an amount not to exceed \$595,056, and a contract term of one year, with an option to extend the agreement for up to two additional years, said option to be exercised by and at the discretion of the Executive Director/CEO.

**SUMMARY:**

- Proposition E mandates that the Municipal Transportation Agency establish service standards and performance objectives to improve public transportation services.
- A railway core capacity and reliability analysis is necessary to improve rail system performance.
- On June 20, 2008, the SFMTA issued a Request for Proposals (RFP) for a railway core capacity and reliability analysis and related consulting services. Three firms submitted proposals in response to the RFP; and after reviewing the proposals and conducting oral interviews, the selection panel ranked Systra Consulting Services, Inc. as the highest-qualified proposer.
- This contract agreement will meet the LBE subcontracting goal of 15 percent.
- The contract is for an amount not to exceed \$595,056 and a term of one year, with an option to extend the contract up to two additional years at the discretion of the Executive Director/CEO.
- The funds required for the contract will be provided through operating funds.

**ENCLOSURES:**

1. SFMTA Board Resolution
2. Agreement between the SFMTA and Systra Consulting Service

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Kenneth McDonald \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PURPOSE**

SFMTA staff requests that the Board of Directors authorize the Executive Director/CEO to execute an agreement with Systra Consulting, Inc. for consulting services to include railway core capacity and reliability analyses, service simulations and recommendations for improvements. Systra will also analyze proposed remedial measures, such as infrastructure improvements, designed to resolve service delivery problems.

## **STRATEGIC PLAN GOALS**

By supporting the expedited and successful implementation of the Railway Core Capacity and Reliability Analysis, including service simulations and recommendations for improvements, the consulting services provided by Systra Consulting, Inc. will specifically support the SFMTA Strategic Plan goals listed below. It will also provide viable solutions towards achieving the goals mandated by Proposition E.

Goal 2: System Performance: To get customers where they want to go, when they want to get there

Objectives:

- 2.1. Improve transit reliability to meet the 85% on-time performance standard
- 2.2 Ensure efficient transit connectivity and span of service
- 2.4. Reduce congestion on major corridors

Goal 3: External affairs/Community Relations: To improve the customer experience and community value, and enhance the image of the SFMTA, as well as ensure that the SFMTA is a leader in its industry

Objective:

- 3. 2. Pursue internal and external customer satisfaction through proactive outreach and heightened communication conduits

Goal 4: Financial Capacity: To ensure financial stability and effective resource utilization

Objective:

- 4. 2. Ensure efficient and effective use of resources

## **EXPLANATION**

On June 20, 2008, a Request for Proposal (RFP) was issued. Three responses to the RFP were received and Systra Consulting, Inc. was selected as the highest scored proposer by the proposal review panel. SFMTA and Systra Consulting have completed the contract negotiations and the project is pending Board approval.

The analysis and simulations that will be conducted by Systra Consulting Inc. will provide the following:

- 1. Determine the maximum number of trains that can be scheduled in the core area of our rail network
- 2. Develop procedures that reduce delay and variability in system throughput, and
- 3. Identify potential schedule and operational conflicts and constraints that may negatively

impact current and future rail operations.

Specific contracted tasks and deliverables will include the following items:

1. Computer Model of Rail Network in a Database format:
  - a. Develop Baseline Schedule
2. Analysis of Muni Metro LRV Network capacities including:
  - a. Two Incident Recovery Analyses
  - b. Analysis of Proposed Remedial Measures, and
  - c. On-Site Presentations
3. Simulation of Existing and Future Schedules including:
  - a. AM peak
  - b. PM peak
  - c. Muni Metro East (MME) schedules
  - d. On-site Training of SFMTA staff
4. Unlimited RAILSIM Software Site License

This agreement will include a perpetual, unlimited enterprise license for use of the Systra computer application, RAILSIM, for simulating the rail network. The license includes a one-year warranty and one year of maintenance support and updates. Under the license, Systra will provide unlimited indemnification to the SFMTA for infringement of a patent or copyright. There is a reciprocal indemnity under which each party will indemnify the other for claims from third parties resulting from the negligence of the indemnifying party. Systra's liability for breach of contract is limited to the amount of the license fee.

Subsequent to completion of the above tasks, funding is available within the project to cover additional as-needed task orders for analysis and engineering of rail systems such as additional enhancements to scheduling related to Muni Metro East and analyses of remedial measures to address as yet undefined system problems.

## **FUNDING IMPACT**

This project will be funded through operating funds.

## **ALTERNATIVES CONSIDERED**

The decision of SFMTA to hire an independent contractor to develop a railway core capacity and reliability analysis, including simulations and recommendations for improvements was based on analysis of the following factors:

- At current staffing levels, the SFMTA is unable to absorb the increase in work capacity needed to complete a railway core computer model. To meet the staffing requirements of developing an analysis, SFMTA must either increase Operations staffing levels or hire an independent contractor.
- Tasks involved in developing a railway core model will require full-time, dedicated commitments from workers. After the completion of the initial Muni Metro East (MME) model, only part-time worker commitments will be required.

- Increasing SFMTA staffing levels would result in excessive staffing after the completion of this project.
- SFMTA does not possess computer software with the capability to provide simulations of various scenarios.

Considering these factors, SFMTA concluded that hiring an independent contractor is more practical and cost effective than increasing Operations staffing levels because it allows the SFMTA to obtain the expertise and absorb the necessary increase in work capacity, while avoiding long-term excess staffing.

The positive impact of awarding this contract enhances the SFMTA's ability to:

- Analyze schedule impact prior to implementation, and
- Assess rail network capacities.

#### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The Civil Service Commission approved the personal services contract request for the Railway Core Capacity and Reliability Analysis on August 4, 2008.

The City Attorney's Office has reviewed this report.

#### **RECOMMENDATION**

SFMTA staff recommends authorization of the Executive Director/CEO to execute the agreement with Systra Consulting Inc. to conduct railway core capacity and reliability analysis, including simulations and recommendations for improvements, for an amount not to exceed \$595,056, and a contract term of one year with an option to extend the contract for up to two years at the discretion of the Executive Director/CEO.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, Proposition E mandates that the Municipal Transportation Agency establish service standards and performance objectives to improve public transportation services; and,

WHEREAS, A railway core capacity and reliability analysis is necessary to improve rail system performance; and,

WHEREAS, Effective schedules and effective operations procedures are necessary to increase customer satisfaction by reducing unnecessary waiting; and,

WHEREAS, A computer model of the railway network provides necessary management information tools to improve the delivery of revenue service; and,

WHEREAS, On June 20, 2008, the SFMTA issued a Request for Proposals (RFP) for firms qualified to a railway core capacity and reliability analysis and related consulting services; and,

WHEREAS, Three firms submitted proposals in response to the RFP; and,

WHEREAS, After reviewing the proposals and conducting oral interviews, the selection panel ranked Systra Consulting Services, Inc. as the highest-qualified proposer; and,

WHEREAS, SFMTA has negotiated a contract with Systra Consulting Services in an amount not to exceed \$595,056, and for a term of one year, with an option to extend the term for up to two additional years at the discretion of the Executive Director/CEO; and,

WHEREAS, The SFMTA has funds in its operating budget for this contract; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO or his designee to award San Francisco Municipal Transportation Agency Contract #SFMTA2008-02, Railway Core Capacity and Reliability Analysis with Systra Consulting, Inc. as the lowest responsive and responsible bidder to conduct railway core capacity and reliability analysis, including simulations and recommendations for improvements, for an amount not to exceed \$595,056, for a contract term of one year, with an option to extend the agreement for up to two additional years, said option to be exercised by and at the discretion of the Executive Director/CEO.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

---

Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**City and County of San Francisco  
Municipal Transportation Agency  
One South Van Ness Ave. 7<sup>th</sup> floor  
San Francisco, California 94103**

**Agreement between the City and County of San Francisco and  
Systra Consulting, Inc. for Railway Core Capacity and Reliability Analysis**

**Contract No. SFMTA2008-02**

This Agreement is made this \_\_\_\_\_ day of January, 2009, in the City and County of San Francisco, State of California, by and between: Systra Consulting, Inc. located at 760 Market Street, Suite 320, San Francisco CA 94102 ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA").

**Recitals**

- A. The SFMTA wishes to conduct a railway core capacity and reliability analysis, including simulations and recommendations for improvements.
- B. A Request for Proposals ("RFP") was issued on June 20, 2008, and City selected Contractor as the highest ranked proposer pursuant to the RFP.
- C. Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract.
- D. Approval for this Agreement was obtained when the Civil Service Commission approved Personal Services Contract number 4007-08/09 on August 4, 2008.

Now, THEREFORE, the parties agree as follows:

**1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor

and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

## **2. Term of the Agreement**

Subject to Section 1, the term of this Agreement shall be for a duration of one year from the Effective Date. At the option of the Executive Director/CEO of the SFMTA, the Agreement may be extended for up to an additional two years.

## **3. Effective Date of Agreement**

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

## **4. Services Contractor Agrees to Perform**

**a. Scope.** The Contractor agrees to perform the services provided for in Appendix A, "Services to be provided by Contractor," attached hereto and incorporated by reference as though fully set forth herein.

**b. Information and Data.** The Contractor shall request in writing any information and data it will require to perform task orders. The Contractor shall identify the timing and priority for which this information and data will be required. The Contractor and SFMTA shall reach agreement as to the availability and delivery time for this data and information during initial task negotiations.

**c. Presentations.** In the performance of assigned tasks, the Contractor, if requested by SFMTA, shall prepare graphic and written presentations, and participate in two major presentations of said material to various City departments, boards or commissions, and interested community groups.

**d. Priority of Documents.** All requirements of the RFP and the representations made in the Contractor's proposal that are not in conflict with provisions of this Agreement are incorporated by reference and made an integral part of this Agreement as though fully set forth herein. With respect to any conflict or ambiguity between this Agreement and the RFP or Contractor's proposal, this Agreement shall control except where the RFP or the proposal refers to services not otherwise mentioned in this Agreement, in which case and to such extent the RFP or Proposal shall control. Documents listed as Exhibits to this Agreement are incorporated by reference as though fully set forth herein.

**e. Transmittal of Products.** At a time when requested by the SFMTA's Contracting Section ("Contracting Section"), and at the completion of each task, the Contractor shall transmit to the Contracting Section all documents and work products (duplicates and originals) produced or accumulated in the course of its and its subcontractors' work on this Agreement. Documents and work products include, but are not limited to, all reports, studies, data, drawings,

specifications, graphs, tape recordings, pictures, memoranda, letters, computer-generated data, calculations, estimates, summaries and such other information and materials as may have been accumulated or generated by the Contractor or its subcontractors, in connection with the services performed under this Agreement, whether completed or in process. The Contractor may retain at its own expense a copy of the documents and work products for record keeping purposes.

## **5. Compensation**

**a. Amount.** Compensation for Tasks 1 through 8 shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 4 of this Agreement, that the SFMTA's Executive Director/CEO, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. The breakdown of costs associated with this Agreement appears in Appendix B-1 (Calculation of Charges), attached hereto and incorporated by reference as though fully set forth herein. Compensation for Tasks 9 and 10 shall be based on a fixed amount as provided in Appendix B-1. Compensation for as-needed tasks (Task 11) shall be made in either a negotiated lump sum price per task or subtask, or actual direct costs plus a negotiated fixed profit per subtask and task. In the event that compensation for as-needed tasks are made on a lump-sum basis, payments shall be made as provided in Appendix B-2 (Payment Schedule); in the event that compensation for as-needed tasks are based on actual direct costs plus a negotiated fixed profit, payment shall be made as set forth for Tasks 1 through 8. In no event shall the amount of this Agreement exceed Five Hundred Ninety-Five Thousand Fifty-Six Dollars (\$595,056).

Compensation shall not exceed the amount shown for each task on Exhibit B-1. Contractor may request the City's approval to transfer unused funds from one task to another task to cover the unexpected shortfall of another task provided that the task from which the funds are transferred out of is at least ninety-five percent (95%) complete and provided the main reason for the task requiring additional funds is not due to Contractor's poor management or planning. Such request must be made in writing to the SFMTA project manager at least ten (10) calendar days in advance of the need to transfer funds across tasks.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by SFMTA as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

**b. As-needed Tasks.** The SFMTA will define as-needed task requirements. The cost and estimated time to perform the task fully will be agreed upon in advance of the start of work on the task in accordance with the terms and conditions of this Agreement, generally following the procedures outlined below.

**(1) Scope of Work.** SFMTA will prepare the scope of work and expected time of completion, using the Task Order Description Form (Appendix E) and transmit the Task Order form to the Contractor with a request for a proposal for the performance of the task.

**(2) Contractor Proposal.** The Contractor shall prepare and submit a proposal for the task to the Contracting Section showing:

(a) A detailed description by subtask of the work to be performed and the means and methods that will be used to perform it;

(b) Milestones for completion for each subtask and deliverables at each milestone;

(c) Personnel and the subcontractors assigned to each part of the work along with a justification as to why such personnel are qualified to perform the work; and prior experience in performing work of this nature;

(d) A detailed cost estimate for each task or subtask showing:

(1) Estimated hours and direct salaries by position, including fringe and benefits not to exceed 126%, for both Contractor and subcontractor personnel, which must have been audited or be auditable

(2) Overhead, including salary burden costs not to exceed 158% for both Contractor and subcontractors, which must have been audited or must be auditable

(3) Estimated reasonable out-of-pocket expenses

(4) Proposed profit as follows:

- Proposed profit of Contractor's work effort as fixed fee amount not to exceed ten percent (10%) of Contractor's estimated direct salaries and overhead costs; and
- For work performed by all subcontractors, proposed total profit for Contractor and subcontractor on subcontractor's work effort as a fixed fee not to exceed twelve percent (12%) of subcontractor's estimated direct salaries and overhead costs.

**(3) Negotiation of Cost and Profit.** The Contracting Section will review the proposal and negotiate either a lump sum price or a fixed profit to perform the work of each subtask and task and either a total price or a total cost not to exceed for the task.

**(4) Record of Negotiations.** If agreement is reached, the Contracting Section will document the negotiations and agreement in a Record of Negotiations and obtain the approval of the Chief Operating Officer of the agreement as defined in the Record of Negotiations.

**(5) Controller Certification.** Upon approval of the Chief Operating Officer, the Contracting Section will request certification from the Controller that adequate funds are available to proceed with the task as agreed.

**(6) Notice to Proceed (NTP).** After certification, the Contracting Section will send to the Contractor a written NTP and Task Number. The Contractor is required to use the task number when submitting invoices to the Contracting Section for payment. The Contractor shall not commence work on any task until it receives a written NTP for the task.

**(7) Changes.** Agreed lump sum prices and fixed profits for subtasks and tasks above cannot be modified unless there is a material change in the scope of work of the task. If there is a material change in the scope of work of a task, then a proposal, negotiations, Record of Negotiations and approval of the Record of Negotiations by the Chief Operating Officer shall be required before changes to agreed lump sum prices and fixed profits can be approved.

Certification by the Controller is required for changes that result in an increase to the total cost of a task.

**(8) Failure to Agree on Terms of Task.** In the event that City and Contractor cannot reach agreement on the terms of the task order, City may either cancel the task order and have the work accomplished through other available sources, or City may direct the Contractor to proceed with the task under such conditions as City may require to assure quality and timeliness of the task performance. **Under no circumstances may the Contractor refuse to undertake a City-ordered task.**

**c. Subcontractor Payments.** The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the SFMTA and Contractor of the omission. If Contractor's failure to provide HRC Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Progress Payment Form is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

**d. Key Team Members.** Work under this Agreement shall be performed only by competent personnel under the supervision of and/or in the employment of Contractor. The Contractor agrees that the following key team members shall be committed and assigned to work on the Project to the level required by SFMTA for the term of the Agreement and shall also be staffed at the local Contractor offices within the San Francisco Bay Area for all such time:

Phillip Adams, On-Site Project Manager

Contractor agrees that the following key team members shall be committed and assigned to work on the Project to the level required by SFMTA for the term of the Agreement.

Alan Foster, Project Manager  
F.W. Lipfert, Jr., Quality Assurance/Quality Control

Contractor shall advise SFMTA immediately any time one of the Key Team Members deviates from its committed role or time on the Project (e.g., is assigned to another project). SFMTA may in turn require Contractor to provide a remedy and/or corrective actions for such deviations.

**e Current Workload and Available Resources.** The Contractor covenants that its current workload and the workload of its subcontractors will not affect the commencement and the progress of the work under this Agreement. The Contractor shall have all the necessary professional, technical and support personnel, including those of the subcontractors, available, ready and mobilized to perform actual work within two (2) weeks of the receipt of NTP on a particular task.

## **6. Guaranteed Maximum Costs**

**a.** The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

b. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

c. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.

d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

## **7. Payment; Invoice Format**

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Contractor shall be subject to audit by City.

Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

## **8. Submitting False Claims; Monetary Penalties**

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or contractor who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or contractor who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or contractor will be deemed to have submitted a false claim to the City if the contractor, subcontractor or contractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

## **9. Disallowance**

If Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City

may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement.

By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Contractor acknowledges that this certification of eligibility to receive federal funds is a material terms of the Agreement.

## **10. Taxes**

**a.** Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.

**b.** Contractor recognizes and understands that this Agreement may create a “possessory interest” for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a “change in ownership” for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

## **11. Payment Does Not Imply Acceptance of Work**

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been

apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that does not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

## **12. Qualified Personnel**

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, and must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

## **13. Responsibility for Equipment**

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

## **14. Independent Contractor; Payment of Taxes and Other Expenses**

### **a. Independent Contractor**

Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

### **b. Payment of Taxes and Other Expenses.**

Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts

payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

## **15. Insurance**

**a.** Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(4) Professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

**b.** Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall provide thirty (30) days' advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address:

Angela Carmen, Sr. Operations Manager  
SFMTA  
1 South Van Ness Ave., 7<sup>th</sup> Floor  
San Francisco, CA 94103  
E-mail: [Angela.Carmen@sfmta.com](mailto:Angela.Carmen@sfmta.com)

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

g. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

i. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

## **16. Indemnification**

### **a. General Indemnity**

To the fullest extent permitted by law, Contractor shall assume the defense of, indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from any claim, loss, damage, injury (including, without limitation, injury to or death of an employee of the Contractor or its subcontractors) and liabilities of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees and costs of investigation), that arise directly or indirectly, in whole or in part, from (1) the services under this Agreement, or any part of such services, and (2) any negligent, reckless, or willful act or omission of the Contractor and subcontractor to the Contractor, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"), subject to the provisions set forth herein.

### **b. Limitations**

(1) No insurance policy covering the Contractor's performance under this Agreement shall operate to limit the Contractor's liability under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such liability.

(2) The Contractor assumes no liability whatsoever for the sole negligence or willful misconduct of any Indemnatee or the contractors of any Indemnatee.

(3) The Contractor's indemnification obligations of claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the extent of the Contractor's negligence or other breach of duty.

### **c. Copyright Infringement**

Contractor shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in then performance of Contractor's services under this Agreement.

## **17. Incidental and Consequential Damages**

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

## **18. Liability of City**

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

**19. Left Blank by Agreement of the Parties (Liquidated Damages)**

**20. Default; Remedies**

**a.** Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 53, 55, 57, or 58.

(2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

(4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

**b.** On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in

effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under

this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

## **21. Termination for Convenience**

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

(1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.

(2) Not placing any further orders or subcontracts for materials, services, equipment or other items.

(3) Terminating all existing orders and subcontracts.

(4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

(7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs shall include Contractor's actual wage rates plus an auditable and reasonable overhead rate applied to these wages. The actual overhead may not exceed a total of 158% of Contractor's actual wage rates for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice. In addition, Contractor shall be reimbursed for actual Direct Expenses including travel, printing, courier, and subcontractor costs, without overhead rate or profit applied.

(2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

**d.** In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

**e.** In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

**f.** City's payment obligation under this Section shall survive termination of this Agreement.

## **22. Rights and Duties upon Termination or Expiration**

a. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 8 through 11, 13 through 18, 24, 26, 27, 28, 48 through 52, 56, and 57.

b. Subject to the immediately preceding subsection (a), upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

### **23. Conflict of Interest**

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

### **24. Proprietary or Confidential Information of City**

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

### **25. Notices to the Parties**

Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: Angela Carmen  
Sr. Operations Manager  
San Francisco Municipal Transportation Agency  
1 South Van Ness Ave., 7<sup>th</sup> Floor  
San Francisco, CA 94103  
E-mail: Angela.Carmen@sfmta.com  
Fax: 415-701-4777

To Contractor: F. W. Lipfert, Jr.  
Systra Consulting, Inc.  
760 Market Street, Suite 320  
San Francisco CA 94102  
Telephone: 415-982-0700  
Fax: 415-982-0780  
E-mail: blipfert@systrausa.com

Any notice of default must be sent by registered mail.

## **26. Ownership of Results**

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

## **27. Works for Hire**

If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

## **28. Audit and Inspection of Records**

Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

## **29. Subcontracting**

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void. Sub-consultants contained in the SYSTRA proposal, P.H. Adams Associates and Cornerstone Transportation Consulting Inc. are deemed acceptable by SFMTA and do not require additional approval.

### **30. Assignment**

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

### **31. Non-Waiver of Rights**

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

### **32. Earned Income Credit (EIC) Forms**

Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

**a.** Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

**b.** Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

**c.** Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.

d. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

### **33. Local Business Enterprise Utilization; Liquidated Damages**

#### **a. The LBE Ordinance**

Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the “LBE Ordinance”), provided such amendments do not materially increase Contractor’s obligations or liabilities, or materially diminish Contractor’s rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor’s willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor’s obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

#### **b. Compliance and Enforcement**

##### **(1) Enforcement**

If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor’s net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City’s Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the “Director of HRC”) may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor’s LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

## **(2) Subcontracting Goals**

The LBE subcontracting participation goal for this contract is 15%. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in the HRC Progress Payment Form and the HRC Payment Affidavit. Failure to provide the HRC Progress Payment Form and the HRC Payment Affidavit with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until the HRC Payment Form and the HRC Subcontractor Payment Affidavit are provided by Contractor.

Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the LBE Ordinance, for any purpose inconsistent with the provisions of the LBE Ordinance, its implementing rules and regulations, or this Section.

## **(3) Subcontract Language Requirements**

Contractor shall incorporate the LBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors.

Contractor shall include in all subcontracts with LBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any LBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the LBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of HRC and contract awarding authority to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction.

Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of HRC or the Controller upon request.

## **(4) Payment of Subcontractors**

Contractor shall pay its subcontractors within three working days after receiving payment from the City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount.

Contractor further agrees, within ten working days following receipt of payment from the City, to file the HRC Payment Affidavit with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code §14B.17.

#### **34. Nondiscrimination; Penalties**

##### **a. Contractor Shall Not Discriminate**

In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

##### **b. Subcontracts**

Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from the SFMTA) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

##### **c. Nondiscrimination in Benefits**

Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

##### **d. Condition to Contract**

As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with

supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

**e. Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

**35. MacBride Principles—Northern Ireland**

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

**36. Tropical Hardwood and Virgin Redwood Ban**

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

**37. Drug-Free Workplace Policy**

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

**38. Resource Conservation**

Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

**39. Compliance with Americans with Disabilities Act**

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

#### **40. Sunshine Ordinance**

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

#### **41. Public Access to Meetings and Records**

If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

#### **42. Limitations on Contributions**

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series

of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

#### **43. Requiring Minimum Compensation for Covered Employees**

**a.** Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

**b.** The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

**c.** Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

**d.** Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

**e.** The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

**f.** Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with

these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

**g.** Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

**h.** Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

**i.** If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

#### **44. Requiring Health Benefits for Covered Employees**

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

**a.** For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission...

**b.** Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

**c.** Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

**d.** Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

**e.** Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

**f.** Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

**g.** Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

**h.** Contractor shall keep itself informed of the current requirements of the HCAO.

**i.** Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

**j.** Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

**k.** Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

**l.** City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

**m.** If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

#### **45. First Source Hiring Program**

**a. Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

**b. First Source Hiring Agreement**

As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of

the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be non-duplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

**c. Hiring Decisions**

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

**d. Exceptions**

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

**e. Liquidated Damages**

Contractor agrees:

- (1) To be liable to the City for liquidated damages as provided in this section;
- (2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;
- (3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.
- (4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;
- (5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:
  - a) The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

b) In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

(7) That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

#### **f. Subcontracts**

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

#### **46. Prohibition on Political Activity with City Funds**

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

#### **47. Preservative-treated Wood Containing Arsenic**

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

#### **48. Modification of Agreement**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Contract Compliance Office any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (HRC Contract Modification Form).

#### **49. Administrative Remedy for Agreement Interpretation**

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the SFMTA, who shall decide the true meaning and intent of the Agreement.

#### **50. Agreement Made in California; Venue**

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

#### **51. Construction**

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

#### **52. Entire Agreement**

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48.

#### **53. Compliance with Laws**

Contractor shall keep itself fully informed of the City’s Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance

of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

**54. Services Provided by Attorneys**

Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

**55. Left blank by agreement of the parties. (Supervision of Minors)**

**56. Severability**

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

**57. Protection of Private Information**

Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

**58. Graffiti Removal**

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti

from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term “graffiti” means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner’s authorized agent, and which is visible from the public right-of-way. “Graffiti” shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

#### **59. Food Service Waste Reduction Requirements**

Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor’s failure to comply with this provision.

#### **60. Left blank by agreement of the parties. (Slavery Era Disclosure)**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

**CITY**

**SAN FRANCISCO MUNICIPAL  
TRANSPORTATION AGENCY**

\_\_\_\_\_  
Nathaniel P. Ford, Sr.  
Executive Director/CEO

Approved as to Form:

Dennis J. Herrera  
City Attorney

By: \_\_\_\_\_  
Robin M. Reitzes  
Deputy City Attorney

AUTHORIZED BY:

MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

Resolution No: \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Roberta Boomer, Secretary  
SFMTA Board of Directors

**CONTRACTOR**

**SYSTRA CONSULTING, INC.**

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

\_\_\_\_\_  
Charles W. Stark, P.E.  
President and CEO

Systra Consulting, Inc.  
760 Market Street, Suite 320  
San Francisco CA 94102

City Vendor number: 23535

**Appendices**

- A: Services to be provided by Contractor
- B: Calculation of Charges
- C: Project Delivery Schedule
- D: Unlimited RAILSIM Site License, Maintenance, and Support Agreement
- E: Task Order Description Form

## **APPENDIX A SERVICES TO BE PROVIDED BY CONTRACTOR**

### **1. Description of Services**

Contractor agrees to perform the following services:

#### **Task 0: Development of Project Procedures Manual, including Work Plan and MUNI Source Data Assessment**

The Contractor shall prepare a Project Procedures Manual that details the project Work Plan, as well as project protocols for recording timesheet charges, communicating within the contractor team, communicating between the contractor and the MUNI Project Manager and procedures for submitting deliverables to MUNI. The Project Procedures Manual shall also include an assessment of the MUNI-provided data for input to the simulation model, including which department(s) provided the data, how it will be used and a confirmation of its adequacy for simulation model input.

#### **Task 1: Conduct an analysis of the Muni Metro (LRV) network capacities, supporting both dedicated right-of-way and street running light rail.**

The analysis shall include the core area of the Muni Metro network. It should assist in determining the minimum practical headway that can be achieved in the core area. This task shall include preparation of hypothetical schedule data for use in the simulation, running of simulations, analysis of results, and production of technical memoranda. This information shall provide the ability to compare service levels to available capacity, and to determine if the existing train control system will be sufficient in meeting future service needs. This analysis shall also include a comparative through-put evaluation using automatic and manual procedures.

#### **Task 2: Develop simulations of existing schedules and future schedules for Muni Metro East (MME) Facility.**

Simulations shall include an actual weekday A.M. and P.M. peak evaluation period based on the current, existing Metro schedule (MME Phase I), to determine if there are any schedule conflicts or capacity constraints that may have a negative impact on operations. Simulations shall also include delays that affect the entire network, particularly those with origins on the street running portions of the network cascading through the system when delayed trains are required to merge with trains from other lines. Additional simulations shall include integration of the MME operating plans for Phase II implementation. The MME Phase I began in September 2008, and Phase II is scheduled for early 2009. Each Phase represents incremental operating readiness through early 2009. After January 2009, MME will become a fully staffed yard with a vehicle complement of 80 cars. This task will include the development of randomization parameters for vehicle dispatches and reception, running time simulations, analysis of results, and production of technical memoranda.

### **Task 3: Develop core area rail network database**

Under this task, the Contractor will build a model of the core area of the Muni Metro network, which includes all tracks controlled by the Alcatel/Thales advanced train control system (ATCS), in addition to the Muni Metro tracks between the Embarcadero and Mission Rock stations. Prospective contractors are advised that SFMTA has coded a VISSIM traffic network model of its Third Street light rail line between the Ferry Portal (Howard and the Embarcadero), as well as Virtual Signal Controllers that were developed to support this product. Both systems can be made available to the selected firm to assist in modeling surface traffic interfaces.

### **Task 4: Model calibration**

This task shall incorporate weekday A.M. and P.M. peak operating plans in which put-in times and departures from each station are based on actual observed times; observed running times and dwell data, and traffic signal cycle times (for street running portions subject to traffic delays); and will validate that the model accurately replicates observed capacity limitations and other merge characteristics; it will also include approaches to the most congested stations at peak congested periods.

### **Task 5: Conduct incident recovery analyses of two (2) theoretical failures of subway's control system**

The Contractor shall prepare a simulation of two scenarios in which the Muni Metro subway is operated in a manual block mode, to simulate recovery from a failure of the subway's ATCS. The scenarios will be as follows:

- (1) The first scenario shall consist of one train being allowed to occupy the section of track between two interlockings, in order to evaluate the most conservative operating strategy.
- (2) The second scenario shall consist of more than one train being allowed between interlockings, however, only one train will be allowed to occupy the section of track between two stations. The task will involve determination of the minimum practical headway that can be operated through the subway in such a scenario.

This task includes production of a manual-block model of the Muni Metro network, preparation of hypothetical schedule data for use in the simulations, analysis of results, and production of technical memoranda.

### **Task 6: Analysis of proposed remedial measures**

This task consists of simulations of Muni Metro operations incorporating the remedial measures proposed in Task 2. The goal of these analyses is to develop procedures that reduce delay and variability in system throughput. Contractor shall include simulation of at least one infrastructure improvement, such as reconfiguration of the switches at 4th and King, and simulation of three operational measures, which may include improved operating practices and procedures, changes in routing, support for double berthing in stations including associated modifications to the Muni Metro schedules, more aggressive dwell time

management, double berthing at the train stations or more aggressive signal preemption.

The task shall also include modifications to the infrastructure database to reflect the remedial measures, preparation of hypothetical schedule data for use in the simulations, actual running of simulations, analysis of results and production of technical memoranda.

In addition, the Contractor shall include analysis of the MMT and evaluation of optimal operating practices that most effectively utilize the terminal infrastructure. This analysis should address the more effective terminal zone procedures for a very tight and compact schedule.

**Task 7: Training and direction of SFMTA Operations staff by Contractor's on-site project manager, (subject to evaluation and approval of SFMTA)**

In this task, the Contractor shall provide training and direction to SFMTA Operations staff in use of simulation software, to allow future use in evaluation of proposed route and schedule changes, to test planned network improvements, or to test the effect of planned service disruptions. SFMTA reserves the right to approve the individual responsible for training and direction of SFMTA Operations staff.

The training curricula will include development of the weekday and weekend schedules into the RAILSIM model. It will also discuss requirements and procedures for calibrating the RAILSIM model for a weekday and weekend schedule.

The goal of the training will be to provide SFMTA employees with all the technical knowledge needed for them to be able to adjust and simulate new schedules and scenarios in the RailSim model.

**Task 8: System-wide database development**

In this task, the Contractor shall incorporate all studies and analyses conducted in the previously listed tasks in the development of a system-wide model database that will include the entire Muni Metro network. The system-wide database shall also support simulations of traffic signal cycles on the street running portions of the Muni Metro network.

**Task 9: Applicable software license**

In this task, the Contractor shall provide a license for a software program for simulating rail applications to assist in modeling and system analysis, in the form attached as Appendix D, which is incorporated by reference as though fully set forth. The license must allow access on an unlimited number of SFMTA computers, include technical support for all SFMTA users; and will include any rolling stock libraries and resistance equations. The software shall include the following options:

- Ability to build rail system databases
- Ability to produce total network, full operations simulations
- Ability to produce calculations:

- Headway
- Safe braking distance
- Load flow
- Ability to provide automated control line generation
- Ability to provide sequencing and line management techniques at the MMT

The software shall have the ability to stand alone or provide MS Power Point compatible video animations of scenarios for distribution and review.

Contractor shall include as part of the license purchase one year of software upgrades and technical support at no additional cost to the SFMTA.

### **Task 10: Presentation and Recommendations to SFMTA Management**

This task requires the Contractor to present findings and recommendations based on the analyses, studies, and simulations conducted in the previously listed tasks, at designated milestones, to be determined in collaboration with SFMTA Operations staff. The management presentation materials shall be developed in consultation with SFMTA Operations staff.

### **As-Needed Rail System Tasks**

Subsequent to completion of Tasks 1-10 above, the contractor may be required to perform as-needed tasks during the original contract term or the two-year extension option according to the procedure in Section 5.c of the Agreement. The proposed profit is limited in accordance with Section 5.c.(ii).d.4 of the Agreement.

The as-needed items will be approved by the SFMTA project manager prior to execution.

## **2. Reports**

Contractor shall submit written reports as requested by the SFMTA. Format for the content of such reports shall be determined by the SFMTA. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

## **3. Department Liaison**

In performing the services provided for in this Agreement, Contractor's liaison with the SFMTA will be Angela Carmen, Senior Operations Manager.

**APPENDIX B-I  
CALCULATION OF CHARGES**

	Task 1: Capacity Analysis	Task 2: Simulation of Existing Schedule	Task 3 - RAILSIM Rail Network Database of Core Area	Task 4: Model Calibration	Task 5: Incident Recovery Analysis	Task 6: Analysis of Proposed Remedial Measures	Task 7: Training and Direction of SFMTA Operations Staff by On-Site PM	Task 8: System- wide Database Develop- ment	Task 9: RAIL- SIM 8 License	Task 10: Manage- ment Presenta- tion of Findings	Task 11: As- Needed Rail System Tasks	Total Project
<b>Position</b>												
<b>Hours</b>												
QA/QC (SYSTRA)	4	8	16	8	8	16	0	12	0	4	56	132
Project Manager (SYSTRA)	16	32	100	40	24	40	32	120	0	40	200	644
Sr. Rail Operations Analysts (SYSTRA)	48	180	120	80	80	176	0	120	0	0	100	904
Rail Operations Analysts (SYSTRA)	64	120	140	140	40	80	0	240	0	0	140	964
Technicians (SYSTRA)	24	64	140	80	40	80	8	140	0	8	202	786
On-Site Project Manager (PH Adams)	0	0	0	0	0	0	160	0	0	0	0	160
Sr. Modeling/Calibration Analyst (Cornerstone)	0	0	4	16	0	0	0	8	0	0	8	36
Senior Data Analyst I (Cornerstone)	0	0	72	0	0	0	0	96	0	0	40	208
Senior Data Analyst II (Cornerstone)	0	0	0	0	0	0	0	64	0	0	40	104
Calibration Analyst (Cornerstone)	0	0	0	80	0	0	0	0	0	0	40	120
Data Technicians (Cornerstone)	0	0	0	120	0	0	0	0	0	0	0	120
<b>Total</b>	<b>156</b>	<b>404</b>	<b>592</b>	<b>564</b>	<b>192</b>	<b>392</b>	<b>200</b>	<b>800</b>	<b>0</b>	<b>52</b>	<b>826</b>	<b>4,178</b>

# APPENDIX B-I

		Task 1: Capacity Analysis	Task 2: Simu- lation of Existing Sche- dule	Task 3 - RAILSIM Rail Network Database of Core Area	Task 4: Model Cali- bration	Task 5: Incident Recovery Analysis	Task 6: Analysis of Proposed Remedial Measures	Task 7: Training & Direction of SFMTA Operations Staff by On- Site PM	Task 8: System- wide Data- base Develop- ment	Task 9: RAIL- SIM 8 License	Task 10: Manage- ment Presen- tation of Finding s	Task 11: As- Needed Rail System Tasks	Total Project
	FIXED HRLY												
<b>Direct Labor</b>	HOURLY												
QA/QC (SYSTRA)	\$230.70	922.80	1,845.60	3,691.20	1,845.60	1,845.60	3,691.20	0.00	2,768.40	0.00	922.80	12,919.20	30,452.40
Project Manager (SYSTRA)	\$124.00	1,984.00	3,968.00	12,400.00	4,960.00	2,976.00	4,960.00	3,968.00	14,880.00	0.00	4,960.00	24,800.00	79,856.00
Sr. Rail Operations Analysts (SYSTRA)	\$148.90	7,147.20	26,802.00	17,868.00	11,912.00	11,912.00	26,206.40	0.00	17,868.00	0.00	0.00	14,890.00	134,605.60
Rail Operations Analysts (SYSTRA)	\$105.60	6,758.40	12,672.00	14,784.00	14,784.00	4,224.00	8,448.00	0.00	25,344.00	0.00	0.00	14,784.00	101,798.40
Technicians (SYSTRA)	\$82.70	1,984.80	5,292.80	11,578.00	6,616.00	3,308.00	6,616.00	661.60	11,578.00	0.00	661.60	16,705.40	65,002.20
On-Site Project Manager (PH Adams)	\$198.44	0.00	0.00	0.00	0.00	0.00	0.00	31,750.40	0.00	0.00	0.00	0.00	31,750.40
Sr. Modeling/Calibration Analyst (Cornerstone)	\$154.00	0.00	0.00	616.00	2,464.00	0.00	0.00	0.00	1,232.00	0.00	0.00	1,232.00	5,544.00
Senior Data Analyst I (Cornerstone)	\$105.00	0.00	0.00	7,560.00	0.00	0.00	0.00	0.00	10,080.00	0.00	0.00	4,200.00	21,840.00
Senior Data Analyst II (Cornerstone)	\$140.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,960.00	0.00	0.00	5,600.00	14,560.00
Calibration Analyst (Cornerstone)	\$95.00	0.00	0.00	0.00	7,600.00	0.00	0.00	0.00	0.00	0.00	0.00	3,800.00	11,400.00
Data Technicians (Cornerstone)	\$44.00	0.00	0.00	0.00	5,280.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,280.00
<b>Total</b>		<b>18,797.20</b>	<b>50,580.40</b>	<b>68,497.20</b>	<b>55,461.60</b>	<b>24,265.60</b>	<b>49,921.60</b>	<b>36,380.00</b>	<b>92,710.40</b>	<b>0.00</b>	<b>6,544.40</b>	<b>98,930.60</b>	<b>502,089.00</b>
7a-Travel		0.00	0.00	1,895.00	990.00	0.00	0.00	990.00	990.00	0.00	990.00	990.00	6,845.00
9 Other- Reproduction		22.17	0.00	0.00	0.00	25.00	25.00	0.00	0.00	0.00	50.00	50.00	172.17
Express Mail/Courier		25.00	0.00	0.00	0.00	26.63	43.14	0.00	0.00	0.00	76.16	29.40	200.33
RAILSIM Simulation Software Suite Site License		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85,750.00	0.00	0.00	85,750.00
<b>Subtotal</b>		<b>47.17</b>	<b>0.00</b>	<b>1,895.00</b>	<b>990.00</b>	<b>51.63</b>	<b>68.14</b>	<b>990.00</b>	<b>990.00</b>	<b>85,750.00</b>	<b>1,116.16</b>	<b>1,069.40</b>	<b>92,967.50</b>
<b>Total</b>		<b>18,844.37</b>	<b>50,580.40</b>	<b>70,392.20</b>	<b>56,451.60</b>	<b>24,317.23</b>	<b>49,989.74</b>	<b>37,370.00</b>	<b>93,700.40</b>	<b>85,750.00</b>	<b>7,660.56</b>	<b>100,000.00</b>	<b>595,056.50</b>

## APPENDIX B-II

### PAYMENT SCHEDULE (TASK 11)

#### **Milestone Payments for Task 11 (if negotiated as lump sum)**

1	Task Delivery	60% of each task after delivery to Muni
2	Task Acceptance	35% of each task after conditional acceptance from MUNI
3	Final Acceptance	5% after satisfactory completion of task 11

**APPENDIX C**  
**PROJECT DELIVERY SCHEDULE**

<b>Task</b>	<b>Description</b>	<b>Deadline Final Date for Delivery</b>
0	Development of Project Procedures Manual, including Work Plan and MUNI Source Data Assessment	2 weeks from Certification of Contract
1	Analysis of Muni Metro LRV network Capacities	Tech Memo (Combined with Task 5)
2	Simulation of Existing and Future Schedules including AM and PM peak schedules and MME phase I and II	Tech Memo
3	Core Area Rail Network Database including the advanced train control system, the VISSIM traffic network, as well as the Virtual Signal Controllers	RAILSIM Simulation Software Suite screen images in *.JPG or *.PDF file format
4	Calibrated Model including AM and PM peak periods	Tech Memo
5	Two Incident Recovery Analyses	Tech Memo (Combined with Task 1)
6	Analysis of Proposed Remedial Measures	Tech Memo and Final Report incorporating all Tech Memos
7	On site Training of SFMTA staff including a Training Plan, Agenda, and Course Materials	Training Plan, Training Agenda and Course Materials
8	System wide RAILSIM database and model	Automated RAILSIM installation (Combined with Task 9)
9	Unlimited RAILSIM Software Site License delivered on CDROM or DVD disk including six printed user manuals and one year of technical support and software maintenance updates	Automated RAILSIM installation (Combined with Task 8)
10	On-Site Presentations	PowerPoint Presentation files
11	As Needed Tasks	To be Determined

## **APPENDIX D UNLIMITED RAILSIM SITE LICENSE, MAINTENANCE, AND SUPPORT AGREEMENT**

### **RAILSIM License Agreement**

The RAILSIM License Agreement is embedded in the automated installation for every RAILSIM software delivery. Proceeding beyond the License Agreement indicates acceptance and binds the user to its terms and conditions. The License Agreement appears in the installation as follows:

#### **SYSTRA CONSULTING RAILSIM SIMULATION SOFTWARE SUITE ENTERPRISE LICENSE AGREEMENT**

Please read this document carefully before clicking "Yes" and proceeding with the RAILSIM installation. By clicking "Yes," SFMTA is agreeing to be bound by the terms of this License Agreement. If SFMTA does not agree to the terms of this License Agreement, click "No" to abort the installation process, and return the software media and User and Data Preparation Manual within ten (10) working days to SYSTRA Consulting, Inc. (see Lebanon, NH address under LICENSE, below).

#### **1. LICENSE**

The License is granted by SYSTRA Consulting, Inc., a Delaware, USA corporation, (hereinafter "SYSTRA") with office locations at 150 Clove Road, 7th Floor, Little Falls, NJ 07424 USA and Two Whipple Place, Suite 300, Lebanon, NH 03766 USA, and is granted to the City and County of San Francisco ("City"), by and through its Municipal Transportation Agency ("SFMTA"). Pursuant to Task 9 of Agreement for Professional Services between Systra and the Licensee for the San Francisco Municipal Railway Core Capacity and Reliability Analysis (Agreement No. SFMTA 2008-02) ("Agreement 2008-02"), SYSTRA hereby grants to the SFMTA, and the SFMTA hereby accepts, a non-exclusive, fully paid, nontransferable perpetual License to use the executable code for the PC-version of the RAILSIM Simulation Software Suite (the "Product"), and User and Data Preparation Manual for the Product.

The licensed RAILSIM Simulation Software Suite package includes:

- \* RAILSIM Main Menu
- \* RAILSIM Editor
- \* RAILSIM Editor Signal Design Add-On
- \* RAILSIM Network Simulator
- \* RAILSIM Load Flow Analyzer
- \* RAILSIM Train Performance Calculator
- \* RAILSIM Safe Braking Distance Add-On
- \* RAILSIM Headway Calculation Add-On
- \* RAILSIM Report Generator
- \* All available RAILSIM Rolling Stock Libraries
- \* All available RAILSIM Resistance Equations

## **2. RESTRICTIONS**

SFMTA agrees that the License is non-exclusive, non assignable, and is otherwise nontransferable, and is subject to the following Terms and Conditions:

A. SFMTA may not offer the Product for resale, or sub-license the right of use of the Product, nor may SFMTA lease the Product to others;

B. SFMTA may not, nor allow others to, decompile, reverse engineer, disassemble or otherwise reduce any machine-readable component of the Product to a human-perceivable form;

C. SFMTA may not copy, nor allow copies to be made of the Product for use at any location other than the offices of the SFMTA.

D. SFMTA may not use the Product, or allow others to use the Product, in a computer service bureau, time-sharing or interactive cable television network;

E. SFMTA may not make telecommunications data transmission of the Product, except for that which is needed for the installation of the Product on systems at the offices of the SFMTA;

F. SFMTA may not offer any data generated by the Product for sale or license, unless data is associated with a larger construction, engineering, consulting or planning project.

G. This License is expressly limited to personal computers/workstations at the offices of the SFMTA for use by bona fide SFMTA employees. SFMTA is prohibited from making any copies, archival or otherwise, of the product. SFMTA is further prohibited from using the Product in any manner other than as set forth in this License Agreement.

H. SFMTA covenants that installation of the Product is the sole responsibility of the SFMTA Information Technology (IT) division, which shall install the Product solely for the use of bona fide employees of the SFMTA.

## **3. FEE; PAYMENT**

The fee for the grant of this License shall not exceed \$85,750 ("License Fee"), as specified in Exhibit B-1 of Task 9 of Agreement 2008-02. Payment shall be made according to the provisions of Section 5 of Agreement 2008-02.

In no event shall City be liable for interest or late charges for any late payments.

## **4. MAINTENANCE, SUPPORT AND UPDATES**

One year of maintenance support and updates to the RAILSIM package and documentation from the date of this License, which shall commence on the date on which the RAILSIM training program is completed at MUNI premises, is included. The maintenance, support and updates include technical support via phone, fax, e-mail, web site and file transfer protocol (FTP), as well as software upgrades and additions to the RAILSIM rolling stock library that are released while the maintenance support and updates term is active. New RAILSIM-related software products (e.g., modules) and major version upgrades (i.e., removing a previous version of an

application and installing a new one) are not included. SFMTA shall have the option to renew this term on an annual basis. The rate for the first year of renewal shall be 30 percent of the License fee. Notwithstanding the other provisions of this Section, SYSTRA shall provide the SFMTA a Windows Vista-compatible software upgrade when it is available at no additional charge.

## **5. MODIFICATIONS TO THE PRODUCT**

SFMTA agrees not to modify the executable load modules or the sample databases of the Product in any way without the express written consent of SYSTRA.

## **6. MANDATORY PRODUCT UPGRADES**

From time to time, SYSTRA may furnish SFMTA with no-cost mandatory upgrades of the Product's executable load modules, sample databases and/or User and Data Preparation Manual. Such transmittals will be clearly labeled with the designation "Mandatory Upgrade." SFMTA agrees to replace any of the original copies of the executable load modules, sample databases and/or User and Data Preparation Manual within 10 working days of the receipt of a Mandatory Upgrade.

SFMTA agrees upon replacement, to immediately forward the original copies of the replaced Product to SYSTRA, postage prepaid.

## **7. TERMINATION OF LICENSE – SFMTA OR SYSTRA BREACH**

### **A. Termination by Systra.**

SYSTRA may terminate this License at any time in the event that SFMTA breaches or violates any of the provisions of this License Agreement by sending SFMTA written notice of the breach, with an opportunity to cure such breach or violation within thirty (30) days. SFMTA agrees that, if SFMTA does not cure the breach within such thirty (30) day period, SFMTA shall return the original and all copies of the Product to SYSTRA. No termination shall release SFMTA from liability for any breach of this License Agreement, or indemnification hereunder.

### **B. Termination by City.**

Failure or refusal of Contractor to perform or do any act herein required shall constitute a default. In the event of any default, in addition to any other remedy available to City, this Contract may be terminated by City upon ten days written notice. Such termination does not waive any other legal remedies available to City.

## **8. CONFIDENTIALITY**

SFMTA agrees that the Product is the confidential property of, and proprietary to, SYSTRA. SFMTA agrees to take all precautions to protect against the knowing or unintentional release of the Product in any manner without the express prior written approval and consent of SYSTRA.

SFMTA further agrees to take all reasonable precautions to preserve the confidentiality of the

Product and shall assume responsibility that SFMTA's employees or independent contract workers will similarly preserve this information against third parties. Notwithstanding anything to the contrary contained herein, SFMTA agrees to restrict the use of the Product to bona fide users within the SFMTA in the performance of this License Agreement and SFMTA agrees to protect the Product from theft, release to third parties or use contrary to the Terms of this License Agreement. The provisions of this clause shall survive termination of this License Agreement.

## **9. WARRANTY**

SYSTRA warrants that it has full power and authority to grant the rights granted herein. THE WARRANTY PROVIDED FOR HEREIN IS IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES THAT MAY ARISE OUT OF THE LICENSE GRANTED HEREUNDER, BY AGREEMENT BETWEEN THE PARTIES OR OPERATION OF LAW, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

### **A. Conformity to Specifications**

SYSTRA warrants that when SFMTA is given access to the Product, the Product will perform in accordance with the requirements specified in Task 9 of Agreement No. 2008-02 and system documentation from the date on which the RAILSIM training program is completed at SFMTA premises and continuing for a period of twelve (12) months from that date.

### **B. Viruses**

SYSTRA warrants that to the best of its knowledge the Product when delivered under this License Agreement does not contain programming code or instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files and/or hardware. SYSTRA warrants that it shall exercise its best efforts and reasonable care to ensure that computer viruses have not been introduced into the Product prior to its delivery to the SFMTA.

### **C. Disabling Code**

SYSTRA warrants that the Product to the best of its knowledge shall not contain disabling code written or planted by SYSTRA that will activate upon a predetermined date or that can be remotely activated by SYSTRA or another entity without the SFMTA's prior consent.

## **10. LIMITATION OF LIABILITY**

SFMTA AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, SYSTRA SHALL IN NO EVENT BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION GENERAL, DIRECT, INDIRECT, CONSEQUENTIAL, COLLATERAL OR INCIDENTAL DAMAGES OR DAMAGE TO PERSON OR PROPERTY, OR ANY OTHER DAMAGES ARISING OUT OF THE USE OF THE PRODUCT UNDER THIS LICENSE AGREEMENT) AS A RESULT OF ANY BREACH OF WARRANTY, EXPRESSED OR IMPLIED, ARISING OUT OF THE LICENSE OF THE PRODUCT.

SFMTA'S SOLE AND EXCLUSIVE REMEDY AGAINST SYSTRA SHALL BE LIMITED TO THE COST OF REPLACEMENT OF THE DAMAGED MEDIA, TO THE COST OF THE DAMAGED USER AND DATA PREPARATION MANUAL /OR A REFUND OF THE LICENSE FEE THEREOF AT THE OPTION OF THE SFMTA; BUT IN NO EVENT SHALL SYSTRA BE LIABLE FOR ANY DAMAGES AS A RESULT OF REMOVAL OR REINSTALLATION, LABOR COSTS, LOSS OF GOOD WILL, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF USE OR INTERRUPTION OF BUSINESS, OR ANY OTHER DIRECT OR INDIRECT DAMAGE, CONSEQUENTIAL, GENERAL OR SPECIAL DAMAGES..

## **11. INDEMNIFICATION**

### **A. Third Party Liability — Reciprocal Indemnity**

It is agreed that the City shall defend, release, hold harmless, and indemnify SYSTRA, its officers and employees, from any and all third party claims for injuries or damages to persons and/or property which arise out of injuries or damages resulting from the negligent acts or omissions of the City, its elected officials, officers and/or employees in connection with the License hereunder granted. It is further agreed that SYSTRA shall defend, release, hold harmless, and indemnify the City, its elected officials, officers, and/or employees, from any and all claims for injuries and/or damages to persons and/or property which arise out of the negligent acts and/or omissions of SYSTRA, its officers and employees in connection with the License hereunder granted. In the event of concurrent negligence of the City, its officers and employees, and SYSTRA, its officers and employees, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified. Notwithstanding subsection (c) below, a party's duty to defend includes potential liability for the costs of defense of the other party.

Nothing herein shall render SYSTRA liable nor require SYSTRA to indemnify SFMTA for any errors or omissions of the SFMTA in the designs produced, provided or created by any user of the Product or any agent, employee or contractor of the user of the Product, or for any construction or modifications based upon designs developed in conjunction with the Product, to the extent that the output of the Product utilized in design requires independent checking and verification by a professional engineer licensed by the State of California, consistent with all applicable professional design practices.

### **B. Breach of License – SYSTRA's Liability to the SFMTA**

Except for Infringement Indemnification as provided in Section 11D herein, SYSTRA's total monetary liability to the SFMTA for breach of this License Agreement shall not exceed the License Fee.

### **C. Liability of the City**

THE CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE LICENSE FEE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL THE CITY BE

LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT..

#### D. Infringement Indemnification

d.1 If notified promptly in writing of any judicial action brought against the City based on an allegation that the SFMTA's use of the Product infringes a patent, copyright, or any right of a third party or constitutes misuse or misappropriation of a trade secret or any other right in intellectual property (Infringement), SYSTRA will hold the City harmless and defend such action at its own expense. SYSTRA Will pay the damages and costs awarded, as well as attorneys' fees, in any such action, or the settlement amount, costs and fees incurred in settling such action, provided that SYSTRA shall have sole control of the defense of any such action and all negotiations or its settlement or compromise. If notified promptly in writing of any informal claim (other than a judicial action) brought against the City based on an allegation that the SFMTA's use of the Product constitutes infringement, SYSTRA will pay the costs associated with resolving such claim and will pay the settlement amount (if any), provided that SYSTRA shall have sole control of the resolution of any such claim and all negotiations for its settlement.

d.2 In the event a final injunction is obtained against the SFMTA's use of the Product by reason of Infringement, or in SYSTRA's opinion the SFMTA's use of the Product is likely to become the subject of Infringement, SYSTRA may at its option and expense: (1) procure for the SFMTA the right to continue to use the Product as contemplated hereunder, (2) replace the Product with a non-infringing, functionally equivalent substitute Product, or (3) suitably modify the Product to make its use hereunder non-infringing while retaining functional equivalency to the unmodified version of the Product. If none of these options is reasonably available to SYSTRA, then the applicable Authorization Document or relevant part of such Authorization Document may be terminated at the option of either party hereto.

d.3 Any unauthorized modification or attempted modification of the Product by the SFMTA or any failure by the SFMTA to implement any improvements or updates to the Product as supplied by SYSTRA Shall void this indemnity unless the SFMTA has obtained prior written authorization from SYSTRA permitting such modification, attempted modification or failure to implement. SYSTRA shall have no liability for any claim of Infringement based on the SFMTA's use or combination of the Product with products or data of the type for which the Product was neither designed nor intended.

## 12. APPLICABLE LAW

The laws of the State of California, USA shall govern this License Agreement in both construction and enforceability. Any and all disputes arising out of this license between the parties shall be subject to the exclusive jurisdiction of the courts of the State of California or the United States District Court for the State of California. By agreeing to the terms of this License Agreement, SFMTA hereby consents to the exclusive jurisdiction of any State or Federal Court empowered to enforce this agreement in the State of California and waive any objection thereto on the basis of personal jurisdiction or venue.

### **13. SEVERABILITY**

Each provision of this License Agreement is severable from the entire License Agreement. In the event that any provision hereof is declared invalid or unenforceable, the remaining provisions hereof shall remain in effect.

### **14. INCORPORATED PROVISIONS**

The following provisions of Agreement 2008-02 are incorporated into this License Agreement by reference as though fully set forth herein: 1, 6-8, 10, 12-15, 23-25, 28-31, 39-42, 46, 48-51, 53-54, 57, and 59.

### **15. BANKRUPTCY**

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party, this Agreement shall terminate and be of no further force and effect.

### **16. ENTIRE AGREEMENT**

SFMTA and SYSTRA agree that they have read this License Agreement, understand it and agree to be bound by its Terms and Conditions. SFMTA and SYSTRA agree that this License Agreement is the complete and exclusive statement of the agreement between the parties and supersede all prior agreements, proposals, quotations and representations between them or any other party relating to the subject matter of the License Agreement. Amendments to this License Agreement shall not be effective unless they are in writing and signed by the duly authorized representatives of the SFMTA and SYSTRA. SFMTA and SYSTRA shall be bound by such amendments if SFMTA continues to use the product after notification of any such amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

**CITY**

**San Francisco Municipal Transportation  
Agency**

**CONTRACTOR**

**Systra Consulting, Inc.**

---

Nathaniel P. Ford, Sr.  
Executive Director/CEO

---

Charles W. Stark, P.E.  
President and CEO

Approved as to Form:

Systra Consulting, Inc.  
760 Market Street, Suite320  
San Francisco CA 94102

Dennis J. Herrera  
City Attorney

City vendor number: 23535

By:

---

Robin M. Reitzes  
Deputy City Attorney

**APPENDIX E  
TASK ORDER DESCRIPTION FORM**

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY**

**Contract Title:** \_\_\_\_\_ **Contract No.** \_\_\_\_\_

**Project Title:** \_\_\_\_\_ **Project No.** \_\_\_\_\_

**TASK ORDER DESCRIPTION**

<b>Task Title</b>			
<input type="checkbox"/> <b>New Task Order</b> <input type="checkbox"/> <b>Revised Task Order</b>			
<b>Work to be Performed</b>			
<b>Schedule</b>			
<b>Start Date</b>			
<b>Estimated Completion Date:</b>			
<b>Budget Amount: \$</b>		<b>Index Code:</b>	
<b>Deliverables</b>			
<b>Descriptions</b>	<b>Date Requested</b>	<b>Quantity</b>	
<b>APPROVALS</b>			
<b>Approved</b> _____			
<b>SFMTA Liaison</b>			
<b>Approved</b> _____			
<b>Manager, Operations (Rail, Schedules)</b>			

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.8**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Parking and Traffic

**BRIEF DESCRIPTION:**

Authorizing the SFMTA Executive Director/CEO to execute a Cooperative Agreement (District Agreement 04-2127) with the State of California to allow Caltrans to construct a new traffic signal at the intersection of Skyline Boulevard (State Route 35), Lake Merced Boulevard and Herbst Road at a cost to the City not to exceed \$216,000.

**SUMMARY:**

- The project will improve safety for vehicle and pedestrian traffic.
- Caltrans will operate and maintain this new signal. Caltrans staff have developed plans, specifications and cost estimates for this contract. Caltrans will advertise, administer and manage the construction contract.
- Estimated total cost for the project is \$713,000. SFMTA DPT's share is \$216,000.
- SFMTA DPT's share of the work is fully funded with a federal Hazard Elimination and Safety (HES) grant and proposition B and proposition K Sales Tax funds.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Project Budget and Financial Plan

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION  
PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION  
BE RETURNED TO Brian B Dusseault

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

SFMTA staff requests this Board to authorize the SFMTA Executive Director/CEO to execute a Cooperative Agreement (District Agreement No. 4-2127) with the State of California to allow Caltrans to advertise, administer and manage construction of a new signal at the intersection of Skyline Boulevard, Lake Merced Boulevard and Herbst Road, at a cost to the City not to exceed \$216,000.

### **GOAL**

The SFMTA will further the following goals of the Strategic Plan through the award of this contract:

- Goal 1 – To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy
  - 1.1 Improve safety and security across all modes of transportation
  - 1.3 Reduce emissions as required by the SFMTA Clean Air Plan
  - 1.5 Increase percentage of trips using more sustainable modes (such as transit, walking, bicycling, and rideshare)
- Goal 2 – To get customers where they want to go, when they want to be there
  - 2.1 Transit reliability: Improve on-time performance to 85%
  - 2.3 Fulfill bicycle and pedestrian network connectivity
  - 2.4 Reduce congestion through major corridors

### **DESCRIPTION**

#### **Scope of Work**

On April 19, 2005, the SFMTA Board approved Resolution No. 05-062 to authorize the SFMTA Executive Director to execute a Cooperative Agreement (District Agreement No. 4-2016) with the State of California to allow Caltrans to design, advertise, administer and manage construction of a new signal at the intersection of Skyline Boulevard, Lake Merced Boulevard and Herbst Road. The budget for that agreement was \$268,400, with each agency providing \$134,200. Design was completed, but revised cost estimates exceeded the available budget. That agreement expired at the end of 2007. This new agreement reflects the change in costs, and both agencies have secured additional funds to complete the work.

Under the terms of the proposed agreement between the State and the City, Caltrans will advertise, administer and manage construction of a new signal at the intersection of Skyline Boulevard, Lake Merced Boulevard and Herbst Road.

DPT and Caltrans identify intersections where new traffic signals are needed to improve vehicle and pedestrian safety based on factors such as the presence of public transit, and heavy vehicle

## **PAGE 3.**

and pedestrian traffic.

The Work is designed to improve safety by seeking to reduce the frequency of right angle collisions, improving right-of-way assignment for vehicles and pedestrians, and allowing minor side street vehicle and pedestrian traffic to enter or cross the major street with less difficulty.

The Work involves the installation of new wiring, conduits, poles, traffic signal controllers, vehicle signals, pedestrian signals with countdown timers, and curb ramps. Final construction documents will not be produced until after this agreement is executed. Draft copies can be made available upon request.

The project is categorically exempt under the California Environmental Quality Act.

Caltrans staff performed the initial conceptual design, detailed electrical design, and detailed electrical design review for this contract. Caltrans staff will perform contract preparation, contract advertising and provide construction management services. Subcontracting goals for this contract will be set according to Caltrans and State requirements.

The time allotted for substantial completion of the work is 120 working days from the written Notice to Proceed. Liquidated damages will be \$500 per day for contractor's delay that results in failure to complete the Work on time.

## **ALTERNATIVES CONSIDERED**

Instead of entering into an agreement with Caltrans, the SFMTA could elect to construct the traffic signal under an encroachment permit from Caltrans. This alternative would negate the need for an agreement, but costs would not be shared. Furthermore, because it is State Right-of-Way, Caltrans has the option of operating the signal or giving it to the City to operate. In this instance, Caltrans has chosen to operate the signal, which means that all signal hardware and controller equipment must meet Caltrans standards. It would be costlier and more complicated for the City to build to Caltrans standards – for example, the SFMTA deviates from Caltrans standards for controller equipment and cabinets to accommodate advanced ITS (Intelligent Transportation Systems) capabilities, including transit prioritization.

A second alternative is to not construct the traffic signal. This is not an option as the neighboring community, local elected leaders, the Janet Pomeroy Center and other neighborhood groups have been strongly supporting installation of this traffic signal for over five years.

Neither of the above alternatives is acceptable. Staff concluded that executing this agreement with Caltrans and having Caltrans construct the signal via a competitive bidding process is the best alternative. Historically, contracting out via competitive bidding has been the primary way that most signals have been constructed in the City; DPT has found this method to be a cost effective and efficient way to construct new traffic signal installations.

## **PAGE 4.**

## **FUNDING IMPACT**

The City's share of the Work is funded through a combination of Hazard Elimination and Safety (HES) federal funding and Proposition K Sales Tax Funds. DPT secured the HES grant for \$117,800 in 2005 and is securing Proposition K funds in the amount of \$98,200.

While Caltrans will maintain and operate the signal, the City will be required to reimburse Caltrans for half of the incurred costs for maintenance and operations. Operating funds required for the maintenance of this traffic signal will be included in the DPT budget for FY 2010-11.

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

Caltrans will need to secure approval from Caltrans Head Quarters to advertise and award the contract.

## **RECOMMENDATION**

Staff recommends that the SFMTA Board authorize the SFMTA Executive Director/CEO to execute a Cooperative Agreement (District Agreement No. 4-2127) with the State of California to allow Caltrans to advertise, administer and manage construction of a new signal at the intersection of Skyline Boulevard, Lake Merced Boulevard and Herbst Road, at a cost to the City not to exceed \$216,000.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The intersection of Skyline Boulevard, Lake Merced Boulevard and Herbst Road is located on State Route 35; and

WHEREAS, The San Francisco Municipal Transportation Agency's Division of Parking and Traffic ("DPT") and the California Department of Transportation ("Caltrans") have determined that pedestrian and vehicular safety will be improved at the intersection of Skyline Boulevard, Lake Merced Boulevard and Herbst Road by the installation of a new traffic signal; and

WHEREAS, This work will improve safety at this intersection through the installation of mast arms to provide signal visibility, and the installation of countdown pedestrians signals for all crosswalks of the intersection; and,

WHEREAS, The City and Caltrans have negotiated a Cooperative Agreement outlining the various responsibilities of the parties and the cost-sharing arrangements; and,

WHEREAS, Caltrans shall design, advertise, administer and manage the construction contract, and DPT shall share those costs; and,

WHEREAS, The total costs under the Cooperative Agreement are estimated not to exceed \$713,400, of which DPT is responsible for a total not to exceed \$216,000; and,

WHEREAS, Subcontracting goals for this contract have been set according to Caltrans and State requirements; and,

WHEREAS, Caltrans shall maintain and operate this signal after it has been installed; now, therefore, be it

RESOLVED, That the Municipal Transportation Agency Board of Directors authorizes the SFMTA Executive Director/CEO to execute a Cooperative Agreement (District Agreement No. 4-2127) with the State of California to allow Caltrans to design, advertise, administer and manage construction of a new traffic signal at the intersection of Skyline Boulevard (State Route 35), Lake Merced Boulevard and Herbst Road, at a total cost to the City not to exceed \$216,000.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary, Municipal Transportation Agency Board

**Skyline Boulevard (State Route 35), Lake Merced Boulevard and Herbst Road.**

Signal Contract	Project Cost	City Share
Contract Work (includes contingencies)	\$363,000	\$216,000
<b>Total Estimated Contract Cost</b>	<b>\$363,000</b>	<b>\$216,000</b>

New Signal Contract	Project Cost	City Share
Total Estimated Contract Cost	\$363,000	\$216,000
Caltrans Support Costs	\$350,000	\$0
Total Shared Costs*	\$713,000	\$216,000

Description	Amount	Total
Hazard Elimination and Safety (HES) Federal Grant	\$117,800	\$117,800
Proposition B and K ½ cent Sales Tax	\$98,200	\$216,000

**Total City share of projected budget for the new signal:                   \$216,000**

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.9**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Administration

**BRIEF DESCRIPTION:**

Approving the issuance of joint BART-Muni transit passes at no cost to be used by registered transit professionals and other attendees of the 2009 American Public Transportation Association (APTA) Marketing and Communications Conference scheduled to be held in San Francisco on February 22 - 25, 2009.

**SUMMARY:**

- San Francisco is the site for the 2009 APTA Marketing and Communications Conference which is expected to attract 250 transit professionals and their spouses.
- It is customary for local transit systems to provide a transit pass, at no cost, to all registered conference participants. The Bay Area Rapid Transit Agency (BART), which is the host agency, and the San Francisco Municipal Transportation Agency (SFMTA) wishes to partner on a joint transit pass valid for free transit rides by conferees on BART and SFMTA transit systems during the conference.
- In June, when the SFMTA hosted APTA's International Rodeo and Rail Conference, the SFMTA worked with AC Transit, BART, Golden Gate Bridge District, SamTrans, Caltrain, and the Santa Clara County Valley Transportation Authority (SCVTA) to provide a transit pass that allowed free rides on these Bay Area transit systems.
- Conferees would be able to ride on the SFMTA and BART public transit systems beginning on Saturday, February 21 through Saturday, February 28, 2009.

**ENCLOSURES:**

1. SFMTAB Resolution

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

\_\_\_\_\_

FINANCE \_\_\_\_\_

\_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

\_\_\_\_\_

SECRETARY \_\_\_\_\_

\_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Murray Bond

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2**

### **PURPOSE**

To provide joint BART-Muni transit passes for conferees at the 2009 Marketing and Communications Conference to be held in San Francisco from February 22 to 25, 2009.

### **GOAL**

This recommendation is consistent with the SFMTA Strategic Plan Goal 3 External Affairs – Community Relations: To improve the customer experience, community value and to enhance the image of the SFMTA, as well as to ensure the SFMTA is a leader in the industry.

### **DESCRIPTION**

Every year APTA holds the Marketing and Communications Conference, and each year the conference location changes giving different cities the opportunity to host the conference. The 2009 conference will be held in San Francisco from February 22 to 25, and it is anticipated that 250 transit professionals will attend.

It is customary for local transit systems to provide a transit pass, at no cost, to all registered conferees. In June, when SFMTA hosted APTA's 2008 International Rodeo and Rail Conference in San Francisco, SFMTA worked with AC Transit, BART, Golden Gate Bridge District, SamTrans, Caltrain, and the Santa Clara County Valley Transportation Authority to provide a pass allowing free rides on these Bay Area transit systems.

### **ALTERNATIVES CONSIDERED**

Not providing the joint BART-Muni pass to conferees at the APTA 2009 Marketing and Communications Conference would be a departure from past practice for the SFMTA and other transit agencies across the nation that host APTA conferences throughout the year.

### **FUNDING IMPACT**

The Chief Financial Officer indicates that providing passes for these events would have minimal impact on fare revenues.

### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The BART Board of Directors is expected to approve providing for the joint BART-Muni passes to conferees at the subject APTA conference in February 2009.

The City Attorney has reviewed this calendar item.

### **RECOMMENDATION**

Approve the issuance of joint BART-Muni transit passes for conferees at the 2009 APTA Marketing and Communications Conference February 21 through 28, 2009.

SAN FRANCISCO

MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, Every year, the American Public Transportation Association (APTA) holds its annual Marketing and Communications Conference; and

WHEREAS, San Francisco has been selected as the site for the 2009 APTA Marketing and Communications Conference from February 22-25, 2009 with approximately 250 transit professionals expected to attend; and,

WHEREAS, It is customary for local transit systems to provide a transit pass, at no cost, to all registered participants to use during their stay in the host city; and

WHEREAS, the San Francisco Municipal Transportation Agency (SFMTA) and the Bay Area Rapid Transit Agency (BART) want to partner on a transit pass to provide free transit on each respective system to attendees of the 2009 APTA Marketing and Communications Conference; and

WHEREAS, The Chief Financial Officer indicates that providing passes for these events would have minimal impact on fare revenues; now, therefore be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approve the issuance of a transit pass at no cost for use by registered transit professionals and other attendees of the APTA 2009 Marketing and Communications Conference.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of

\_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.10**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Administration

**BRIEF DESCRIPTION:**

Requesting authority for the Executive Director/CEO or his designee to issue a Request for Proposal (RFP) for Back Strengthening, Ergonomic Assessments and Wellness Program Services.

**SUMMARY:**

- Staff requests the San Francisco Municipal Transportation Agency's (SFMTA) Board approval to issue an RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services, for the purpose of entering into a three-year professional services contract not to exceed \$350,000.
- These services are required in order to reduce Workers' Compensation costs, address increasing ergonomic issues of administrative staff and improve overall employee health and wellness.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Request for Proposals

**APPROVALS:**

**DATE**

DEPUTY OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR /CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO: Jeffery L. Gary

ASSIGNED SFMTAB CALENDAR DATE: \_\_\_\_\_

## **PAGE 2**

### **PURPOSE**

Requesting authority to issue an RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services.

### **GOAL**

This program is consistent with the following SFMTA Strategic Plan goals and objectives:

Goal 5: SFMTA Workforce:

To provide a flexible, supportive work environment and develop a workforce that takes pride and ownership of the agency's mission and vision and leads the agency into the ever evolving, technology-driven future.

Objective: 5.8 Improve work life balance of employees

### **DESCRIPTION**

The SFMTA initiated a back strengthening program in 2001, at the Presidio Bus Division and at the Cable Car Barn. The primary goal of the program was to use the Med-X back strengthening regimen to strengthen lower back muscles, thereby, reducing the incidence of back injuries and lost days and Workers' Compensation claims.

Historically, back injuries have been one of the leading causes of Workers' Compensation claims at the SFMTA, followed by other orthopedic injuries to shoulders, knees and wrists.

During the initial phase of the program, the focus of the program was to reduce the frequency and severity of back injuries by strengthening back muscles and improving overall employee wellness. As the program evolved, it became clear that we needed to expand the program beyond the original two locations, in order to have greater impact on reducing injury frequency and Workers' Compensation costs.

In 2006, the Agency issued an RFP to expand the back strengthening and wellness program to the other five operating facilities through the use of a mobile exercise van. This expansion has allowed us to reach a wider population of employees in order to maximize participation and savings.

With the consolidation of administrative offices at One South Van Ness and the completion of the Muni Metro East Facility, we will eventually have more than 1,000 employees at the two locations. Full staffing of these facilities highlight the need for improved ergonomic assessments, evaluations and treatment of repetitive strain injuries associated with desk level duties.

## **PAGE 3**

As part of this RFP, we are proposing to create an Ergonomic Evaluation and Education Center at One South Van Ness, to provide education, evaluation and treatment of ergonomic-related injuries.

This injury prevention and reduction program will proactively address these issues and continue our efforts to control and reduce risk from injuries of this type.

Staff requests authority to issue an RFP for Back Strengthening, Ergonomic Assessment and Wellness Program Services for the purpose of entering into a three-year professional services contract not to exceed \$350,000 per year, with a one-year option at the sole discretion of the Agency's Executive Director/CEO or his designee.

By doing so, staff expects that SFMTA will realize continued savings in reduced costs associated with lost days, medical treatment and new claims.

## **ALTERNATIVES CONSIDERED**

The City and County currently does not have the ability to provide Back Strengthening, Ergonomic Assessments and Wellness Program Services to effectively address the desired outcome of significantly reducing Workers' Compensation costs, claim frequencies and lost days from work. Without a program of this type the preventative measures needed to help reduce Workers' Compensation costs would not be available.

## **FUNDING IMPACT**

Funding for the Back Strengthening, Ergonomic Assessments and Wellness Program Services contract is in the amount of \$350,000. A total of \$250,000 is provided for in the fiscal year 2009-10 Workers' Compensation budget. The difference of \$100,000 will be moved from the existing Workers' Compensation budget to cover the full funding for this program.

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED:**

There are no additional approvals required.

SFMTA's Contract Compliance Office has established a five percent Local Business Enterprise (LBE) sub-consulting participation goal for this contract.

The City Attorney's office has reviewed this item.

## **RECOMMENDATION**

Staff recommends authorizing the Executive Director/CEO or his designee to issue a Request for Proposal to solicit proposals from qualified service providers for the Back Strengthening,

**PAGE 4**

Ergonomic Assessments and Wellness Program Services for the purpose of entering into a three-year professional services contract, with a one-year option to extend the contract at the sole discretion of the Agency's Executive Director/CEO or his designee.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) initiated a Back Strengthening Program in 2001; and,

WHEREAS, The Back First Program was expanded in 2006 to include a mobile exercise vehicle that services the five operating divisions not previously served by the program,

WHEREAS, The SFMTA desires to expand the program to include an Ergonomic Education and Evaluation Center at One South Van Ness,

WHEREAS, The SFMTA requires the services of an experienced provider of Back Strengthening, Ergonomic Assessments and Wellness Program Services; and,

WHEREAS, Staff recommends that a formal RFP be issued to provide said services; and, now therefore be it;

RESOLVED, That the San Francisco Municipal Transportation Agency Board authorizes the Executive Director/CEO to issue a RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services, for the purpose of entering into a three-year professional services contract not to exceed \$350,000, with a one-year option to extend the term of the contract at the sole discretion of the Agency's Executive Director/CEO or his designee.

I hereby certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary, Municipal Transportation Agency Board of Directors

**San Francisco Municipal Transportation Agency  
(SFMTA)**

**Request for Proposals for**

**Back Strengthening, Ergonomic Assessments and Wellness  
Program Services**

SFMTA-2008/09-25



Date issued:	JANUARY 7, 2009
Pre-proposal conference:	10:00 a.m., February 6, 2009
Proposal due:	5:00 p.m., March 6, 2009

# **San Francisco Municipal Transportation Agency (SFMTA)**

## **Request for Proposals for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

### **Table of Contents**

	<b>Page</b>
<b>I. Introduction and Schedule .....</b>	<b>1</b>
<b>II. Scope of Work .....</b>	<b>2</b>
<b>III. Submission Requirements .....</b>	<b>4</b>
<b>IV. Evaluation and Selection Criteria.....</b>	<b>8</b>
<b>V. Pre-proposal Conference and Contract Award.....</b>	<b>9</b>
<b>VI. Terms and Conditions for Receipt of Proposals.....</b>	<b>10</b>
<b>VII. City Contract Requirements .....</b>	<b>16</b>
<b>VIII. Protest Procedures .....</b>	<b>18</b>
<b>IX. Communications Prior to Contract Award .....</b>	<b>19</b>

### **Appendices:**

- A. HRC Attachment 2: Requirements for Architecture, Engineering and Professional Services Contracts, for contacts \$29,000 and over (separate document). Proposers must submit the following forms:

Form 2A HRC Contract Participation form  
Form 2B HRC “Good Faith” Outreach Requirements form  
Form 3 HRC Non-discrimination Affidavit  
Form 5 HRC Employment form

The following form may be required, depending on the circumstances:

Form 4 Joint Venture Participation Schedule

- B. Standard Forms: Listing and Internet addresses of Forms related to Taxpayer Identification Number and Certification, Business Tax Declaration, and Chapters 12B and 12C, and 14B of the S.F. Administrative Code **B-1**
- C. Sample Agreement for Professional Services (Form P-500)
- D. Attestation of Compliance on Communications Prior to Contract Award **D-1**
- E. Certification Regarding Debarment, Suspension, and Other Responsibility Matters
- F. Certification Regarding Lobbying

**San Francisco Municipal Transportation Agency  
RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**I. Introduction and Schedule**

**A. General**

The purpose of this Request for Proposals (RFP) is to solicit bids from firms qualified to provide:

- On-Site Back Strengthening at multiple SFMTA Locations
- Establishment of an on-site Ergonomic Evaluation and Assessment Center
- An On-site Comprehensive Health Awareness Program (CHAP)

Respondents to this RFP must submit proposals that include both on-site back strengthening and on-site health awareness programs.

The San Francisco Municipal Transportation Agency originally implemented on-site back strengthening and health awareness program in 2001. The program has been proven to reduce work related claims associated with back injuries, as well as the reduce the number of lost days associated with back injuries.

The current contract for services expires June 30, 2009. City contract requirements stipulate that the services must be competitively bid at this time. In addition, the SFMTA is seeking to add additional services not contained in the original contract. Specifically, these additional services include the ergonomic evaluation and assessment component.

The Agency currently employs approximately 5200 employees; 4400 for the San Francisco Municipal Railway and approximately 800 for the Department of Parking and Traffic. There are seven operating divisions and five modes of transportation for San Francisco Muni, each geographically dispersed throughout the City of San Francisco. In addition, the Department of Parking and Traffic has responsibility for traffic engineering, citations and enforcement of traffic and parking regulations throughout the City.

Muni and DPT also have a variety of administrative, technical, clerical and managerial support personnel dispersed throughout the City.

The Workers' Compensation Division of the Municipal Transportation Agency is responsible for oversight of the Back Strengthening, Ergonomic Assessment Comprehensive Health Awareness Program (CHAP).

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**B. Schedule**

The anticipated schedule for selecting a consultant is:

<u>Phase</u>	<u>Date</u>
RFP is issued by the City	<u>January 7, 2009</u>
Pre-proposal conference	<u>February 6, 2009</u>
Deadline for submission of written questions or requests for clarification	<u>January 23, 2009</u>
Proposals due	<u>March 6, 2009</u>
Oral interview with firms selected for further consideration	<u>March 20, 2009</u>

SFMTA reserves the right to not to conduct oral interview and select a firm based on the written proposal only.

**II. Scope of Work**

The services sought are for on-site Back Strengthening Ergonomic Assessments and Comprehensive Health Awareness Programs.

The successful respondent will have responsibility for providing services to all of the Agency's employees.

A comprehensive on-site Back Strengthening program is defined as follows:

A program to screen employees for medical contra-indications; test for baseline back strength and placing them on a supervised program of back strengthening exercises on the MedX machine or equivalent, with the goal of improving overall back strength.

The successful respondent will provide:

**1. Staffing**

A full time on-site program coordinator

On-site is defined as either a program housed in an SFMTA supplied structure or a mobile exercise vehicle that travels from location to location on a fixed schedule.

Appropriate staffing to manage up to seven (7) individual sites between 6:00 am and 6:00 pm Monday – Friday

**2. Equipment Required Per Site**

MedX Lumbar Strength Testing Machine or Equivalent

MedX Lumbar Strengthening Units or Equivalent

MedX Stretch Units or Equivalent

Cardiovascular Machines

Evaluation Table

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

Office furniture, computer equipment  
Telephone/Fax, etc

3. Recruitment

The successful respondent will be required to provide Agency wide recruitment for participants in the program

4. Monitoring

Implement a computerized monitoring system to track employee attendance and progress through the program on a monthly, quarterly and annual basis.

5. Data Collection and Management reporting

Data on individual program participants will be collected in a central computerized database and stored in a secure site to preserve confidentiality.

Management reports based on the individual and collected data will be made available to the Agency as requested

6. Administrative Functions

All administrative functions in support of the program will be the responsibility of the respondent.

1. ERGONOMIC EVALUATION AND ASSESSMENTS

The successful respondent will design, equip and maintain an “Ergonomic Education and Evaluation Center” at the agency’s One South Van Ness headquarters.

The purpose of the center will be to:

- A. Provide classroom instruction on proper ergonomic set-up of working environments
- B. Perform assessment of employees experiencing ergonomic issues on the job
- C. Demonstrate proper ergonomic approaches
- D. Maintain an “ergo store” for supplying employees with items needed to perform their duties safely, such as, pens, wrist pads, keyboards, back supports, etc.

2. Comprehensive Health Awareness Program (CHAP)

The successful respondent will supply a comprehensive health awareness program (CHAP) to the SFMTA. The CHAP is an employee wellness and health program, focused on improving overall employee health through education, awareness and participation.

The elements of a comprehensive health awareness program are:

- a. Massage Therapy
- b. Blood Pressure Screenings
- c. Yoga
- d. Meditation
- e. Nutrition Counseling
- f. Exercise Counseling
- g. Health Based Incentive Programs
- h. Cholesterol Screenings
- i. Blood Sugar Screenings

**San Francisco Municipal Transportation Agency  
RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

The exact nature and scope of the services included in the CHAP, as well as the frequency and duration of such services will be subject to negotiation between the Agency and the successful respondent.

**III. Submission Requirements**

**A. Time and Place for Submission of Proposals**

Proposals must be received by 5:00 p.m., on March 6, 2009. No proposal received after such date and time will be accepted. Each Proposer accepts all risks associated with non-delivery or with failure to deliver before such date and time by any courier, mail or other delivery service. Proposals should be in a sealed envelope or package and mailed or delivered to:

Jeffery L. Gary  
Manager of Absence Management  
401 Van Ness, 3<sup>rd</sup> Floor, Room 308  
San Francisco, CA 94102

Proposals shall be clearly marked "Back Strengthening, Ergonomic Assessments and Wellness Program Services". Faxed documents will NOT be accepted.

Each Proposer must complete and submit two copies of the required HRC forms as described in Appendix A, HRC Attachment 2 – Requirements Architecture, Engineering, & Professional Services Contracts with its proposal. Proposers must submit the following forms, i.e., HRC Form 2A-Contract Participation form, HRC Form 2B-"Good Faith" Outreach Requirements form, HRC Form 3-Nondiscrimination Affidavit, HRC Form 5-Employment form, and HRC Form 4-Joint Venture Participation Schedule (if applicable.). The forms should be placed in a separate, sealed envelope clearly marked HRC Forms for RFP (CCO No. 08-1050) Request For Proposals For Back Strengthening, Ergonomic and A Comprehensive Health & Wellness Program to the above location.

**B. Format**

Proposers must follow the requirements set forth below. Any material deviation from these requirements may be cause for rejection of the Proposal, as determined at the SFMTA's sole discretion.

The SFMTA is a 24/7 operation and all responses to this RFP should include recommendations for addressing the delivery of proposed services to all shifts.

**1. Table of Contents.**

A table of contents listing the individual sections of the Proposal and their corresponding page numbers. Tabs should separate each of the individual sections.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**C. Content**

The content and sequence of each Proposal must be as follows:

**1. Cover Letter.**

A cover letter describing the Proposer and including all of the following:

- a. The official name of the Proposer, as well as any fictitious business names under which the proposer conducts business.
- b. The Proposer's organizational structure (e.g., corporation, partnership, limited liability company, etc.).
- c. The jurisdiction in which the Proposer is organized and the date of such organization.
- d. The address of the Proposer's headquarters and of any local office of the Proposer.
- e. The Proposer's Federal Tax Identification Number.
- f. Whether Proposer is certified by the San Francisco Human Rights Commission as a LBE.
- g. The name, address, e-mail address, telephone and fax numbers of the person(s) who will serve as the contact(s) with the SFMTA, and who are authorized to make representations on behalf of and to bind the Proposer.
- h. A statement that the Proposer is in good standing in the State of California and has all necessary licenses, permits, approvals and authorizations necessary in order to perform all of the Proposer's obligations in connection with this RFP.
- i. An statement accepting the conditions and requirements contained in this RFP.

**1. Introduction and Executive Summary**

Executive Summary.

A brief synopsis of the highlights of the Proposal and the overall benefits of the Proposal to the SFMTA. This synopsis should not exceed 5 pages in length and should be easily understandable.

**2. Project Approach**

Respondents should carefully read the Minimum Standards section of this RFP and the Performance Standards section of this RFP, ( § III and IV), and respond to any sections where the described practice differs significantly from Respondent's practice, or where the parameters set forth therein would create a barrier to Respondent's ability to perform should a contract be awarded.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

Respondents must submit Standard Operating Procedures for all areas described in the Scope of Work and Performance Standards sections of this RFP (Please see § IXB, *infra*).

a. Please provide an organizational chart of the unit structure and all key personnel with your proposal. Please include physical therapy staff, if any, in your chart. Include resumes of key employees. Please include a brief description of each person's function and the limits of his/her authority. Indicate if any positions are currently unfilled and will require recruitment.

b. Please describe the proposed location for your operation under this proposal. If your operation will be mobile, please describe how you will accommodate the employee schedule to allow for maximum participation by the largest number of SFMTA personnel.

c. Describe the staffing of your on-site strengthening, ergonomic assessments and proposed CHAP services.

d. Describe the ratio of supervisors to staff and the level of supervision provided to employees dispersed at multiple locations.

e. Describe in detail all reporting methods currently used by your organization and any special requirement or limitations attendant to each method. What method would you use for the Municipal Transportation Agency?

f. Other than the equipment described in Section II above, please detail any specialized computer, Information Technology (IT) or space requirements you may have.

g. Detail who is responsible in your organization for collecting program data and distribution of results to the SFMTA.

h. Describe your plan for marketing the program to SFMTA employees.

i. Describe your process for implementing ongoing improvements to the program.

j. Describe your protocols for interacting with the SFMTA's Workers' Compensation Claims Administrator as well as internal SFMTA stakeholders such as Human Resources and the Operating Divisions.

k. Describe your protocols and procedures for verifying that an employee is eligible to participate in the program.

i. Please provide a sample reports and describe your procedures and protocols for tracking participation and progress in the program.

j. Implementation Process

k. Detail your organization's implementation plan including timelines, number and type of staff assigned, method for taking over the program, etc.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**3. Firm Qualifications**

Provide information on your firm's background and qualifications which addresses the following:

- a. Name, address, and telephone number of a contact person; and
- b. A brief description of your firm, as well as how any joint venture or association would be structured; and
- c. A description of not more than four projects similar in size and scope prepared by your firm including client, reference and telephone numbers, staff members who worked on each project, budget, schedule and project summary. Descriptions should be limited to one page for each project. If joint consultants or subconsultants are proposed provide the above information for each.

**4. Team Qualifications**

- a. Please describe the minimum level of experience, education and training required for your physical therapists, therapy assistants and any wellness or rehab professionals you would employ for the SFMTA's programs.
- b. Please describe any annual training requirements for your non-professional staff. (i.e., clerical and other support staff).
- c. Is on-going training of your professional staff mandatory or non-mandatory? How is training attendance recorded and monitored.
- d. Is training mandatory for non-professional staff? If so, please describe the training provided.
- e. Describe any incentives, financial or otherwise, that accrue directly to your employees.
- f. Describe how your program staff will be evaluated and how often evaluation occurs.
- g. Please describe your average professional staff turnover for the last five years and any plans or incentives to attract and maintain high quality staff.
- h. If your organization uses nurses on staff, or has contract with a nurse case management vendor, describe their qualifications, including education and years of experience in workers compensation and the manner in which they interact with adjusters, claimants and employers.

**5. References**

Provide references for the lead consulting firm, lead project manager, and all subconsultants, me, address and telephone number of at least three (3) private and other public agencies preferably other public agencies.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**6. Fee Proposal**

a. The SFMTA intends to award this contract to the firm that will provide the best overall program services in a cost-effective manner. The SFMTA reserves the right to accept other than the lowest priced offer and to reject any proposals that are not responsive to this request.

b. When preparing your fee proposals, please use the following assumptions: A 3-year contract with a one-year extension at the SFMTA's option

1. 5200 total employee population
2. 4400 SF Muni Employees
3. 800 DPT employees
4. Approximately 250-300 employees per facility
5. A phased implementation process, meaning each facility would be brought on line at the appropriate time in the process.

c. The fee proposal must include the following:

1. A flat fee proposal for annualized for on-site back strengthening
2. A flat fee proposal to cover Health/Wellness related programs
3. A flat fee proposal to cover Ergonomic Assessments and the Ergo Store.

All proposals should address items 1, 2 and 3 above. Proposal that do not address all three items will be deemed non-responsive and will be rejected.

**IV. Evaluation and Selection Criteria**

**A. Minimum Qualifications**

Proposer should have at least a minimum of three (3) years of providing the listed services requested in this RFP.

Any proposal that does not demonstrate that the proposer meets these minimum requirements by the deadline for submittal of proposals will be considered non-responsive and will not be eligible for award of the contract.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**B. Selection Criteria**

Technical Review

The proposals will be evaluated by a selection committee comprised of parties with expertise in Workers' Compensation claims, medical management and physical therapy. The SFMTA intends to evaluate the proposals generally in accordance with the criteria itemized below. Up to 3 of the firms with the highest scoring proposals will be interviewed by the committee to make the final selection.

Selection criteria for this RFP will be weighted as follows:

ITEM	POINTS
Qualifications (experience, reputation, references)	15
Back Strengthening Program Efficacy	25
Comprehensive Health Awareness Program	15
Ergonomic Assessment	15
Service Fee	10
Staffing	10
Data Collection and Statistical Reporting	5
Compatibility with Existing SFMTA Wellness Programs	5

Please describe in detail any and all applicable experience which relates to this RFP in each category listed below:

Qualifications (experience, reputation, references) (15 points)  
Back Strengthening Program Efficacy (25 points)  
Comprehensive Health Awareness Program (15 points)  
Ergonomic Assessment (15 points)  
Service Fee (10 points)  
Staffing (10 points)  
Data Collection and Statistical Reporting (5)  
Compatibility with Existing SFMTA Wellness Programs (5 points)

**V. Pre-proposal conference and Contract award**

**A. Pre-Proposal Conference**

Proposers are encouraged to attend a pre-proposal conference on Monday, February 6, 2009, at 10 a.m. to be held at the SFMTA headquarters building located at One South Van Ness Avenue, 3<sup>rd</sup> floor, (on the corner of Van Ness and Market Street). There is for-pay-parking available in the area. All questions will be addressed at this conference and any available new information will be provided at that time. If you have further questions regarding the RFP, please contact Jeffery Gary at [jeff.gary@sfmta.com](mailto:jeff.gary@sfmta.com), or Martha Johnson at [martha.johnson@sfmta.com](mailto:martha.johnson@sfmta.com)

The SFMTA will keep a record of all parties who request and receive copies of the RFP. Any requests for information concerning the RFP, whether submitted before or after the pre-proposal conference, must be in writing, and any substantive replies will be issued as written addenda to all parties who have requested and received a copy of the RFP from the Division of Workers' Compensation. Questions raised at the pre-proposal conference may be answered orally. If any substantive new

**San Francisco Municipal Transportation Agency  
RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

information is provided in response to questions raised at the pre-proposal conference, it will also be memorialized in a written addendum to this RFP and will be distributed to all parties that received a copy of the RFP. No questions or requests for interpretation will be accepted after February 27, 2009.

**B. Contract Award**

The San Francisco Municipal Transportation Agency will select a proposer with whom the SFMTA staff shall commence contract negotiations. The selection of any proposal shall not imply acceptance by the City of all terms of the proposal, which may be subject to further negotiation and approvals before the City may be legally bound thereby. If a satisfactory contract cannot be negotiated in a reasonable time the SFMTA, in its sole discretion, may terminate negotiations with the highest ranked proposer and begin contract negotiations with the next highest ranked proposer.

**VI. Terms and Conditions for Receipt of Proposals**

**A. Errors and Omissions in RFP**

Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the Department, in writing, if the proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to the Department promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals. Modifications and clarifications will be made by addenda as provided below.

**B. Inquiries Regarding RFP**

Inquiries regarding the RFP and all oral notifications of an intent to request written modification or clarification of the RFP must be directed to:

Jeffery L. Gary, Manager  
Absence Management  
401 Van Ness, Suite 308  
San Francisco, CA 94102  
415-554-4974  
e-mail: jeff.gary@sfmta.com

or

Martha Johnson, Senior Personnel Analyst  
Absence Management  
401 Van Ness, Suite 308  
San Francisco, CA 94102  
415-554-4979  
e-mail: martha.johnson@sfmta.com

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**C. Objections to RFP Terms**

Should a proposer object on any ground to any provision or legal requirement set forth in this RFP the proposer must, not more than ten calendar days after the RFP is issued, provide written notice to the Department setting forth with specificity the grounds for the objection. The failure of a proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

**D. Change Notices**

The Department may modify the RFP, prior to the proposal due date, by issuing written addenda. Addenda will be sent via regular, first class U.S. mail to the last known business address of each firm listed with the Department as having received a copy of the RFP for proposal purposes. The Department will make reasonable efforts to notify proposers in a timely manner of modifications to the RFP. Notwithstanding this provision, the proposer shall be responsible for ensuring that its proposal reflects any and all addenda issued by the Department prior to the proposal due date regardless of when the proposal is submitted. Therefore, the City recommends that the proposer call the Department before submitting its proposal to determine if the proposer has received all addenda.

**E. Term of Proposal**

Submission of a proposal signifies that the proposed services and prices are valid for 120 calendar days from the proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

**F. Revision of Proposal**

A proposer may revise a proposal on the proposer's own initiative at any time before the deadline for submission of proposals. The proposer must submit the revised proposal in the same manner as the original. A revised proposal must be received on or before the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any proposer.

At any time during the proposal evaluation process, SFMTA may require a proposer to provide oral or written clarification of its proposal. SFMTA reserves the right to make an award without further clarifications of proposals received.

**G. Errors and Omissions in Proposal**

Failure by SFMTA to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the vendor from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

**H. Financial Responsibility**

SFMTA accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Submissions of the RFP will become the property of SFMTA and may be used by SFMTA in any way deemed appropriate.

**San Francisco Municipal Transportation Agency  
RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**I. Proposer's Obligations under the Campaign Reform Ordinance**

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such

contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the proposer is prohibited from making contributions to:

- the officer's re-election campaign
- a candidate for that officer's office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**J. Communications Prior to Contract Award**

It is the policy of the SFMTA that only employees identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from Proposers or potential Proposers seeking to influence the contractor selection process or the award of the contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally approved by the SFMTA Board of Directors and, if required, by the San Francisco Board of Supervisors.

All firms and subcontractor(s) responding to this RFP are hereby notified that they may not contact any SFMTA staff member, other than a person with whom contact is expressly authorized by this RFP for the purpose of influencing the contractor selection process or the award of the contract from the

date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and, if required, by the San Francisco Board of Supervisors. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFP.

All firms and subcontractor(s) responding to this RFP are hereby notified that any written communications sent to one or more members of the SFMTA Board of Directors concerning a pending contract solicitation shall be distributed by the SFMTA to all members of the SFMTA Board of Directors and the designated staff contact person(s) identified in the RFP.

Except as expressly authorized in the RFP, where any person representing a Proposer or potential Proposer contacts any SFMTA staff for the purpose of influencing the content of the competitive solicitation or the award of the contract between the date when the RFP is issued and the date when the final selection is approved by the SFMTA Board of Directors, and, if required, by the San Francisco Board of Supervisors, the Proposer or potential Proposer shall be disqualified from the selection process. However, a person who represents a Proposer or potential Proposer may contact City elected officials and may contact the Executive Director/CEO of the SFMTA if s/he is unable to reach the designated staff contact person(s) identified in the RFP or wishes to raise concerns about the competitive solicitation.

Additionally, the firms and subcontractor(s) responding to this RFP will not provide any gifts, meals, transportation, materials or supplies or any items of value or donations to or on behalf of any SFMTA staff member from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and if required, by the San Francisco Board of Supervisors.

All lobbyists or any agents representing the interests of proposing prime contractors and subcontractor(s) shall also be subject to the same prohibitions.

An executed Attestation of Compliance (See Below) certifying compliance with this section of the RFP will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to this RFP. Any proposal that does not include the executed Attestation of Compliance as required by this section will be deemed non-responsive and will not be evaluated. Any Proposer who violates the representations made in such Attestation of Compliance, directly or through an agent, lobbyist or subcontractor will be disqualified from the selection process.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**K. Sunshine Ordinance**

In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

**L. Public Access to Meetings and Records**

If a proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the proposer must comply with Chapter 12L. The proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to proposer's meetings and records, and (2) a summary of all complaints concerning the proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in proposer's Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

**M. Reservations of Rights by the City**

The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all proposals;
3. Reissue a Request for Proposals;
4. Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means; or
6. Determine that no project will be pursued.

**N. No Waiver**

No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a proposer to observe any provision of this RFP.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**O. Local Business Enterprise Goals and Outreach**

The LBE subconsulting goal for this project is five percent (5 %) of the total value of the goods and/or services to be procured.

Each firm responding to this solicitation shall demonstrate in its response that it has used good faith outreach to select LBE subcontractors as set forth in S.F. Administrative Code §§14B.8 and 14B.9, and shall identify the particular LBE subcontractors solicited and selected to be used in performing the contract. For each LBE identified as a subcontractor, the response must specify the value of the participation as a percentage of the total value of the goods and/or services to be procured, the type of work to be performed, and such information as may reasonably be required to determine the responsiveness of the proposal. LBEs identified as subcontractors must be certified with the San Francisco Human Rights Commission at the time the proposal is submitted, and must be contacted by the proposer (prime contractor) prior to listing them as subcontractors in the proposal. Any proposal that does not meet the requirements of this paragraph will be non-responsive.

In addition to demonstrating that it will achieve the level of subconsulting participation required by the contract, a proposer shall also undertake and document in its submittal the good faith efforts required by Chapter 14B.8(C)&(D) and HRC Attachment 2, Requirements for Architecture, Engineering and Professional Services Contracts.

Proposals which fail to comply with the material requirements of S.F. Administrative Code §§14B.8 and 14B.9, HRC Attachment 2 and this RFP will be deemed non-responsive and will be rejected. During the term of the contract, any failure to comply with the level of LBE subcontractor participation specified in the contract shall be deemed a material breach of contract. Subconsulting goals can only be met with HRC-certified LBEs located in San Francisco.

**1. LBE Participation**

The City strongly encourages proposals from qualified LBEs. Pursuant to Chapter 14B, the following rating discount will be in effect for the award of this project for any proposers who are certified by HRC as a LBE, or joint ventures where the joint venture partners are in the same discipline and have the specific levels of participation as identified below. Certification applications may be obtained by calling HRC at (415) 252-2500. The rating discount applies at each phase of the selection process. The application of the rating discount is as follows:

- a) A 10% discount to an LBE; or a joint venture between or among LBEs; or
- b) A 5% discount to a joint venture with LBE participation that equals or exceeds 35%, but is under 40%; or
- c) A 7.5% discount to a joint venture with LBE participation that equals or exceeds 40%; or
- d) A 10% discount to a certified non-profit entity.

If applying for a rating discount as a joint venture: The LBE must be an active partner in the joint level of participation stated in the proposal, and must be responsible for a clearly defined portion of the work to be performed and share in the ownership, control, management responsibilities, risks and profits of the joint venture. The portion of the LBE joint venture's work shall be set forth in detail separately

**San Francisco Municipal Transportation Agency  
RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

from the work to be performed by the non-LBE joint venture partner. The LBE joint venture's portion of the contract must be assigned a commercially useful function.

**2. HRC Forms to be Submitted with Proposal**

a. All proposals submitted must include the following Human Rights Commission (HRC) Forms contained in the HRC Attachment 2: 1) HRC Contract Participation Form –HRC Form 2A, 2) HRC “Good Faith Outreach” Requirements – HRC Form 2B, 3) HRC Non-Discrimination Affidavit - HRC Form 3, 4) HRC Joint Venture form (if applicable) – HRC Form 4, and 5) HRC Employment Form - HRC Form 5. If these forms are not returned with the proposal, the proposal may be determined to be non-responsive and may be rejected. (Please see Appendix A of this RFP.)

b. Please submit only two copies of the above forms with your proposal. The forms should be placed in a separate, sealed envelope labeled HRC Forms.

If you have any questions concerning the HRC Forms, you may call Naomi Steinway, assigned Contract Compliance Officer for the San Francisco Municipal Transportation Agency, at 415/701-4363.

**VII. Contract Requirements**

**A. Standard Contract Provisions**

The successful proposer will be required to enter into a contract substantially in the form of the Agreement for Professional Services, attached hereto as Appendix C. Failure to timely execute the contract, or to furnish any and all insurance certificates and policy endorsements, surety bonds or other materials required in the contract, shall be deemed an abandonment of a contract offer. The City, in its sole discretion, may select another firm and may proceed against the original selectee for damages.

Proposers are urged to pay special attention to the requirements of the Minimum Compensation Ordinance (§43 in the Agreement), the Health Care Accountability Ordinance (§44 in the Agreement), and the First Source Hiring Program (§45 in the Agreement), as set forth in paragraphs B, C and D below.

**B. Nondiscrimination in Contracts and Benefits**

The successful proposer will be required to agree to comply fully with and be bound by the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Generally, Chapter 12B prohibits the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of employees. The Chapter 12C requires nondiscrimination in contracts in public accommodation. Additional information on Chapters 12B and 12C is available on the HRC's website at [www.sfhrc.org](http://www.sfhrc.org).

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**C. Minimum Compensation Ordinance (MCO)**

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at [http://www.sfgov.org/site/olse\\_index.asp](http://www.sfgov.org/site/olse_index.asp).

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires contractors to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements. For the contractual requirements of the MCO, see §[insert section number on “Requiring Minimum Compensation for Covered Employee” in the Agreement.].

Note that the gross hourly compensation for covered employees for For-Profit entities is \$11.54 beginning January 1, 2009.

The MCO rate for non-profit corporations and government entities shall remain at \$11.03.

Additional information regarding the MCO is available on the web at [http://www.sfgov.org/site/olse\\_index.asp](http://www.sfgov.org/site/olse_index.asp).

**D. Health Care Accountability Ordinance (HCAO)**

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at <http://www.sfgov.org/oca/lwlh.htm>.

**E. First Source Hiring Program (FSHP)**

If the contract is for more than \$50,000, the successful proposer will be required to agree to comply fully with and be bound by the provisions of the First Source Hiring Program ordinance, as set forth in S.F. Administrative Code Chapter 83. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHP is available on the web at [www.sfgov.org/moed/fshp.htm](http://www.sfgov.org/moed/fshp.htm).

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**F. Conflicts of Interest**

The successful proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for SFMTA on behalf of the successful proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten calendar days of the City notifying the successful proposer that the City has selected the proposer.

**VIII. Protest Procedures**

**A. Protest of Non-Responsiveness Determination**

Within five (5) working days of the City's issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that the City has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth (5<sup>th</sup>) working day following the City's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

**B. Protest of Contract Award**

Within five (5) working days of the City's issuance of a notice of intent to award the contract, any firm that has submitted a responsive proposal and believes that the City has incorrectly selected another proposer for award may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth (5<sup>th</sup>) working day after the City's issuance of the notice of intent to award.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

**San Francisco Municipal Transportation Agency  
RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

**C. Delivery of Protests**

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to:

Jeffery L. Gary, Manager  
Absence Management  
401 Van Ness Avenue, 3<sup>rd</sup> Floor, Room 308  
San Francisco, CA 94102  
415-554-4974  
e-mail: jeff.gary@sfmta.com

**IX. COMMUNICATIONS PRIOR TO CONTRACT AWARD.**

It is the policy of the SFMTA that only employees identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from Proposers or potential Proposers seeking to influence the contractor selection process or the award of the contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally approved by the SFMTA Board of Directors and, if required, by the San Francisco Board of Supervisors.

All firms and subcontractor(s) responding to this RFP are hereby notified that they may not contact any SFMTA staff member, other than a person with whom contact is expressly authorized by this RFP (Gail Stein), for the purpose of influencing the contractor selection process or the award of the contract from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and, if required, by the San Francisco Board of Supervisors. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFP.

All firms and subcontractor(s) responding to this RFP are hereby notified that any written communications sent to one or more members of the SFMTA Board of Directors concerning a pending contract solicitation shall be distributed by the SFMTA to all members of the SFMTA Board of Directors and the designated staff contact person(s) identified in the RFP.

Except as expressly authorized in the RFP, where any person representing a Proposer or potential Proposer contacts any SFMTA staff for the purpose of influencing the content of the competitive solicitation or the award of the contract between the date when the RFP is issued and the date when the final selection is approved by the SFMTA Board of Directors, and, if required, by the San Francisco Board of Supervisors, the Proposer or potential Proposer shall be disqualified from the selection process. However, a person who represents a Proposer or potential Proposer may contact City elected officials and may contact the Executive Director/CEO of the SFMTA if s/he is unable to reach the designated staff contact person(s) identified in the RFP or wishes to raise concerns about the competitive solicitation.

Additionally, the firms and subcontractor(s) responding to this RFP will not provide any gifts, meals, transportation, materials or supplies or any items of value or donations to or on behalf of any SFMTA staff member from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and if required, by the San Francisco Board of Supervisors.

**San Francisco Municipal Transportation Agency**  
**RFP for Back Strengthening, Ergonomic Assessments and Wellness Program Services**

All lobbyists or any agents representing the interests of proposing prime contractors and subcontractor(s) shall also be subject to the same prohibitions.

An executed Attestation of Compliance (Attachment 6) certifying compliance with this section of the RFP will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to the this RFP. Any proposal that does not include the executed Attestation of Compliance as required by this section will be deemed non-responsive and will not be evaluated. Any Proposer who violates the representations made in such Attestation of Compliance, directly or through an agent, lobbyist or subcontractor will be disqualified from the selection process.

## **ATTACHMENT 6**

### **ATTESTATION OF COMPLIANCE**

***To be completed by all Proposing Firms and All Individual Subcontractors***

(Please check each box, sign this form and submit it with your response.)

Name of Individual Completing this Form: \_\_\_\_\_

The Form is Submitted on Behalf of Firm: \_\_\_\_\_

Name of RFP:

1. I attest that I and all members of the firm listed above will and have complied to date with Section XXVII of the above RFP.

☐ Yes

2. I understand that if my firm or any members of the firm listed above are found to be in violation of the Section XXVII of the above RFP, this will disqualify my firm and any Proposal in which my firm is named from further consideration.

☐ Yes

I have entered required responses to the above questions to the best of my knowledge and belief.

Signature: \_\_\_\_\_

Date \_\_\_\_\_

## **ATTACHMENT 7**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

By signing and submitting its Proposal, the Proposer or proposed subcontractor certifies as follows:

\_\_\_\_\_  
(Proposer or Proposed Subcontractor Business Name)

certifies to the best of its knowledge and belief that it and its principals:

- a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from contracting with any federal, state or local governmental department or agency;
  - b. Have not within a three-year period preceding the date of this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1) b. of this certification; and
  - d. Have not within a three-year period preceding the date of this Proposal had one or more public contracts (federal, state, or local) terminated for cause or default.
- (2) Where the firm executing this RFP Attachment 6 is unable to certify to any of the statements in this certification, such firm shall attach a detailed explanation of facts that prevent such certification.
- (3) The certification in this clause is a material representation on fact relied upon by the San Francisco Municipal Transportation Agency (SFMTA).

As the authorized certifying official, I hereby certify that the above-specified certifications are true.

Business Name: \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative Name (print)

\_\_\_\_\_  
Authorized Representative Title (print)

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Date

## APPENDIX A

### ATTACHMENT 8 CERTIFICATION REGARDING LOBBYING

---

(Proposer or Proposed Subcontractor Business Name)

certifies that it will not and has not paid any person or organization for influencing or attempting to influence a member of the San Francisco Board of Supervisors or the San Francisco Municipal Transportation Agency Board of Directors, or an officer or employee of the City and County of San Francisco in connection with the contract to be awarded pursuant to this Request for Proposals, except as expressly authorized in this Request for Proposals. The Proposer or proposed subcontractor submitting this certification shall also disclose the name of any lobbyist registered under Article II of the San Francisco Campaign and Governmental Conduct Code who has made lobbying contacts on its behalf with respect to the contract to be awarded pursuant to this Request for Proposals.

This certification is a material representation of fact upon which reliance was placed for the purposes of the City's evaluation of Proposals and award of a contract pursuant to the Request for Proposals. Submission of this certification is a prerequisite for submitting a Proposal responsive to the Request for Proposals.

Following submission of Proposals with this signed certification, any firm who 1) pays any person or organization for influencing or attempting to influence a member of the San Francisco Board of Supervisors or the San Francisco Municipal Transportation Agency Board of Directors, or an officer or employee of the City and County of San Francisco in connection with the contract to be awarded pursuant to this Request for Proposals, except as expressly authorized in the RFP, 2) fails to disclose the name of any lobbyist registered under Article II of the San Francisco Campaign and Governmental Conduct Code who has made lobbying contacts on its behalf with respect to the contract to be awarded pursuant to this Request for Proposals, or 3) pays or agrees to pay to any City employee or official or to any member of the selection panel or other person involved in the making of the contract on behalf of the SFMTA any fee or commission, or any other thing of value contingent on the award of a contract, will disqualify any Proposal in which that firm is named as a prime contractor, joint venture partner or subcontractor from the selection process.

By signing and submitting its proposal, the Proposer or proposed subcontractor also certifies to the SFMTA that the Proposer or proposed subcontractor has not paid, nor agreed to pay, and will not pay or agree to pay, any fee or commission, or any other thing of value contingent on the award of a contract to any City employee or official or to any member of the selection panel or other person involved in the making of the contract on behalf of the SFMTA.

As the authorized certifying official, I hereby certify that the above-specified certifications are true.

Business Name: \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative Name (print)

\_\_\_\_\_  
Authorized Representative Title (print)

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Date

## APPENDIX A



*City & County of San Francisco*

## HUMAN RIGHTS COMMISSION



### HRC ATTACHMENT 2

#### *Requirements for Architecture, Engineering, & Professional Services Contracts*

For Contracts \$29,000 and over

---

#### PART I. GENERAL

##### **1.01 SAN FRANCISCO ADMINISTRATIVE CODE CHAPTERS 12B AND 14B**

- A. To be eligible for this contract award, prime proposers must agree to comply with the Local Business Enterprise (LBE) requirements sanctioned by San Francisco Administrative Code Chapter 12B, Section 12B.4 and Chapter 14B, and its implementing Rules and Regulations. Chapters 12B and 14B are administered and monitored by the San Francisco Human Rights Commission (HRC).
- B. Chapters 12B and 14B and their implementing Rules and Regulations are incorporated by reference herein as though fully set forth and provide that the failure of any proposer or consultant to comply in good faith with these requirements shall be deemed a material breach of contract. Copies of both Chapters 12B and 14B and their implementing rules and regulations are available on the HRC website at [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights).
- C. Chapter 14B allows for a ten percent (10%) rating discount for firms and non-profit organizations certified by HRC on Architecture, Engineering, and Professional services contracts. The term "rating discount" hereafter shall be known as "rating bonus" in HRC Attachment 2
- D. *Questions regarding HRC Attachment 2 and accompanying forms for this Professional Services Contract, namely, RFP (08-1050: ): Back Strengthening Ergonomic and A Comprehensive Health & Wellness Program should contact SFMTA's Contract Compliance Office(CCO) at (415) 701-4363, One South Van Ness Ave., 3<sup>rd</sup> Floor, San Francisco, CA 94103.*
- E. In addition, for assistance with LBE Certification or compliance with the Equal Benefits Program, please contact the HRC Main Office at (415) 252-2500 or LBE Certification Unit (415) 252-2537 or (415) 252-2530.
- F. *A five percent (5 %) LBE subconsulting participation goal has been established for the value of goods and/or services procured on this contract. Firms submitting proposals must use their good faith efforts to, where feasible, include LBE subconsultants for work under this proposal.*



**G. Certification Application**

1. LBE Certification Application
  - a. Prime proposers must be certified as LBEs on the proposal due date to qualify for a rating bonus.
  - b. Any proposer who is in the process of appealing the Director's denial of certification or revocation of certification for other contracts shall not be considered an LBE.
  - c. The Certification Application is available on the HRC website at [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights).

**1.02 SUBMISSION OF HRC FORMS**

- A. Unless otherwise authorized by SFMTA's CCO, the prime proposer must submit the following HRC forms in a separate envelope marked "HRC Forms" with the proposal. Failure to complete or submit any of the HRC Forms may cause the proposer to be deemed non-responsive and ineligible for contract award.

Review the specific instructions and requirements on each HRC form.

1. **Form 2A: HRC Contract Participation Form:** Identify LBE subconsultants, vendors, and lower tier subconsultants listed on this form for LBE subconsultant credit. Check the appropriate box under Ratings Bonus.
2. **Form 2B: HRC "Good Faith Outreach" Requirements Form:** Document solicitation of LBE participation. This form must be submitted EVEN IF the LBE subconsultant goal has been met. Attach supporting documentation.
3. **Form 3: HRC Non-Discrimination Affidavit:** Must be signed by Proposer under penalty of perjury.
4. **Form 4: HRC Joint Venture Form:** Submit ONLY if the firms are requesting a rating bonus based on LBE participation in a joint venture partnership.
5. **Form 5: HRC Employment Form:** List the key personnel and responsibilities of the Proposer, Joint Venture partners, and Subconsultants.
6. **HRC 12B-101 Form:** Submit only if the Prime Consultant is not already in compliance with Equal Benefits Requirements. This form is available on the HRC website at [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights).
7. Note the following information:
  1. HRC Attachment 2 forms are available on the HRC website at [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights).
  2. For contracts over \$10 million, the rating bonus is not applicable.
  3. Except where the contract awarding authority has obtained a waiver from HRC, any proposal submitted without a completed Form 2A and Form 2B may be deemed non-responsive and rejected.
  4. LBE subconsultant goal can only be met with HRC certified LBEs identified on the HRC LBE directory website at [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights).

**C. HRC Contract Performance Forms**

The following HRC forms are submitted with progress and final payment requests.

Review instructions and specific information requested on each form:

1. **Form 7: HRC Progress Payment Form:** Submit to Contract Awarding Authority and to HRC for each payment request. *Note:* Page 2; column "A" of the form, ALL firms must be continuously listed including lower tier subconsultants for each payment request.
2. **Form 9: HRC Payment Affidavit:** Submit within ten (10) working days to Contract Awarding Authority and HRC following receipt of each progress payment from the Contract Awarding Authority. This form must be submitted EVEN IF there is no subconsultant payment and until completion of the contract.



3. **Form 8: HRC Exit Report and Affidavit:** Submit with Form 7 to Contract Awarding Authority and HRC. Each LBE subconsultant and vendor (including lower tier subconsultants and vendors) must complete this form.
4. **Form 10: HRC Contract Modification Form:** Submit with appropriate documentation when original contract amount increases more than 20%. Failure to submit any HRC contract performance forms may result in sanctions under Section 14B.11.C including but not limited to withholding or delaying progress and final payments.

### 1.03 "GOOD FAITH OUTREACH" REQUIREMENTS

- A. All proposers shall achieve the LBE goal and undertake good faith outreach as set forth in Section 14B.8(C) of the ordinance to select subconsultants to meet the LBE goal. Proposals that do not meet the LBE goal set under 14B.8(A) of the ordinance will be rejected as non-responsive unless the HRC Director finds that the proposer diligently undertook all the good faith efforts required by the Ordinance and that the failure to meet the goal resulted from an excusable error. The contract awarding authority shall require proposers on the contracts to contact an LBE before listing that LBE as a subconsultant in the proposal. A proposal that fails to comply with this requirement will be rejected as non-responsive.
- B. The proposer must perform the following seven (7) "good faith outreach" requirements:
  - (1) Attending any presolicitation or proposal meetings scheduled by the City to inform all proposers of LBE program requirements for the project for which the contract is awarded;
  - (2) Identifying and selecting subconsulting opportunities to meet LBE goals;
  - (3) Advertising for LBE subconsultants and vendors by posting the opportunity in an accessible location, specified by the City, not less than 10 calendar days before the date the proposals can first be submitted. This applies only if the City gave public notice of the project not less than 15 calendar days prior to the date the proposals can first be submitted;
  - (4) Contacting LBEs certified to perform the identified work;
  - (5) Providing LBEs that have notified the proposers of their interest with adequate information about the plans, specifications, and requirements for the work, provided that the Director may cap the number of contacts required;
  - (6) Negotiating in good faith with LBEs, and not unjustifiably rejecting their bids or proposals; and
  - (7) Advising and assisting interested LBEs to obtain bonds, lines of credit, or insurance required by the City or the Proposer.

*Note:* Proposers are required to document and submit Form 2B and supporting documentation EVEN IF the LBE subconsultant goal has been met.

- C. Each proposer shall document "good faith outreach" and include the documentation with the proposal. Such documentation shall include: (a) the dollar amount of each subconsultant and a statement of the scope of work to be performed under the subcontract; (b) the identification of each subcontract awarded to an LBE; (c) for each subcontract, copies of the subconsultant billing rates submitted. Such documentation shall contain at least the billing rates and a description of the scope of work. If no written billing rates were submitted by some or all of the subconsultants who bid the job, the proposer shall submit a written statement containing (i) the amount of each contract amount; and separately, for each subcontract, a full and complete statement of the reason(s) for selection of the subconsultant. If the reason is based on relative qualifications, the statement must address the particular qualifications at issue. If the reason is the respective billing rates, the statement must state the amounts and describe the similarities and/or dissimilarities in the scope of work covered by the billing rates.



Proposers also shall maintain the documentation described in this paragraph for three years following submission of the proposal or completion of the contract, whichever is later.

#### **1.04 NON COMPLIANCE AND SANCTIONS**

##### **A. Non-Compliance with Chapter 14B**

1. A complaint of discrimination or non-compliance concerning LBE participation initiated by any party after contract award will be processed in accordance with Chapter 14B and its implementing rules and regulations.
  - a. If the HRC Director determines that there is cause to believe that a consultant has failed to comply with any of the requirements of the 14B ordinance, HRC rules and regulations, or contract provisions pertaining to LBE participation, the HRC Director shall notify the contract awarding authority and attempt to resolve the non-compliance through conference and conciliation.
  - b. If the non-compliance is not resolved through conference and conciliation, the HRC Director shall conduct an investigation and, where the Director so finds, issue a written Finding of Non-Compliance.
  - c. The Director's finding shall indicate whether the consultant acted in good faith or whether noncompliance was based on willful or bad faith noncompliance with the requirements of Chapter 14B, HRC rules and regulations, or contract provisions pertaining to LBE participation.

Where the Director finds that the consultant acted in good faith, after affording the consultant notice and an opportunity to be heard, the Director shall recommend that the contract awarding authority take appropriate action. Where the Director finds willful or bad faith noncompliance, the Director shall impose sanctions for each violation of the ordinance, HRC rules and regulations, or contract provisions pertaining to LBE participation, which may include:

- i) reject all proposals;
- ii) declare a proposal non-responsive;
- iii) suspend a contract;
- iv) withhold funds;
- v) assess penalties;
- vi) debarment;
- vii) deny HRC certification;
- viii) revoke HRC certification; or
- ix) pursuant to 14B.7(H)(2), assess liquidated damages in an amount equal to the consultant's net profit on the contract, 10% of the total amount of the contract or \$1,000, whichever is greatest as determined by HRC.

The Director's determination of non-compliance is subject to appeal pursuant to Rule XV.B(7).

An appeal by a consultant to the Commission shall not stay the Director's findings.

The HRC Director may require such reports, information and documentation from consultants, subconsultants, contract awarding authorities, and heads of departments, divisions, and offices of the City and County as are reasonably necessary to determine compliance with the requirements of Chapter 14B.

##### **1. B. Procedure for the Collection of Penalties is as follows:**

1. The HRC Director shall send a written notice to the Controller, the Mayor and to all contract awarding authorities or City and County department officials overseeing any contract with the proposer or consultant that a determination of bad faith non-compliance has been made and that all



payments due the proposer or consultant shall be withheld as agreed to by the prime consultant or subconsultant and the City and County.

2. The HRC Director shall transmit a report to the Controller and other applicable City departments to ensure that the liquidated damages are paid to the City.

## **PART II. RATING BONUS**

### **2.01 APPLICATION**

- A. **Eligibility for the LBE Rating bonus:** Certified local business enterprises (LBEs) and non-profit organizations are eligible for an LBE rating bonus on Architecture, Engineering, or Professional Service contracts that have an estimated cost that exceeds \$10,000.
- B. **Application of the Rating bonus:** The following rating bonus will apply to all proposals for Architecture, Engineering, or Professional contracts estimated to cost over \$10,000. The rating bonus shall apply at each stage of the selection process, i.e., qualifications, proposals, and interviews. After Proposers have been scored at each of the stages, the rating bonus will be applied to the scores as follows:
  1. 10% for HRC certified LBEs.
  2. 10% for each joint venture, which is composed of only LBEs.
  3. 5% for each joint venture which includes at least 35% (but less than 40%) prime participation by certified LBEs.
  4. A maximum of 7.5% for each joint venture that includes 40% or more in prime participation by certified local LBEs.
  5. The rating bonus will be applied by adding 5%, 7.5%, or 10% (as applicable) to the score of each firm eligible for a bonus for purposes of determining the highest ranked firm.
- C. The Rating Bonus does not apply for contracts estimated by the Contract Awarding Authority to be \$10 million and over.

### **2.02 JOINT VENTURE/PRIME ASSOCIATION**

- A. The LBE joint venture partner must be responsible for a clearly defined portion of the work to be performed. The ratings bonus is applied only when the LBE partner has sufficient skill, experience, and financial capacity to perform the portion of the work identified for the LBE. This portion must be set forth in detail separately from the work to be performed by the non-LBE JV partner. The joint venture partners must be of the same or similar discipline in order to be eligible for a rating bonus. The joint venture partners will be jointly responsible for the overall project management, control, and compliance with 14B requirements.
  1. The LBE JV partner's work must be assigned a commercially significant dollar value of the prime work and use its own employees and equipment.
  2. Each member of the joint venture partner must perform a "commercially useful function" as that term is defined by Section 14B.2 of the Chapter 14B ordinance. An LBE that relies on the resources and personnel of a non-LBE firm will not be deemed to perform a "commercially useful function."
  3. Unless permission is granted by the HRC Director for good cause shown, the following actions are prohibited: i) the non-LBE partner performing work for the LBE partner; ii) leasing of equipment or property by the LBE partner from the non-LBE partner; and iii) the hiring of the non-LBE partner's employees by the LBE partner.
  4. The LBE JV partner must share in the ownership, control, management and administrative responsibilities, risks, and profit of the JV in direct proportion to its stated level of JV participation.
  5. The LBE JV partner must perform work that is commensurate with its experience.



6. A JV must submit an executed JV agreement and management plan detailing each JV partner's responsibilities and tasks.
- B. A prime association or partnership is considered the same as a joint venture and will need to comply with all the requirements stated above. Prior to award of the contract, the prime association partners must also meet the following requirements:
  1. A prime association must apply to the IRS for a new Federal ID number for that entity.
  2. A new tax registration certificate must be obtained from the City Tax Collectors Office for that entity.
- C. The proposal items to be performed by LBE joint venture partners must be identified separately and all work must be accounted for, including subconsulting work.
- D. The cost of the work to be performed by the LBE JV partners is to be calculated as a percentage of the work to be performed by the joint venture partners. The joint venture should deduct the amount of work to be performed by subconsultants from its total contract amount. This percentage is used to determine whether or not the joint venture is eligible for a rating bonus.

**EXAMPLE:**

Step 1. Calculate total JV partner work:

Total Contract Work	=	100%
Percentage of Total Contract Work Performed by Subconsultants	-	40%
Percentage of Total Contract Work Performed by JV partners	=	60%

\* \* \*

Step 2. Calculate LBE JV partner work:

	A	B	C
Description of JV Partners' Scopes of Work	JV Partners' Work as a % of the total contract	% of Task by Non-LBE JV Partner	% of Task by LBE JV Partner
TASK 1	5%	3%	2%
TASK 2	20%	11%	9%
TASK 3	25%	12.5%	12.5%
TASK 4	10%	6%	4%
<b>TOTAL JV Partner %</b>	<b>60%</b>	<b>32.5%</b>	<b>27.5%</b>

Step 3. Calculate LBE JV partner work as a percentage of the total JV partner work for the rating bonus.

Total LBE JV %	27.5%	÷	Total JV %	60%	=	45.8%
----------------	-------	---	------------	-----	---	-------

The LBE JV partner's participation is 45.8%. The JV is therefore eligible for a 7.5% rating bonus.



### **PART III. SUBCONSULTANT PARTICIPATION**

#### **3.01 SUBCONSULTING GOAL**

- A. All proposers shall achieve the LBE subconsulting goal and undertake good faith outreach as set forth in Section 14B.8(C) of the ordinance to select subconsultants to meet the LBE goal. Where there are LBEs available for doing portions of the work normally performed by the proposer with its own staff, the proposer will be expected to make good faith efforts to make portions of such work available for LBEs.

Proposals that do not meet the LBE participation goal set under 14B.8(A) of the ordinance will be rejected as non-responsive unless the HRC Director finds that the proposer diligently undertook all the good faith efforts required by this ordinance and that the failure to meet the goal resulted from an excusable error.

- B. Proposers must identify on Form 2A the particular LBE subconsultants and lower tier subconsultants to be utilized in performing the contract, specifying for each the percentage of participation, the type of work to be performed and such information as the HRC reasonably shall require to determine the responsiveness of the proposal.

The proposer must contact LBE subconsultants prior to listing them. LBEs must be certified with HRC by the proposal due date to receive LBE subconsulting credit. Failure to comply with this requirement will render a proposal non-responsive.

Additionally, subconsultants should not enter into any agreement that limits their ability to be listed or utilized by more than one proposer.

For a directory of certified LBEs, please go to [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights).

- C. Any subconsultant who is in the process of appealing the Director's denial of certification or revocation of certification shall not be considered an LBE.
- D. The awarding proposer shall submit performance reports on LBE participation at 30%, 50%, 70%, and 90% completion to the Contracting Awarding Authority and HRC.
- E. Determination and calculation of LBE subconsultant participation:
1. The LBE subconsultant shall be listed to perform a specific task, which is described in the RFP or RFQ.
  2. If the LBE subconsultant forms a joint venture with a non-LBE subconsultant, the LBE subconsultant joint venture partner will be credited only for its portion of the work, as follows:

**EXAMPLE:**

If the total subcontract amount = \$ 1,000,000 of which  
\$510,000 is the LBE subcontract amount and \$490,000 is the non-LBE subcontract amount,  
then \$510,000 is credited toward the LBE goal.

3. All work done by lower-tier LBE subconsultants will be credited toward meeting the goal.

**EXAMPLE:**

If the total subcontract amount = \$1,000,000,  
of which \$200,000 is the lower-tier LBE subconsultant's portion,  
then \$200,000 is credited toward the LBE goal.



4. The work provided by the LBE subconsultant must be the same or similar type of work performed by the LBE in the normal course of its business.
5. If a Proposer owns or controls more than one business that is HRC certified as an LBE, the proposer will not receive credit if it lists its other firms to meet the LBE subconsulting goal when submitting as a prime. In determining ownership of a business, a business owned by proposer's spouse or domestic partner shall be deemed to be owned by the proposer.
6. It is the responsibility of the proposer to verify the subconsultant's LBE certification status.
7. A certified LBE can only be utilized in the discipline(s) for which it is certified by HRC.
8. The LBE subconsultant must be utilized on the contract to perform a commercially useful function. No credit will be given for a LBE that serves as a pass-through or conduit.
9. An LBE Prime proposer cannot list itself to meet the LBE subconsultant goal.

**F. Substitution, removal, or contract modification of LBE:**

No LBE subconsultant listed on Form 2A shall be substituted, removed from the contract or have its contract, purchase order or other form of agreement modified in any way without prior HRC approval. Additionally, no new subconsultants shall be added without prior HRC approval.

**PART IV EMPLOYMENT NON-DISCRIMINATION AND ECONOMICALLY  
DISADVANTAGED WORKFORCE HIRING PROVISIONS**

**4.01 GENERAL**

As a condition of contract award, Consultants and subconsultants shall comply with the nondiscrimination in employment provisions required by Chapter 12B of the Administrative Code and the hiring of economically disadvantaged persons as required by the City's First Source Hiring Program, Chapter 83 of the Administrative Code.

**4.02 NONDISCRIMINATION PROVISIONS**

- A. Prior to the award of the contract, the consultant must agree that it does and will not, during the time of the contract or any contract amendment, discriminate in the provision of benefits between its employees with spouses and employees with domestic partners.
- B. The consultant and subconsultants on this contract will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or AIDS/HIV status, weight, height, or association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter. Discrimination on the basis of sex includes sexual harassment as defined in Section 16.9-25(b) of this Code. The Consultant, Contractor or Subconsultant/Subcontractor will take action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to the fact or perception of their race, color, creed, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or AIDS/HIV status. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.
- C. **Non-Compliance with Chapter 12B Prior to Contract Award**  
The consultant and any subconsultants must be in compliance with the nondiscrimination provisions of Chapter 12B, on all existing City contracts prior to award of this contract.



Prior to the award of any City contract, the HRC has the authority to review the consultant's and subconsultant's prior performance to ensure compliance with the nondiscrimination provisions of Chapter 12B.

If the HRC determines that there is cause to believe that a consultant or subconsultant is not in compliance with the nondiscrimination provisions of Chapter 12B, the HRC shall notify the contract awarding authority and attempt to resolve the non-compliance through conciliation.

1. If the non-compliance cannot be resolved, the HRC shall submit to the consultant or subconsultant and the contract awarding authority a written Finding of Non-compliance.
2. The HRC shall give the consultant or subconsultant an opportunity to appeal the Finding.
3. The HRC may stay the award of any contract to a consultant where the consultant or any subconsultant is the subject of an investigation by written notice to the contract-awarding agency.

**D. Complaints of Discrimination after Contract Award**

1. A complaint of discrimination in employment initiated by any party after contract award shall be processed in accordance with the HRC Rules of Procedure, adopted pursuant to Chapter 12B of the San Francisco Administrative Code.
2. A finding of discrimination may result in imposition of appropriate sanctions, including:
  - a. There may be deducted from the amount payable to the consultant or subconsultant under this contract a penalty of \$50 for each person for each calendar day the person was discriminated against in violation of the provisions of the contract.
  - b. The contract may be canceled, terminated or suspended in part by the contract awarding authority.
  - c. The consultant, subconsultant or vendor may be determined ineligible to perform work or supply products on any City contract for a period not to exceed two years.

**4.03 TRAINEES – FIRST SOURCE HIRING PROGRAM**

- A. **Trainee Requirements:** Consultants are required to comply with the City's First Source Program, Administrative Code Section 83, which fosters employment opportunities for economically disadvantaged individuals. Consultants are required to notify the First Source Program of all open, entry-level positions and consider all program referrals fairly and equally. In addition the City requires consultants to hire a minimum number of professional service trainees in the area of the consultant's expertise. These hires count toward the First Source Hiring requirements. Trainees may be obtained through the City's One Stop Employment Center, which works with various employment and job training agencies/organizations or other employment referral source.

Number of Trainees

Project Fees	To Be Hired
\$0 – \$499,999	0
\$500,000 – \$899,999	1
\$900,000 – \$1,999,999	2
\$2,000,000 – \$4,999,999	3
\$5,000,000 – \$7,999,999	4
\$8,000,000 – \$10,999,999	5
\$11,000,000 – \$13,999,999	6
(> = \$14M, for each additional \$3 million in consultant fees, add one additional trainee)	

1. The trainee must be hired by the prime consultant or by any subconsultant on the project team.
2. No trainee may be counted towards meeting more than one contract goal.



3. A trainee must meet qualifications for enrollment established under the City's First Source Hiring Program as follows:
  - (i) "Qualified" with reference to an economically disadvantaged individual shall mean an individual who meets the minimum bona fide occupational qualifications provided by the prospective employer to the San Francisco Workforce Development System in the job availability notices required by the Program, and
  - (ii) "Economically disadvantaged individual" shall mean an individual who is either: (1) eligible for services under the Workforce Investment Act of 1988 (WIA) (29 U.S.C.A 2801 et seq.), as determined by the San Francisco Private Industry Council; or (2) designated "economically disadvantaged" for the First Source Hiring Administration, as an individual who is at risk of relying upon, or returning to, public assistance.
4. On-the-job Training (to be provided by the consultant): The consultant shall hire the trainee on a full-time basis for at least 12 months or on a part-time basis for 24 months, with prior approval offering him/her on-the-job training which allows the trainee to progress on a career path.
5. A summary of a job description and training for the trainee with the rate of pay should be submitted for approval.
6. The trainee's commitment does not require that he/she is used only on this project, but also on other projects under contract to the Architect, Engineering, or Professional firm, which is appropriate for the trainee's skill development.



**FORM 2A: HRC CONTRACT PARTICIPATION FORM**

**Section 1:** This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Prime Proposer, each Joint Venture Partner, Subconsultants, Vendors, and lower sub tiers must be listed on this form. Only HRC certified LBEs can be used to meet the LBE subconsultant goal.

Be sure to check box for Rating Bonus. If more space is needed, attach additional copies of this form. This form is also completed and submitted for all contract modifications, which exceed the original contract amount by more than 20%.

<b>Contract:</b>	<b>RFP (08-1050): Back Strengthening, Ergonomic and A Comprehensive Health &amp; Wellness Program</b>	<b>RATING BONUS</b>	
<b>Firm:</b>		<input type="checkbox"/> LBE 10%	<input type="checkbox"/> Joint Venture 7.5%
<b>Contact Person:</b>		<input type="checkbox"/> Joint Venture 5%	<input type="checkbox"/> Joint Venture 10% (LBEs ONLY)
<b>Address:</b>		<input type="checkbox"/> No Rating Bonus Requested	
<b>City/ZIP</b>		<b>LBE Goal Five Percent (5%)</b>	
<b>Phone</b>			

**\*Type: Identify if prime (P), JV partner (J), Subconsultant (S), or Vendor (V)**

<b>* TYPE</b>	<b>Firm</b>	<b>PORTION OF WORK (describe scope(s) of work)</b>	<b>% OF WORK</b>	<b>INDICATE LBE YES/NO</b>	<b>If an LBE, Identify MBE, WBE, or OBE *</b>	<b>% OF LBE SUBWORK</b>
			%			%
			%			%
			%			%
			%			%
		<b>Total % of Work: 100%</b>		<b>Total LBE Subconsulting%</b>		%
	I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above contractors for the portions of work and amounts as reflected in the Bid Documents for this Contract.					
<i>Owner/Authorized Representative (Signature):</i>					<i>Date:</i>	
<i>Print Name and Title:</i>						

\* MBE = Minority Business Enterprise, WBE = Women Business Enterprise, OBE = Other Business Enterprise.  
See HRC website ([http://sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlistS\\_1.htm](http://sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlistS_1.htm)) for each firm's status.



**Section 2. Prime Proposer, Joint Venture Partners, Subconsultant, and Vendor Information**

Provide information of each firm listed in Section 1 of this form. Firms which have previously worked on City contracts may already have a vendor number. Vendor numbers of LBE firms are located in the HRC LBE website at [www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights). Use additional sheets if necessary.

<b>FIRM NAME:</b>			<b>VENDOR #:</b>	
<b>ADDRESS:</b>			<b>FEDERAL ID</b>	
<b>CITY, ST, ZIP:</b>		<b>PHONE</b>		<b>FAX:</b>
<b>SERVICE:</b>				

<b>FIRM NAME:</b>			<b>VENDOR #:</b>	
<b>ADDRESS:</b>			<b>FEDERAL ID</b>	
<b>CITY, ST, ZIP:</b>		<b>PHONE</b>		<b>FAX:</b>
<b>SERVICE:</b>				

<b>FIRM NAME:</b>			<b>VENDOR #:</b>	
<b>ADDRESS:</b>			<b>FEDERAL ID</b>	
<b>CITY, ST, ZIP:</b>		<b>PHONE</b>		<b>FAX:</b>
<b>SERVICE:</b>				

<b>FIRM NAME:</b>			<b>VENDOR #:</b>	
<b>ADDRESS:</b>			<b>FEDERAL ID</b>	
<b>CITY, ST, ZIP:</b>		<b>PHONE</b>		<b>FAX:</b>
<b>SERVICE:</b>				

<b>FIRM NAME:</b>			<b>VENDOR #:</b>	
<b>ADDRESS:</b>			<b>FEDERAL ID</b>	
<b>CITY, ST, ZIP:</b>		<b>PHONE</b>		<b>FAX:</b>
<b>SERVICE:</b>				

<b>FIRM NAME:</b>			<b>VENDOR #:</b>	
<b>ADDRESS:</b>			<b>FEDERAL ID</b>	
<b>CITY, ST, ZIP:</b>		<b>PHONE</b>		<b>FAX:</b>
<b>SERVICE:</b>				



**FORM 2B: HRC “GOOD FAITH OUTREACH” REQUIREMENTS FORM**

The Good Faith Outreach” form with the required supporting documentation must be completed and submitted with the proposal EVEN IF the LBE subconsultant goal has been met. (*Chapter 14B Ordinance, Section 14B.8 – Subcontracting – C. “Good Faith Outreach”*).

A proposer who fails to undertake the required “good faith outreach” steps listed below and who fails to submit the documentation of “good faith outreach” shall be declared non-responsive, and the proposal will be rejected. Answering “No” to any of the items below may result in the proposal being deemed non-responsive and rejected.

Attach sheet(s) and respond to each numbered item and submit with this form.

1. Did your firm attend the pre-proposal meeting scheduled by the City to inform all Proposers of LBE program requirements for this contract?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Did your firm identify and select subconsulting opportunities to meet the LBE goal?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a. Has your firm enclosed a list of disciplines and/or services selected?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Did your firm advertise, not less than 10 calendar days before the due date of the proposal, in one or more daily or weekly Newspapers, trade association publications, LBE trade oriented publications, trade journals, or other media, such as the Daily Pacific Builder, Daily Construction Service, or the Bid and Contracts Section of the Office of Contract Administration’s website?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a. Has your firm attached a copy of the “Advertisement?” (The requirement of this item 3 only applies if the City gave public notice of the RFP/RFQ not less than 15 calendar days prior to the proposal due date.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Did your firm obtain from the HRC website <a href="http://www.sfgov.org/sfhumanrights">www.sfgov.org/sfhumanrights</a> for the list of certified LBEs?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did your firm provide notice of interest in bidding on the contract to the certified LBEs for each identified item (by trade) not less than 10 (ten) calendar days prior to the proposal due date?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The number of firms to be notified:		
If the HRC list identifies 1-25 available LBEs for the identified item (by trade), your firm must notify all of them.		
If the HRC list identifies 26-50 LBEs for the identified item (by trade), your firm must notify 75% of the identified firms.		
If the HRC list identifies 51-75 LBEs for the identified item (by trade), your firm must notify 50% of the identified firms.		



If the HRC list identifies 76-100 LBEs for the identified item (by trade), your firm must notify 30% of the identified firms.		
If the HRC list identifies 101 or more LBEs for the identified item (by trade), your firm must notify 25% of identified firms.		
Did your firm contact the required number of LBE firms?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Include documentation to verify the above-contacts:		
▪ If contact was made in writing, has your firm enclosed a copy of the request?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
▪ If contact was made via telephone, has your firm enclose copies of telephone logs?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Did your firm provide LBEs that have notified you of their interest with adequate information about the plans, specifications, and requirements for the work?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. Did your firm negotiate in good faith with LBEs, and not unjustifiably reject their proposals?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7. Did your firm advise and assist interested LBEs to obtain bonds, lines of credit, or insurance required by the City?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8. For each discipline and/or service your firm identified for LBE subconsulting outreach:		
▪ Has your firm enclosed copies of all written bids/proposals submitted, including those from non-LBEs?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
▪ If oral bids/proposals were received, has your firm included a list of all such bids/proposals, including those from non-LBEs (specify the discipline/service and dollar amounts for each such bid/proposal)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
▪ Has your firm included a full and complete statement of the reasons for selection of the subconsultant for that trade? (If the reason is based on relative qualifications, the statement must address the particular qualifications at issue. If the reason is based on the proposal amounts, the statement must include the amounts and describe the similarities and/or dissimilarities in the scope of work covered by the proposals.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Signature of Owner/Authorized Representative:</b>		
<b>Owner/Authorized Representative (Print)</b>		
<b>Name of Firm (Print)</b>		
<b>Title and Position</b>		
<b>Address, City, ZIP</b>		
<b>E-mail:</b>		
<b>Date:</b>		



**FORM 3: HRC NON-DISCRIMINATION AFFIDAVIT**

1. I will ensure that my firm complies fully with the provisions of Chapter 14B of the San Francisco Administrative Code and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
2. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the Human Rights Commission shall be payable to the City and County of San Francisco upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any contract with the City and County of San Francisco.
3. I declare and swear under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

<b>Signature of Owner/Authorized Representative:</b>	
<b>Owner/Authorized Representative (Print)</b>	
<b>Name of Firm (Print)</b>	
<b>Title and Position</b>	
<b>Address, City, ZIP</b>	
<b>Federal Employer Identification Number (FEIN):</b>	
<b>Date:</b>	



**FORM 4: HRC JOINT VENTURE FORM**

This form must be submitted ONLY if the proposer is requesting a Joint Venture partnership with an LBE firm for the rating bonus. The Joint Venture partners must submit a joint venture agreement and management plan with the proposal. All work must be accounted for including subconsulting work.

**SECTION 1: GENERAL INFORMATION**

**1. Name of Contract or Project:**

**2. Name of all JV partners: (Check LBE if applicable)**

**LBE**

☐
☐
☐
☐

**3. Attach a copy of Joint Venture Agreement and Management plans.**

**4. The management plan must include the following information:**

- a. Describe in detail how decisions will be made for work distribution and compliance of LBE Joint Venture participation.
- b. Provide each Joint Venture partner's specific duties and responsibilities (include organizational chart)
- c. Identify the Location of Joint Venture Office.
- d. Provide in detail how decision will be made for work distribution to LBE subconsultants and/or vendors.
- e. Submit copies of bank signature cards with authorized names, titles, and address/city of the bank (required after award of contract.)

**5. Calculation of the Rating Bonus. See §2.02D of HRC Attachment 2 for an example.**

If the joint venture partners are dividing the work according to a different formula than that described below, please contact HRC staff and describe the arrangement in detail prior to submittal of proposal.

Joint venture partners are encouraged to meet with HRC regarding their joint venture prior to submitting their proposal.

The rating bonus is awarded based on the LBE JV partner tasks calculated as a percentage of the total JV partner tasks.



**Step 1. Calculate total JV partner tasks.**

<b>Total Contract Tasks</b>	<b>=</b>	<b>100%</b>
<b>Percentage of Total Work to be Performed by Subconsultants</b>	<b>-</b>	<b>%</b>
<b>Percentage of JV partner tasks</b>	<b>=</b>	<b>%</b>

**Step 2. Calculate LBE JV partner tasks:**

	<b>A</b>	<b>B</b>	<b>C</b>
<b>Description of JV partner Scopes of Work (Specific details of work)</b>	<b>JV Partners' Work as a % of the total project</b>	<b>% of Task by Non-LBE JV Partner</b>	<b>% of Task by LBE JV Partner</b>
	%	%	%
	%	%	%
	%	%	%
	%	%	%
	%	%	%
<b>TOTAL JV %</b>	<b>%</b>	<b>%</b>	<b>%</b>

**Step 3. Calculate LBE JV partner work as a percentage of the total JV partner work for  
the rating bonus.**

<b>Total LBE JV Partner %</b>		<b>÷</b>	<b>Total JV %</b>		<b>=</b>	<b>%</b>
-------------------------------	--	----------	-------------------	--	----------	----------

**JOINT VENTURE PARTNERS MUST SIGN THIS FORM**

<b>Owner/Authorized Representative (Signature)</b>		<b>Owner/Authorized Representative (Signature)</b>	
<b>Name and Title (Print)</b>		<b>Name and Title (Print)</b>	
<b>Firm Name</b>		<b>Firm Name</b>	
<b>Telephone</b>	<b>Date</b>	<b>Telephone</b>	<b>Date</b>



**FORM 5: HRC EMPLOYMENT FORM**

This form is to be submitted with the proposal.

1. Indicate personnel designated to work on this project for the entire project team (prime proposer, joint venture partners, subconsultants, and vendors).

The employees listed should include all those listed in other sections of the proposal.

NAME OF FIRM	NAME OF EMPLOYEE	PROJECT ROLE	RACE	SEX

Indicate the Number of disadvantaged individuals that will be hired as on –the-job-trainees by the entire project team. See §4.03 of HRC Attachment 2.

a. Estimated Project Fee:		\$	
b. HRC on-the-job training goal:			
c. Number of on-the-job-trainees that will be hired by the project team			
d. If less than HRC goal, explain:			
e. Length of training:		If less than 12 months, explain	

Sign below including each joint venture partner.

<b>Owner/Authorized Representative (Signature)</b>		<b>Owner/Authorized Representative (Signature)</b>	
<b>Name and Title (Print)</b>		<b>Name and Title (Print)</b>	
<b>Firm Name</b>		<b>Firm Name</b>	
<b>Telephone</b>	<b>Date</b>	<b>Telephone</b>	<b>Date</b>



**FORM 7: HRC PROGRESS PAYMENT FORM**

To be completed by Consultant and submitted to the Contract Awarding Authority and HRC with its monthly progress payment application (transmit to the following):

**TRANSMITTAL**

<b>TO:</b>	<b>Project Manager/Designee</b>	<b>COPY TO:</b>	<b>HRC Contract Compliance Officer</b>
<b>Firm:</b>		<b>Date:</b>	

**SECTION 1. Fill in all the blanks**

<b>Contract Number:</b>		<b>Contract Name:</b>	
<b>Reporting Period From:</b>		<b>To:</b>	
		<b>Progress Payment No:</b>	

The information submitted on Sections 1 and 2 of this form must be cumulative for the entire contract as opposed to individual task orders. Additionally, the information submitted on Sections 1 and 2 of this form must be accurate for the progress payment period immediately preceding that of the current payment application attached herewith

<b>1. Amount of Prime Contract:</b>	\$
<b>2. Amount of Amendments and Modifications to Date:</b>	\$
<b>3. Total Contract to Date including Amendments and Modifications (Line 1 + Line 2):</b>	\$
<b>4. Sub-total Amount Invoiced this submittal period: Professional Fees</b>	\$
<b>5. Sub-total Amount Invoiced this submittal period: Reimbursable Expenses</b>	\$
<b>6. Total Amount Invoiced this submittal period (Line 4 + Line 5):</b>	\$
<b>7. Total Amount Paid to Date including Retainage Received:</b>	\$
<b>8. Amount of Progress Payments Requested to Date:</b>	\$
<b>9. Percent Completed (Line 8 ÷ Line 3):</b>	%

**Consultant, including each joint venture partner, must sign this form.**

<b>Owner/Authorized Representative (Signature)</b>		<b>Owner/Authorized Representative (Signature)</b>	
<b>Name (Print)</b>		<b>Name (Print)</b>	
<b>Title (Print)</b>		<b>Title (Print)</b>	
<b>Firm Name</b>		<b>Firm Name</b>	
<b>Telephone</b>	<b>Fax</b>	<b>Telephone</b>	<b>Fax</b>
	<b>Date</b>		<b>Date</b>



**SECTION 2. For column “A”, list the Prime Consultant, each joint venture partner and ALL subconsultants and vendors including 2<sup>nd</sup> and 3<sup>rd</sup> tier subconsultants. Make copies if more space is needed. Attach copies of all invoices from subconsultants supporting the information tabulated on this form and Consultant’s invoice and Contract Payment Authorization for the immediately preceding progress payment period.**

*Notes:* 1) ALL firms must be CONTINUOUSLY listed on column “A” regardless if a firm is not requesting payment and  
2) Failure to submit all required information may lead to partial withholding of progress or final payment.

Identify LBE Goal of this contract:		%					
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>Name of Firm. List prime consultant, including each JV partner, and all subconsultants including lower tier LBE subconsultants &amp; vendors. Indicate if the firm is an LBE</b>	<b>Service Performed</b>	<b>Amount of Contract or Purchase order at time of Award</b>	<b>Amount of Modifications to Date</b>	<b>Total Amount of Contract or Purchase Order to Date +/- Modifications (C + D) or (C-D)</b>	<b>Amount Invoiced this Reporting Period</b>	<b>Amount of Progress Payments received and Invoiced to Date, including amount invoiced this reporting period (F).</b>	<b>Percent Complete to Date (G÷E)</b>
							%
							%
							%
							%
							%
<b>LBE Sub-Totals</b>							%
<b>Professional Fees</b>							%
<b>Reimbursable Expenses</b>							%
<b>CONTRACT TOTALS</b>							%

**FORM 9: HRC PAYMENT AFFIDAVIT**

Consultant or Joint Venture partners must submit this form to the Contract Awarding Authority and HRC within ten (10) working days following receipt of each progress payment from the Contract Awarding Authority. This form must be submitted EVEN if there is no sub payment of this reporting period and until completion of the contract.

☐ Check box and sign below if there is no sub payment for this reporting period.

**TO:** Project Manager/Designee

**COPY TO:** HRC Contract Compliance Officer

**Firm:**

**Date:**

List the following information for each progress payment received from the Contract Awarding Authority. Use additional sheets to include complete payment information for all subconsultants and vendors (including lower tiers utilized on this Contract. Failure to submit all required information may lead to partial withholding of progress payment.

<b>Contract Number:</b>		<b>Contract Name:</b>	
<b>Contract Awarding Department:</b>			
<b>Progress Payment No.:</b>		<b>Period Ending:</b>	
<b>Amount Received:</b>	\$	<b>Date</b>	<b>Warrant/Check</b>

Subconsultant/Vendor Name	Business Address	Amount Paid	Payment Date	Check Number
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		

*I/We declare, under penalty of perjury under the laws of the State of California that the above information is complete, that the tabulated amounts paid to date are accurate and correct.*

**Prime consultant, including each joint venture partner, must sign this form (use additional sheets if necessary)**

<b>Owner/Authorized Representative (Signature)</b>		<b>Owner/Authorized Representative</b>	
<b>Name (Print)</b>	<b>Title</b>	<b>Name (Print)</b>	<b>Title</b>
<b>Firm Name</b>		<b>Firm Name</b>	
<b>Telephone</b>	<b>Date</b>	<b>Telephone</b>	<b>Date</b>

**FORM 8: HRC EXIT REPORT AND AFFIVADIT**

**Prime Consultant must complete and sign this form (Sections 1 and 3) for each LBE subconsultant (incl. lower tier LBE subconsultants) and supplier. LBE Subconsultants must complete and sign Section 2 of this form. These forms should be submitted to the Contract Awarding Authority with the final progress payment request.**

**TRANSMITTAL**

<b>TO:</b>	Project Manager/Designee	<b>COPY:</b>	HRC Contract Compliance Officer
<b>FROM:</b>		<b>Date</b>	

**SECTION 1.**

<b>Reporting Date:</b>		<b>Contract Name:</b>	
<b>Name of LBE:</b>		<b>Portion of Work (Trade):</b>	
<b>Original LBE Contract Amount:</b>	\$		
<b>Change Orders, Amendments, Modifications</b>	\$		
<b>Final LBE Contract Amount:</b>	\$		
<b>Amount of Progress Payments Paid to Date:</b>	\$		
<b>Amount further subbed out to non LBE firms:</b>	\$		
<b>Amount Owning including all Change Orders, Amendments and Modifications</b>	\$		
<b>Explanation by Consultant if the final contract amount for this LBE is less than the original contract amount:</b>			

**SECTION 2.**

**To be signed by the LBE Subconsultant or vendor:**

☐ I agree                      ☐ I disagree

**Explanation by LBE if it is in disagreement with the above explanation, or with the information on this form:**

<b>Owner/Authorized Representative (Signature)</b>		<b>Name and Title (Print)</b>
<b>Firm Name</b>	<b>Telephone</b>	<b>Date</b>

**SECTION 3.**

**I declare, under penalty of perjury under the laws of the State of California, that the information contained in Section 1 of this form is complete, that the tabulated amounts paid to date are accurate and correct, and that the tabulated amounts owing will be paid within three (3) days after the date of the City's final payment under the Contract.**

<b>Owner/Authorized Representative (Signature)</b>				
<b>Name and Title (Print)</b>				
<b>Firm Name</b>				
<b>Telephone</b>	<b>Date</b>			

**FORM 10: HRC CONTRACT MODIFICATION FORM**

Consultant or Joint Venture Partners must submit this form with the required supporting documentation when processing the first contract amendment, modification or change order that cumulatively increases the original contract amount by more than 20%, and then for all subsequent requests. (This provision applies only to contracts originally valued at \$29,000 or more).

Name of Project/Contract Title:	
<b>Original Contract Amount:</b>	
<b>Contract Amount as Modified to Date:</b>	
<b>Amount of Current Modification Request:</b>	

**REQUIRED ATTACHMENTS:**

1. Revised Form 2A reflecting the new overall contract amounts for the prime consultant, joint venture partners, subconsultants, and vendors.
2. A list of all prior contract amendments, modifications, supplements and/or change orders leading up to this modification, including those leading up to the amendment which increased the original contract amount by more than 20%.
3. A list of the consultants, joint venture partners, and vendors working on this amendment, modification, or change order with the contract dollars for each individual firm.
4. A brief description of the work to be performed under this amendment, modification, or change order.

<b>Owner/Authorized Representative (Signature)</b>		<b>Owner/Authorized Representative</b>	
<b>Name (Print)</b>	<b>Title</b>	<b>Name (Print)</b>	<b>Title</b>
<b>Firm Name</b>		<b>Firm Name</b>	
<b>Telephone</b>	<b>Date</b>	<b>Telephone</b>	<b>Date</b>

## Appendix B

### Standard Forms

The requirements described in this Appendix are separate from those described in Appendix A.

Before the City can award any contract to a contractor, that contractor must file three standard City forms (items 1-3 on the chart). Because many contractors have already completed these forms, and because some informational forms are rarely revised, the City has not included them in the RFP package. Instead, this Appendix describes the forms, where to find them on the Internet (see bottom of page 2), and where to file them. If a contractor cannot get the documents off the Internet, the contractor should call (415) 554-6248 or e-mail Purchasing ([purchasing@sfgov.org](mailto:purchasing@sfgov.org)) and Purchasing will fax, mail or e-mail them to the contractor.

If a contractor has already filled out items 1-3 (see note under item 3) on the chart, **the contractor should not do so again unless the contractor's answers have changed.** To find out whether these forms have been submitted, the contractor should call Vendor File Support in the Controller's Office at (415) 554-6702.

If a contractor would like to apply to be certified as a local business enterprise, it must submit item 4. To find out about item 4 and certification, the contractor should call Human Rights Commission at (415) 252-2500.

Item	Form name and Internet location	Form	Description	Return the form to; For more info
1.	Request for Taxpayer Identification Number and Certification  <a href="http://www.sfgov.org/oca/purchasing/forms.htm">www.sfgov.org/oca/purchasing/forms.htm</a>  <a href="http://www.irs.gov/pub/irs-fill/fw9.pdf">www.irs.gov/pub/irs-fill/fw9.pdf</a>	W-9	The City needs the contractor's taxpayer ID number on this form. If a contractor has already done business with the City, this form is not necessary because the City already has the number.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102  (415) 554-6702
2.	Business Tax Declaration  <a href="http://www.sfgov.org/oca/purchasing/forms.htm">www.sfgov.org/oca/purchasing/forms.htm</a>	P-25	All contractors must sign this form to determine if they must register with the Tax Collector, even if not located in San Francisco. All businesses that qualify as "conducting business in San Francisco" must register with the Tax Collector.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102  (415) 554-6702

Item	Form name and Internet location	Form	Description	Return the form to; For more info
3.	S.F. Administrative Code Chapters 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits  <a href="http://www.sfgov.org/oca/purchasing/forms.htm">www.sfgov.org/oca/purchasing/forms.htm</a> –  In Vendor Profile Application	HRC-12B-101	Contractors tell the City if their personnel policies meet the City’s requirements for nondiscrimination against protected classes of people, and in the provision of benefits between employees with spouses and employees with domestic partners. Form submission is not complete if it does not include the additional documentation asked for on the form. Other forms may be required, depending on the answers on this form. <b>Contract-by-Contract Compliance status vendors must fill out an additional form for each contract.</b>	Human Rights Comm. 25 Van Ness, #800 San Francisco, CA 94102-6059 (415) 252-2500
4.	HRC LBE Certification Application  <a href="http://www.sfgov.org/oca/purchasing/forms.htm">www.sfgov.org/oca/purchasing/forms.htm</a> –  In Vendor Profile Application		Local businesses complete this form to be certified by HRC as LBEs. Certified LBEs receive a bid discount pursuant to Chapter 14B when bidding on City contracts. To receive the bid discount, you must be certified by HRC by the proposal due date.	Human Rights Comm. 25 Van Ness, #800 San Francisco, CA 94102-6059 (415) 252-2500

#### Where the forms are on the Internet

##### Office of Contract Administration

Homepage: [www.sfgov.org/oca/](http://www.sfgov.org/oca/)  
Purchasing forms: Click on “Required Vendor Forms” under the “Information for Vendors and Contractors” banner.

##### Human Rights Commission

HRC’s homepage: [www.sfhrc.org](http://www.sfhrc.org)  
Equal Benefits forms: Click on “Forms” under the “Equal Benefits” banner near the bottom.  
LBE certification form: Click on “Forms” under the “LBE” banner near the bottom

## **Appendix C**

**Municipal Transportation Agency  
One South Van Ness Ave. 7<sup>th</sup> floor  
San Francisco, California 94103**

### **Agreement between the City and County of San Francisco and for Back Strengthening, Ergonomic Assessments & Wellness Program Services**

**Contract No.** \_\_\_\_\_

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2009, in the City and County of San Francisco, State of California, by and between: \_\_\_\_\_, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA")

#### **Recitals**

WHEREAS, the SFMTA wishes to implement an on-site back strengthening, ergonomic assessment and wellness program; and,

WHEREAS, a Request for Proposal ("RFP") was issued on January 7, 2009, and City selected Contractor as the highest ranked proposer; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as described in this contract; and,

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved contract number \_\_\_\_\_ on \_\_\_\_\_;

Now, THEREFORE, the parties agree as follows:

#### **1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

**2. Term of the Agreement**

Subject to Section 1, the term of this Agreement shall be from \_\_\_\_\_, 2009 to \_\_\_\_\_.

**3. Effective Date of Agreement**

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

**4. Services Contractor Agrees to Perform**

The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," attached hereto and incorporated by reference as though fully set forth herein.

**5. Compensation**

Compensation shall be made in monthly payments on or before the \_\_\_\_ day of each month for work, as set forth in Section 4 of this Agreement, that the SFMTA's Executive Director/CEO, in his or her sole discretion, concludes has been performed as of the \_\_\_\_ day of the immediately preceding month. In no event shall the amount of this Agreement exceed \_\_\_\_\_. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by SFMTA as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the Contractor of the omission. If Contractor's failure to provide HRC Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Progress Payment Form is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

## **6. Guaranteed Maximum Costs**

a. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

b. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

c. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.

d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

## **7. Payment; Invoice Format**

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Contractor shall be subject to audit by City.

Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

## **8. Submitting False Claims; Monetary Penalties**

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

## **9. Disallowance**

If Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement.

By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Contractor acknowledges that this certification of eligibility to receive federal funds is a material terms of the Agreement.

## **10. Taxes**

a. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.

b. Contractor recognizes and understands that this Agreement may create a “possessory interest” for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a “change in ownership” for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

## **11. Payment Does Not Imply Acceptance of Work**

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

## **12. Qualified Personnel**

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

## **13. Responsibility for Equipment**

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

## **14. Independent Contractor; Payment of Taxes and Other Expenses**

### **a. Independent Contractor**

Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

### **b. Payment of Taxes and Other Expenses**

Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

## **15. Insurance**

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(4) Professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall provide thirty (30) days' advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address:

**Jeffrey L. Gary  
Manager/Absence Management  
San Francisco Municipal Transportation Agency  
401 Van Ness, Suite 308  
San Francisco, CA 94102**

**Copy to: Contracts and Procurement Office  
San Francisco Municipal Transportation Agency  
One South Van Ness Ave., 7th Floor  
San Francisco, CA 94103**

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

g. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

i. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

j. Any of the terms of conditions of this Section 15 may be waived by the City's Risk Manager in writing, signed by the Risk Manager, and attached to this Agreement as Appendix C. Such waiver is fully incorporated herein. The waiver shall waive only the requirements that are expressly identified and waived, and under such terms and conditions as stated in the waiver.

## **16. Indemnification**

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury,

liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

#### **17. Incidental and Consequential Damages**

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

#### **18. Liability of City**

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

#### **19. This section intentionally left blank.**

#### **20. Default; Remedies**

a. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 53, 55, 57, or 58.

(2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or

arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

(4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

## **21. Termination for Convenience**

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

(1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.

(2) Not placing any further orders or subcontracts for materials, services, equipment or other items.

(3) Terminating all existing orders and subcontracts.

(4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in

its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

(7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

d. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or

other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

## **22. Rights and Duties upon Termination or Expiration**

a. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 8 through 11, 13 through 18, 24, 26, 27, 28, 48 through 52, 56, and 57.

b. Subject to the immediately preceding subsection (a), upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

## **23. Conflict of Interest**

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

## **24. Proprietary or Confidential Information of City**

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

## **25. Notices to the Parties**

Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City:           **Jeffrey Gary**  
                          **Manager/Absence Management**  
                          **San Francisco Municipal Transportation Agency**  
                          **401 Van Ness, Suite 308**  
                          **San Francisco, CA 94102**  
                          **Fax: 415-554-4927**

To Contractor:

Any notice of default must be sent by registered mail.

## **26. Ownership of Results**

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

## **27. Works for Hire**

If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

## **28. Audit and Inspection of Records**

Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

## **29. Subcontracting**

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

## **30. Assignment**

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved as required by law.

### **31. Non-Waiver of Rights**

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

### **32. Earned Income Credit (EIC) Forms**

Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

a. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

b. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within 30 days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

c. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.

d. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

### **33. Local Business Enterprise Utilization; Liquidated Damages**

#### **a. The LBE Ordinance**

Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

**b. Compliance and Enforcement**

**(1) Enforcement**

If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

**(2) Subcontracting Goals**

The LBE subcontracting participation goal for this contract is 5%. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in the HRC Progress Payment Form and the HRC Payment Affidavit. Failure to provide the HRC Progress Payment Form and the HRC Payment Affidavit with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until the HRC Payment Form and the HRC Subcontractor Payment Affidavit are provided by Contractor.

Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the LBE Ordinance, for any purpose inconsistent with the provisions of the LBE Ordinance, its implementing rules and regulations, or this Section.

**(3) Subcontract Language Requirements**

Contractor shall incorporate the LBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors.

Contractor shall include in all subcontracts with LBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any LBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the LBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of

HRC and contract awarding authority to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction.

Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of HRC or the Controller upon request.

#### **(4) Payment of Subcontractors**

Contractor shall pay its subcontractors within three working days after receiving payment from the City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount.

Contractor further agrees, within ten working days following receipt of payment from the City, to file the HRC Payment Affidavit with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code §14B.17.

### **34. Nondiscrimination; Penalties**

#### **a. Contractor Shall Not Discriminate**

In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

#### **b. Subcontracts**

Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code copies of which are posted on the internet and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits

Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, in accordance with the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract

As a condition to this Agreement, Contractor shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

**35. MacBride Principles—Northern Ireland**

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

**36. Tropical Hardwood and Virgin Redwood Ban**

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

**37. Drug-Free Workplace Policy**

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

### **38. Resource Conservation**

Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

### **39. Compliance with Americans with Disabilities Act**

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

### **40. Sunshine Ordinance**

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

### **41. Public Access to Meetings and Records**

If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

### **42. Limitations on Contributions**

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City’s Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract

is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

#### **43. Requiring Minimum Compensation for Covered Employees**

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's failure to comply with the Minimum Compensation shall be a material breach of this Agreement. The City in its sole discretion shall determine whether a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with the SFMTA for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and the SFMTA to exceed \$25,000 in the fiscal year.

#### **44. Requiring Health Benefits for Covered Employees**

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission..

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify the SFMTA when it enters into such a Subcontract and shall certify to the SFMTA that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor

shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City contract. If Contractor fails to do so, it shall be presumed that any employee who has worked on the this contract is a Covered Employee.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

#### **45. First Source Hiring Program**

##### **a. Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided

therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Agreement

As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. Hiring Decisions

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. Exceptions

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. Liquidated Damages

Contractor agrees:

(1) To be liable to the City for liquidated damages as provided in this section;

(2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

(3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the

City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

B. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

(7) That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. Subcontracts

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

**46. Prohibition on Political Activity with City Funds**

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

**47. Preservative-treated Wood Containing Arsenic**

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

**48. Modification of Agreement**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved as required by law.

**49. Administrative Remedy for Agreement Interpretation**

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the SFMTA, who shall decide the true meaning and intent of the Agreement.

**50. Agreement Made in California; Venue**

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

## **51. Construction**

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

## **52. Entire Agreement**

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48.

## **53. Compliance with Laws**

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

## **54. Services Provided by Attorneys**

Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

## **55. Supervision of Minors**

Contractor, and any subcontractors, shall comply with California Penal Code section 11105.3 and request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in Welfare and Institution Code section 15660(a) of any person who applies for employment or volunteer position with Contractor, or any subcontractor, in which he or she would have supervisory or disciplinary power over a minor under his or her care.

If Contractor, or any subcontractor, is providing services at a City park, playground, recreational center or beach (separately and collectively, "Recreational Site"), Contractor shall not hire, and shall prevent its subcontractors from hiring, any person for employment or volunteer position to provide those services if that person has been convicted of any offense that was listed in former Penal Code section 11105.3 (h)(1) or 11105.3(h)(3).

If Contractor, or any of its subcontractors, hires an employee or volunteer to provide services to minors at any location other than a Recreational Site, and that employee or volunteer has been convicted of an offense specified in Penal Code section 11105.3(c), then Contractor shall comply, and cause its subcontractors to comply with that section and provide written notice to the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer not less than ten (10) days prior to the day the employee or volunteer begins his or her duties or tasks. Contractor shall provide, or cause its subcontractors to provide City with a copy of any such notice at the same time that it provides notice to any parent or guardian.

Contractor shall expressly require any of its subcontractors with supervisory or disciplinary power over a minor to comply with this section of the Agreement as a condition of its contract with the subcontractor.

Contractor acknowledges and agrees that failure by Contractor or any of its subcontractors to comply with any provision of this section of the Agreement shall constitute an Event of Default. Contractor further acknowledges and agrees that such Event of Default shall be grounds for the City to terminate the Agreement, partially or in its entirety, to recover from Contractor any amounts paid under this Agreement, and to withhold any future payments to Contractor. The remedies provided in this Section shall not be limited to any other remedy available to the City hereunder, or in equity or law for an Event of Default, and each remedy may be exercised individually or in combination with any other available remedy. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

## **56. Severability**

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

## **57. Protection of Private Information**

Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Administrative Code Section 12M.2 shall be a material breach of this contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

## **58. Graffiti Removal**

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized

by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

#### **59. Food Service Waste Reduction Requirements**

Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

#### **60. Slavery Era Disclosure**

a. Contractor acknowledges that this contract shall not be binding upon the City until the Director receives the affidavit required by the San Francisco Administrative Code's Chapter 12Y, "San Francisco Slavery Era Disclosure Ordinance."

b. In the event the Director finds that Contractor has failed to file an affidavit as required by Section 12Y.4(a) and this contract, or has willfully filed a false affidavit, the Contractor shall be liable for liquidated damages in an amount equal to the Contractor's net profit on the contract, 10 percent of the total amount of the contract, or \$1,000, whichever is greatest as determined by the Director. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any monies due to the Contractor from any contract with the City.

c. Contractor shall maintain records necessary for monitoring their compliance with this provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY	CONTRACTOR
<b>San Francisco Municipal Transportation Agency</b>	
<hr/>	
Nathaniel P. Ford, Sr. Executive Director/CEO	By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.
Approved as to Form:	I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.
Dennis J. Herrera City Attorney	
By: <hr/>	
Deputy City Attorney	<hr/>
AUTHORIZED BY:	City vendor number:
MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS	
Resolution No: <hr/>	
Adopted: <hr/>	
Attest: <hr/>	
Roberta Boomer, Secretary to the SFMTA Board of Directors	

#### Appendices

- A: Services to be provided by Contractor
- B: Calculation of Charges

## **Appendix A**

### **Services to be provided by Contractor**

#### **1. Description of Services**

Contractor agrees to perform the following services:

"Contractor's proposal, dated \_\_\_\_\_ is incorporated by reference as though fully set forth. In the event of any conflict, the documents making up the Agreement between the parties shall govern in the following order of precedence: 1) this Agreement and its appendices, 2) the Request for Proposals dated \_\_\_\_\_, 3) Contractor's Proposal, dated \_\_\_\_\_."

#### **2. Reports**

Contractor shall submit written reports as requested by the SFMTA. Format for the content of such reports shall be determined by the SFMTA. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

#### **3. SFMTA Liaison**

In performing the services provided for in this Agreement, Contractor's liaison with the SFMTA will be Jeffrey Gary

**Appendix B**  
**Calculation of Charges**

Personnel or Hourly Rate

Flat rate for specified period (e.g., monthly)

Rate for use of Contractor's equipment, if applicable

Rates for faxes (sending only), mileage, etc.

Actual costs for contractor meals, accommodations, long distance and cellular phone charges, postage, vehicle rental, etc., subject to the approval of City.

Any other applicable rates or charges under the Agreement.

## **Appendix D**

### **Communication Prior to Contract Award**

It is the policy of the SFMTA that only employees identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from Proposers or potential Proposers seeking to influence the contractor selection process or the award of the contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally approved by the SFMTA Board of Directors and, if required, by the San Francisco Board of Supervisors.

All firms and subcontractor(s) responding to this RFP are hereby notified that they may not contact any SFMTA staff member, other than a person with whom contact is expressly authorized by this RFP for the purpose of influencing the contractor selection process or the award of the contract from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and, if required, by the San Francisco Board of Supervisors. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFP.

All firms and subcontractor(s) responding to this RFP are hereby notified that any written communications sent to one or more members of the SFMTA Board of Directors concerning a pending contract solicitation shall be distributed by the SFMTA to all members of the SFMTA Board of Directors and the designated staff contact person(s) identified in the RFP.

Except as expressly authorized in the RFP, where any person representing a Proposer or potential Proposer contacts any SFMTA staff for the purpose of influencing the content of the competitive solicitation or the award of the contract between the date when the RFP is issued and the date when the final selection is approved by the SFMTA Board of Directors, and, if required, by the San Francisco Board of Supervisors, the Proposer or potential Proposer shall be disqualified from the selection process. However, a person who represents a Proposer or potential Proposer may contact City elected officials and may contact the Executive Director/CEO of the SFMTA if s/he is unable to reach the designated staff contact person(s) identified in the RFP or wishes to raise concerns about the competitive solicitation.

Additionally, the firms and subcontractor(s) responding to this RFP will not provide any gifts, meals, transportation, materials or supplies or any items of value or donations to or on behalf of any SFMTA staff member from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and if required, by the San Francisco Board of Supervisors.

All lobbyists or any agents representing the interests of proposing prime contractors and subcontractor(s) shall also be subject to the same prohibitions.

An executed Attestation of Compliance (See Below) certifying compliance with this section of the RFP will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to this RFP. Any proposal that does not include the executed Attestation of Compliance as required by this section will be deemed non-responsive and will not be evaluated. Any Proposer who violates the representations made in such Attestation of Compliance, directly or through an agent, lobbyist or subcontractor will be disqualified from the selection process.

## ATTESTATION OF COMPLIANCE

*To be completed by all Proposing Firms and All Individual Subcontractors*

(Please check each box, sign this form and submit it with your response.)

Name of individual completing this form:

\_\_\_\_\_

The form is submitted on behalf of firm:

\_\_\_\_\_

Name of RFP: Back Strengthening, Ergonomic Assessments & Wellness Program  
Services

1. I attest that I and all members of the firm listed above will and have complied to date with Section VI. J of the above RFP. ☐ Yes
2. I understand that if my firm or any members of the firm listed above are found to be in violation of the Section VI. J of the above RFP, this will disqualify my firm and any Proposal in which my firm is named from further consideration. ☐ Yes

I have entered required responses to the above questions to the best of my knowledge and belief.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix E

### Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By signing and submitting its Proposal, the Proposer or proposed subcontractor certifies as follows:

\_\_\_\_\_  
(Proposer or Proposed Subcontractor Business Name)

certifies to the best of its knowledge and belief that it and its principals:

- a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from contracting with any federal, state or local governmental department or agency;
  - b. Have not within a three-year period preceding the date of this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1) b. of this certification; and
  - d. Have not within a three-year period preceding the date of this Proposal had one or more public contracts (federal, state, or local) terminated for cause or default.
- (4) Where the firm executing this RFP Appendix D is unable to certify to any of the statements in this certification, such firm shall attach a detailed explanation of facts that prevent such certification.
- (5) The certification in this clause is a material representation on fact relied upon by the San Francisco Municipal Transportation Agency (SFMTA).

As the authorized certifying official, I hereby certify that the above-specified certifications are true.

Business Name: \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative Name (print)

\_\_\_\_\_  
Authorized Representative Title (print)

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Date

## Appendix F

### Certification Regarding Lobbying

---

(Proposer or Proposed Subcontractor Business Name)

Certifies that it will not and has not paid any person or organization for influencing or attempting to influence a member of the San Francisco Municipal Transportation ("SFMTA") Agency Board of Directors, or an officer or employee of the SFMTA in connection with the contract to be awarded pursuant to this Request for Proposals, except as expressly authorized in this Request for Proposals. The Proposer or proposed subcontractor submitting this certification shall also disclose the name of any lobbyist registered under Article II of the San Francisco Campaign and Governmental Conduct Code who has made lobbying contacts on its behalf with respect to the contract to be awarded pursuant to this Request for Proposals.

This certification is a material representation of fact upon which reliance was placed for the purposes of the SFMTA's evaluation of Proposals and award of a contract pursuant to the Request for Proposals. Submission of this certification is a prerequisite for submitting a Proposal responsive to the Request for Proposals.

Following submission of Proposals with this signed certification, any firm who 1) pays any person or organization for influencing or attempting to influence a member of the San Francisco Municipal Transportation Agency Board of Directors, or an officer or employee of the SFMTA in connection with the contract to be awarded pursuant to this Request for Proposals, except as expressly authorized in the RFP, 2) fails to disclose the name of any lobbyist registered under Article II of the San Francisco Campaign and Governmental Conduct Code who has made lobbying contacts on its behalf with respect to the contract to be awarded pursuant to this Request for Proposals, or 3) pays or agrees to pay to any SFMTA employee or official or to any member of the selection panel or other person involved in the making of the contract on behalf of the SFMTA any fee or commission, or any other thing of value contingent on the award of a contract, will disqualify any Proposal in which that firm is named as a prime contractor, joint venture partner or subcontractor from the selection process.

By signing and submitting its proposal, the Proposer or proposed subcontractor also certifies to the SFMTA that the Proposer or proposed subcontractor has not paid, nor agreed to pay, and will not pay or agree to pay, any fee or commission, or any other thing of value contingent on the award of a contract to any SFMTA employee or official or to any member of the selection panel or other person involved in the making of the contract on behalf of the SFMTA. As the authorized certifying official, I hereby certify that the above-specified certifications are true.

Business Name: \_\_\_\_\_

---

Authorized Representative Name (print)

---

Authorized Representative Title (print)

---

Authorized Representative Signature

---

Date

**THIS PRINT COVERS CALENDAR ITEM NO. 10.11**

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY  
City and County of San Francisco**

**DIVISION:** Transportation Planning and Development

**BRIEF DESCRIPTION:**

Requesting approval for the plans and specifications and authorization for bid call for San Francisco Municipal Transportation Agency Contract No. 1233, Miscellaneous Rail Replacement Project

**SUMMARY:**

- San Francisco Municipal Transportation Agency (SFMTA) Contract No. 1233, Miscellaneous Rail Replacement Project, is to replace worn trackwork and related work at seven locations Citywide and replace one ADA ramp located at Ocean Beach.
- The project sites are at Taraval Street at 19<sup>th</sup> Avenue, Judah Street at 19<sup>th</sup> Avenue, Church Street at 18<sup>th</sup> Street, Church Street at 30<sup>th</sup> Street, San Jose Avenue at 30<sup>th</sup> Street, Taraval Street at Sunset Boulevard, Judah Street at Sunset Boulevard, and Judah Street at La Playa.
- The scope of work under Contract No. 1233 consists of: replacing existing trackwork, Overhead Contact System (OCS), electrical street lightings, track circuit wiring, Vetag loop; installing water, ground and reclaimed pipe sleeves; and reconstructing ramps and platforms.
- The estimated cost for the construction contract is \$9.7 million. The work is to be substantially completed within 360 calendar days from the Notice to Proceed.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Project Budget and Financial Plan

**APPROVALS:**

**DATE**

SENIOR DIRECTOR OF DIVISION  
PREPARING ITEM

\_\_\_\_\_

\_\_\_\_\_

FINANCE

\_\_\_\_\_

\_\_\_\_\_

EXECUTIVE DIRECTOR/CEO

\_\_\_\_\_

\_\_\_\_\_

SECRETARY

\_\_\_\_\_

\_\_\_\_\_

ADOPTED RESOLUTION  
BE RETURNED TO

Contracting Section Attn: Gigi Pabros

**ASSIGNED MTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

San Francisco Municipal Transportation Agency (SFMTA) Contract No. 1233, Miscellaneous Rail Replacement Project, is to replace worn trackwork and related work at seven locations Citywide and replace one ADA ramp located at Ocean Beach. The locations for replacement of worn trackwork are as follows: Taraval Street at 19<sup>th</sup> Avenue, Judah Street at 19<sup>th</sup> Avenue, Taraval Street at Sunset Boulevard, Judah Street at Sunset Boulevard, Church Street at 18<sup>th</sup> Street, Church Street at 30<sup>th</sup> Street, and San Jose Street at 30<sup>th</sup> Street.

### **GOAL**

Contract No. 1233 would assist in the implementation of the following goals, objectives, and initiatives in the SFMTA Strategic Plan:

Strategic Plan Goal 1 – Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy

- 1.1 Improve safety and security across all modes of transportation
- 1.4 Improve accessibility across transit services

Strategic Plan Goal 5 – SFMTA Workforce: To provide a flexible, supportive work environment and develop a workforce that takes pride and ownership of the agency’s mission and vision and leads the agency into the evolving, technology-driven future

- 5.1 Increase resources available for employees in performing their jobs (tools, staff hours, etc); and
- 5.2 Improve facilities in which people are working.

### **DESCRIPTION**

The seven locations designated for rail replacement were identified by the SFMTA Rail Capital Planning Work Committee with input from SFMTA Maintenance. The useful life of tangent rail is usually 30 years and curved rail is 25 years. In general, rail needs to be replaced due to any or a combination of factors including: tight track curvature, soil movement, trackway and street pavement settlements, uneven LRV loadings, frequency of LRV movement, automobile traffic loading, and the strength and hardness of rail.

The replacement of the ADA ramp is necessary because it does not meet current ADA requirements. The existing ramp does not have a mid-ramp landing or ADA-compliant handrails. The grade of the existing ramp is also too steep. The new ADA ramp will be built to bring it up to current compliance standards.

The Miscellaneous Rail Replacement Project also consists of replacing worn trackwork and related work at seven locations Citywide: Taraval Street at 19<sup>th</sup> Avenue, Judah Street at 19<sup>th</sup> Avenue, Taraval Street at Sunset Boulevard, Judah Street at Sunset Boulevard, Church Street at 18<sup>th</sup> Street, Church Street at 30<sup>th</sup> Street, and San Jose Street at 30<sup>th</sup> Street.

### **PAGE 3.**

It is anticipated that the construction work for the Miscellaneous Rail Replacement Project will be substantially completed within 360 calendar days from the date of the written Notice to Proceed. The liquidated damages will be \$6,000 per day for failure to complete the work on time.

The Contract Compliance Office has established an SBE goal of 22% for this contract. Both the City Attorney's Office and the Contract Compliance Office have reviewed this calendar item.

The plans and specifications are not included as enclosures to this Calendar Item. They are available for review at 1 South Van Ness Avenue, 3rd floor, SFMTA Transportation Planning and Development Division.

### **ALTERNATIVES CONSIDERED**

The project team held discussions with Maintenance and Operations staff concerning whether the track repair should be done by in-house staff. The preference was to have a contractor replace the worn tracks, because contractors have enough crews with track installation expertise to complete the work within the limited shutdown hours. Staff determined that contracting out to contractors is the practical alternative.

### **FUNDING IMPACT**

The engineer's estimate for the construction contract is \$9,700,000. Funding for the Miscellaneous Rail Replacement Project has been secured. Funding for the entire project will be from a combination of programmed Federal Transit Administration funds and local funds as detailed in the Project Budget and Financial Plan tables presented in Enclosure 2.

### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

No other approvals are required for this item.

### **RECOMMENDATION**

Staff recommends that the SFMTA Board of Directors approves the plans and specifications and authorizes bid call for Contract No. 1233, Miscellaneous Rail Replacement Project.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION NO. \_\_\_\_\_

WHEREAS, San Francisco Municipal Transportation Agency (SFMTA) Contract No.1233, Miscellaneous Rail Replacement Project, is identified in the latest San Francisco Municipal Railway Short Range Transit Plan under the Rail Replacement Program; and,

WHEREAS, The work to be performed under this project will replace one ADA ramp located at Ocean Beach and replace worn trackwork and related work at the following seven locations: Taraval Street at 19<sup>th</sup> Avenue, Judah Street at 19<sup>th</sup> Avenue, Church Street at 18<sup>th</sup> Street, Church Street at 30<sup>th</sup> Street, San Jose Avenue at 30<sup>th</sup> Street, Taraval Street at Sunset Boulevard, and Judah Street at Sunset Boulevard; and,

WHEREAS, The time allotted to substantially complete the construction work is 360 calendar days, with liquidated damages of \$6,000 per day for failure to complete the work on time; and,

WHEREAS, The engineer's estimate for this construction contract is \$9,700,000; and,

WHEREAS, Federal and local grants are funding the project; and,

WHEREAS, The Miscellaneous Rail Replacement Project will assist the SFMTA in meeting Strategic Plan Goal 1 – Customer Focus by providing safety, security and accessibility in transit services and in meeting Strategic Plan Goal 5 – SFMTA Workforce by increasing resources available for employees in performing their jobs; and improving facilities in which people are working; and,

WHEREAS, The Contract Compliance Office has established a 22% SBE participation goal for this contract; now, therefore, be it,

RESOLVED, That the SFMTA Board of Directors approves the plans and specifications and authorizes bid call for Contract No.1233, Miscellaneous Rail Replacement Project.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

## ENCLOSURE 2

**Miscellaneous Rail Replacement Project  
San Francisco Municipal Transportation Agency Contract No. 1233  
Project Budget and Financial Plan**

<b>Category</b>	<b>Budget</b>
Conceptual Engineering	\$1,145,100
Detail Design	\$2,094,900
Construction	
Construction Contract (Engineer's Estimate):	\$9,700,000
Construction Support:	\$3,400,000
Contingency	\$1,950,000
<b>Total</b>	<b>\$18,290,000</b>

## FINANCIAL PLAN

<b>Project Funding Source</b>	<b>Amount</b>
Federal Grants: FTA	\$14,312,000
Local Grants:	
ABB664 Bridge Toll Funds	\$843,000
Proposition K	\$2,735,000
SFMTA Funds	\$400,000
<b>Total</b>	<b>\$18,290,000</b>

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.12**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Parking and Traffic

**BRIEF DESCRIPTION:**

Adopting the Traffic Calming Projects for the Central Richmond, Potrero Hill and Garfield/Holloway/Cerritos/Cedro Avenues neighborhoods.

**SUMMARY:**

- The goal of traffic calming is to minimize the negative impacts of motor vehicle travel and create balance among all modes of travel by working with the public to meet the needs of all road users.
- Residents from these communities requested traffic calming measures
- After an extensive community process, staff developed traffic calming projects for the Central Richmond, Potrero Hill and Garfield/Holloway/Cerritos/Cedro Avenues neighborhoods.
- Traffic calming measures within each project area draw from the City-adopted Traffic Calming Guidelines, including speed humps, speed cushions, sidewalk bulb-outs, traffic islands, trees and other streetscape elements.
- There has been an extensive community process, including numerous community meetings, workshops, newsletters, phone and email hotlines and working groups.
- The Transportation Advisory Staff Committee (TASC), which has representatives from Muni Operations, Police and Fire Departments, has reviewed these Projects.
- Funding to implement project plan elements are primarily slated to come from sales tax funds administered by the SF County Transportation Authority.
- Implementation of measures requires that SFMTA pursue legislation and public hearings of specific design elements

**ENCLOSURES:**

1. SFMTAB Resolution
2. Traffic Calming Study Area Project Maps

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION  
PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Mike Sallaberry

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

Adoption of traffic calming projects for the Central Richmond, Potrero Hill and Garfield/Holloway/Cerritos/Cedro Avenues neighborhoods.

#### **Benefit to the SFMTA 2008 – 2012 Strategic Plan:**

Goal 1 - Customer Focus: To provide safe, accessible, reliable, clean and environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy

Objective - 1.1 - Improve safety and security across all modes of transportation

### **DESCRIPTION**

Proposition K set aside up to \$68 Million over 30 years for traffic calming projects. In 2004, SFMTA staff developed a five-year plan jointly with the San Francisco County Transportation Authority and the public to define guidelines on how these sales tax funds will be prioritized. The primary factors used in prioritizing which neighborhoods to evaluate include traffic speeds, volumes, collision history, proximity to pedestrian generators and evidence of exhibition driving.

The goal of traffic calming is to minimize negative impacts of motor-vehicle travel, and create balance among all modes of travel to meet the needs of street users. A primary objective of each project is to reduce speed, where found to be excessive, to be more consistent with the current 25 MPH speed limit on these mostly residential streets.

To this end, staff developed traffic calming projects in the following neighborhoods (Project Areas):

1. Central Richmond (bounded by Fulton Street, 12<sup>th</sup> Avenue, Lake Street and 24<sup>th</sup> Avenue inclusive of the boundary streets)
2. Potrero Hill (bounded by 16<sup>th</sup> Street, I-280, Cesar Chavez Street and US-101)
3. Garfield/Holloway/Cerritos/Cedro Avenues (between Junipero Serra Blvd and Ocean / Ashton Avenue)

These projects were requested by residents within each community. Staff initiated them after applications for each project were reviewed and prioritized according to the guidelines. For each project, staff convened several meetings to seek input from residents, neighbors and other stakeholders. To facilitate community input and to make the project areas more manageable, staff convened smaller community working groups (CWGs) to serve as liaisons between the community and staff. Each CWG consists of about 5-10 community members who worked with staff to develop and refine the projects.

Staff collected traffic volume and speed data based on input from the community and CWGs to determine which streets warranted traffic calming measures. Not all streets had problems severe enough to warrant measures. Staff worked with the community to come up with other measures that did not plainly divert traffic from one street to another. Staff also worked on the technical side with various City agencies, including Fire, Police, and Public Works, as well as within the SFMTA to make sure that congestion and impacts to Muni were considered. Another factor the program included was minimizing any impact to people with disabilities who have expressed concern with speed humps in particular.

Each traffic calming project contains several phases. This ensures that traffic calming measures are implemented incrementally and allows SFMTA staff and the community time to evaluate and make refinements before the next phase. It also ensures that more expensive measures and improvements are installed only after the simpler measures have been utilized. SFMTA intends to be aggressive in going after grants to fund the more expensive measures and to coordinate with other partner City agencies.

Although there are a number of bicycle routes that traverse the project areas, no bicycle lanes, paths, signs, pavement markings or racks were identified as measures to be implemented as part of these projects.

#### Next Steps:

Once the Projects are adopted, they become eligible for future sales tax funding. Staff will immediately pursue Phase I measures, as our current Traffic Calming funding allocation allows.

For some measures, staff will ballot residents living within a block to determine whether the measure should be installed on that block. Upon majority approval by ballot, the matter will be scheduled for a public hearing.

### **FUNDING IMPACT**

Once a project is adopted, the project then becomes eligible for several grants in addition to sales tax funds. Grants like Safe Routes to Transit, Safe Routes to Schools, and Transportation for Livable Communities usually require adopted plans to ensure that grant applications are project-ready and have been vetted fully. Staff will be submitting allocation requests for sales tax funding in the next fiscal year for the early action items identified in each project area.

### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The Planning Department has reviewed these Projects and has issued a Certificate of Exemption from Environmental Review (Categorical Exemption, Class 1 and 3 State CEQA Guidelines under 15301 and 15303).

The City Attorney has reviewed this report.

## **RECOMMENDATION**

Staff recommends that the San Francisco Municipal Transportation Agency Board of Directors adopts the conceptual Traffic Calming Projects for the Central Richmond, Potrero Hill and Garfield/Holloway/Cerritos/Cedro Avenues neighborhoods, as shown in the attachments.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) developed a Plan for Traffic Calming Projects citywide, to lay out a funding strategy for sales tax funds dedicated to such Projects under Proposition K; and,

WHEREAS, Central Richmond, Potrero Hill and Garfield/Holloway/Cerritos/Cedro Avenues “Project Areas” are the neighborhoods that were selected to be studied according to the Plan, based on factors such as traffic speeds, volumes, and collision history as well as other related factors; and,

WHEREAS, Residents from these communities requested traffic calming measures be evaluated on their streets; and,

WHEREAS, SFMTA staff held several meetings and workshops in each Project Area to solicit community input towards the development of the Traffic Calming Project for that neighborhood; and,

WHEREAS, The Transportation Advisory Staff Committee has reviewed each Project; and,

WHEREAS, The adopted Traffic Calming Projects will be used for future funding; and,

WHEREAS, Implementation of regulatory changes in the plans that impact parking and traffic, will be subject to additional review and approval, including environmental review and further public outreach; now, therefore, be it

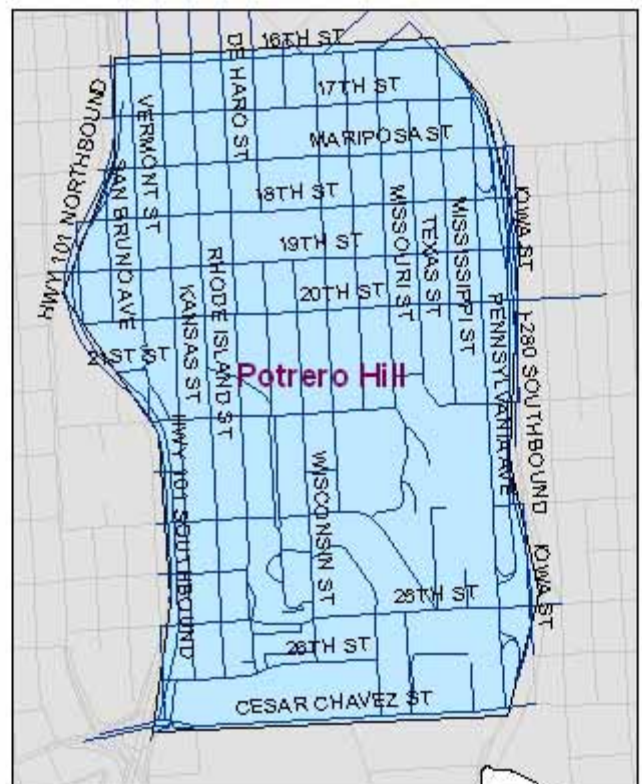
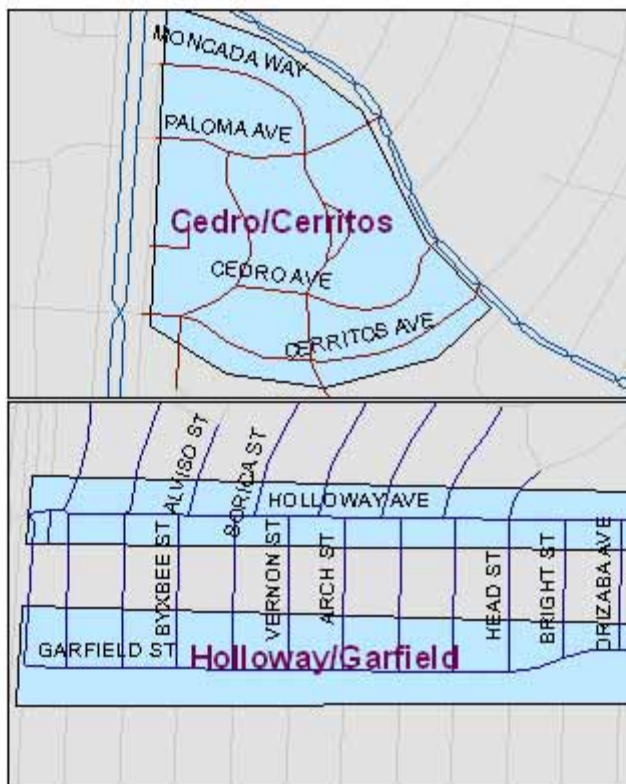
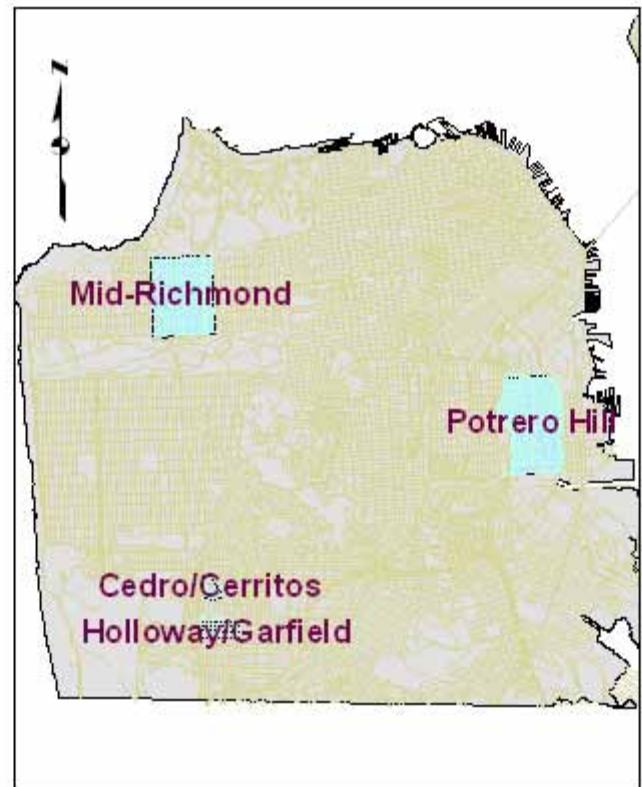
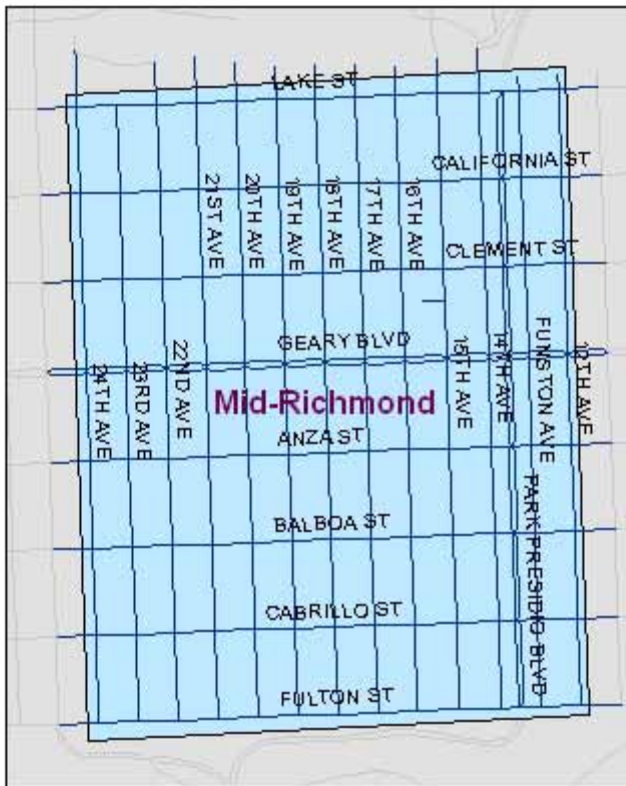
RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors adopts the conceptual Traffic Calming Projects for the Central Richmond, Potrero Hill and Garfield/Holloway/Cerritos/Cedro Avenues neighborhoods.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of

\_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

# Areawide Traffic Calming Projects



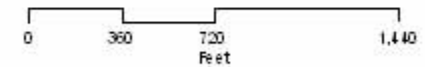


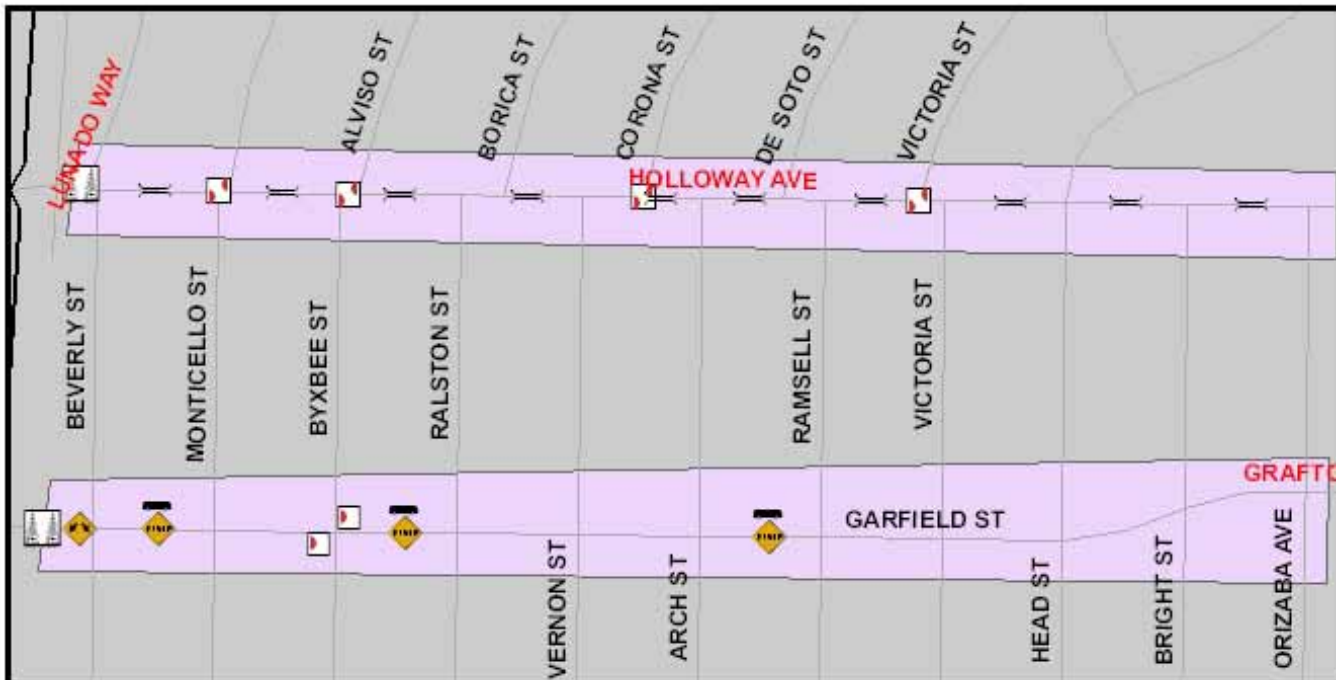
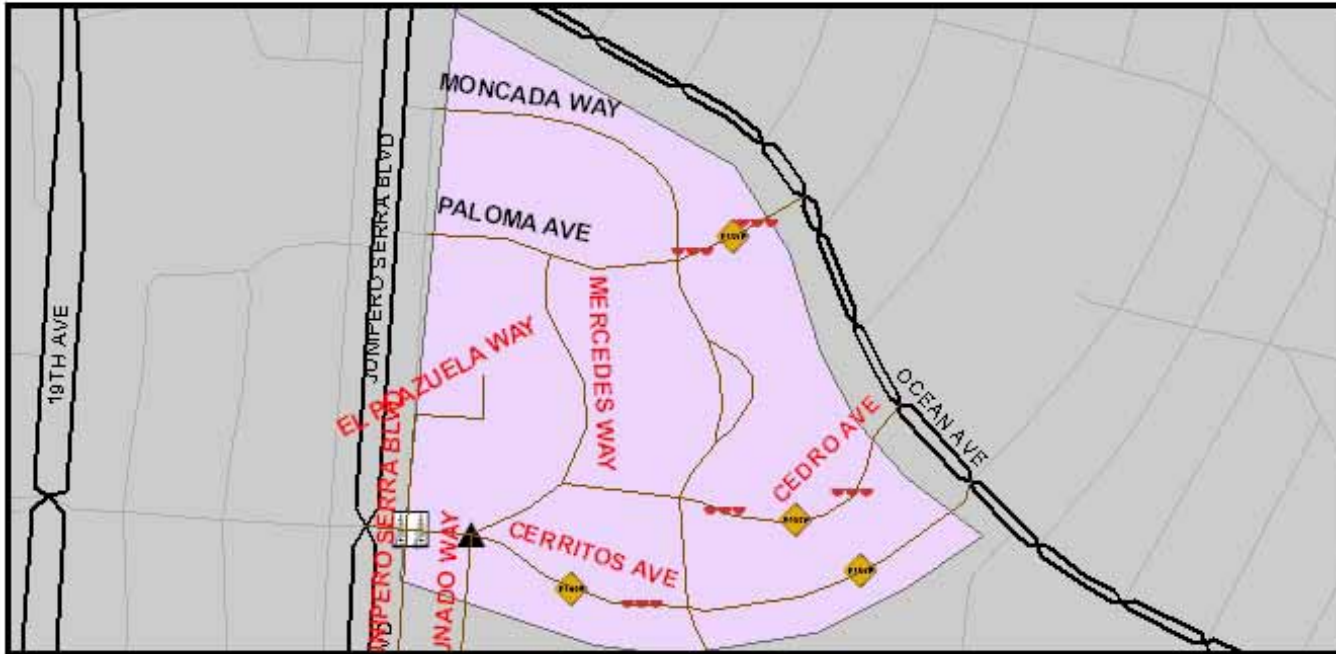
## Mid-Richmond Traffic Calming Project



### Traffic Calming Devices

-  Bulbs
-  Bus Bulb
-  Chicane
-  Circle
-  Gateway
-  Median Island
-  Speed Hump













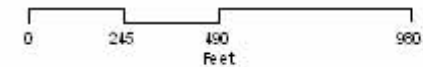


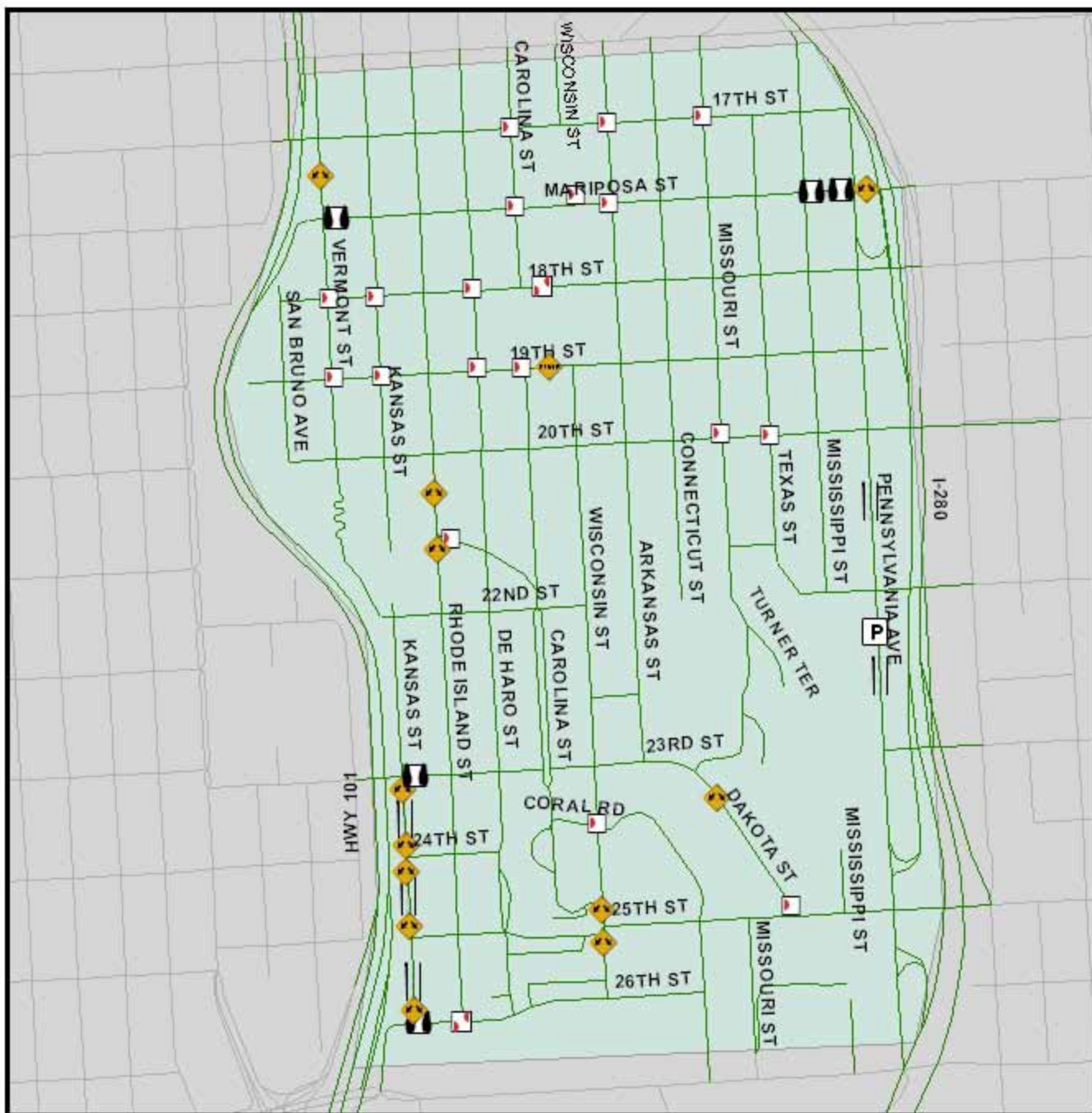
# Cedro/ Cerritos/ Holloway/ Garfield Traffic Calming Project



## Traffic Calming Devices

-  Bulbs
-  Bump Removal
-  Channelization Island
-  Chicanes
-  Choker Island
-  Crosswalk Enhancements
-  Edgelines
-  Gateway
-  Median Island
-  Speed Cushion
-  Speed Hump





# Potrero Hill Traffic Calming Project



## Traffic Calming Devices

-  90 Degree Parking
-  Bulbs
-  Channelization Island
-  Chicanes
-  Circle
-  Edgelines
-  Gateway
-  Median Island
-  Speed Hump



## **Glossary of Traffic Calming Measures**

**Angle Parking** – installing angle parking like 90-degree (perpendicular) parking on wide streets visually narrows the street and discourages speeding

**Bulbs** – Sidewalk bulbs physically changes the roadway by moving the curb farther towards the middle of the street. They are used to narrow the roadway and to create shorter pedestrian crossings. They also improve sight distance and influence driver behavior by changing the appearance of the street.

**Bus Bulbs** – These are longer than typical corner bulbs and are designed to accommodate buses at transit stops.

**Bump Removal** – There are a number of old rumble strips throughout the City that were installed decades ago. These old-style bumps should be removed and upgraded to speed humps, if warranted.

**Channelization Islands** – At wide intersections, a channelization island can be installed to better define motorists' and pedestrians' path of travel.

**Chicane** –a measure used to introduce horizontal deflection along a roadway and remove the temptation for motorists to travel quickly down a straight line. This 'shift' in the roadway can be accomplished by alternating angle parking with parallel along the block.

**Circle** – traffic circles can be used to reclaim space at wide intersections and slow vehicles at intersections. These must be designed carefully to accommodate emergency vehicles and other larger vehicles.

**Edgelines** – painted markings that visually narrow the street. By directing traffic farther away from parked cars or sidewalks, edgelines provide extra buffer for pedestrians and other road users.

**Gateway/Gateway Island** – a gateway treatment gives motorists a visual cue that they have entered a residential or special neighborhood. Treatments range from a median island to bulbs from both sides of the street.

**Median Island** - raised islands in the center of street that can be used to narrow lanes for speed control and/or be used for pedestrian refuges in the middle of the crosswalk.

**Speed Hump** - asphalt mounds constructed on residential streets. Speed humps are typically 12 feet long and 3.5 inches high. Their vertical deflection encourages motorists to reduce speed.

**Speed Cushion** – a Speed Hump with slots to minimize vertical deflection impacts on bus routes. This design is being evaluated by SFMTA staff to determine if appropriate for future installations.

## TRAFFIC CALMING TOOLBOX MEASURES

### Speed Hump



What it is: Speed humps are asphalt mounds constructed on residential streets. They can be placed by itself or in a series depending on the length of the street. Speed humps are usually spaced at least 150 feet from an intersection and at least 300 feet apart. Speed humps are typically 12 feet long and 3.5 inches high. Their vertical deflection encourages motorists to reduce speed.

When they are used: The primary benefit of speed humps is speed control.

#### Advantages:

- Has been known to reduce vehicle speeds.
- Does not require parking removal.
- Can reduce vehicular volumes

#### Disadvantages:

- Slows emergency vehicles
- May increase noise near speed humps
- May divert traffic to parallel streets
- May impact people with disabilities
- May not be aesthetically pleasing

#### Special Considerations:

- Not used on arterials, multilane streets or streets with speed limits over 25 MPH
- Not used on grades greater than 8% or around curves
- Possible increase in traffic noise from braking and accelerating
- Design is modified if on a bus route to allow buses through without vertical deflection
- Highest noise may increase from buses and trucks
- Speed humps may reduce emergency vehicle response times

## Sidewalk Bulb-out



What it is: Sidewalk bulb-outs narrow the street by extending the curbs toward the center of the roadway or by building detached raised islands to allow for drainage.

When they are used: Sidewalk bulb-outs are used to narrow the roadway and to create shorter pedestrian crossings. They also improve sight distance and influence driver behavior by changing the appearance of the street.

### Advantages:

- Better pedestrian visibility
- Shorter pedestrian crossing
- Can decrease vehicle speeds
- Opportunity for landscaping

### Disadvantages:

- Can require removal of parking
- Can create drainage issues
- Difficult for trucks to turn right

### Special Considerations:

- Curb extensions can be installed at intersections
- Curb extensions should not extend into bicycle lanes, where present
- Curb extensions at transit stops enhance service
- No noise or emergency service impacts
- May require landscape maintenance to preserve sight distances

## Median Islands



Traffic Circle



Medians



Chicane



Choker

What it is: Median islands are raised islands in the center of street that can be used to narrow lanes for speed control and/or be used for pedestrian refuges in the middle of the crosswalk. As a last resort, they can be used as diverters to create a barrier to prohibit turns into or from a side street. Median islands come in different shapes and forms, and include medians, chokers, chicanes, circles and diverters.

When they are used: Median islands are used on wide streets to lower travel speeds and/or used to provide a mid-point refuge area for crossing pedestrians.

### Advantages:

- Can reduce vehicle speeds
- Can reduce pedestrian crossing
- Opportunity for landscaping
- Low impact on emergency vehicles

- Can reduce collision potential
- Can increase sight distance
- Better side street access than others

#### Disadvantages:

- May require parking removal
- May affect certain movements such as driveway access, trucks and emergency vehicles
- May require additional right-of-way (chicane)
- Increased maintenance (chicane)
- May create drainage issues (chicane, choker)
- May be a hazard for bicyclists (choker)
- May divert traffic volumes (diverters)

#### Special Considerations:

- May impact emergency response times
- All forms of median islands may visually enhance the street through landscaping
- Any lane width reduction should result in at least 10 foot lanes.
- Lane narrowing design should accommodate bicyclist needs.
- Driveway access needs to be considered
- Speeds generally reduced when street cross-section is reduced significantly
- Emergency response agencies prefer medians and chokers over other median types
- Where right-of-way is limited, chicanes are not recommended
- When both approach volumes are moderate, chicanes better than chokers.
- Chicanes and chokers may increase conflicts with bicycles
- Chicanes and circles have the least noise impact
- Chicanes and circles can be installed in a series, alone or in combination with each other
- All medians require more signs and pavement markings (especially circles)
- Diverter islands shall be used only as a last resort, because of the spill-over potential
- Traffic circles are less effective at T-intersections and offset intersections

**DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS**  
**THIS PRINT COVERS CALENDAR ITEM NO. : 11**

**SAN FRANCISCO**  
**MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Taxis and Accessible Services

**BRIEF DESCRIPTION:**

Draft Motor Vehicle for Hire Regulations are offered to the San Francisco Municipal Transportation Agency Board of Directors for presentation and discussion.

**SUMMARY:**

- The San Francisco taxi industry is currently governed by Rules and Regulations adopted and enforced by the San Francisco Taxicab Commission.
- The Board of Supervisors finally passed an ordinance on December 9, 2008 (File No. 081383) that will transfer the powers and duties of the Taxicab Commission to the San Francisco Municipal Transportation Agency (SFMTA) effective March 1, 2009.
- These Motor Vehicle for Hire Regulations are drafted to implement the transfer of the powers and duties of the Taxicab Commission to the SFMTA, and upon adoption would be codified in Division II of the Transportation Code.

**ENCLOSURES:**

1. Draft Motor Vehicle for Hire Regulations

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION  
PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

PAGE 2.

### PURPOSE

The purpose of this item is to commence discussion and public testimony regarding proposed Motor Vehicle for Hire Regulations drafted to implement the Board of Supervisors' transfer of the powers and duties the Taxicab Commission to the SFMTA effective March 1, 2009.

### GOAL

The adoption of these regulations would further the following Strategic Plan Goals:

Goal 1-Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy.

The proposed regulations serve taxicab customers by ensuring that vehicles are clean, safe and fully operational, and by regulating drivers, taxicab companies and dispatch services to improve service to the public.

Goal 3-External Affairs - Community Relations: To improve the customer experience, community value, and enhance the image of the SFMTA, as well as ensure SFMTA is a leader in the industry.

The proposed regulations will be one of the SFMTA's first actions to establish a regulatory relationship with taxicab drivers and taxicab and dispatch companies. The regulations will also affect the taxicab experience of residents and tourists, taxicab vehicles themselves will be a highly visible component of the transportation system on the streets of San Francisco.

### DESCRIPTION

As of March 1, 2009 the powers and duties of the San Francisco Taxicab Commission will be transferred to the SFMTA pursuant to ordinance of the Board of Supervisors. San Francisco taxis are currently regulated by Rules and Regulations adopted by the Taxicab Commission. In order to implement the transition from the Taxicab Commission to the SFMTA, the SFMTA will need to adopt its own regulations. The regulations, once adopted by the SFMTA Board of Directors, would be codified as a new Article in Division II of the Transportation Code.

Significant changes in these proposed Motor Vehicle for Hire Regulations from the Taxicab Commission's current Rules and Regulations include the following:

**Section 1(a)(2)(D):** Currently employee shuttle buses operated by employers with at least 100 employees within the City are exempted from motor vehicle for hire regulations. Police Code § 1076(w), 1077(f). These regulations would remove the restriction limiting employee shuttle buses to

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### PAGE 3.

those operated by an employer with employees within the City limits. This would have the effect of excluding from these regulations shuttles provided by employers outside of San Francisco to transport employees from San Francisco to locations outside of the City.

**Sections 2(c), 2(e), 2(v):** These sections specify that a business that holds a permit under these Regulations is defined to include an owner, manager, employee or lessee of such business.

**Section 3(a):** Currently, the process for issuing new permits includes a hearing and a determination of whether the issuance of new taxi permits is consistent with “public convenience and necessity.” If the Taxicab Commission decides that the public would be served by issuing additional permits, that decision is appealable to the Board of Appeals. These regulations would streamline that process by requiring a public hearing before the SFMTA Board of Directors prior to the Board’s determination, no later than July 1 of each year, of the number of permits to be issued during that fiscal year. That decision would not be appealable to the Board of Appeals. All decisions related to the grant, denial, suspension or revocation of an individual permit would be heard by hearing officers appointed by the SFMTA, and would still be appealable to the Board of Appeals. In a case involving the revocation of an individual permit, the permit would be suspended until the outcome of the appeal, or 90 days, whichever is less.

**Section 3(a)(3)(D):** This section specifies that a protest must be filed in writing three business days before a permit hearing is scheduled, and sets forth the requirements and a deadline for filing protests to be considered in a permit hearing.

**Section 3(b):** This section provides that notice of permitting decisions be posted in the main branch of the Public Library. Currently, notices of permitting decisions are required to be noticed through advertisements in the official newspaper. Section 3(b) eliminates the requirement of posting notice every time a new application for a permit is received. Instead, notice is to be posted prior to a hearing on any permit to be issued.

**Section 4(a)(3):** Newly specifies that no person may hold more than one taxi or ramped taxi permit.

**Section 4(c), 4(g)(2)(D):** These sections allow the SFMTA to remove an applicant from a taxi or ramped taxi waiting list if it determines that the applicant is ineligible for a permit.

**Section 4(c)(5):** Grounds for determining that a permit application is inactive would be expanded to include circumstances where the applicant currently holds a permit and has been determined to have violated the conditions of that permit, or where the SFMTA determines that the applicant has engaged in fraud, deceit, misrepresentation or other misconduct in connection with the permit application process.

**Section 4(d)(2):** The regulations provide that the SFMTA Board of Directors may refuse to renew a permit if a past violation would have supported revocation of the permit.

**Section 4(d):** These permit qualifications are new: (4) whether the applicant has been convicted of certain specified crimes that relate to using a vehicle to commit a crime, violence against a person, driving under the influence or use of illegal substances; (5) whether the applicant is the owner of the vehicle that would be operated pursuant to the permit, and whether that vehicle complies with all

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### PAGE 4.

requirements; and (6) whether the applicant has failed to satisfy any liens, judgments or other debts.

**Section 4(d)(3):** The proposed regulations specify that a permit may not be issued to an employee of the SFMTA or a full-time employee of the City and County of San Francisco.

**Section 4(f)(1)(F):** Standards for documenting affiliation between drivers, taxi and ramped taxi permit holders and color schemes are specified. In deciding whether to approve a requested affiliation, the SFMTA is required to consider the impact of an requested affiliation upon the quantity and quality of taxi service or paratransit service available to the public.

**Section 4(f)(2)(e):** This section requires that a taxi or ramped taxi permit holder have the physical capacity to operate a motor vehicle for at least four hours per day.

**Section 4(f)(13), 5(b)(3):** Drivers and color schemes are required to comply with the Controlled Substance Testing Program. Drivers must test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations in accordance with Government Code Section 53075.5. Color schemes have specified obligations with respect to maintaining confidentiality of testing records.

**Section 4(i):** The proposed regulations create a new class of permit, the “Non-Standard Vehicle” permit. This class is intended to replace the non-taxi, miscellaneous vehicle permit classes that currently exist, such as the motorized rickshaw permit and the jitney bus permit. The existing jitney bus permit would remain in effect through its term, and be entitled to automatic renewal as a Non-Standard Vehicle permit. Thereafter the permit would be subject to all applicable requirements for renewal of permits.

**Section 5(a)(2):** All permits issued to businesses would have to be issued in the name of at least one natural person for reasons of accountability. That person would have to comply with all permit requirements except those that by their nature can have no application to a natural person.

**Section 5(a)(9):** Permit holders with actual or constructive knowledge that another Permittee has been convicted of a certain crimes would be required to report that fact to the SFMTA within 24 hours of obtaining such knowledge, and failure to do so would be grounds for revocation of the permit.

**Section 5(a)(10):** The period for which a taxi or ramped taxi permit holder may request suspension of the full time driving requirement is reduced from 90 days to 60 days in these proposed regulations.

**Section 5(a)(13):** The execution of any lease of a taxi or ramped taxi permit that does not comply with the regulations would be a considered a violation that would support permit revocation under the proposed regulations. The regulations currently prohibit the lease of a taxi permit, either on a per shift basis or for any term of time, to anyone other than the Permit Holder or the color scheme with which the taxi permit is affiliated. The proposed regulations would also prohibit leasing a taxi permit from anyone other than the Permit Holder or the color scheme with which the permit is affiliated.

**Section 5(c)(3)(C):** The requirements to for “Key Personnel” of a color scheme or dispatch service qualify as an exception to the full-time driving requirement are increased. The proposed regulations include a definition of qualifying work and increased reporting requirements to prove the Key Personnel status in order for a taxi permit holder to be exempted from the full-time driving

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

requirement. See

### PAGE 5.

Section 9. The regulations also prohibit a ramped taxi permit holder from being designated as Key Personnel. See Section 5(d)(4).

**Section 5(c)(3)(D):** If a taxi or ramped taxi permittee requests from the color scheme the specific vehicle associated with that person's permit for a particular shift with at least four hours' notice, the color scheme shall make that vehicle available.

**Section 5(d)(2)(B):** The proposed regulations specify that a ramped taxi permit may not be used in a spare taxi vehicle for more than 90 days within a 12 month period.

**Section 5(f)(15):** Color schemes would be required to notify the SFMTA of any injury accident involving a taxi permit affiliated with the color scheme, or of any accident which causes a vehicle to be out of service for more than 72 hours.

**Section 5(f)(17):** A color scheme that plans to terminate its business operations as a color scheme would be required to file a Dissolution Plan with the SFMTA at least 30 days prior to the date that the color scheme ceases to respond to requests for taxi service.

**Section 5(g)(1)(D):** The proposed regulations provide that a corporate taxi permit would be revoked if the California Secretary of State suspends the entity's corporate status.

**Section 8(t):** This section addresses specifications and requirements for cameras in taxi vehicles.

**Section 8(aa)(4):** This is a new section that would make fraud in connection with a required vehicle inspection grounds for revocation of a permit.

In **Section 9** generally, record keeping and reporting requirements are specified in detail to address monitoring issues identified by Taxicab Commission staff. **Section 9(d)(9)** provides that a color scheme's failure to report the death of a taxi or ramped taxi permit holder and return the taxi or ramped taxi permit within 14 days of the death of the permit holder is a violation of a color scheme permit. Failure to return a taxi or ramped taxi permit to the SFMTA within 6 months of the death of the permit holder would be grounds for revocation of the color scheme permit

**Section 9(a)(1) and (2):** The proposed regulations newly specify that when a signature is required, the record would have to be signed by a Permittee, or in the case of a corporation, by a person authorized to bind the corporation; that the format and content of any records required to be created or maintained, or of any reports or plans required to be filed by Permittees is be subject to SFMTA approval; and that all records required to be provided or maintained under the proposed regulations would have to be in writing.

The proposed Motor Vehicle for Hire Regulations incorporate 311 system by requiring dispatch services to maintain a listing with the 311 system, and by requiring vehicles to display a card, in a form to be determined by SFMTA, containing 311 information for the public.

The City Attorney has reviewed this report.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

**PAGE 6.**

### **ALTERNATIVES CONSIDERED**

The proposed Motor Vehicle for Hire Regulations were prepared with substantial input from the Taxicab Commission staff. These draft regulations will be available for discussion and opportunities for public testimony at SFMTA Board of Directors' meetings of January 27 and February 3, 2009, as well as before the Citizens' Advisory Committee on January 8, 2009. To the extent that alternative provisions are identified by that process they may be included in these regulations prior to final adoption. These regulations may be further amended by SFMTA Board of Directors resolution in the future as needed.

### **FUNDING IMPACT**

These regulations do not address funding for the new SFMTA taxi regulation function. The adoption of these regulations was anticipated in the Taxicab Commission budget for the current fiscal year.

### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

None.

### **RECOMMENDATION**

Staff offers these proposed Motor Vehicle for Hire Regulations to the SFMTA Board of Directors for presentation and discussion at its meeting of January 6, 2009.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

[Amending Division II of the Transportation Code to enact regulations implementing Police Code Section 1075.1.]

### **Resolution adopting Article XX of Transportation Code Division II, regulating Motor Vehicles for Hire.**

Note: Additions are single-underline italics Times New Roman;

deletions are ~~strikethrough italics Times New Roman~~.

Board amendment additions are double underlined.

Board amendment deletions are ~~strikethrough normal~~.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco do enact the following regulations:

Section 1. The San Francisco Transportation Code is hereby amended by adding Article **XX** to Division II, to read as follows:

#### **ARTICLE XX        MOTOR VEHICLE FOR HIRE REGULATIONS**

##### **1. SCOPE AND PURPOSE OF REGULATIONS**

###### **(a) Scope of Regulations**

###### **(1) Classes of Permits**

This Article, adopted pursuant to San Francisco Charter Section 8A.101(b) and Police Code Section 1075.1, as amended (File No. 081383 , Ordinance No. **[insert ordinance #]**), shall apply to the following classes of permits issued by the SFMTA:

###### **(A) Permits issued to a person:**

###### **(i) Driver permits**

###### **(B) Permits issued to a person for use with an identified vehicle or vehicle(s):**

###### **(i) Taxi/Ramped Taxi permits**

###### **(ii) Non-Standard Vehicle permits**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(C) Permits issued to a business that affiliates with permitted vehicles:

(i) Color Scheme permits

(ii) Dispatch Service permits

(iii) Funeral limousine permits

(2) Exclusion for Certain Vehicles

This Article shall not apply to the operation of a motor vehicle:

(A) Engaged in the business of, or used for, transporting passengers for hire when such motor vehicle is operated under and by authority of certificates of public convenience and necessity issued by the Public Utilities Commission of the State of California (CPUC); however, this Article shall only be inapplicable to the extent, character and type of operation expressly authorized by such certificate, and any such commercial operation of a motor vehicle pursuant to a CPUC certificate within the City and County of San Francisco shall be limited by and entirely within the scope of such certificate; [1078(d)]

(B) Licensed by any city, city and county, county or other public entity as a motor vehicle for hire which may enter the City and County of San Francisco for the purpose of delivering passengers who have hired the vehicle in a jurisdiction in which it is licensed to operate, provided, however, that no such motor vehicle for hire may solicit or accept any passenger while in the City; [1078(c)]

(C) Used in the course of the operation of a business providing funeral services; [1078(e)]

(D) Capable of transporting 12 or more passengers that is regularly operated by a business to transport employees; [1078(f)]

(E) Operated as private ambulances and regulated by Article 14 of the San Francisco Health Code; [1078(g)] or

(F) Operating on fixed tracks or rails [1078(h)]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### **(3) Application of Regulations to Permittee Conduct**

*This Article applies to the conduct of Permittees at all times while engaged in activity related to the permit.*

### **(b) Purpose of Regulations; Limitation of Liability [1147.5]**

*It is the purpose of this Article to require all persons, businesses or corporations holding permits issued pursuant to this Article to take steps to improve taxi service to the public and to protect the public health and safety when providing such service. By adopting this Article, the SFMTA is assuming an undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.*

### **(c) Notice of Regulations**

*By August 1, 2009, the SFMTA shall send a copy of by first class U.S Mail this Article to each Permittee and to each applicant on the Taxi or Ramped Taxi Waiting Lists. Thereafter, the SFMTA shall provide a copy of this Article to each person who is applying for or renewing a permit at the time of application or renewal. [1121(g)]*

### **(d) Severability**

*If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof, is for any reason held to be invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The SFMTA Board hereby declares that it would have adopted and promulgated each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid or ineffective.*

## **2. DEFINITIONS [1076, Reg. 3]**

*For purposes of this Article the following words and phrases shall have the meanings set forth below:*

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1           (a) "Chief of Police" shall mean the Chief of Police of the Police Department of the City and  
2 County of San Francisco and his or her designee(s) within the Police Department.

3           (b) "City" shall mean the City and County of San Francisco.

4           (c) "Color Scheme" shall mean either the design or trade dress of a vehicle used as a Taxi or  
5 Ramped Taxi that is distinct to the fleet of a business that provides Taxi service, or a business that holds  
6 a Color Scheme permit, including any owner, manager, employee or lessee of said Color Scheme.

7           (d) "Director" shall mean the Director of Transportation of the San Francisco Municipal  
8 Transportation Agency.

9           (e) "Dispatch Service" shall mean any person, business, firm, partnership, association or  
10 corporation which holds itself out to the public as a telephone answering and radio dispatch service by  
11 or through which taxis may be summoned or dispatched by radio, including any owner, manager or  
12 employee of said Dispatch Service.

13           (f) "Driver" shall mean any person engaged in the mechanical operation and having physical  
14 charge or custody of a Motor Vehicle for Hire while said Motor Vehicle for Hire is available for hire or  
15 is actually hired.

16           (g) "Filing Fee" shall mean a fee in an amount established by the SFMTA Board, due upon  
17 application for a permit set at an amount to cover all SFMTA permit application investigation and  
18 processing costs, and including any late payment penalties or interest for failure to pay in accordance  
19 with the requirements of this Article or any other regulations adopted by the SFMTA Board applicable to  
20 payment of such Filing Fee.

21           (h) "Found Property" shall mean anything found in or about a Motor Vehicle for Hire by a  
22 Driver or delivered to a Driver or a Color Scheme by any person who has found such property.

23           (i) "Full-Time Driver" or "Full-Time Driving" shall mean any City Driver actually engaged  
24 in, or the activity comprised of (respectively) the mechanical operation and physical charge and custody  
25 of a Taxi or Ramped Taxi which is available for hire or actually hired for at least four hours during any

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

24-hour period on at least 75 percent of the business days during the calendar year, or 156 four-hour shifts or 800 hours, whichever shall come first.

(j) "Gate Fee" shall mean any monetary fee or other charge or consideration, or any combination thereof, required of a Driver who is not a Medallion Holder for the privilege of driving a Taxi or Ramped Taxi during a particular shift, or for any period of time, including receipt of all services provided in connection with such privilege, whether said fee is set by contract, lease or other agreement, orally or in writing, and whether said fee is paid by the Driver as a flat rate, as a commission on receipts from fares, or as a specified fee for any other purpose. [1135.1]

(k) "Key Personnel" shall mean a Taxi Permit Holder who works in an administrative capacity or performs functions integral to a Color Scheme, who is a bona fide employee on the payroll of the Color Scheme and who works on-site at the Color Scheme's principal place of business. [1081.5]

(l) "Lease" shall mean an otherwise lawful, written and dated document, employment contract, or other agreement that authorizes the temporary operation of a Medallion by a person or Color Scheme other than the Medallion Holder for consideration.

(m) "Lease Fee" shall mean any monetary fee or other charge or consideration, or any combination thereof, charged by or paid to a Taxi Permit Holder for the privilege of operating under that Permit Holder's Taxi Permit during a particular shift, or for any period of time, whether said fee is set by contract, lease or other agreement, orally or in writing, whether said fee is set as a flat rate, as a commission on receipts from fares, or as a specified fee for any other purpose, and whether said fee is paid by the driver or a third party. [1135.2(b)]

(n) "Model Year" shall mean the year model designated at the time of manufacture of first assembly as a completed vehicle (e.g. If a vehicle is produced in 1997, but is designated for sale as a 1998 model, then the vehicle is considered a 1998 Model Year.)

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1       (o) "Motor Vehicle for Hire" shall mean every type of privately owned motor vehicle, as defined  
2 in the Vehicle Code, which is available for hire and over which the City may exercise jurisdiction, except  
3 as specified in Section 1.1(b).

4       (p) "Motor Vehicle for Hire Permit" shall mean a permit issued by the SFMTA Board for the  
5 operation of an identified vehicle for the purpose of transporting passengers for a price, including Taxi  
6 and Ramped Taxi and Non-Standard Vehicle permits, and does not include Dispatch Service, Color  
7 Scheme or Driver permits.

8       (q) "Non-Standard Vehicle" shall mean a privately owned, motor-propelled passenger carrying  
9 vehicle which may be legally operated on the streets of the City under all applicable state and local laws  
10 and regulations, and which is not defined elsewhere in this Article.

11       (r) "O.E.M." shall mean any equipment installed on a vehicle when the vehicle was initially  
12 manufactured.

13       (s) "Paratransit Broker" shall mean the contractor retained by SFMTA to administer the  
14 Paratransit Program.

15       (t) "Paratransit Program" shall mean the SFMTA program to provide transit services for  
16 people unable to independently use public transit because of a disability or disabling health condition, as  
17 required by the Americans with Disabilities Act.

18       (u) "Permit Fee" shall mean a fee in an amount established by the SFMTA Board, required to be  
19 paid by a permit applicant upon qualifying for permit and prior to permit issuance or renewal, including  
20 any late payment penalties or interest for failure to pay in accordance with the requirements of this  
21 Article and any Regulations adopted by the SFMTA Board applicable to such Permit Fee.

22       (v) "Permittee" or "Permit Holder" shall mean any person, business, firm, partnership,  
23 association or corporation which holds any permit issued by or under the authority of the SFMTA to  
24 drive, operate or cause to be operated any Motor Vehicle for Hire or to operate any Dispatch Service or  
25

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

Color Scheme pursuant to this Article, and any agent of such Permittee including, but not limited to, any owner, manager, employee or lessee of said Permittee.

(w) "Police Department" shall mean the Police Department of the City and County of San Francisco.

(x) "Ramped Taxi" shall mean a Taxi which is a minivan or similar vehicle specially adapted with ramp access for wheelchair users.

(y) "San Francisco Municipal Transportation Agency" or "SFMTA" shall mean the Municipal Transportation Agency of the City and County of San Francisco.

(z) "SFMTA Board" shall mean the Board of Directors of the Municipal Transportation Agency of the City, or when used with reference to any action taken prior to July 1, 2008, the City agency that was responsible for regulating Motor Vehicles for Hire at the time the action was taken.

(aa) "Stand" shall mean a place designated by the SFMTA for the use of Motor Vehicles for Hire while awaiting employment, which may or may not be restricted to a particular class of vehicle.

(bb) "Taxi" shall mean a Motor Vehicle for Hire legally authorized to pick up passengers within the City without prearrangement, of a distinctive color or colors and which is operated at rates per mile or upon a waiting-time basis, or both, as measured by a Taximeter and which is used for the transportation of passengers for hire over and along the public streets, not over a defined route but, as to the route and destination, in accordance with and under the direction of the passenger or person hiring such vehicle.

(cc) "Taximeter" shall mean a device attached to a Motor Vehicle for Hire which mechanically or electronically calculates the fare to be charged to the passenger, either on the basis of distance traveled or for waiting time, or a combination thereof, and upon which the amount of the fare is indicated by means of numerals in dollars and cents.

(dd) "Vehicle Number" shall mean the unique identifying number associated with each Taxi or Ramped Taxi vehicle.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(ee) "Waiting List" shall mean a list of applicants for Taxi or Ramped Taxi permits for whom permits are not yet available, maintained in the order of receipt of applications from qualified applicants.

### 3. ADMINISTRATIVE PROCEDURES

#### (a) Hearings [1079]

##### (1) Annual Determination of Number of Permits

The SFMTA Board will determine the number of permit to be issued for each class of permit for the upcoming fiscal year no later than July 1 of each year following public hearing. Based upon the record of the hearing and any further evidence which the SFMTA Board may request, the SFMTA Board will determine the number of each class of permits to be issued, or that no new permits of a particular class will be issued, for the upcoming fiscal year.

##### (2) Investigation

Each individual application shall be investigated and the results of the investigation shall be transmitted to the hearing officer prior to the hearing on the applicant's qualifications. SFMTA shall provide results of the investigation to the applicant. The applicant must furnish any additional material requested by the SFMTA within 60 days of the date of the SFMTA's notice to the applicant of the results of the investigation. [1079(j)]

##### (3) Permit Hearing Procedures; Appeal

(A) Any hearing related to the grant, denial, revocation, suspension or modification of permit conditions of a permit issued pursuant to this Article shall be conducted by hearing officer(s) designated by the SFMTA. During the hearing the hearing officer(s) shall have the discretion allow the introduction of testimony of additional witnesses or other relevant evidence. The burden of proof shall be on the applicant to establish that the applicant meets all permit requirements.

(B) Hearings related to the grant, denial, revocation, suspension or modification of permit conditions of individual permits issued pursuant to this Article may be

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 consolidated in the discretion of the hearing officer(s), but the each permitting decision shall be based  
2 upon the individual qualifications of the applicant. [1079(e)]

3 (C) The hearing officer(s) shall make a written report of findings setting forth  
4 evidence in support of each finding. Any finding made at or as a result of a hearing conducted  
5 pursuant to this Section 3(a) may be appealed to the Board of Appeals. The appeal to the Board of  
6 Appeals of any decision to revoke a permit for the operation of a Motor Vehicle for Hire shall  
7 automatically suspend the permit that is the subject of the appeal for the duration of the appeal, or 90  
8 days, whichever is less. [1079(g)]

9 (D) Any person who wishes to protest the grant, denial, revocation,  
10 suspension or modification of a permit issued pursuant to this Article may submit a written protest  
11 stating the grounds for the protest and any facts and/or legal authority supporting the protest by the  
12 3rd business day before the hearing date. The burden of proof of any facts alleged in the protest shall  
13 be on the protestant. [1079(d)]

### 14 (b) Notices

15 (1) Posting Notice [1080(a)]  
16 All public notices required to be given by the SFMTA pursuant to this Section 3(b) shall be posted on  
17 the SFMTA's official website and in the main branch of the Public Library for no less than 3 business  
18 days.

19 (2) Notice of Permit Hearing [1148.1]  
20 When a permit becomes available for issuance the SFMTA shall notify the next applicant on the  
21 Waiting List and shall post a notice of a hearing at least 14 and no more than 45 days before the date  
22 scheduled for the hearing. The notice shall specify the time, date and location of the hearing, the name  
23 of the Permittee or applicant, the permit number if applicable, the action to be considered at the  
24 hearing (e.g., permit grant, denial, renewal, revocation, suspension or modification), and such other  
25 information as may be necessary to identify the nature and purpose of the hearing.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### (3) Notice of SFMTA Actions

SFMTA shall post a notice of any determination related to an individual permit or class of permits within 5 business days after the hearing in which such determination was made.

### **4. PERMIT APPLICATIONS AND ELIGIBILITY**

#### **(a) Limitations on Certain Permits [1082]**

Except for permits issued prior to June 6, 1978, and permits issued to a business:

(1) No permit to operate a Motor Vehicle for Hire shall be issued except to a natural person and in no case to any business, firm, partnership, association or corporation.

(2) No permit to operate a Motor Vehicle for Hire shall be issued to, or in the name of, more than one person.

(3) No more than one Taxi or Ramped Taxi permit shall be issued to any one person.

#### **(b) Application Forms**

Application for any permit issued pursuant to this Article shall be made to the SFMTA on a form provided by the SFMTA. The applicant shall provide such information and documents as the SFMTA reasonably requires, which may include a physical examination and/or background check of the applicant. The SFMTA shall record the date and time that a complete application, including the Filing Fee, is received, which shall be the date and time assigned to the application for the purpose of any Waiting List for which the application is qualified.

#### **(c) Applications Deemed Active**

Every application for a permit shall be deemed to remain active and shall be considered until the earliest of the following events:

(1) The applicant withdraws the application in writing; [1081(c)(1)]

(2) The applicant is determined to be ineligible for the permit by the SFMTA; [1081(c)(2)]

(3) The applicant currently holds a permit and has been determined to have violated the conditions of that permit;

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(4) The applicant receives a permit; [1081(c)(3)]

(5) The SFMTA determines that the applicant has engaged in fraud, deceit, misrepresentation or other misconduct in connection with the permit application process; or

(6) The SFMTA attempts to contact the applicant at the mailing address listed on the application on at least three separate occasions and the applicant fails to respond within 30 days of the third notice. [1081(d)]

**(d) Determination of Eligibility [1081]**

Every applicant for a permit shall have a hearing to review and determine the individual applicant's eligibility before a permit is issued. Each application shall be investigated by the SFMTA to determine the applicant's eligibility pursuant to the factors listed herein. [1079(i)] The SFMTA, in determining whether an individual applicant should be granted a permit, may consider such facts as it deems pertinent, but will give primary consideration to the following factors:

(1) Whether the applicant is financially responsible and will comply with all insurance requirements and maintain proper financial records.

(2) Whether the applicant has complied with all applicable statutes, ordinances and this Article. If an applicant has violated any statute, ordinance or regulation which would be a basis for revocation of the permit during the 12 months prior to application, the SFMTA may, in its discretion, refuse to issue the permit.

(3) Whether the applicant holds or has ever held any other permits issued for the commercial operation of a motor vehicle for the transport of passengers, either in the City or elsewhere, and the record of such applicant with regard to any such other or former permits.

(4) Whether the applicant has been convicted of a sex crime, or a crime involving the use of a vehicle in the commission of a felony, the use of any illegal substance, driving under the influence, fraud, or violence against a person.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(5) If the permit is issued for use with a particular vehicle(s), whether the applicant is the owner of the vehicle(s) for which a permit is sought, and whether each such vehicle complies with all applicable statutes, ordinances and regulations.

(6) Whether the applicant has failed to satisfy any liens, judgments, or other debts owing to the City which may be recorded against the applicant or the applicant's property.

(7) A permit may not be issued to an employee of the SFMTA or a full-time employee of the City and County of San Francisco.

**(e) Burden of Proof on Applicant [1121(e)]**

A permit applicant shall have the burden of proving that the applicant meets all requirements for a permit.

**(f) Additional Requirements for Driver Permit Applications: Forms and Qualifications, Compliance with Controlled Substance Testing Program [1089]**

**(1) Application Requirements [1147.1]**

In addition to complying with all other requirements of this Section 4, each applicant shall:

(A) Provide fingerprints for SFMTA records; and

(B) Take and pass a written examination; [1089(c)] and

(C) Take and pass a physical examination if required by the SFMTA; and

(D) Certify that the applicant has successfully completed an SFMTA-approved Driver training course of at least 16 hours, including the following subjects: instruction on crime prevention, vehicular safety, the geography of the City, applicable state and local laws and regulations, pedestrian and bicycle safety, and any other subject that the SFMTA may determine is relevant to the public health and safety with respect to the operation of Motor Vehicles for Hire.

(E) Enclose two recent photographs of the applicant of passport photo size, taken no more than 12 months prior to time of application. [1089(e)]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(F) Enclose a statement of affiliation signed by the applicant, the Color Scheme and the Dispatch Service associated with the Color Scheme. The applicant's choice of Color Scheme shall be subject to the approval of the SFMTA in its discretion, but the SFMTA shall consider the impact of a Color Scheme affiliation requested by an applicant upon the quantity and quality of taxi service or paratransit service available to the public before allowing any such affiliation.

(2) Driver Qualifications [1121(a)]

Each applicant for a Driver's permit must:

- (A) Be a resident of the United States;
- (B) Be clean in dress and person;
- (C) Be free of any disease, condition, infirmity, or addiction, which might render the applicant unfit for the safe operation of a motor vehicle;
- (D) Hold a valid California driver's license of a class sufficient for the lawful operation of the motor vehicle to be driven;
- (E) Have the physical capacity to operate a motor vehicle for at least four hours per day;
- (F) Have good moral character, as may be determined through investigation, including but not limited to a background check by the SFMTA;
- (G) Have attained the age of 21;
- (H) Read and write the English language;
- (I) Comply with the Controlled Substance Testing Program by testing negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations in accordance with the requirements of Government Code § 53075.5(b)(3).

(g) Additional Requirements For Taxi and Ramped Taxi Application; Waiting List; Eligibility; and Other Information Required [1080, 1125a]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### (1) Application Requirements

Each applicant for a Taxi or Ramped Taxi permit shall, at the time of issuance of a permit, be subject to the eligibility requirements listed in Section 4(f) and shall hold a valid Driver's permit.

### (2) Waiting List [1121(a)]

In the absence of any other preference specified in this Article, applicants for permits shall be processed and considered by the SFMTA in the order of receipt. The SFMTA shall maintain a Waiting List of Taxi and Ramped Taxi applicants.

(A) Every applicant for a Taxi or Ramped Taxi permit must maintain a valid Driver permit in order to maintain his or her position on the Waiting List.

(B) The SFMTA shall maintain separate Waiting Lists for all Taxi permit and Ramped Taxi permit applications for which a permit is not currently available, with each list arranged in chronological order by the date that each completed permit application, including Filing Fees, is received from a qualified applicant.

(C) When a permit becomes available, the SFMTA shall notify the next applicant on the Waiting List.

(D) The SFMTA may periodically require applicants to execute written statements and reaffirm that their applications are active. The SFMTA may review the qualifications of each applicant and remove any applicant from the Waiting List who is determined by the SFMTA to be ineligible for a permit. The SFMTA shall notify the applicant of their removal from the Waiting List.

### (3) Eligibility [1122]

Before issuing a Taxi or Ramped Taxi Permit, in addition to all other eligibility requirements, the SFMTA must determine that:

(A) [1121(b)(vi)] The applicant has been a Full-Time Driver during the calendar year immediately preceding the hearing, and during three of the four calendar years immediately preceding that calendar year; or a Full-Time Driver during the calendar year in which the

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

application is heard, and during three of the four calendar years immediately preceding that calendar year. No waiver of the requirements of this subsection will be granted to any applicant for any reason.

(B) For applications with hearings occurring during Calendar Year 2009, an applicant must have been a Full-Time Driver during any four of the following calendar years: 2005, 2006, 2007, 2008, or 2009, with 2009 pro-rated from the date of hearing. No waiver of the requirements of this subsection will be granted to any applicant for any reason.

(C) The driving requirement may only be satisfied by driving a Taxi or Ramped Taxi for which a permit has been issued by the SFMTA.

### **(h) Additional Requirements Specific To Ramped Taxi Permit Applications [1148.1]**

#### **(1) Limitation on Acceptance of Other Permits [1148.1(b)]**

No person to whom a Ramped Taxi permit is issued may accept any other Motor Vehicle for Hire permit for a minimum of 5 years after receipt of a Ramped Taxi permit or, in the alternative, for a minimum of 3 years after receipt of the Ramped Taxi permit and at least 6 months following the Permittee's written notice of intent to leave the Ramped Taxi program as required by Section 4(h)(2). If the Permittee becomes eligible for a permit from another Motor Vehicle for Hire Waiting List at a time when the Permittee is precluded from accepting the permit, and so long as the Permittee otherwise remains qualified as an applicant, the Permittee's application shall be kept active until such time that a permit becomes available when the Permittee is no longer precluded from accepting such permit.

#### **(2) Notice of Intent to Leave the Ramped Taxi Program [1148.1(c)]**

Upon completion of a minimum of 30 months as a Ramped Taxi Permittee, the Permittee may elect to leave the Ramped Taxi program by filing written notice of the Permittee's intent to leave the program with the SFMTA ("Notice of Intent"). The date that the SFMTA receives the Notice of Intent shall be deemed the date of the Notice.

#### **(3) Notice Effective Date; Qualification for New Permit**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 The Permittee's decision to leave the Ramped Taxi program shall become effective six months after the  
2 Notice of Intent is filed. Except as provided by paragraphs (A) and (B) below, upon completion of the  
3 six month notice period, the subject permit shall expire by operation of law, and the Permittee shall no  
4 longer be precluded from accepting another Motor Vehicle for Hire permit.

5 (A) If, at the completion of the six month period, the Permittee is not yet eligible  
6 for a Taxi permit, or if no such permit is available, the Permittee may elect to remain in the Ramped  
7 Taxi program for any period of time until a Taxi permit becomes available.

8 (B) The Permittee's decision to leave the Ramped Taxi program shall become  
9 inoperative if, within the first three months of the six month notice period, the Permittee files a statement  
10 of his or her decision to rescind the Notice of Intent. The Permittee shall be required to file a  
11 subsequent Notice of Intent if he or she later decides to leave the program. The same requirements  
12 governing the Permittee's initial Notice of Intent, including the full six month notice period, shall apply  
13 to any subsequently filed Notice of Intent to leave the Ramped Taxi program.

14 (4) Preference for Full-Time Drivers of Ramped Taxis [1148.1(f)]  
15 Among the applicants on the Ramped Taxi Waiting List, the SFMTA shall give preference to any  
16 applicant who has been a Full-Time Driver of a Ramped Taxi during the six months immediately  
17 preceding the hearing on that application, and shall grant permits to all otherwise qualified Full-Time  
18 Drivers of Ramped Taxis on the list before granting permits to others on the Ramped Taxi Waiting List.  
19 The applicant has the burden of demonstrating his or her eligibility for this preference.

20 (5) Eligibility For Ramped Taxi Permit [1148.2]  
21 The SFMTA shall not issue a Ramped Taxi permit to an applicant unless:

22 (A) The applicant has completed at least 100 wheelchair pickups in the City as a  
23 Ramped Taxi Driver during the six months immediately preceding the permit hearing. [1148.1(g)]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(B) The applicant has completed a course of instruction approved by the SFMTA for the safe, effective and efficient operation of Ramped Taxis and has been certified by the SFMTA to have satisfactorily demonstrated the aptitude and attitude necessary for a Ramped Taxi permit Holder;

(C) The applicant is affiliated with a Color Scheme in compliance with, and agrees to operate said permit at all times subject to, the regulations of the SFMTA's Paratransit Program.

(i) **Additional Requirements Applicable to Non-Standard Vehicle Permit Applications**

[1122]

(1) An applicant may request a Non-Standard Vehicle class of permit for any vehicle(s) that is not otherwise included within another class of Motor Vehicle for Hire permits.

(2) If a Non-Standard Vehicle permit applicant proposes to operate along fixed routes within the City, such fixed routes shall be specified in the permit application. Fixed routes proposed for a permit must be approved by the SFMTA and shall be included in the Non-Standard Vehicle permit as a permit condition. Consideration of such routes by the SFMTA shall include evaluation of their impact on public transit. [1151]

(j) **Additional Requirements Specific To Dispatch Service Permit Applications**

(1) **Submission of Emergency Plans**

Applicants for Dispatch Service permits or permit renewal shall submit a "Standard Emergency Plan for Drivers and Dispatchers" to follow in an emergency. Such plan is subject to SFMTA approval. SFMTA may require revisions to such Emergency Plan in order to coordinate with the emergency plans of the City, other Permittees and the Paratransit Program. Such plan shall include emergency communication protocols between Dispatch Services and their Color Scheme affiliates and the emergency evacuation of the public from the City, including but not limited to paratransit customers.

Lost and Found Protocol Compliance

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

No application for a Dispatch Application shall be approved if a Dispatch applicant cannot demonstrate knowledge of and ability to adhere to SFMTA's protocol for the handling of Found Property.

### **5. PERMIT CONDITIONS**

#### **(a) Conditions Applicable to All Permits**

**(1) Permits Required [1120 (Medallions), 1078(a) (Motor Vehicle, Color Scheme, Dispatch Service), 1089(a) (Driver's permit)]**

No person, business, firm, partnership, association or corporation shall drive, or operate or cause to be operated any Motor Vehicle For Hire within the City, nor shall any person, business, firm, partnership, association or corporation operate any Dispatch Service or Color Scheme, without a permit issued by the SFMTA authorizing such driving or operation in accordance with this Article.

#### **(2) Business Permits; Named Individual**

Any permit issued to a business pursuant to this Article shall be registered in the name of and with contact information for at least one natural person who complies with all permit requirements except those that by their nature can have no application to a natural person.

#### **(3) Permits a Privilege [1084(a)]**

Permits granted pursuant to this Article constitute a privilege and are not the property of the Permittee.

#### **(4) Permits Not Transferable [1084(a)]**

Except as expressly provided in this Article or in permit conditions, no permit issued pursuant this Article shall be transferable or assignable, either expressly or by operation of law.

#### **(5) Duration of Permits [1086]**

**(A) Unless earlier revoked or suspended, Taxi permits shall expire on the first day of July next following their issuance or renewal, and all other permits shall expire the first day of January next following their issuance or renewal.**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(B) As a condition of renewal, a Permittee shall swear under penalty of perjury that he or she meets the eligibility requirements required for new applicants, and the SFMTA may investigate any Permittee at any time to ensure the veracity of such statements. [1089(h)]

(6) Compliance with Laws and Regulations [Reg. §§ 4.A.1, 4.A.3]  
Every Permit Holder shall comply with, and shall ensure that their affiliated vehicles, employees, Permit Holders, lessees, Dispatch Service and Color Scheme shall comply with the provisions of this Article, the San Francisco Charter and Municipal Code, the Vehicle Code, California Worker's Compensation laws, the Americans with Disabilities Act, and all regulations adopted by the San Francisco International Airport, San Francisco Department of Weights and Measures, and any other governmental jurisdictions through which the Permit Holders traverse.

(7) Cooperation with Regulatory Agencies [Reg. §§ 6.A.2-6.A-3; 6.A.5-6.A.6]  
Every Permittee shall cooperate with and obey any lawful request or order of a Parking Control Officer, peace officer or the Director at all times, including, but not limited to, providing upon request the Permittee's name, the permit number, official identification, and any documents required by this Article to be in the Permittee's possession. All Permittees shall respond to routine SFMTA or Police Department inquiries within 24 hours, and shall respond to any SFMTA or Police Department emergency request within 2 hours.

(8) Cooperation with Regulatory Agencies; False Statements [1110/Reg. §§ 4.A.2, 6.A.4]

Every Permit Holder shall at all times, fully cooperate with a Parking Control Officer, peace officer or the Director on all matters relating to regulatory compliance at all times, including but not limited to inspection of records. Permittees shall not hinder, delay or knowingly make false or misleading statements to the SFMTA or withhold information on any matter relating to regulatory compliance.

(9) Notification of Criminal Convictions

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

A Permittee having actual or constructive knowledge that a Permittee has been arrested for or convicted of a crime that would be grounds for the denial of a permit must notify the SFMTA within 24 hours of obtaining such knowledge. Failure to make such notification shall be grounds for revocation of a permit. For arrests and convictions occurring prior to March 1, 2009, Permittees must make such notification by April 1, 2009.

**(10)      Suspension of Operations [1096]**

The SFMTA may, on written application and following an investigation, grant to any Permittee permission to suspend application of the continuous operation or Full-Time Driving requirement for a period not to exceed 60 calendar days in any 12-month period in case of sickness, death, or other similar hardship.

**(11)      Gifts and Gratuities [Reg. §§ 5A.7, 6.D.8]**

No Permittee or an agent of a Permittee may accept or demand gifts and/or gratuities or anything of value from any person for a preferred vehicle, shift assignment, dispatch call, fare or any enhancement of employment to be provided to a Permittee or an agent of a Permittee.

**(12)      Settlement of Fare Disputes [Reg. § 6.A.2]**

Permittees may refer fare disputes to any peace officer, who shall have the authority to settle such disputes. Resolution of a fare dispute by a peace officer may include, but is not limited to, persuading the passenger to pay the fare, adjusting the disputed fare amount, issuing a citation or making an arrest.

**(13)      Lease of Taxi Permits [1124]**

**(A)      Provided that a Taxi permit is operated in compliance with all other applicable statutes, laws and Regulations, a Taxi Permit Holder may authorize a Color Scheme or Driver to operate or drive the Taxi permit pursuant to a Lease.**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (B) A Lease is only valid if it is in writing, on file with the SFMTA, and is  
2 limited to the following parties: a Taxi Permit Holder, a Color Scheme and/or a Driver who will  
3 actually drive the vehicle associated with that Taxi permit.

4                   (C) No person may lease a Taxi Permit, either on a per shift basis or for any  
5 term of time, to or from anyone other than the Permit Holder or the Color Scheme with which the Taxi  
6 permit is affiliated.

7                   (D) A Lease is not assignable or transferable. Any attempt to assign or  
8 transfer a Lease is invalid, and shall render the Lease void by operation of law as of the date of the  
9 attempted assignment or transfer. [Reg. §§ 4.C.1, 6.A.11]

10                  (E) A true and correct copy of any Lease shall be filed with the SFMTA within  
11 45 calendar days of execution, and the original shall be retained at the Color Scheme's place of  
12 business during the term of the Lease. All Leases must be available twenty-four hours a day for  
13 inspection by the SFMTA and/or the Chief of Police.

14                  (F) Nothing in this Section shall be deemed to modify, limit or excuse the  
15 obligations of any Permittee under this Article or to suspend any permit conditions.

16                  (G) This Section 5(a)(13) shall be strictly enforced, and violation shall be  
17 grounds for revocation of any Permittee who executes a Lease for the use of a Taxi permit in violation  
18 of this Section. Any person who executes any oral or written Lease for the use of a Taxi permit in  
19 violation of this Section shall be considered to be operating without a permit in violation of Section  
20 5(a)(1).

21                  (H) The SFMTA may require Permit Holders to provide information supplied  
22 by the SFMTA related to crime prevention and public health and safety to any person who executes a  
23 Lease for the use of their Taxi Permit.

24                  (I) All persons who enter into an agreement with a Permittee for the use of a  
25 Ramped Taxi permit shall at all times satisfy the eligibility criteria for Ramped Taxi Permittees set

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 forth in this Article. All Drivers of Ramped Taxis, in addition to meeting all requirements for holding a  
2 Driver's permit pursuant to this Article, shall also complete all training required for a Ramped Taxi  
3 permit. [1148.4] Any Lease that does not comply with this Section shall be null and void, and any  
4 person who is party to such Lease shall be considered to be operating without a permit in violation of  
5 Section 5(a)(1).

6 (14) Participation in Paratransit Program [1147.8]

7 Each Color Scheme, Dispatch Service, Taxi Permit Holder and Driver must participate in and shall at  
8 all times operate subject to and in compliance with the regulations of the SFMTA's Paratransit  
9 Program.

10 (15) Shift Change at Color Scheme Required for All Vehicles; Unattended Vehicles

11 All Permittees shall ensure that taxicab vehicles which they operate begin and end all shifts at the  
12 Color Scheme's place of business, except with the prior written approval of the SFMTA. When a  
13 vehicle is not being operated for hire, Permittee shall either leave the vehicle at the Color Scheme's  
14 place of business or make a written request for SFMTA approval of an alternative location that is off  
15 the public street and sidewalk. [Reg. § 4.A.9, 5.B.6, Reg. § 6.C.4] No Taxi vehicle may be left  
16 unattended on a public street for more than 4 hours. [Reg. § 5.B.9]

17 (16) Current Address Required; Emergency Contact Notification

18 All Permittees shall keep contact information current with the SFMTA. All Taxi and Ramped Taxi  
19 Permittees and Drivers shall keep contact information current with their Color Schemes. Every  
20 Permittee that is a natural person shall give written notice to the SFMTA within ten days of any change  
21 of residence address. Color Scheme and Dispatch Service changes of address are subject to the prior  
22 written approval of the SFMTA. No Permittee may use a post office box as a current address.

23 (17) Except for emergencies, every Taxi or Ramped Taxi Permittee who first

24 obtained a permit after June 6, 1978 must submit a written notification to the SFMTA if his or her  
25 permit will not be operated for a period of 30 consecutive days or more. Notifications must be received

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*within two business days prior to the start of the period of non-operation and shall include both the reason for the non-operation and the date of return to operation. In the case of emergencies, notice may be provided no later than 2 days following suspension of operations. [Reg. § 4.A.11]*

### **(18) Service of Process**

*All Permittees agree to accept service of process, official notices, and correspondence (“service of process”) from the SFMTA as a condition of retaining a permit(s). Color Schemes must accept service of process from the SFMTA on behalf of any Permittee affiliated with that Color Scheme. The failure or refusal of a Color Scheme to accept service of process shall not invalidate service of process provided to the Permittee's last known address of record. [Reg. 4.A.13]*

### **(b) Additional Conditions Specific to Driver Permits**

#### **(1) Driver Identification**

*Upon issuance of a Driver's permit, the SFMTA will issue to each Driver the following identification:*

#### **(A) Driver Permit Card [1089(g)]**

*Every Driver shall carry his or her SFMTA-issued Driver Permit Card at all times while operating a Motor Vehicle for Hire, and shall provide the Card for inspection upon request by any peace officer or passenger.*

#### **(B) Badge with Permit Number**

*Every Driver shall display a SFMTA-issued badge constantly and conspicuously on the outside of the Driver's clothing and jacket at all times while operating or in possession of a Motor Vehicle for Hire. The badge shall only be worn by the Permittee to whom the badge is issued.*

#### **(C) Color Scheme Identification Card**

*A Driver's Color Scheme Identification Card must be displayed conspicuously at all times in a Taxi or Ramped Taxi Vehicle he or she is operating in a manner that is easily readable by any passenger in the vehicle. [Reg. § 6.B.5]*

#### **(2) Renewal of Driver's Permits [1089(h)]**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(A) In accordance with California Government Code § 53075.5, no Driver's permit shall be renewed unless he or she is certified by an independent testing facility to be in compliance with Section 4.(f)(2)(I).

(B) Drivers have an affirmative duty to report any criminal convictions which would be a basis for revocation under Section XX. No Driver's permit shall be renewed if he or she has obtained such convictions.

### (3) Controlled Substances [1101]

(A) No Driver shall consume or be under the influence of any intoxicating substance while acting in the capacity of a Driver.

(B) No Driver shall act in the capacity of a Driver while their abilities are impaired by any controlled substance, including prescription drugs. [Reg. § 6.G]

(C) Drivers shall maintain a drug-free workplace and shall not sell, use, or possess controlled substances while in the capacity of a Driver or at a Color Scheme's place of business.

### (4) Notification to SFMTA of Change of Affiliation with Color Scheme

(A) All drivers must notify the SFMTA at least 2 business days prior to the effective date of any change of affiliation with a Color Scheme.

(B) In accordance with California Government Code § 53075.5(b)(1)(B), a Driver's permit shall become void upon termination of affiliation with a Color Scheme and failure to affiliate with a new Color Scheme.

(C) A driver shall return his Driver Permit Card to the SFMTA and his Color Scheme Identification Card to the Color Scheme upon termination of employment.

### (5) Driver Duties at Beginning of Shift

(A) A Driver is required to perform a safety check on any Motor Vehicle for Hire prior to placing it in operation. The driver is responsible for ensuring that all equipment on the

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

vehicle that is required by this Article is working properly, including but not limited to a Ramped Taxi lift. If any equipment is found to present a hazard or safety issue, then vehicle shall be put out of service until it is repaired. [Reg. §§ 6.C.1, 6.C.5, 9.B.8]

(B) A Driver is required to perform a "radio check" at the commencement of each shift to determine if the radio is capable of both receiving and transmitting voice information. If the radio is not in working order, that vehicle shall be taken out of service until such time as the radio is functioning properly.

(C) Drivers shall ensure that their vehicle is supplied with the following:

(i) An SFMTA-issued 311 Card prominently displayed in the taxicab vehicle and visible to all passengers [Reg. § 6.B.2]

(ii) A current copy of this Article [Reg. § 6.B.3]

(iii) A supply of receipts, preprinted with the name of the Color Scheme for that vehicle [Reg. § 6.B.4]

(iv) Current maps of San Francisco and San Mateo counties.

(D) A Driver shall ensure that the vehicle is clean inside and out and free of offensive odors, shall wash the exterior of the vehicle and/or sweep the interior passenger compartment and trunk as needed, and shall remove any loose items from the vehicle's dashboard and/or rear shelf. [Reg. §§ 6.C.2-6.C.3, 6.C.12]

### (6) Driver Duties During Shift

(A) A Driver shall not refuse, or direct or permit the refusal, of prospective passengers in any place within the City for transportation to any other place in the City, or to the San Francisco International Airport, or to the Oakland International Airport, at rates authorized by law, if the prospective passengers present themselves for transportation in a clean, sober, and orderly manner and for a lawful purpose and the driver has sufficient time before the end of his or her shift. [Reg. § 6.E.1]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 (B) A Driver shall not operate a Taxi or Ramped Taxi in a reckless or  
2 dangerous manner. [1101]

3 (C) A Driver shall not refuse to transport a passenger's luggage, wheelchair,  
4 crutches or other property that can be transported within the confines of the vehicle's trunk and/or  
5 passenger areas. [Reg. § 6.E.4]

6 (D) A Driver shall not refuse to transport any service animal, well behaved  
7 and/or a contained animal. [Reg. § 6.E.5]

8 (E) A Driver shall, if requested, reasonably assist a passenger as necessary  
9 to get into and out of the vehicle, or to load or unload luggage, only to the extent that such assistance is  
10 within the physical capacity of the Driver. The Driver shall record the request for assistance and  
11 results on the Waybill. If the Driver feels that their personal safety is at risk or is unable to assist the  
12 passenger, the Driver shall request appropriate assistance capable of handling the request from the  
13 Dispatch Service. The Driver shall remain with the passenger until the dispatched assistance has  
14 arrived. Drivers shall inform passenger(s) of their intention to activate the meter when said  
15 passenger(s) has such a large amount of baggage, luggage, packages and/or equipment to be loaded or  
16 unloaded that the Driver's departure is delayed, or when it is necessary to wait for dispatched  
17 assistance to arrive. [Reg. §§ 6.E.1, 6.E.6, 6.E.8]

18 (F) A passenger who first engages a Motor Vehicle for Hire has the exclusive  
19 right to conveyance therein to his or her destination. The Driver shall not solicit or accept any  
20 additional passenger without the prior consent of any passenger who has previously engaged the  
21 vehicle. [1135(c)]

22 (G) A Driver may transport 2 or more passengers who voluntarily agree to  
23 share the vehicle from the same boarding point to one destination point. Each passenger shall be  
24 responsible for paying an amount equal to the total fare divided by the number of passengers sharing  
25 the ride. [1135]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (H) Drivers shall comply with any passenger request to turn down, turn off or  
2 change the channel of any audible device that is not required for safe operation of the vehicle or  
3 communication with a Color Scheme, Dispatch Service, law enforcement agency, health care provider,  
4 or other emergency service agency. [Reg. § 6.D.6]

5                   (I) Except for emergencies, including but not limited to an emergency call to a  
6 Dispatch Service, a law enforcement agency, health care provider, or other emergency service agency,  
7 Drivers shall immediately comply with any passenger request to terminate mobile telephone  
8 conversations. [Reg. § 6.D.9]

9                   (J) Drivers may only use personal telephones in the vehicle in accordance  
10 with all applicable laws, including but not limited to the use of hands free telephone equipment while  
11 operating the vehicle. Personal conversations must be limited in number and short in duration, and at  
12 no time shall a Driver allow a personal telephone call or texting to interfere with the Driver's full  
13 attention to the operation of the vehicle.

14                   (K) Drivers shall only receive a tip/gratuity when expressly and voluntarily  
15 offered by the person paying the fare. Drivers may not demand, request, imply, assume or otherwise  
16 suggest that the Driver should receive any amount in excess of the authorized fare. [Reg. § 6.D.7]

17                   (L) Every Taxi or Ramped Taxi Driver must accept radio dispatch  
18 assignments, including an average minimum of 1 radio call an hour during each shift when available  
19 from their Dispatch Service. Taxi or Ramped Taxi Drivers must advise their Dispatch Service if they  
20 are unable to handle an accepted call within 10 minutes of the time when they acknowledged the call.  
21 [Reg. § 6.C.10]

22                   (M) If available from their Dispatch Service, every Ramped Taxi Driver shall  
23 handle an average of 3 wheelchair service calls per shift. [Reg. § 9.B.7]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (N) During a shift a Taxi or Ramped Taxi Driver shall only monitor or listen  
2 to the Dispatch Service associated with the Color Scheme with which the vehicle is affiliated. [Reg. §  
3 6.C.11]

4                   (O) Any radio required by this Article must be kept on at a volume audible to  
5 the operator at all times during the shift. [Reg. § 6.C.6]

6                   (P) Drivers shall, at the beginning of a trip, inform any passenger(s) whose  
7 announced destination is more than 15 miles from City limits, or if the passenger is picked up at the  
8 San Francisco International Airport, whose announced destination is more than 15 miles from the San  
9 Francisco International Airport and is not within the City limits, that the fare to be charged will be  
10 150% of the amount registered on the Taximeter. [Reg. §§ 6.E.9-6.E.10]

11                   (Q) Drivers shall carry sufficient cash to be able to provide change for  
12 twenty dollars. [Reg. § 6.E.7]

13                   (R) Drivers shall, at the beginning of a trip, inform passenger(s) whose  
14 announced destination requires the crossing of a toll bridge, the amount of the toll charged and that  
15 the toll charge is to be paid by the passenger(s) regardless of the direction in which the toll is  
16 collected. [Reg. § 6.E.11]

17                   (S) Drivers shall give a fare receipt upon request of the person paying the  
18 fare. Drivers shall complete fare receipts legibly with the Driver's badge number, the Vehicle Number,  
19 the Taxi permit number, if different from the Vehicle Number, and the amount of fare. [Reg. § 6.B.4]

20                   (T) Drivers shall make a visual check of the interior of the vehicle at the  
21 conclusion of each trip to determine if any property has been left behind. If any of the passenger's  
22 property was loaded in the trunk, the Driver shall check the trunk area at the end of the trip to ensure  
23 that no property was left behind. [Reg. § 6.C.13]

24                   (U) Upon discovery, Drivers shall make every reasonable attempt to return  
25 Found Property in their vehicle to the rightful owner during the shift. Drivers shall record a

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

description of the Found Property on the Waybill, whom they have contacted about the Found Property, and whether it was returned to the owner during the shift in which it was discovered, and if not, where and with whom it was left. Drivers shall be personally liable for any loss of properties suffered by their passenger(s) caused by intentional misconduct or gross negligence of the Driver.

### [Reg. § 6.F]

(V) If during the course of the work shift, any equipment becomes a safety or hazard issue, then the vehicle is to be place out of service immediately. [Reg. § 6.C.1]

(W) The Driver shall not place or allow to be placed any loose items on the dashboard or rear shelf of the vehicle. [Reg. § 6.C.12]

(X) The Driver shall keep the vehicle trunk and/or baggage area clean, free of items or materials that could damage or stain passengers' baggage, and free of any container containing flammable liquids. [Reg. § 6.C.14]

(Y) No Driver shall leave a vehicle unattended on a public street for more than four hours. [Reg. § 6.C.9]

(Z) No Driver shall threaten, harass, or abuse another person, nor may a Driver speak in an obscene, threatening or abusive manner to another person while engaged in any activity related to a permit issued under this Article. [Reg. §§ 6.D.1-6.D.2]

(AA) Drivers shall not attempt to use or attempt to use any physical force against any person except proportional, reasonable force necessary for self-defense or defense of another. [Reg. § 6.D.3]

(BB) Drivers shall be clean in dress and person. [Reg. § 6.D.4]

(CC) No Driver may smoke, drink, or eat while a passenger is in the vehicle. [Reg. § 6.D.5]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(DD) Any Driver who is pulled over by the Police while the Taximeter is in operation must turn off the Taximeter from the time the Taxi is pulled over until the time that the Police Officer authorizes the vehicle to depart.

(7) Duties at End of Shift

(A) Drivers shall turn in all completed Waybills to the Color Scheme at the conclusion of each shift. [1107, Reg. §§ 4.A.9; 6.C.8]

(B) The Driver shall remove any litter, personal items, and any other loose items that do not belong with the vehicle. [Reg. § 6.C.12]

(C) Drivers shall turn any unreturned or unclaimed Found Property in the Driver's possession at the end of a shift to the Color Scheme's place of business, and shall obtain a receipt for the item regardless of value. [Reg. § 6.F.1-6.F.3]

(c) Additional Conditions Applicable To Taxi, Ramped Taxi, and Color Scheme Permits

(1) Affiliation With Color Scheme Required; Color Scheme Change [1125(a)]

(A) A Taxi or Ramped Taxi Permittee shall be deemed affiliated with a particular Color Scheme when a permit is issued to that Taxi or Ramped Taxi Permittee. The permit shall entitle the Taxi or Ramped Taxi Permittee to the right to the use of that Color Scheme's trade dress and place of business. Color Schemes shall not unreasonably withhold the use of the trade dress and place of business once affiliation has been approved.

(B) Affiliation with a Color Scheme does not relieve the Permit Holder of his or her responsibility to comply with this Article.

(C) A Taxi or Ramped Taxi Permittee may apply to the SFMTA for a change in affiliation . The applicant's choice of Color Scheme shall be subject to the approval of the SFMTA in its discretion, but the SFMTA shall consider the impact of a request for Color Scheme affiliation upon the quantity and quality of taxi service or paratransit service available to the public before allowing any such affiliation.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (2) Use of Dispatch Service [1123(b)]

2   All Taxi and Ramped Taxi Permittees affiliated with a Color Scheme must utilize the same Dispatch  
3   Service.

4                   (3) Full-Time Driving Requirement [1096, 1121(b)]

5                           (A) Exception for Certain Permits

6   Notwithstanding any contrary provision in this Article, the requirements set forth in this subsection  
7   5(c)(3) shall not apply to any person holding a permit issued on or before June 6, 1978.

8                           (B) Declaration Required

9   No permit to operate a Taxi or Ramped Taxi may be issued unless the Permittee declares under  
10   penalty of perjury his or her intention to actively and personally to engage as a Full-Time Driver. A  
11   Color Scheme has an affirmative duty to report actual or constructive knowledge that any Taxi or  
12   Ramped Taxi Permittee, whether or not affiliated with that Color Scheme, is failing to comply with this  
13   Section 5(c)(3).

14                   (C) Requirements for Color Scheme Key Personnel [1081.5]

15                           (i)    Alternative Driving Requirement for Color Scheme Key Personnel

16   Permittees who are designated as Key Personnel by a Color Scheme may satisfy the Full-Time Driving  
17   requirement by driving 120 hours per year and performing 1,500 hours of work per year as Key  
18   Personnel for the Color Scheme. Key Personnel activities include office duties, dispatching, cashiering,  
19   or managing a Color Scheme.

20                           (ii)   Partial Completion of Requirements

21   If a Taxi Permit Holder performs at least 750 hours of work as designated Key Personnel for the a  
22   Color Scheme during the year but less than 1,500 hours, the Permit Holder shall be entitled to partial  
23   credit against the Full-Time Driving requirement on a pro rata basis. The credit shall correspond to  
24   the percentage of 1,500 hours that the designated Permit Holder worked for the company in such  
25   capacity. If a Permit Holder does not perform at least 750 hours of work as designated personnel for

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*the Color Scheme during the year, the Permit Holder shall not be entitled to any credit against the Full-Time Driving requirement.*

### **(D) Qualifying Vehicle**

*All Taxi and Ramped Taxi Permittees must drive the specific vehicle associated with the permit for the purpose of compliance with Section 5(c)(3) unless that vehicle is unavailable. If a Taxi or Ramped Taxi Permittee requests from the Color Scheme the specific vehicle associated with that person's permit for a particular shift with at least four hours' notice, the Color Scheme shall make that vehicle available. [Reg. § 4.A.10]*

### **(E) Taxi and Ramped Taxi Permittees Responsible for Documenting Compliance**

*A Permittee has the responsibility to maintain his or her own business records, including Waybills for the purpose of documenting compliance with this Section 5(c)(3). Failure of a Color Scheme to maintain business records, including Waybills, as required by this Article shall not excuse a Permittee from proving that he or she has satisfied Section 5(c)(3) or any other permit requirement. [1121(f)/Reg. § 4.A.9]*

### **(d) Additional Conditions Specific to Ramped Taxi Permits [1127]**

#### **(1) Wheelchair Priority**

**(A)** *Ramped Taxis shall grant priority to requests for service from wheelchair users. [1148.5]*

**(B)** *No Ramped Taxi Driver, once notified dispatched to a "ramped service" call may accept any other fare while en route to that dispatched call. [Reg. §§ 6.C.10.c, 9.B.5] In the absence of requests for service for passengers in wheelchairs, Ramped Taxis may transport any person in accordance with the provisions of this Article. [1148.5]*

#### **(2) Use of Ramped Taxi Permit in Spare Taxi [1148.6]**

##### **(A) Authorization to Use Ramped Taxi Permit in Spare Taxi**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

Notwithstanding any other provisions of law or this Article, upon written request from a Color Scheme, the SFMTA may, in its discretion, allow a Ramped Taxi permit to be used for the purpose of operating a Taxi, provided that:

- (i) the Taxi is a spare Taxi, as approved by the SFMTA;
- (ii) the Taxi meets all applicable requirements for its operation;
- (iii) the Ramped Taxi permit cannot be used in the Permittee's Ramped Taxi because that vehicle is out of service or must be replaced;
- (iv) the Ramped Taxi permit cannot be used in a spare Ramped Taxi because none are available at the Color Scheme with which the Ramped Taxi permit is affiliated;
- (v) the use of the Ramped Taxi permit in a spare Taxi does not exceed the durational and fleet limits described in subsections 5.5(s) and 5.3(b)(ii); and
- (vi) in each instance the SFMTA approves the use of the Ramped Taxi permit in a spare Taxi.

**(B) Time Limits on Use of Ramped Taxi Permit in Spare Taxi [1148.6(b)]**  
A Ramped Taxi permit may be used in a spare Taxi for the time that it would take to repair or replace the Ramped Taxi, but in no event shall such use be initially allowed for more than 30 consecutive days. For good cause shown the SFMTA may extend the time limit beyond 30 days in increments of no greater than 15 consecutive days. In no event shall the total time in which a Ramped Taxi permit is used in a spare Taxi exceed 90 days. The authorization to use the Ramped Taxi permit in a spare Taxi shall expire by operation of law on the day that the applicable durational limit has been reached, or upon completion of repair or replacement of the Ramped Taxi, whichever occurs first. A Ramped Taxi permit may not be used in a spare Taxi for more than 90 days within a twelve-month period.

**(3) Ramped Taxi Response Time [Reg. § 9.A.3]**  
All Permittees operating Ramped Taxis shall provide an average response of 20 minutes.

**(4) Ramped Taxi Permittees Ineligible to be Color Scheme Key Personnel**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 No Ramped Taxi Permittee may be designated as Key Personnel by a Color Scheme at any time, for  
2 any reason.

3 (e) **Additional Conditions Specific To Dispatch Service Permits [1127]**

4 (1) **Dispatch Service Performance Standards**

5 Dispatch Service Permittees shall meet the following requirements and performance standards:

6 (A) Ensure that affiliated Permittees and their business operations adhere to  
7 all requirements of this Article and affirmatively report actual or constructive knowledge of violations  
8 of this Article to the SFMTA. [Reg. § 4.A.3]

9 (B) Maintain and update an emergency plan for Drivers and Dispatchers to  
10 follow in emergencies. Each Dispatch Service that currently holds a permit shall file an updated plan  
11 within 90 days of the adoption of this Article and thereafter at the time of annual permit renewal.  
12 **[Reg. §§ 5.E.1.d, 8.A.10]**

13 (C) Employ a minimum of one operator/call taker on duty for each 75 vehicles  
14 in operation. [Reg. § 8.A.3]

15 (D) Provide dispatch services 24 hours a day, 365 days per year. [Reg. §  
16 **8.A.4]**

17 (E) List their 24 hour telephone number and the names of the Color Schemes  
18 for which they provide dispatch services in the Yellow Pages section of the telephone book. [Reg. §  
19 **8.A.5]**

20 (F) Ensure that every service request for a Ramped Taxi is dispatched in a  
21 timely manner. [Reg. § 8.A.10, 9.B.4]

22 (G) Contact customers within 20 minutes with the vehicle number of the  
23 Ramped Taxi assigned to handle the call, or to advise that no vehicle was dispatched.

24 (H) If the call cannot be dispatched to a Ramped Taxi affiliated with a Color  
25 Scheme that uses that Dispatch Service, the dispatcher/operator shall first call another Dispatch

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 Services to handle the request, and then shall call the customer with the name of the Color Scheme and  
2 the Vehicle Number of the responding Ramped Taxi.

3 (I) If there are no Ramped Taxis available, the dispatcher shall record the  
4 customer's name and phone number and the names of the other Dispatch Services contacted.

5 (J) Maintain a current Driver roster from all Color Schemes affiliated with  
6 that Dispatch Service, which must be available 24 hours a day for inspection by the SFMTA or the  
7 Chief of Police. [Reg. § 8.A.11]

8 (K) Record all requests for taxi service, noting the date and time of the  
9 request for service, the service address, and the vehicle number dispatched to respond to the call.  
10 [Reg. § 8.A.14]

11 (L) Maintain the capacity to simultaneously broadcast transmissions and to  
12 receive transmissions from every vehicle operating under their service. [Reg. § 8.A.15]

13 (M) Answer all calls by human or mechanical/device within six rings. [Reg. §  
14 9.B.1]

15 (N) Contact Taxi customers who have requested a return call if a vehicle has  
16 not been dispatched within 20 minutes of the call. [Reg. § 9.B.2]

17 (O) Upon request, provide callers with an approximate arrival time of the  
18 dispatched vehicle. [Reg. § 9.B.3]

19 (P) Assign each dispatcher, operator and/or call taker employed by the  
20 Dispatch Service a unique individual identifier. [Reg. § 9.B.4]

21 (Q) Require all dispatchers, operators and/or call takers to identify  
22 themselves with either their unique individual identifier or their true name upon answering a call.  
23 [Reg. § 9.B.4]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (R)     Require all dispatchers, operators and/or call takers to give either their  
2     individual identifier or their true name and the shift they are working if requested by a caller. [Reg. §  
3     9.B.4]

4                   (S)     If two or more Color Schemes share the same Dispatch Service, the  
5     Dispatch Service may not dispatch a vehicle from a Color Scheme other than the one requested by the  
6     caller to respond to the call until the Dispatch Service operator first advises the customer of the Color  
7     Scheme of the vehicle that will respond to the call. [Reg. § 9.B.5]

8                   (2) Dispatch Service Permits Transferable [1127(b)]  
9     Dispatch Service permits are transferable, subject to the approval of the SFMTA, which shall  
10    determine whether the proposed transferee meets the criteria set forth in this Article, and whether taxi  
11    service would be improved by the transfer of the Dispatch Service permit. The Permittee shall give  
12    notice to the SFMTA of any intended transfer at least 30 days prior to any such transfer.

13                  (3) Workers' Compensation Requirements [1147.4]  
14    All Dispatch Service Permit Holders shall comply with all applicable state laws and regulations  
15    concerning Workers' Compensation.

16                  (4) Emergency Plan Required Annually  
17    Dispatch Service Permittees shall file an updated emergency plan annually at the time of permit  
18    renewal.

19                  (f) Additional Conditions Applicable To Color Scheme Permits [1125]

20                  (1) Rights of Color Scheme Permittee; Permit Required  
21    A Color Scheme permit entitles the Permit Holder to operate a business that provides taxi services  
22    using vehicles painted with trade dress colors authorized by the permit and unique to that business.  
23    Any change in trade dress colors of a Color Scheme Permit Holder shall require a permit application  
24    requesting the issuance of a new Color Scheme permit. No person shall operate a Color Scheme  
25    business without a valid permit from the SFMTA.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### (2) Reduced Emissions by Color Scheme

Beginning on June 1, 2011, each Color Scheme Permittee shall maintain average per vehicle greenhouse gas emissions at a level set by the SFMTA, in consultation with the Department of the Environment, that will allow the City to achieve its overall goal of a 20 percent reduction in taxi fleet greenhouse gas emissions from 1990 levels by the year 2012. Ramped Taxis operated by the Color Scheme shall not be included in calculation of the Color Scheme's average per vehicle greenhouse gas emissions.

### (3) Color Scheme Permits Transferable

A Color Scheme permit is transferable, subject to the approval of the SFMTA upon its determination that the proposed transferee meets all eligibility requirements for a Color Scheme permit. The Permittee shall give notice to the SFMTA of any intended transfer at least 14 days prior to any such transfer.

### (4) Use of Dispatch Service

Each Color Scheme shall ensure that all Taxi Permittees affiliated with that Color Scheme utilize the same Dispatch Service. The Color Scheme's choice of Dispatch Service shall be subject to the approval of the SFMTA, which shall include consideration of the impact of the request upon the quantity and quality of taxi and paratransit service available to the public.

### (5) Workers' Compensation Requirements [1135.1(b)(ii), 1147.4]

All Color Scheme Permit Holders shall comply with all applicable state laws and regulations concerning Workers' Compensation, and shall maintain a policy that covers all employees and Permittees employed by or affiliated with that Color Scheme.

### (6) Participation in Paratransit Program [1147.8]

Each Color Scheme Permit Holder must be approved for participation in the SFMTA's Paratransit Program and must execute a contract defining the rights and obligations of the parties.

### (7) Vehicle Maintenance and Cleaning

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

The Color Scheme is responsible for ensuring that all equipment on the vehicle that is required by this Article is working properly, including but not limited to Ramped Taxi lifts. If any equipment is found to present a hazard or safety issue, then that vehicle shall be put out of service until it is repaired. [Reg. §§ 6.C.1, 6.C.5, 9.B.8] Every Color Scheme shall provide facilities at its place of business which are adequate for the thorough washing of all affiliated vehicles and which comply with all City environmental and zoning requirements. [Reg. § 5.F.2]

### **(8) Principal Place of Business**

All Color Schemes shall maintain a San Francisco address as their principal place of business, which must be staffed by at least one manager on Monday through Friday from 9:00 A.M. to 5:00 P.M., excepting legal holidays. Every principal place of business of a Color Scheme must have the capacity to send and receive faxes at all times, and the fax number must be provided to the SFMTA.

### **(9) Designated Manager**

**(A)** All Color Schemes shall designate a natural person as a manager who shall serve as the central point of contact for all matters of regulatory compliance. This manager shall be an individual who has not had a City permit suspended or revoked in the past five years, except with permission of the SFMTA. A Color Scheme may designate additional managers for specialized matters subject to approval by the SFMTA.

**(B)** The designated manager of a Color Scheme shall be the agent for service of process for the Color Scheme.

**(C)** Designation of a manager for purposes of this section does not qualify the manager as Key Personnel for the Color Scheme.

### **(10) Posting Requirements**

All Color Schemes shall post the following information at their place of business in a place where it is prominently displayed and easily visible to Permittees:

#### **(A) Daily Schedule**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

A schedule updated daily with shift information that must include at minimum the shift assignment, Driver's name, vehicle number and/or Taxi permit number (if different), and the hours worked for that shift, whether or not the Taxi permit is leased on a per-shift, weekly, monthly, or other basis.

**(B)**     List of Affiliated Drivers

A list updated daily with all affiliated drivers, including Driver's name, home address, cellular telephone number, Driver permit number, and California driver's license number

**(C)**     Vehicles

A current list of all affiliated Taxis and Ramped Taxis including, but not limited to, the vehicle number, the vehicle license number, the vehicle identification number, the model year and make of the vehicle, and the operating status of each affiliated vehicle.

**(D)**     Certificate of Worker's Compensation

A copy of a current and valid Certificate of Worker's Compensation Insurance and information about filing claims.

**(E)**     Gate Fees

The amounts charged for Gate Fees including the amount charged for each and all available shifts over the seven days of the week.

**(F)**     Taxi School Information

A list of the names, locations and phone numbers of all SFMTA-approved taxi schools. [Reg. § 5.A.8]

**(G)**     Information Provided by SFMTA

From time to time, other industry-related printed matter to each Driver, including obtaining written acknowledgments of receipt, when requested by the SFMTA. [Reg. § 5.A.3]

**(11)**    Telephone Access

Every Color Scheme shall subscribe to a telephone service and cause to be published in the Yellow Pages section of the San Francisco telephone directory, the name of the business, and the telephone number to which requests for service and inquiries about Found Property may be addressed. The

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

published telephone number shall not be used to operate other businesses or services. If a change occurs in the name of the company or telephone number under which taxi service is provided the Color Scheme shall, within 10 days, make the necessary notification and request to change the listing in the Yellow Pages section of the San Francisco telephone directory. During those times when the current listing in the Yellow Pages section of the San Francisco telephone directory is incorrect or when a new listing cannot be made until the next printed copy is published and circulated, the Color Scheme shall maintain a current listing, including the name of the company and telephone number, with the San Francisco Directory Assistance Operator and the City's 311 system.

### **(12)      Staffing Requirements**

Every Color Scheme shall employ adequate, qualified staff or contracted services to perform the following functions and provide the following capabilities:

**(A)      Receive inquiries about Found Property on a 24 hour basis.**

**(B)      Document and track all Found Property and turn it over to the Color Scheme's Dispatch Service for processing.**

**(C)      Comply with all state laws regarding Found Property.**

### **(13)      Controlled Substance Testing Program; Controlled Substances**

**(A)      In accordance with Government Code § 53075.5, Color Schemes must maintain the confidentiality of any drug test results received for applicants for permits and Permittees.**

**(B)      No Color Scheme having actual knowledge that a Driver who tested positive for a controlled substance shall not permit the Driver to operate a taxicab until such time as the Driver has tested negative.**

**(C)      Color Schemes shall maintain drug- and alcohol-free workplaces and shall affirmatively report to the SFMTA any actual or constructive knowledge that a Driver is engaged in the sale, use, or possession of drugs or alcohol in a Taxi or Ramped Taxi Vehicle.**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (D)     No Color Scheme having actual or constructive knowledge that a Driver  
2     has used and is currently under the influence of a controlled substance shall permit that Driver to  
3     operate or continue to operate a vehicle. [Reg. § 5.J]

4                   (14)     Medical Certification of Drivers  
5     Every Color Scheme shall ensure that all affiliated Drivers have passed a bi-annual medical  
6     examination before operating a Taxi or Ramped Taxi affiliated with that Color Scheme. [Reg. § 6.A.10]

7                   (15)     Notification of Accidents  
8     Color Schemes must notify the SFMTA of any injury accident involving a Taxi permit affiliated at the  
9     Color Scheme, or of any accident which causes a vehicle to be out of service for more than 72 hours.

10                  (16)     Spare Vehicles [Reg. § 5.D]

11                         (A)     A spare vehicle may operate with a Taxi or Ramped Taxi permit borrowed  
12     from a regular vehicle. Spare vehicles shall only be used to replace temporarily disabled Taxi or  
13     Ramped Taxi vehicles. Color Schemes shall notify the SFMTA if an individual vehicle will be disabled  
14     for more than seventy-two hours. Regularly assigned vehicles that are taken out of service must either  
15     return to service within 30 days or be permanently replaced by another vehicle.

16                         (B)     During any time a spare vehicle is operating, the regular vehicle it is  
17     replacing shall be available for inspection by the SFMTA.

18                         (C)     Color Schemes that are affiliated with one or more Ramped Taxis shall  
19     maintain a sufficient number of spare Ramped Taxi vehicles. If three or fewer Ramped Taxi permits  
20     are affiliated with a Color Scheme, only one Ramped Taxi permit may be used in a spare Taxi vehicle  
21     at any one time. For each additional 3 Ramped Taxi permits, or any fraction thereof, affiliated with a  
22     Color Scheme, an additional Ramped Taxi permit may be used in a spare Taxi. [1148.6(c)]

23                         (D)     Each Color Scheme shall be issued a series of “spare numbers” at the  
24     ratio of one spare number for every five vehicles operating at that Color Scheme.  
25

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1                   (E) All spare vehicles shall be kept at the Color Scheme's place of business  
2 when not in actual use with a permit.

3                   (F) Once a vehicle is designated as a spare, it may not be re-introduced to the  
4 fleet except by approval of the SFMTA. All spare vehicles must be owned, registered and insured by  
5 the Color Scheme as required by all applicable law.

6                   (G) Color Schemes may not lease spare vehicles, whether on a per-shift,  
7 weekly, monthly, or other basis, unless the vehicle is using a Taxi permit which is not in use in any  
8 other vehicle.

9                   (H) Any Color Scheme that violates this Section shall be deemed to be  
10 operating a vehicle without a permit.

11                   (17) Dissolution Plan.  
12 Any Color Scheme that will be terminating its business operations as a Color Scheme shall file a  
13 Dissolution Plan with the SFMTA at least 30 days prior to the date that the Color Scheme ceases to  
14 respond to requests for taxi service.

15                   (g) **Additional Permit Conditions Applicable to Corporate Permit Holders with Permits**  
16 **Issued Prior to June 6, 1978 [1083]**

17                   (1) Permits Void In Event of Transfer or Sale of Permittee  
18 Any Taxi permit held by a Permittee that is not a natural person and which would otherwise remain in  
19 effect, shall be deemed null and void and revoked in any of the following circumstances:

20                   (A) Upon transfer or sale of the Permittee after June 6, 1978; with a  
21 cumulative sale or transfer of (A) 10 percent or more of the stock or other ownership of the Permittee,  
22 or (B) 10 percent of the Permittee's assets since June 6, 1978 constituting a sale or transfer for  
23 purposes of this section, the Permittee submits a written request for approval of the transfer or sale,  
24 and such transfer or sale is approved by the SFMTA Board.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(B) Upon transfer of the management or control of the Permittee for consideration;

(C) Upon assignment, transfer or sale of the Permittee's rights to receive income derived from the lease of a permit is assigned, transferred or sold.

(D) Upon suspension of the Permittee's corporate status by the California Secretary of State.

### **(h) Additional Conditions Applicable to Non-Standard Vehicle Permits**

#### **(1) Permit Available For Non-Standard Vehicle Types**

The SFMTA Board may issue a permit or permits for vehicle types not defined elsewhere in this Article as a Non-Standard Vehicle permit.

#### **(2) Existing Non-Standard Vehicles, Jitney Bus**

Any jitney bus permit in effect as of June 30, 2008, shall continue in effect until the natural expiration of its term. Any person holding a valid jitney bus permit as of June 30, 2008, shall be entitled to renew such permit as a Non-Standard Vehicle permit. Thereafter, such permit shall be subject to all requirements for renewal of Non-Standard Vehicle permits in accordance with the requirements of this Article.

#### **(3) Suspension of Non-Standard Vehicle Operations [1153]**

Notwithstanding any contrary provisions of this Article, upon request of a Non-Standard Vehicle Permittee, the SFMTA may allow any Non-Standard Vehicle Permittee to temporarily suspend operations. In making such determination, the SFMTA may consider the average weather conditions during such period of suspended operations, local or temporary road conditions, the seasonal availability of riders wishing to use the services offered by Non-Standard Vehicle Permittee, or any other circumstances unique to the nature of the Non-Standard Vehicle which are relevant to determining whether the continuous operation requirements of this Article would result in undue hardship to the Permittee.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

### **(i) Revocation or Suspension of Permits [1090]**

#### **(1) Revocation or Suspension for Cause**

Any permit issued under this Article may be suspended or revoked by the SFMTA for good cause after a noticed hearing. If good cause is shown at the hearing, the SFMTA shall have discretion to suspend or revoke a permit. Suspension or revocation shall be mandatory in the circumstances described in Subparts (A) through (F) below. "Good cause" for the purposes of this subsection (i) shall include, but shall not be limited to, the following:

**(A)** The Permittee has not met Full-Time Driver requirements.

**(B)** The Permittee has failed to pay a Permit Fee within 30 days of the date that the SFMTA mails written notice of nonpayment to the Permittee.

**(C)** The Permittee or the lessee of the Permittee's permit has been operated without the insurance required by this Article.

**(D)** The Permittee or an agent of the Permittee has knowingly made false statements to or concealed information from the SFMTA or the Police Department.

**(E)** The Permittee has been convicted of any crime that would be the basis for denying an application for a new permit.

**(F)** The Permittee has failed to satisfy any judgment for damages arising from unlawful or negligent operation under any permit issued under this Article.

**(G)** The Permittee has been convicted of a misdemeanor violation set forth in Transportation Code Division I, Article XX, Sections XX (Misdemeanor violations of Motor Vehicle for Hire Regulations).

**(H)** The Permittee has committed serious and/or repeated violations any law or regulation applicable to the Permittee's conduct while operating under a permit issued pursuant to this Article.

#### **(2) Summary Suspension**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*The SFMTA may suspend summarily any permit issued under this Article pending a disciplinary hearing when it determines that the public health or safety requires such summary suspension. Any affected Permittee shall be given notice of such summary suspension by personal delivery or registered letter.*

### **6. FEES, RATES AND CHARGES**

#### **(a) Payment of Fees Required**

*Except as otherwise provided in this Article, no application for a permit shall be processed, nor shall any permit that has been approved by the SFMTA Board, or notice of the renewal of a permit be issued by the SFMTA until the applicant has paid the required Filing and Permit Fees.*

#### **(b) Permit Application Filing Fee [1080(b), 1089(b)]**

*Applicants for permits authorized by this Article shall pay to the SFMTA an application Filing Fee set by the SFMTA Board. Filing Fees are payable at the time of submitting a permit application and are not refundable. The SFMTA shall compile an annual report of the revenues received from each type of Filing Fee collected by the SFMTA, the costs incurred in providing the services for which the Filing Fee is assessed, the anticipated costs for the ensuing year and the amount of Filing Fees which would be necessary to recover costs for each class of permit. Following issuance of such annual report, the SFMTA Board shall determine Filing Fees for each class of permit the ensuing fiscal year.*

#### **(c) Permit Fees [1085]**

##### **(1) Non-Refundable**

*Permit Fees are not refundable upon the denial, suspension, or revocation of any permit.*

##### **(2) Late Payment Penalties**

*All Permit Fees are payable when due, unless otherwise provided, in the manner and at the location(s) designated by SFMTA. If a Permittee requests renewal of a permit after the permit has expired, such request shall be subject to the procedures and requirements for new permit applications.*

##### **(3) Identification Card Fees [1088]**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*The SFMTA shall collect a fee for each form of identification issued to a Permittee, in an amount . The cost for the Taxi Permit, badge or Driver Permit Card shall be set by the SFMTA and shall be limited to the cost of processing and issuing the Taxi Permit, badge or Driver Permit Card.*

**(d) Rates of Fare/Gate Fees/Additional Rates and Charges [1135, 1135.1, 1135.2]**  
**[This Section is a placeholder for rates/gate fees/additional rates and charges to be established by resolution of the SFMTA Board of Directors as a separate agenda item after March 1, 2009.]**

**(e) Fare for Shared Rides**  
*If 2 or more passengers voluntarily agree to share the vehicle from the same boarding point to one destination point, each passenger shall be responsible for payment of a fare at the destination point in an amount equal to the total fare divided by the number of passengers sharing the ride. [1135(b)]*

**(f) Deduction for Time While Disabled [1146]**  
*In the event that a vehicle becomes disabled, or breaks down while conveying any passenger, the time of stoppage shall be deducted from the time charged to the passenger.*

### **7. OPERATION REQUIREMENTS**

*All Permittees shall be subject to the following requirements for operation of their permits:*

**(a) Continuous Operation [1096]**  
*With the exception of holders of Driver and Non-Standard Vehicle Permit Holders, all Permittees shall regularly and daily operate or arrange for the exercise of their permit during each day of the year, or other dates during which the permit conditions require operation of the permit. A Non-Standard Vehicle Permittee shall be subject to the times and dates of required operation specified in the permit.*

**(b) Minimum Insurance Coverage [1092, Reg. §§ 4.B.1-4.B.2]**

**(1) Policy Required For Taxis and Ramped Taxis**  
*Each Taxi or Ramped Taxi Permittee shall file with the SFMTA and thereafter keep in full force and effect a policy of insurance, executed by an insurer approved by the SFMTA, which conforms to all applicable laws and Regulations and which insures the public against any loss or damage that may*

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

result to any person or property from the operation of such vehicle or vehicles. Such policy shall include at least the following endorsements:

**(A) Commercial Automobile Insurance**

Commercial automobile insurance coverage shall be provided using a Business Automobile Liability Insurance Policy, or the equivalent replacement, with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**(B) Premises, Auto Operations of Insured**

The insurance policy required by this section shall include activities and operations upon, in and around the San Francisco International Airport, the Oakland International Airport and the City and County of San Francisco.

**(C) No Other Insurance Stipulation**

No other insurance held by the City and County of San Francisco or the SFMTA will be called upon by the Permittee to contribute to a loss required to be covered hereunder.

**(D) Severability of Interests (Cross Liability)**

The term "the insured" is used severally and not collectively and the insurance afforded under the liability coverages of Bodily Injury and Property Damage applies separately to each insured against whom claim is made or suit is brought, but the inclusion herein of more than one insured shall not operate to increase the limits of the company's liability.

**(E) Cancellation or Limits Reduction Change Notice**

Written notice of cancellation, non renewal of or any limits reduction in said policy shall be mailed to SFMTA Division of Taxi and Accessible Services, 1 S. Van Ness, San Francisco, CA 94102, 10 business days in advance of the effective date thereof.

**(2) Certificates of Insurance Required**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(A) Certificates evidencing insurance policies in effect as required by this Article shall be kept on file with the SFMTA.

(B) All required insurance policies or certificates shall include the name of both the Taxi Permit Holder and Color Scheme.

(C) The Certificate of Insurance must name the City and County of San Francisco, the San Francisco Municipal Transportation Agency and the Airport Commission of the City and County of San Francisco and all of their officers, and employees as additional named insured hereunder.

(3) New Policy to be Furnished [1093]  
If, at any time, the policy required by this section is cancelled by the issuing company, the insured-Permittee shall report that fact to the SFMTA within 3 business days after the insured-Permittee received notice of cancellation. The Permittee shall replace said policy and provide verification of that replacement policy to the SFMTA prior to the termination of the existing policy. The SFMTA shall review the replacement policy to verify that the issuing insurer is satisfactory.

(4) Provisions for Self-Insurers [1094]  
Any person, firm, corporation, association or organization of owners of Motor Vehicles For Hire who have a certificate of self-insurance from the State of California pursuant to Sections 16050 et. seq. of the Vehicle Code may file said certificate with the SFMTA, and shall thereupon be deemed in compliance with the insurance requirements of this Section 7.2.

(5) Requirements Subject to Change  
The SFMTA Board may set different minimum insurance requirements from time to time for different classes of permits by amending this Article, or for individual Non-Standard Vehicle permits by setting permit conditions appropriate to the type of vehicle to be used and the type of service proposed to be offered by the applicant for the permit.

### **8. TAXI AND RAMPED TAXI EQUIPMENT REQUIREMENTS**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*All Taxis and Ramped Taxis must be maintained in a safe operating condition. [1097] Except as otherwise specified herein, all Taxi Permit Holders and Color Schemes are jointly and severally responsible for ensuring that all Taxis and Ramped Taxis for which they hold permits or with which they are affiliated meet all equipment requirements listed in this Section 8. [Reg. § 5.C.1] The SFMTA may remove any vehicle from service for any violation of Section 8.*

**(a) San Francisco Taxicab**

*The words "San Francisco Taxicab" with letters at least 2 inches in height, in a color which contrasts with the color of the rest of the vehicle shall be painted or attached by the use of adhesive letters on both sides of the vehicle's rear quarter panels and to the trunk directly above the rear bumper. [Reg. § 5.C.25]*

**(b) Taxi Permit Number [1123]**

**(1) Exterior Display [1088]**

*The Taxi permit number assigned by the SFMTA shall be painted on or applied with adhesive on the vehicle in numerals of a color which contrasts with the color of the rest of the vehicle. Such number shall be at least four inches high and positioned directly under the windows on or within six inches of the forward most portion of both front doors and on the center, lower left or lower right corner of the rear facing portion of the trunk lid of the vehicle. [Reg. §§ 4.A.5; 5.C.26]*

**(2) Interior Display**

*All Taxis and Ramped Taxis shall be equipped with a holder for the Taxi or Ramped Taxi permit in the interior of the vehicle, attached to the dashboard or to the left side of the right front support beam. The holder shall be placed in such a position that it is clearly visible from the front exterior of the vehicle. The placement of the holder shall not interfere with visibly of the Driver or the intended function of any O.E.M. equipment. The Taxi or Ramped Taxi permit pursuant to which the vehicle is being operated shall be displayed in the holder at all times. [Reg. § 5.C.32]*

**(c) Vehicle Number**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*The vehicle number shall be painted on the roof, hood or trunk of the vehicle, and in Braille on the right rear passenger door. The numbers shall be a minimum of 18 inches in length and must fill the entire width of the roof, hood or trunk. If the numbers are displayed on the roof, they shall be mounted and centered directly behind the top light. [Reg. §§ 5.C.27, 5.C.33]*

### **(d) Inspection Certificate**

*All Taxis and Ramped Taxis shall at all times conspicuously display a current and valid SFIA decal indicating satisfactory completion of vehicle inspection as required by this Article. [Reg. § 5.G.4]*

### **(e) Color Scheme Identification**

#### **(1) Trade Name**

*Every Taxi and Ramped Taxi shall have the name of the Color Scheme with which the permit is affiliated painted in letters at least two inches in height on the side doors of each side of the vehicle, and in Braille on the right rear passenger door. [1126, Reg. § 5.C.33]*

#### **(2) Trade Dress**

*The exterior of every Taxi and Ramped Taxi shall be well painted with the color(s) of the Color Scheme with which it is affiliated. [Reg. § 5.C.16]*

### **(f) Radio Required [1123, 1147.2]**

*Every Taxi and Ramped Taxi shall have a radio in working order permitting direct voice access and two-way communication with a Dispatch Service affiliated with the Taxi.*

### **(g) Taximeters [1140, Reg. § 5.C.2]**

#### **(1) Seal Required**

*The Taximeter installed in any Taxi or Ramped Taxi must have a current and valid seal from the Department of Weights and Measures. Any Taximeter removed from a Taxi or Ramped Taxi with or without its seals intact and placed in the same or another Taxi or Ramped Taxi must be certified and resealed by the Department of Weights and Measures. Any Taxi or Ramped Taxi found to have Taximeter seals that are broken, removed, destroyed, marred or otherwise tampered with will be taken*

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 out of service until correctly repaired.

### 2 (2) Temporary Operation

3 Pending a Department of Weights and Measure inspection, a Taximeter may be placed in service for  
4 twenty-four hours when properly sealed, installed, replaced or repaired by a licensed technician listed  
5 with the Department of Weights and Measures. If the technician fails to comply with state regulations  
6 concerning the Taximeter, then the vehicle shall be removed from service until corrected.

### 7 (3) Installation

8 All Taximeter makes and models must meet the approval of the SFMTA prior to the installation in any  
9 Motor Vehicle for Hire, and must meet all requirements of the Paratransit Program. The Taximeter  
10 shall be mounted no lower than either the lowest portion of the front window frame or the top of the  
11 dashboard in an area that is clearly visible at all times by any passenger in the vehicle. The Taximeter  
12 shall not be mounted in such a manner as to interfere with the intended function of O.E.M. equipment,  
13 including airbags.

### 14 (4) Illuminating Devices

15 Each Taximeter shall be equipped with an illuminating device that enables a passenger to conveniently  
16 observe the meter and the amount of fare registered at all times for that trip at all hours of the day and  
17 night.

### 18 (h) Rate Cards

19 Every Taxi and Ramped Taxi shall have permanently affixed to the interior of the vehicle, in a place  
20 readily visible to passengers, a frame covered with glass or plastic enclosing a card upon which shall  
21 be printed in plain, legible letters the schedule of rates authorized for carriage in such vehicle and such  
22 other provisions of this Article as the SFMTA may require. The frame and its installed location in the  
23 vehicle must be approved by the SFMTA. [1103, 1123/ Reg. § 5.C.5]

### 24 (i) 311 Information

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

Every Taxi and Ramped Taxi shall display 311 information in the interior of the vehicle in a place readily visible to any passenger in a form to be determined by the SFMTA.

**(j) Street Map**

Each Taxi or Ramped Taxi shall be equipped with a San Francisco and San Mateo County street guide or map with a complete index of all the streets. [Reg. § 6.B.1]

**(k) Copy of SFMTA Regulations**

Every Taxi or Ramped Taxi shall contain a copy of this Article while in operation. [Reg. § 5.A.3]

**(l) Driver Identification [1123/Reg. § 5.C.31]**

Every Taxi or Ramped Taxi shall be equipped with a holder for a Color Scheme Identification Card, placed on the dashboard, adjacent to the Taximeter, in such a position that any passenger in the vehicle has a clear view of the Driver's photo identification. The holder shall not be placed in such a way as to interfere with O.E.M. equipment, including airbags.

**(m) Safety Partition [1147.2]**

Safety partitions may be installed at the option of the Color Scheme. No Driver operating a Taxi with a safety partition may refuse to transport a person with disabilities in the front seat. All safety partitions must form a complete barrier between the Driver and the rear passengers of the vehicle, excepting a space of no more than 2 inches at the bottom and 1 inch at the top and sides of the partition. The upper portion of the safety partition must be of clear polycarbonate, or equivalent material, with the quarter panel directly behind the Driver a minimum of 3/4 inch thick and a minimum 3/8 inch for the remaining portion. Entire partitions comprised of laminated polycarbonate with a minimum 3/8 inch thickness may be used. The lower portion must be of a minimum 10 gauge steel or material of equal strength if an alternative material is used for critical areas and 14 gauge for non-critical areas. The safety partition must have a retractable portion controlled only by the Driver and fare exchange tray.

**(n) Emergency Equipment**

All Taxis and Ramped Taxis shall have at all times a functional spare tire, a working jack and wrench

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*to replace a flat tire, a First Aid kit, a working flashlight, and 2 flares or 2 freestanding reflectors.*

### **[Reg. § 5.C.8]**

#### **(o) Signage and Displays**

*Only materials, signs and devices required by law or approved by the SFMTA may be placed on the windows, or displayed or hung inside or outside of a Taxi or Ramped Taxi. [Reg. §§ 5.C.6, 5.C.9]*

#### **(p) Lights [Reg. § 5.C.10]**

##### **(1) Standard Lights**

*All O.E.M. lights must be maintained in working condition as designed, including headlights (high/low beam), parking lights, turn signals, tail and brake lights, inside dome light, dashboard lights, license plate light, emergency warning lights and side lights; and, all lenses of same are to be reasonably intact. No O.E.M. light may be obstructed or disconnected during operation. The "third" brake light shall be unobstructed and in good working condition at all times. Any additional modifications must have prior approval by the SFMTA.*

##### **(2) Top Lights**

*Each Color Scheme shall ensure that all Taxis and Ramped Taxis are equipped with a top light containing a light or lights permanently attached to the roof of the vehicle, which may either have the name of the Color Scheme printed on it, or the words "Taxi", "taxi", "cab" or "meter rates". All top lights for the same Color Scheme must be of the same color, shape and lettering. Each Driver shall ensure that such top light is illuminated at all times except when the vehicle is engaged in the transportation of a passenger. The Driver shall turn the top light on while the Taximeter is in the non-recording position and shall turn the top light off while the Taximeter is in the recording position.*

#### **(q) Standard Equipment [Reg. § 5.C.11-5.C.14, 5.C.17, 5.C.18, 5.C.20-5.C.23]**

*All Taxis and Ramped Taxis shall have the following standard equipment maintained in good working order such that the equipment functions effectively for the purpose for which it was intended:*

##### **(1) Automatic door locks that can be controlled by the Driver [1147.2]**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

- (2) Available and visible seat belts in all seating positions where passengers may ride [Reg. § 5.C.4]
  - (3) Rear view mirror and side view mirrors on both sides of the vehicle
  - (4) Speedometer and odometer
  - (5) Horn
  - (6) Heater and air conditioner
  - (7) Door hinges, locks and latches in good mechanical order
  - (8) Doors that operate easily and open and close securely from either the outside or inside of the vehicle
  - (9) Bumpers and body moldings in good condition and properly attached as the manufacturer intended
  - (10) Shock absorbers and springs
  - (11) Windshield wipers with blades in good condition
  - (12) Suspension
  - (13) Steering
  - (14) Brakes, including emergency brake
  - (15) Exhaust system compliant with state law
  - (r) **Tires and Wheels [Reg. §§ 5.C.7-5.C.8, 5.C.19]**
- All tires and wheels of Taxis and Ramped Taxis must comply with the following requirements:
- (1) Meet all requirements of the Vehicle Code.
  - (2) Be of matching design (i.e. all whitewalls or all black walls), and with matching hubcaps attached, either of original manufacturer design or of a design authorized by the SFMTA, unless wheels are of a custom design that does not use hubcaps.
  - (3) Only O.E.M. size tires may be used on all vehicles, including spare vehicles.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(4) Only the O.E.M. size tires used at the time of the Taximeter inspection shall be used on the vehicle.

(5) If a Taxi or Ramped Taxi is disabled because of a flat tire and the spare tire is not the O.E.M. size for normal operation, the vehicle shall remain out of service until a tire of the correct size is installed.

**(s) Windows**

All windows and the windshields of Taxis and Ramped Taxis shall be kept clean and clear, both the outside and inside. No additional tinting or reflective material may be placed on any vehicle window except factory installed tinting. Only safety glass with the lowest factory installed tint may be used. Nothing shall be placed in or on any portion of the vehicle in such a manner as to block the Driver's vision. [Reg. § 5.C.10]

**(t) Cameras**

All Taxis and Ramped Taxis shall be equipped with an operational security camera meeting SFMTA specifications and standards. Each Taxi and Ramped Taxi must post a clearly visible notice on the exterior of the vehicle stating: "Vehicle Equipped With Security," and within the vehicle a clearly visible notice stating: "This vehicle is equipped with camera security and all occupants will be photographed." [Reg. § 5.C.34, 5.C.34(e)(a)] Color Schemes shall allow SFMTA or its designee to perform an annual inspection of each vehicle's camera system. If five percent of a Color Scheme's cameras fail inspection during an annual cycle, then cameras for that vehicle or Color Scheme shall thereafter be inspected twice annually until the vehicle is retired or the Color Scheme receives a 96% or better passing rate.

**(u) No Retaliation For Equipment Requests**

Any supplies, materials, equipment or repairs listed in this Section 8 shall be made available to any Driver immediately upon the Driver's request, and no retaliation or discriminatory action may be taken against any Driver who requests such equipment or repairs.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1           (v) **Sanitary Condition [1097, 1099]**

2                   (1) **Regular Cleaning of Vehicle**

3           *No Taxi or Ramped Taxi may be driven unless the interior is clean, orderly and kept free of offensive*  
4           *odors. [Reg. § 5.F.1] The exterior of each Taxi or Ramped Taxi shall be thoroughly washed at least*  
5           *once per calendar week during which the vehicle is operated, and the interior shall also be carefully*  
6           *swept and cleaned daily.*

7                   (2) **Disinfection of Vehicle**

8           *Whenever required in writing by the Department of Public Health, a Taxi or Ramped Taxi must be*  
9           *disinfected by spraying the vehicle with an efficient disinfectant. [Reg. § 5.F.2]*

10                  (3) **Interior of Vehicle**

11           *Seats, upholstery and rugs shall match the vehicle's interior colors and must be kept in good repair.*  
12           *They must not be torn, separated or ripped. Seat springs may not be broken nor may they protrude*  
13           *through the upholstery. Seats shall be firm and comfortable and the tension of the seat springs shall be*  
14           *evenly distributed. Seat covers may not be used to replace upholstery unless the colors match the*  
15           *vehicle's interior colors and they are sufficiently padded. [Reg. § 5.C.3]*

16           (w) **Brake Inspection [1100]**

17           *The brakes on all Taxis and Ramped Taxis shall be inspected and tested daily by competent inspectors.*

18           (x) **Vehicle Title [Reg. § 4.A.7]**

19           *The principal vehicle authorized for the operation of a Taxi permit may be registered only in the name*  
20           *of the Taxi Permit Holder, Color Scheme, and/or a Driver holding a valid lease for the vehicle that*  
21           *meets the requirements of Section 5.1(j).*

22           (y) **Vehicle Mileage**

23           *Starting mileage may not be more than 60,000 miles when a vehicle is placed into service. No vehicle*  
24           *may be operated as a Taxi or Ramped Taxi after the vehicle has reached 350,000 miles except for*  
25           *London Taxis and other purpose-built vehicles placed into service before January 24, 2006, which*

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 have no cap. [Reg. §§ 4.A.8, 5.G.2.b(3)]

2 (z) **Vehicle Age**

3 Beginning March 1, 2009, no vehicle may serve as a San Francisco taxicab if it is older than eight  
4 model years. Beginning January 1, 2010, no vehicle which is older than seven model years may serve  
5 as a Taxi or Ramped Taxi, including London Taxis and other purpose-built vehicles. Beginning  
6 January 1, 2011, no vehicle which is older than six model years may serve as a Taxi or Ramped Taxi,  
7 including London Taxis and other purpose-built vehicles. Beginning January 1, 2012, no vehicle that is  
8 older than five model years may serve as a Taxi or Ramped Taxi, including London Taxis and other  
9 purpose-built vehicles. [Reg. § 5.G.2.a]

10 (aa) **Inspections**

11 (1) **Inspection Required**

12 There shall be inspections of all taxicab vehicles by the SFMTA. Inspections shall be done every six  
13 months for spare vehicles and every 12 months for regular vehicles at a date and time designed by the  
14 SFMTA, and at any other time deemed necessary. [Reg. §§ 4.A.8(a), 5.D.4, 5.G.2.b(2), 5.G.5] At the  
15 time of the scheduled inspection of the vehicle, the Color Scheme or Taxi Permittee must provide the  
16 following:

17 (A) Valid and current State of California vehicle registration card in the name  
18 of the Permittees specified in Section 8(x). [Reg. § 5.G.2.a]

19 (B) Valid and current Brake Certificate issued by an official inspection station  
20 certified by the State of California within sixty days prior to inspection. [Reg. § 5.G.2.e]

21 (C) Proof of insurance meeting the requirements of this Article, the Vehicle  
22 Code, and the laws of the State of California concerning public passenger vehicles.

23 (D) A Vehicle Introduction Form approved by the SFMTA.

24 (E) If a new vehicle is purchased for use as a Taxi or Ramped Taxi vehicle,  
25 the Taxi or Ramped Taxi operator may furnish a written certificate of compliance issued by the

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

automobile dealership in lieu of the documents required above, provided that the certificate is dated within 60 days of the annual inspection. The automobile dealership must be certified by the State of California as an official inspection station.

(F) No vehicle which has been designated as "Salvage" by the Department of Motor Vehicles may be placed into service as a Taxi or Ramped Taxi unless the vehicle has been inspected and approved by the SFMTA. The SFMTA may require documents to establish the chain of title for Salvage Vehicles.

### (2) Passing Inspection; SFIA Decal

Upon satisfactory completion of all inspection requirements the SFMTA shall affix an SFIA decal to the Taxi or Ramped Taxi which authorizes the Taxi or Ramped Taxi to be operated for the time period specified upon the decal. All Taxi and Ramped Taxis shall conspicuously display a valid and current SFIA decal at all times.

### (3) Removal of Vehicle From Service Pending Inspection

(A) A Color Scheme shall make any vehicle available for inspection when ordered by the SFMTA. If a Color Scheme fails to make a vehicle available for inspection or if the SFMTA determines that a vehicle is not in compliance with this Article, the SFMTA may order the vehicle to be removed from service until it passes inspection. [Reg. §§ 5.A.4, 5.G.6, 5.G.8]

(B) If the SFMTA determines that additional repairs or further inspection of the mechanical condition or safety equipment of a Taxi or Ramped Taxi by a licensed mechanic or technician is necessary, the Color Scheme shall make the necessary repairs or arrangements in order to determine if repairs are necessary, and must provide a statement of findings to the SFMTA from the repair person.

### (4) Fraud in Connection with Inspection Prohibited

Misconduct in connection with required inspection is grounds for revocation of a permit. Misconduct may include, but is not limited to, substitution of registered owners on a temporary basis for inspection

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*purposes, or knowingly making false statements to SFMTA or the Chief of Police in connection with an inspection.*

**(bb) Condition of Vehicle**

**(1) Vehicle Integrity**

*The vehicle shall be structurally sound and operate with minimum vibration and noise. [Reg. § 5.C.15]*

**(2) Vehicle Appearance**

*Vehicle bodies must be free of noticeable dents, rust and holes. A Taxi or Ramped Taxi shall not be placed in service if: [Reg. § 5.C.24]*

**(A)** *There are visible dents which exceed 3 square feet in any single area of the exterior surface of the vehicle, provided that the deepest point of depression  $\frac{3}{4}$  of an inch deep or greater, or*

**(B)** *There are visible dents which exceed 4 square feet of the total exterior surface of the vehicle, provided that the deepest point of depression is  $\frac{3}{4}$  inch deep or greater, or*

**(C)** *There are visible dents which exceed 6 lineal feet of the total exterior surface of the vehicle, provided that the deepest point of depression is  $\frac{3}{4}$  inch deep or greater, or*

**(D)** *There is any area of the exterior surface of the vehicle that contains a hole larger than 6 square inches or there is a visible dent which exceeds 144 square inches, provided that the deepest point of depression is more than 2 inches.*

**(3) Replacement Vehicles**

*Whenever an existing Taxi or Ramped Taxi is replaced with a new vehicle, the new vehicle must be inspected and approved prior to use. [Reg. §§ 4.A.6; 5.B.1]*

**(cc) Ramped Taxis**

**(1)** *All Ramped Taxis shall be equipped with a ramp capable of allowing persons using a wheelchair to enter the vehicle without exiting the wheelchair. [Reg. § 9.A.1, 9.B.8]*

**9. RECORDS AND REPORTING REQUIREMENTS APPLICABLE TO PERMITTEES**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1           **(a) Requirements Applicable to All Records**

2           Except as otherwise specified herein, all records required to be created and/or maintained by  
3           Permittees by this Article shall be subject to the following requirements:

4                   (1) When a signature is required, the record must be signed by a Permittee, or in the case  
5           of a corporation, by a person authorized to bind the corporation.

6                   (2) The format and content of any records required to be created or maintained, or of any  
7           reports or plans required to be filed by Permittees by this Article shall be subject to SFMTA approval. All  
8           records must be in writing.

9                   (3) Except as otherwise specified in this Article, all records required to be submitted to the  
10          SFMTA may be delivered by any means authorized in this Section 9(a). The Permittee that is subject to  
11          the records requirement shall have the burden of proving that the required records were actually  
12          delivered in a manner consistent with this section. SFMTA will give Permittees a receipt for in-person  
13          delivery of records. Except where a particular method of delivery is required for a specific records,  
14          records may be submitted by any of the following means:

15                   (A) In person by the Permittee, or in the case of a corporation, by a person  
16          designated in a document on file with the California Secretary of State as an agent of the Permittee for  
17          the purpose of service of process. The SFMTA may require the Permittee's agent to produce  
18          documentation of the designation at the time that the filing is submitted. In-person delivery of required  
19          documents may be to the following location:

20                           **[insert address and hours]**

21                   (B) by first class U.S. Mail, postage pre-paid, addressed to:

22                           **[insert address]**

23                   (C) by fax to [insert fax number]; or

24                   (D) by email to [insert email address]; or

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(4) All records required to be maintained by Permittees by law or by this Article shall be made available for inspection by the SFMTA or the Police Department during normal business hours within one business day of request. The SFMTA may request that Permittees submit paper copies of records, electronic copies if available, or original records, within one business day of request.

### **(b) Records and Information Requirements Applicable to Drivers**

#### **(1) Receipts for Fare to be Delivered to Passenger [1141]**

All Drivers upon shall provide a receipt for fare paid upon the demand of any passenger.

#### **(2) Badge and Identification Information**

Each Driver shall provide his or her badge number and identification information to any passenger upon request. [Reg. § 6.B.2]

#### **(3) Medical Examination Certificates**

The Driver shall retain the original Medical Examination Report completed by the examining physician in accordance with Section 5.5(p), and shall file a copy of the report with the Color Scheme. [Reg. § 6.A.10]

#### **(4) Waybills**

Drivers of Taxis and Ramped Taxis shall keep an accurate and legible Waybill, completed in indelible ink. Each Waybill shall include the following information for the period covered by that Waybill: [1138/Reg. § 4.A.9, 6.C.8]

(A) Date of trip;

(B) Driver's name;

(C) Driver's permit number;

(D) Driver's signature at the commencement of the shift;

(E) Vehicle Number and vehicle license number;

(F) Taxi permit number;

(G) Starting mileage of the vehicle for the shift;

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(H) Starting meter units for the shift;

(I) Mileage of the vehicle at the end of the shift;

(J) Meter units at the end of the shift;

(K) Number of passengers on each trip;

(L) Origin and destination of each trip;

(M) The fare for each trip;

(N) The time of hire and discharge for each trip; and

(O) A mechanically or electronically generated time stamp showing the starting and ending times of the shift and total hours worked [Reg. § 6.C.8]

(P) Notations of passenger requests for assistance as described in Section 5.6(i)(iv);

(Q) If the vehicle is temporarily placed out of service because of a mechanical failure, the Driver shall make a notation on the Waybill listing the time the vehicle goes out of service and the time it is returned to service. [Reg. § 6.C.7]

### (c) **Records and Information Requirements Applicable to Taxi and Ramped Taxi Permittees**

(1) Prior Notice of Change of Color Scheme  
Prior written request of any change of Color Scheme affiliation must be given to the SFMTA in writing by the Taxi Permittee within 10 days of the proposed effective date of the change. [1123]

(2) Annual Filings Required for Renewal  
No Taxi or Ramped Taxi permit shall be renewed unless the Permittee files in person by May 1 of every year a notarized statement under penalty of perjury attesting to compliance with this Article and applicable state and federal laws, including worker's compensation, on a form designated by the SFMTA.

### (d) **Records and Information Requirements Applicable to Color Schemes**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1           (1) Waybills

2                   (A) A Color Scheme shall retain original Waybills for All Drivers and Taxi  
3 and Ramped Taxi Permittees for at least 1 year at its principal place of business.

4                   (B) Color Schemes shall maintain and retain originals and/or legible copies  
5 of Waybills for at least 6 years to document driving performed by Drivers of Taxis and Ramped Taxis  
6 affiliated with the Color Schemes. Color Schemes may store Waybills more than 12 months old in a  
7 secure electronic format. Drivers, Permittees, and applicants are responsible for maintaining their  
8 own individual records. [1121(b), 1121(f)/Reg. § 4.A.9]

9                   (C) Color Schemes are responsible for storing Waybills in an orderly manner  
10 The SFMTA may require all Color Schemes or a particular Color Scheme to present Waybills for  
11 SFMTA inspection ordered in a manner that allows efficient inspection and auditing, including  
12 chronologically, numerically or alphabetically, and the Color Scheme(s) shall order Waybills in  
13 accordance with SFMTA direction within 90 days of SFMTA notice of such requirement. A Color  
14 Scheme may request a waiver of such requirement if the Permittee demonstrates to SFMTA's  
15 satisfaction that its Waybills are already organized in a different manner that allows efficient  
16 inspection and auditing by SFMTA. Any Waybills presented to SFMTA for inspection in any manner  
17 other than as required by SFMTA may not be counted for compliance with the Full-Time Driving  
18 requirement 111651

19                  (D) If requested, Color Schemes shall provide each Driver duplicate copies  
20 of that Driver's Waybills for the prior year in an electronic format. [Reg. § 5.H.14]

21           (2) Permittee Files.

22 Color Schemes must maintain files for each Permittee affiliated with the Color Scheme. Such files  
23 shall contain, but are not limited to, written copies of all Leases of Taxi Permits or permits at the Color  
24 Scheme's principal place of business, and employment or other applications initiating affiliation with

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*the Color Scheme. Color Schemes shall provide copies to any party to the Lease upon request. [Reg. §§ 4.C.2, 5.K.2]*

### **(3) Vehicle Inventory Changes**

*Prior to placing a vehicle in service for the first time, when changing a vehicle for another, or when assigning a new Vehicle Number, the Color Scheme shall submit the information required by this Section to the SFMTA on a Vehicle Introduction Form. Verbal changes or additions will not be accepted. No vehicle will be authorized to be placed in service until a complete, correct statement is submitted in compliance with the Section 9.4(d), which shall contain at least the following information:*

**(A)** *The make, model, VIN number, mileage.*

**(B)** *The Taxi permit or spare number assigned and the number it is replacing, if applicable.*

**(C)** *The purpose of placing the vehicle into service*

**(D)** *The required signature of an authorized representative of the Color Scheme.*

### **(4) Weekly Reporting Requirements**

#### **(A) Weekly Driver Schedule**

**(i)** *Every Color Scheme shall maintain a daily schedule to include, but not limited to: the shift assignment, driver's name, vehicle number and medallion number, if different, and the hours worked for that shift. This schedule shall list all Taxi and Ramped Taxi Permits affiliated with a Color Scheme, regardless of lease type. The schedule shall be updated on a daily basis and shall be made available for inspection by the SFMTA or law enforcement agencies at any time. Color Schemes shall submit electronic copies of the daily schedules to the SFMTA by the fifth day of each month.*

**(ii)** *All original schedules shall be retained at the color scheme's principal place of business for a period of not less than six (6) years. Color Schemes shall maintain at the principal place of business the most recent twelve (12) months of schedules in a traditional hard-*

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

copy format. Color Schemes may store schedules more than twelve (12) months old in a secure electronic form. The SFMTA may excuse a Color Scheme from retaining schedules for a particular year by certifying that a Color Scheme has submitted all twelve (12) schedules for each month of that year. The SFMTA may grant exceptions for submission for companies with exceptionally large schedules or which have an electronic timecard system for schedules, provided that any Color Scheme that is granted such an exception shall be subject to random audits of Driver schedules.

### **(B) Weekly Waybill Report**

All Color Schemes shall account for Taxi Permit Holders in the Weekly Waybill Report. On the first business day of each week, all Color Schemes shall fax, to the SFMTA, the names of all affiliated Taxi or Ramped Taxi Permittee who have failed to turn in Waybills for the previous week, whether or not that Taxi or Ramped Permittee appears on the Weekly Roster or is otherwise scheduled.

### **(C) Weekly List of Terminated Drivers**

In accordance with California Government Code § 53075.5(b)(1)(D), Color Schemes shall fax, to the SFMTA, the names of all Drivers terminated during the prior week.  
If a Driver is terminated for good cause, including violence, driving under the influence, or other such reasons, Color Schemes shall immediately notify the SFMTA and shall not wait for the Weekly Report date.

## **(5) Filings Required for Emissions Compliance**

### **(A) Green Vehicle Guide.**

Every year by April 1, the SFMTA, in consultation with the Department of the Environment, shall prepare and publicize a "Green Vehicle Guide" to assist Color Scheme Permittees in complying with Section 5.6(b) of this Article. The Guide shall identify available funding sources and incentives for such vehicles.

### **(B) Company Emission Reduction Plans**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

On June 1, 2009 and June 1, 2010, each Color Scheme Permittee shall submit a written Emission Reductions Plan describing the Color Scheme's plans to comply with Section 5.6(b). The Plan shall provide for implementing reductions evenly over 2009 and 2010. On June 1, 2009, and every year thereafter until June 1, 2011, each Color Scheme Permittee shall submit to the SFMTA a written statement on the steps the Color Scheme has taken in the prior year to carry out that year's Emissions Reduction Plan and the results of those efforts.

**(6) Annual Filings Required for Renewal**

**(A) No Color Scheme permit shall be renewed unless the Permittee files the following documents in person by November 1 of each year:**

- (i) A copy of DMV Pull Notice Contract**
- (ii) A current Fictitious Business Name Statement (if applicable)**
- (iii) A current City Business Tax Certificate**
- (iv) A completed Designated Manager Form(s)**
- (v) A current list of all affiliated Drivers, Taxi and Ramped Taxi Permittees, with essential lease terms, including but not limited to all financial provisions and the duration of the lease**
- (vi) Required insurance certificates, including liability insurance and worker's compensation, for every vehicle and Taxi and Ramped Taxi permit affiliated with the Color Scheme**
- (vii) A copy of the Color Scheme's drug-free workplace policy**
- (viii) A blank sample of the Color Scheme's Waybill and receipt for Waybill**
- (ix) A notarized statement made under penalty of perjury attesting to compliance with this Article and other applicable law, including worker's compensation insurance requirements [1095, 1147.4]**

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

(x) Designation of Key Personnel

(I) Each Color Scheme seeking to designate one or more of its employees for a calendar year pursuant to this Section must file a written designation by November 1st of the preceding year. The Color Scheme may not change designations of Key Personnel during a calendar year. A Permittee may not be designated as Key Personnel by more than one Color Scheme during a calendar year. The SFMTA will only recognize as Key Personnel for a calendar year those Permittees named in the designation form signed and filed by the Color Scheme as of the immediately preceding November 1st.

(II) Each Color Scheme will be entitled to designate Key Personnel in accordance with the number of Taxi Permits affiliated with that Color Scheme. The number of Taxi Permits affiliated with a particular Color Scheme for a calendar year shall be determined as of December 1st of the previous year, based on the records of the SFMTA. Only individuals already holding a Taxi permit by December 1 of that year may be considered for Key Personnel designation. The number of designated Key Personnel at a Color Scheme may not be increased or decreased during the subsequent calendar year even if the number of permits affiliated with that Color Scheme changes during the year.

A Color Scheme with 1 to 10 permits may not designate anyone as Key Personnel.

A Color Scheme with 11 to 20 permits may designate one person.

A Color Scheme with 21 to 40 permits may designate two people.

A Color Scheme with 41 to 60 permits may designate three people.

A Color Scheme with 61 to 80 permits may designate four people.

A Color Scheme with 81 to 100 permits may designate five people.

A Color Scheme with 101 to 150 permits may designate six people.

A Color Scheme with 151 to 200 permits may designate seven people.

A Color Scheme with 201 to 300 permits may designate eight people.

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

1 A Color Scheme with 301 to 400 permits may designate nine people.

2 A Color Scheme with over 400 permits may designate nine people, plus one additional  
3 person for every 100 permits over 400.

4 (xi) Statement of Work by Key Personnel

5 No later than February 1st of each year, each Color Scheme that has designated one or more  
6 employees as Key Personnel must submit a written Statement of Work, demonstrating the number of  
7 hours each of its designated Key Personnel worked during the previous year. The Statement of Work  
8 shall be signed under penalty of perjury by both the Color Scheme and the Permittee designated as Key  
9 Personnel. The Color Scheme shall be responsible for submitting proof of employment with the  
10 Statement of Work, which shall consist of state or federal tax forms filed with the appropriate  
11 regulatory agency. A Permittee and/or Color Scheme that submit a falsely sworn Statement of Work  
12 shall be subject to automatic revocation of his or her Permit.

13 (B) The SFMTA shall provide a receipt for submission of all documents to certify  
14 that a Color Scheme Permittee may renew its permit prior to the December 31 expiration of its current  
15 permit. A Color Scheme Permit will not be renewed unless the Permittee has satisfied any amount due to  
16 the City pursuant to this Article or any other applicable law.

17 (7) Receipts to Drivers [Reg. § 5.K.1-5.K.2]

18 All Color Scheme Holders shall provide receipts for payments for fuel, Gate Fees, Lease fees or any other  
19 payment made by Drivers to Color Schemes upon request.

20 (8) Medical Examination Certificates [Reg. § 6.A.10]

21 Copies of medical examination certificates shall be retained at the business premise and shall be  
22 available for inspection by the SFMTA. A list of all Drivers with valid medical examination certificates  
23 shall be forwarded to the SFMTA on a bi-annual basis.

24 (9) Death of Driver or Taxi Permit Holder [1084(b)]

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

*Upon receiving actual or constructive notice of the death of a Driver or Taxi Permit Holder affiliated with or employed by a Color Scheme, the Color Scheme must notify the SFMTA within 14 calendar days of the death. If the deceased was a Taxi Permit Holder, then the Color Scheme must return the Taxi permit within 14 calendar days of notice to the SFMTA. Retaining the Taxi permit of a deceased person for more than 3 months after the date of death, whether having actual notice of the death or not, is grounds for revocation of a permit.*

**(e) Requirements Applicable to Dispatch Services**

**(1) Semi-Annual Service Report**

*All Dispatch Services must provide the SFMTA with a semi-annual report that includes, but not limited to, the number of calls for service received, the number of vehicles dispatched to calls, the number of non-response complaints received, and the number of vehicles that serviced to the requested calls. [Reg. § 8.A.8]*

**(2) Reports of Found Property [1107/Reg. § 5.I.1-5.I.2]**

**(A) Receipt to Drivers**

*Every Dispatch Service Permittee shall issue a receipt to the Driver for any Found Property located in affiliated vehicles.*

**(B) Return to Owner**

*Every Dispatch Service Permittee shall endeavor to return Found Property to its rightful owner within 2 business days. If the owner cannot be located, the Dispatch Service Permittee shall give the property to SFMTA with a receipt that includes an inventory of the property, the date it was turned in, the name of the Driver who turned it in and the vehicle in which it was found.*

**(C) High Value Property**

*If the property is currency, is of the value of \$100 or more, is a serialized item or an electronic device, or if it contains information that identifies the owner, the Dispatch Service Permittee shall transfer the*

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

property to the SFMTA within 2 business days with a copy of a Police Report, a Police Incident Report Number and an inventory of the property.

### **(D) Property Log Book**

Every Dispatch Service Permittee shall maintain a log book which records the date, time, vehicle number, Driver, Incident Report Number (if applicable), description and disposition of the property at the principal place of business. The log book shall be retained for a minimum period of one year.

### **(E) Weekly Report to SFMTA**

On the first business day of each week, all Dispatch Services shall fax to the SFMTA a copy of all entries made in the property log for the previous week. Those Dispatch Services having no entries for that week will fax a notice advising the SFMTA that no Found Property was turned in. Dispatch Services shall account for the Found Property from all affiliated Color Schemes.

### **(3) Annual Filings Required for Renewal of Permit**

No Dispatch Service permit shall be renewed unless the Permittee files the following documents in person by November 1 of each year:

**(A) A copy of current City Business Operating Permit**

**(B) A completed Designated Manager Form**

**(C) A list of all affiliated color schemes**

**(D) A copy of the Dispatch Service's drug-free workplace policy**

**(E) A notarized statement attesting to compliance with this Article and associated State and federal laws, including worker's compensation [1095, 1147.4]**

The SFMTA shall provide a receipt for submission of all documents to certify that a Dispatch Service Permittee may renew its permit prior to the December 31 expiration.

### **(f) Requirements Applicable to Corporate Permittees [1083(b), (c)]**

Any corporation holding a permit issued pursuant to this Article shall maintain a stock register at the principal place of business in San Francisco. The SFMTA may require other specified corporate

## DRAFT SFMTA MOTOR VEHICLE FOR HIRE REGULATIONS

records to be provided to the SFMTA together with annual filings required by Section 9.7. All corporate Permittees shall report to the SFMTA in writing any of the following within 30 days of occurrence:

(A) Issuance or transfer of any shares of stock.

(B) Change in any of the corporate officers listed pursuant to Section 312 of the California Corporations Code or successor statute.

(C) Change of any member of its board of directors.

(D) Any notice of suspension or certificate of revivorship issued to the corporation by the California Secretary of State.

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By:

STEPHANIE STUART  
Deputy City Attorney

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Parking and Traffic

**BRIEF DESCRIPTION:** Requesting the Municipal Transportation Agency Board of Directors to authorize the Executive Director/CEO to execute the third amendment to the Red Light Photo Enforcement Agreement between the Municipal Transportation Agency and ACS State and Local Solutions until December 30, 2009 at no additional cost.

**SUMMARY:**

- Authorizing the Executive Director/CEO to execute the third amendment to the Red Light Photo Enforcement Agreement (Agreement) between the SFMTA and ACS State and Local Solutions (ACS).
- The City entered into the current agreement with ACS in 2005 which expired on December 30, 2008. The term of the agreement may be extended up to an additional two (2) years at the option of the City.
- At the December 2, 2008, MTA Board meeting, the MTA Board, by motion, extended the agreement for one month until January 31, 2009.
- This contract amendment will extend the term of the Agreement until December 30, 2009. This is the first of two possible one year extensions to the contract.
- This amendment will not result in the contract cost exceeding the original amount of \$9,424,195.
- An objection was raised by Redflex at the December 2, 2009, MTA Board meeting. Staff have investigated the issues raised by Redflex and recommend that the MTA Board approve the third amendment to the Agreement with ACS for continued operation of the existing system at this time.
- Staff further recommends that the MTA not execute an equipment lease agreement at this time. Instead, staff will investigate the latest improvements in photo enforcement technology to evaluate how to best proceed with system expansion.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Contract Amendment

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

\_\_\_\_\_

FINANCE \_\_\_\_\_

\_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

\_\_\_\_\_

SECRETARY \_\_\_\_\_

\_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Tabin Chung

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

This contract amendment will authorize the existing Red Light Camera enforcement system to continue uninterrupted through 2009.

### **GOAL**

This program fulfills Goal 1 of the SFMTA Strategic Plan, Customer Focus: To provide safe, accessible, reliable, clean, and environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy.

The Red Light Camera Program is proven to improve transportation safety by reducing the most severe types of automobile collisions caused by red light running.

### **DESCRIPTION**

#### **Background:**

The City and County of San Francisco implemented one of the first Red Light Photo Enforcement programs in the nation. The program automated the issuance of citations to motorists who violate red lights at enforced intersections saving valuable law enforcement resources and dramatically increased traffic and pedestrian safety throughout the City. The program has been very successful with over 120,000 citations issued since the program's inception in 1998.

The current contract with ACS was entered into on December 30, 2005 and expired on December 30, 2008. The term of this Agreement may be extended up to an additional two years at the option of the City. At the December 2, 2008, SFMTA Board meeting, the SFMTA Board, by motion, extended the contract until January 31, 2009.

The contract has been amended twice. The first amendment was executed on December 1, 2007, and added five wet-film cameras to the City's existing camera pool to enable automated enforcement of 32 intersections at any given time. The second amendment was executed December 4, 2008, and extended the Agreement through January 31, 2009, under the existing terms.

#### **Program Success:**

The program has proven to be a valuable tool in reducing red light related collisions by up to 40% at enforced intersections. In addition, the presence of the photo enforcement program in the City has generated a "spill-over" effect of reducing red light related collisions at neighboring intersections not equipped with cameras, indicating that the photo enforcement program is leading to a more widespread behavioral change towards driving safely.

Since we first installed red light cameras, nearly 200 other jurisdictions are now operating a Red Light Photo Enforcement Program nationwide.

## **ALTERNATIVES CONSIDERED**

An objection was raised by Redflex at the December 2, 2009, SFMTA Board meeting. At that time, the SFMTA Board requested that staff investigate the issues raised by Redflex and approved by motion an extension of the existing contract until January 31, 2009. In response, staff met with Redflex and considered the issues they raised. Staff determined that extending the existing Agreement is the only viable alternative to preserving the continuity of the existing enforcement program. Canceling the existing contract and soliciting bids from other qualified vendors at this time would result in a delay of up to one year before a new contract could be awarded. Red light camera enforcement would cease during this period.

There is no compelling evidence to suggest that another vendor could immediately assume administration of the existing enforcement system at a lower cost. The City owns the equipment at all existing enforced intersections. Since this equipment is proprietary, no other vendor could assume immediate operation of the system without reinstalling their own equipment at each of the 27 intersections. Retooling each intersection with another vendor's equipment would likely result in significant downtime and increased costs.

Detailed plans to expand the enforcement system at three new intersections have already been completed. Construction is imminent. Changing the existing vendor would result in costs and delays as a new vendor would not be familiar with the designs and could not provide construction support. The construction design by ACS and construction of the new expansion intersections by the City can continue under the existing contract. After construction is completed, the SFMTA intends to use the expansion locations as pilot locations to test and evaluate digital camera equipment from both ACS and other vendors.

## **FUNDING IMPACT**

Since its inception in 1996, the Red Light Camera Program has been a very successful, self-funded program. Funding for this program is appropriated on a continuous basis from year to year with any surplus balance carried over to the next year. The program has never incurred a deficit.

Funds required for the operation, maintenance, and construction of new enforced intersections are self-generated through the citations issued by the program so there is no financial impact.

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

No other approvals are required.

The Office of Contract Compliance has determined that the 19% DBE goal established for this contract has been maintained to date. The City Attorney has reviewed this report.

## **RECOMMENDATION**

The SFMTA recommends that the Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO to execute the third amendment to the Red Light Photo Enforcement Agreement between the San Francisco Municipal Transportation Agency and ACS State and Local Solutions until December 30, 2009 at no additional cost.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, Collisions caused by red light running are among the most severe types of automobile accidents; and

WHEREAS, The SFMTA's Division of Parking and Traffic began the Red Light Photo Enforcement Program in collaboration with the San Francisco Police Department in 1996 to reduce collisions, property damage, injuries, and deaths caused by red light running violations and has issued more than 120,000 citations to date; and

WHEREAS, Collision data shows this program has been very effective at reducing the number of fatalities, injuries, and property damage caused by red light violations and increasing overall traffic safety City-wide since the program began; and,

WHEREAS, At the December 2, 2008, SFMTA Board meeting, the SFMTA Board, by motion, extended the agreement for one month until January 31, 2009; and,

WHEREAS, The third amendment to the agreement will extend the contract term to December 30, 2009; and

WHEREAS, During this period, staff will investigate the latest improvements in photo enforcement technology to evaluate how to proceed with system expansion; and

WHEREAS, After construction of the expansion intersections is completed, the SFMTA intends to use the expansion locations as pilot locations to test and evaluate digital camera equipment from ACS and other vendors; and

WHEREAS, The third amendment does not change the total contract amount; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO to execute the third amendment to the Red Light Photo Enforcement Agreement between the San Francisco Municipal Transportation Agency and ACS State and Local Solutions to extend the term of the agreement to December 30, 2009 at no additional cost.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**CITY AND COUNTY OF SAN FRANCISCO**  
**Municipal Transportation Agency**  
**1 South Van Ness Avenue, 7<sup>th</sup> Floor**  
**San Francisco, California 94103-5417**

**Third Amendment**

THIS AMENDMENT (this "Amendment") is dated for convenience as of the 1<sup>st</sup> day of January, 2009, in San Francisco, California, by and between ACS State and Local Solutions ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency (the "Agency").

**RECITALS**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein;

NOW, THEREFORE, Contractor and the City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**a. Agreement.** The term "Agreement" shall mean the Agreement dated December 19, 2005, between Contractor and City, as amended by the First Amendment dated December 1, 2007 and Second Amendment dated December 4, 2008.

**b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**a. Section 2.** Section 2 "Term of the Agreement" currently reads as follows:

Subject to Section 1 (Certification of Funds), the term of this Agreement shall be from December 30, 2005 to January 31, 2009.

The term of this Agreement may be extended up to an additional twenty-three (23) months upon the option of the City and mutual agreement of the parties both as to the period for any such extension, and the terms and conditions upon which such extension shall be based. The City reserves the right to extend this Agreement after completion of the five-year term of the contract.

Such section is hereby amended in its entirety to read as follows:

**2. Term of the Agreement**

Subject to Section 1 (Certification of Funds), the term of this Agreement shall be from December 30, 2005 to December 30, 2009.

The term of this Agreement may be extended up to an additional one (1) year upon the option of the City and mutual agreement of the parties both as to the period for any such extension, and the terms and

conditions upon which such extension shall be based. The City reserves the right to extend this Agreement after completion of the five-year term of the contract.

**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after January 31, 2009.

**4. Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

**CITY**

**CONTRACTOR**

Recommended by:

ACS State and Local Solutions

---

Nathaniel P. Ford, Sr.  
Executive Director/CEO  
Municipal Transportation Agency

---

Mark J. Talbot  
Vice President  
ACS State and Local Solutions  
1800 M Street, NW  
Washington, DC 20036

Approved as to Form:

City vendor number: 68769

Dennis J. Herrera  
City Attorney

By: \_\_\_\_\_  
John I. Kennedy  
Deputy City Attorney

Approved:

Municipal Transportation Agency  
Board of Directors  
Resolution No. \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest:

---

Roberta Boomer  
Secretary  
MTA Board of Directors

**THIS PRINT COVERS CALENDAR ITEM NO. : 14**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Administration

**BRIEF DESCRIPTION:**

Naming the Muni Metro East Light Rail Facility as the “Willie L. Brown, Jr. Light Rail Facility”.

**SUMMARY:**

- Willie Lewis Brown, Jr. served for over thirty years in the California State Assembly, fifteen years as its Speaker followed by two terms as mayor of San Francisco
- Willie L. Brown, Jr. is widely regarded as the most influential African-American politician of the late twentieth century.
- Brown pioneered the use of bond measures to build affordable housing, created a model juvenile justice system, and paved the way for a second campus of the University of California, San Francisco, to serve as the anchor for the burgeoning field of biotechnology.
- As Mayor, he committed himself to refurbishing and rebuilding the SFMTA which resulted in the establishment of a stable funding source, the building of the Third Street Light Rail Project including the Muni Metro East Facility and funding for the Central Subway.
- To commemorate his decades of achievement, the SFMTA proposes to rename the Muni Metro East Light Rail Facility as the “Willie L. Brown, Jr. Light Rail Facility.

**ENCLOSURES:**

1. SFMTAB Resolution

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION  
PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Jamie Poblitz

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2.**

### **PURPOSE**

Commemorate Willie Lewis Brown, Jr.'s decades of public service by naming the Muni Metro East Light Rail Facility as the "Willie L. Brown, Jr. Light Rail Facility".

### **GOAL**

This action supports SFMTA Strategic Plan Goal 5 - SFMTA Workforce: To provide a flexible, supportive work environment and develop a workforce that takes pride and ownership of the agency's mission and vision and leads the agency into an evolving technology-driven future.

Objective 5.2: Improve facilities in which people are working

### **DESCRIPTION**

Willie Lewis Brown, Jr., has been at the center of California government, politics, and civic life for an astonishing four decades with a career that spans the American Presidency from Lyndon Johnson to George W. Bush. He has worked with every California Governor from Pat Brown to Arnold Schwarzenegger.

Willie Brown served for over thirty years in the California State Assembly, fifteen years as its Speaker. Following this long and distinguished career, Brown then served two terms, from January 8, 1996 until January 8, 2004 as mayor of San Francisco. His tenure as mayor is marked by a significant increase in real estate development, public works, city beautification, and other large-scale city projects.

During his two terms Brown presided over the city's most diverse administration with more Asian Americans, women, Latinos, gays, and African Americans than his predecessors. Brown pioneered the use of bond measures to build affordable housing, created a model juvenile justice system, and paved the way for a second campus of the University of California, San Francisco, to serve as the anchor of a new development that will position the City as a center for the burgeoning field of biotechnology.

Willie L. Brown, Jr. is widely regarded as the most influential African-American politician of the late twentieth century and *The San Francisco Chronicle* called Brown "one of San Francisco's most notable mayors" that had "celebrity beyond the city's boundaries".

His vision and fearless leadership in areas as varied as civil rights for all minority groups, education reform, tax policy, economic development, health care, international trade, domestic partnerships, and affirmative action has left his imprimatur on every aspect of politics and public policy in the Golden State.

As Mayor of California's most cosmopolitan city, he committed himself to refurbishing and

rebuilding the San Francisco Municipal Transportation Agency, one of the nation's busiest transit systems. His support of the San Francisco Municipal Transportation Agency resulted in the establishment of a stable funding source for the SFMTA, the building of the Third Street Light Rail Project including the Muni Metro East Facility and ensured adequate federal funding support for the Central Subway.

### **Muni Metro East Light Rail Facility**

Constructed in association with the Third Street Light Rail Project, Muni Metro East was completed in 2008. This new facility for the storage, maintenance, and operation of Muni light rail vehicles supports the operation of the new Third Street Light Rail Line. It also relieves overcrowded conditions at the Green Light Rail Facility.

Muni Metro East is located on a 13-acre parcel bounded by 25th Street, Illinois Street, Cesar Chavez Street and Louisiana Street. Initial storage capacity of the yard is approximately 80 light rail vehicles. A main shop and administration building houses maintenance bays, welding shop, battery shop, material storeroom, operator support and dispatch. The facility has power substations within the main shop building and an open, paved storage yard for light rail vehicles on the east half of the site.

### **ALTERNATIVES CONSIDERED**

None.

### **FUNDING IMPACT**

The impact of naming this facility after Mayor Brown will have minimal impact on the SFMTA's operating budget.

### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The Board of Supervisors passed a resolution urging the SFMTA to rename the facility after Willie L. Brown, Jr.

### **RECOMMENDATION**

Approval of this item is a policy matter for the SFMTA Board of Directors.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, Willie L. Brown, Jr., has been at the center of California government, politics, and civic life for an astonishing four decades with a career that spans the American Presidency from Lyndon Johnson to George W. Bush, and he's worked with every California Governor from Pat Brown to Arnold Schwarzenegger.

WHEREAS, Willie Lewis Brown, Jr. served over thirty years in the California State Assembly, fifteen years as its Speaker, and afterward, served two terms, from January 8, 1996 until January 8, 2004 as the only African-American mayor of San Francisco, and

WHEREAS, His tenure as mayor is marked by a significant increase in real estate development, public works, city beautification, and other large-scale city projects and

WHEREAS, Brown presided over the city's most diverse administration with more Asian Americans, women, Latinos, gays, and African Americans than his predecessors and

WHEREAS, He pioneered the use of bond measures to build affordable housing, created a model juvenile justice system, and paved the way for a second campus of the University of California, San Francisco, to serve as the anchor of a new development that will position the City as a center for the burgeoning field of biotechnology, and

WHEREAS, He is widely regarded as the most influential African-American politician of the late twentieth century and *The San Francisco Chronicle* called Brown "one of San Francisco's most notable mayors" that had "celebrity beyond the city's boundaries", and

WHEREAS, His vision and fearless leadership in areas as varied as civil rights for all minority groups, education reform, tax policy, economic development, health care, international trade, domestic partnerships, and affirmative action has left his imprimatur on every aspect of politics and public policy in the Golden State, and

WHEREAS, As Mayor of California's most cosmopolitan city, he committed himself to refurbishing and rebuilding the San Francisco Municipal Transportation Agency, one of the nation's busiest transit system, and

WHEREAS, His support of the San Francisco Municipal Transportation Agency resulted in the establishment of a stable funding source for the Agency, the building of the Third Street Light Rail Project including the Muni Metro East Facility and ensured adequate federal funding support for the Central Subway, now, therefore, be it

RESOLVED, That, in honor of “Da Mayor’s” 75<sup>th</sup> Birthday and his legacy of support for the residents of the City and County of San Francisco, the San Francisco Municipal Transportation Agency Board of Directors does hereby name the Muni Metro East Light Rail Facility as the “Willie L. Brown, Jr. Light Rail Facility”.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

---

Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**THIS PRINT COVERS CALENDAR ITEM NO. : 15**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Administration

**BRIEF DESCRIPTION:** Adoption of 2009 SFMTA Legislative Program

**SUMMARY:**

- The attached 2009 Legislative Program is intended to guide SFMTA's advocacy efforts at the local, state and federal level over the course of the current legislative sessions. The program is intended to be broad enough to cover the wide variety of issues that may be taken up both locally and in Sacramento and Washington, D.C., and flexible enough to allow the SFMTA to respond to unanticipated developments. Adoption of the program will provide our legislative delegation and our transportation partners with an approved statement of SFMTA's priorities for this year.
- In addition to the Legislative Program, staff will provide legislative updates as appropriate to the Board regarding bills of interest to the SFMTA.
- Staff may request that the Board recommend a position of support for or opposition to a particular piece of legislation. In these select cases, staff will provide the Board with an analysis of the bill's potential impacts on SFMTA and a justification for the recommended position. Such actions, in addition to making the Board's intent clear, provide staff with the guidance needed to represent the Agency's policy positions on key issues at the local, state and federal levels.

**ENCLOSURES:**

1. Proposed 2009 SFMTA Legislative Program
2. SFMTAB Resolution in support of 2009 Legislative Program

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Kate Breen, Government Affairs Manager

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PAGE 2**

### **PURPOSE**

Each legislative session, the San Francisco Municipal Transportation Agency (SFMTA) prepares a legislative program to guide advocacy efforts in Sacramento and Washington, D.C. It is a strategic document that is not meant to be comprehensive of all issues but rather to provide general direction on issues relevant to the SFMTA and transportation interests. Attached is a summary of the priority issues for the SFMTA as well as measures the Agency will seek to sponsor in the upcoming legislative sessions

### **GOAL**

The Legislative Program supports a number of the Agency's strategic goals, including:

GOAL 1: Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the *Transit First* Policy.

GOAL 2: System Performance: To get customers where they want to go, when they want to be there.

GOAL 3: External Affairs/Community Relations: To improve the customer experieicne, community value and enhance the image of the SFMTA, as well as ensure SFMTA is a leader in the industry.

GOAL 4: Financial Capacity: To ensure financial stability and effective resource utilization.

### **DESCRIPTION**

See attached document.

### **RECOMMENDATION**

Staff recommends adoption of the 2009 SFMTA Legislative Program.

MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS  
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) each year adopts an annual legislative program and forwards that program to the Mayor's office for inclusion in the City's full legislative program; and

WHEREAS, The purpose of a legislative program is to set forth legislative policies, principles and priorities to guide SFMTA staff and to provide input to the Mayor's office on transportation matters for the upcoming year; and

WHEREAS, In response to the interests of the SFMTA and the Mayor's office, staff has prepared the accompanying 2009 legislative program (the "2009 Legislative Program") for the consideration and approval of the Municipal Transportation Agency Board of Directors; and

WHEREAS, The 2009 Legislative Program provides, among other things, support for measures that will enhance funding levels for SFMTA's programs, opposition to governmental actions that might decrease funding for SFMTA's programs and authorization for SFMTA staff to carry out the objectives of the 2009 Legislative Program; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board hereby approves the 2009 Legislative Program and authorizes the staff of the Agency to carry out the objectives of the Program.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

## **SFMTA 2009 Legislative Program**

The San Francisco Municipal Transportation Agency (SFMTA) annually adopts a legislative program to guide advocacy efforts at the local, state and federal levels. It is a strategic document that is not meant to be comprehensive of all issues but rather to provide general direction on issues relevant to the SFMTA and transportation interests in the coming year. Included here is a summary of the priority issues for the SFMTA in 2009.

### **Local Legislative Priorities**

**1. Proposition A Implementation:** The passage of Proposition A by the voters in November 2007 granted significant new authority to the SFMTA in a wide variety of areas, from the oversight of traffic control devices to budgeting. In 2008 legislation was passed to cement these Charter changes in local law. The Traffic Code has been repealed and re-enacted into Division I of the San Francisco Transportation Code and has been made to conform to Proposition A. In 2009, the SFMTA will sponsor any local legislation needed to implement the Transportation Code including Division II of the Code.

**2. Transit Effectiveness Project (TEP) Implementation:** The TEP is the first comprehensive study of Muni service delivery in a generation. The SFMTA Board of Directors endorsed the TEP recommendations in October 2008. Route changes may be implemented as early as July 2009, following any requisite environmental assessments. SFMTA will sponsor any local legislation needed to implement the TEP.

**3. Taxi Commission Incorporation into SFMTA:** Under Proposition E, the powers and duties of the Taxi Commission may by ordinance be transferred to SFMTA. Legislation to transfer the duties and powers of the Taxi Commission was passed by the Board of Supervisors in December of 2008. It is the intent to have all facets of the Taxi Commission merged into the SFMTA no later than March 2009.

**4. Disabled Placard Abuse:** In 2007 local legislation was introduced to implement a state law allowing local jurisdictions to create a review panel that would monitor the issuance of disabled placards by doctors within the City and County of San Francisco. The ordinance would also add a surcharge to various disabled parking violations. This revenue would be credited to a special fund designated to increasing enforcement efforts. However, the manner in which the CA DMV maintains disabled placard records has made implementation of such a law infeasible. The legislation is still pending at the Board.

While the SFMTA continues to maintain a special enforcement unit that investigates complaints and confiscates misused placards, and has increased its resources, enforcement does not address potential fraud that occurs at the issuance level. This ongoing issue reduces the availability of accessible parking spaces to truly disabled individuals. The SFMTA will pursue legislation at the State level to effect various changes in the California Vehicle Code to support local enforcement efforts.

Also, in 2009, SFMTA will sponsor local legislation in support of efforts being pursued through SFpark pilot projects that offer an approach for improving the management of San Francisco's disabled parking supply.

**5. SFMTA 2009 Climate Action Plan Implementation:** The SFMTA 2009 Climate Action Plan details policies, program, goals, funding and relationships with other City departments to reduce greenhouse gas emissions in the transportation sector and in agency operations. SFMTA will advance and support local legislative efforts that are aimed at achieving the goals and objectives of the Climate Action Plan.

### **State Legislative Priorities**

**1. Transportation Funding:** Support efforts to protect existing state transportation funding sources including Proposition 42 funding (state sales tax on gas), the Public Transportation Account and voter-approved State Infrastructure Bonds. Support efforts to secure new funds to meet transportation investment needs including local approval options such as restoration of the vehicle license fee equal to pre-1998 levels.

- A. *2009 State Budget and Transportation Funding:* Support efforts to build support for a constitutional amendment that would fully dedicate gasoline sales taxes to transportation purposes once and for all. This would be accomplished by eliminating the Spillover funds which have been repeatedly raided in the state budget process. All gasoline sales taxes would then flow in Proposition 42 which currently dedicates 40 percent of funds to the State Transportation Improvement Program (STIP), 40 percent to local streets and roads and 20 percent to public transit. Support efforts to reform overall state budget process to balance revenues and expenditures and bring more predictability to state transportation funding.
- B. *State Infrastructure Bond Implementation:* Support efforts related to on-going implementation of voter-approved State Infrastructure Bonds to maximize San Francisco's share of funding from bond programs. Support significant annual appropriations from the Prop. 1B Public Transit Modernization, Improvement, Service Enhancement Account (PTMISEA) in the 2009-2010 state budget process, support future allocations of these funds based on three-year State Transit Assistance (STA) average for all operators that has been basis for previous allocations and support efforts to establish a mechanism to authorize advance spending authority for these funds.

**2. Parking Policy Issues:** The SFMTA will monitor legislation related to parking policy including disabled placard abuse, towing and the administration of parking citations and recommend positions are appropriate.

- A. *Disabled Placard Abuse:* Sponsor legislation to increase penalty for misuse of disabled license plates and placards, decriminalize conduct that is currently a misdemeanor, allowing the vehicle to be cited for a parking violation instead, and increase potential fine amounts.

Proposed legislation would also allow a 10 percent fine enhancement for parking in a blue zone without a valid plate or placard and to allocate the proceeds of that enhancement to the SFMTA along with other revenues from parking violations

B. *Increase in parking citation amount:* Sponsor legislation to increase current maximum penalties for parking violations. Current maximum levels were set more than 24 years ago in 1984. Cost of living increases have reduced the relative deterrent impact of these fines. Increased compliance for violations, such as double parking, sidewalk parking, crosswalks, etc., would have a positive impact on safety conditions and Muni operations along with generating increased revenue.

C. *Improve accessible parking:* SFpark is conducting an extensive, current and best practices analysis of accessible or disabled parking as well as outreach with stakeholders to develop potential changes to how accessible parking is managed in San Francisco, most likely on a pilot basis. This legislative proposal may be ready for the 2009 legislative session.

**3. Transit Effectiveness Project (TEP) and *Transit First* Policy:** The SFMTA will sponsor and support legislation that aims to advance the objectives of the TEP, that streamlines project delivery and is supportive of San Francisco's *Transit First* Policy.

A. *Yield to Bus:* Sponsor legislation that would authorize San Francisco to implement a Yield to Bus program in an effort to improve Muni system reliability and performance. On busy streets, Muni transit vehicles have difficulty merging back into existing traffic after pulling over for a stop. Similar to programs in place in Florida, Oregon and Washington, this proposal would, through signage and safety campaign efforts, encourage vehicles to yield to a transit bus re-entering the active traffic lane from a designated bus stop location. It is a priority recommendation of the TEP.

B. *Streamline Capital Project Delivery:* Support legislation clarifying that local agencies, like state agencies, may award follow-on contracts to architectural and engineering (A&E) consultants whose previous A&E work is appropriate to the scope of subsequent A&E work. Support legislation as necessary to advance projects that receive state or federal economic stimulus funding.

**4. SFMTA Enforcement and Safety:** The SFMTA will support legislation aimed at improving safety for customers, pedestrians, bicyclists and SFMTA operators/employees.

A. *PCO/TFI Assault Penalties:* Sponsor legislation to provide enhanced protection under current law for SFMTA Parking Control Officers (PCOs) and Transit Fare Inspectors (TFIs). AB 1686 (Leno) signed into law in 2007 provided for increased fines, from \$1000 to \$2000, for assault on a PCO. In 2009, proposed legislation will further advance this issue by seeking to increase the penalty for such assaults including drivers license suspension and ensuring similar protections for TFIs.

**5. Bicycle & Pedestrian Access:** The SFMTA will monitor legislation that seeks to improve the safety and convenience of bicycling and walking and support efforts to increase funding for Safe Routes to Schools and the Bicycle Transportation Account.

**6. Global Warming-Greenhouse Gas Emissions:** The SFMTA will work with transportation interests to ensure that transit is appropriately involved in discussions to advance the state's interests related to clean air, global warming and greenhouse gas emissions. This includes efforts related to implementation of AB 32, the Global Warming Solutions Act of 2006, and last year's regional transportation planning and land use measure, SB 375 (Steinberg). Any new laws or regulations implementing the state's goals in these policy areas calling for enhanced public transportation service must include appropriate stable and long-term funding sources adequate to support the required transit service.

### **Federal Legislative Priorities**

#### **FY2010 Appropriations and Reauthorization Priority Projects**

##### **1. Third St. Light Rail Transit Project-Central Subway (\$20 million)**

San Francisco seeks New Starts funding for advance design and preconstruction activities now underway on this high priority project. The project, reauthorized for funding under SAFETEA-LU, is being constructed in two phases—Phase 1, a surface light rail line with 18 stops, began service in April 2007. Phase 1 is funded almost exclusively with state and local funding sources. Phase 2 will extend this light rail line through San Francisco's booming South of Market area and the downtown-Union Square shopping district into the heart of the city's Chinatown. Once complete, the line is eventually projected to carry over 78,000 riders per day. The Federal Transit Administration awarded the project a Record of Decision on November 26, 2008. The project team is now advancing the request to enter Final Design under the New Starts process and anticipates issuing major preconstruction activity contracts in 2009.

##### **2. SFgo Traffic Signal Controllers and Transit Priority (\$54 million)**

SFgo is a citywide transportation management system aimed at reducing congestion and promoting transit. It does this by:

- Providing intelligent transit signal priority with peer-to-peer communication between signal controllers;
- Providing real-time traveler information regarding incidents and special events;
- Monitoring traffic to adjust signal timing as needed;
- Installing state-of-the-art traffic signal controllers, equipment and interconnections to ensure reliable and optimum signal timing as well as pedestrian and bicycle safety.

SFMTA operates and maintains 1,150 signals. To date over two-thirds of the City's traffic

controllers (about 800 out of 1,150) are entering the final stages of their projected life spans. Many of these older controllers use a technology that is no longer supported by the industry. This project will allow immediate procurement of equipment and installation by Agency personnel. Replacing the controllers at these 800 intersections will cost \$24 million.

As part of the SFgo program, we have established using the advanced traffic signal controllers (Type 2070) and cabinets as our standard. The controller technology will ensure the first step of SFgo's intelligent technology system infrastructure be in place to accommodate the transit priority technology thus, enhancing the City's *Transit First* policy. This component of the project includes transit priority City technology at all signals and on all fleet vehicles at a cost of \$30 million.

### **3. Pedestrian Safety-Accessible Pedestrian and Countdown Safety Signals: (\$4.24 million)**

Pedestrian safety is a critical issue in a dense, urban area such as San Francisco. Last year vehicles hit and killed 32 pedestrians—an increase of more than 50 percent from the year before. One proven investment to address this problem is improved pedestrian crossing signals, including accessible and countdown signals. An Accessible Pedestrian Signal (APS) is a pedestrian pushbutton that assists visually impaired pedestrians by communicating when to cross the street in a non-visual manner, using audible tones, speech messages and/or vibrating surfaces. Countdown signals indicate to pedestrians how much time is left to cross the street. Pedestrian countdown signals in San Francisco have been found to achieve a 25 percent reduction in pedestrian injury collisions. This request will fund APS devices at 200 intersections and countdown signals at 400 intersections. This project is ready-to-go and would be completed within 12 months of funding award.

### **4. Transit Effectiveness Project (TEP) Implementation (\$4.5 million)**

SFMTA's TEP is aimed at improving transit reliability, reducing travel times and updating the overall Muni system. The project represents the first comprehensive review of Muni service in over a generation and is a joint effort between SFMTA and the San Francisco Controller's office. The TEP recommendations were unanimously endorsed by the SFMTA Board of Directors on October 21, 2008. This request is to advance implementation of first year TEP projects including major terminal improvements, prototype rapid bus stop enhancements, updated signage and smaller vehicle procurement (16 vehicles).

### **5. Central Control and Communications (C3) (\$9.5 million)**

SFMTA's existing Central Control Center (C3) is severely outdated and in need of eventual replacement. The C3 is the nerve center of Muni operations, operating 24 hours a day, seven days a week, every day of the year. The system's fleet movements are globally monitored and controlled from the center and all radio traffic from fleet operators is received, processed and answered at the center. Emergencies and incidents, clearances for maintenance and construction access are managed by C3 staff. All activities on the entire system right-of-way are coordinated by the center's

dispatchers. This request will provide immediate upgrades to the existing C3, immediate implementation of a satellite line management center and services for project management and engineering support. It would also upgrade and improve radio communications between Muni, first responders (fire, police and public safety personnel) and the City's critical infrastructure entities, including the Port, Public Works, Water Department and Public Health.

## **Federal Transportation Policy Priorities**

### **1. Economic Stimulus-Infrastructure Investment**

Support efforts to advance a federal economic stimulus program that includes significant investment in transportation infrastructure including public transit. It is expected that any near term stimulus bill will not include specific project earmarks, will provide a 100 percent federal match from the General Fund, will require that funds be obligated within 90 to 120 days and will be distributed through the existing highway and transit formula programs. Both highway and public transportation projects yield considerable benefit to the economy in terms of economic stimulus and jobs. SFMTA has developed a list of ready-to-go transit, bicycle/pedestrian and local streets projects that could be advanced immediately under an approved economic stimulus program.

### **2. Federal Transportation Reauthorization**

The current federal surface transportation program expires September 30, 2009. SFMTA will work in partnership with transportation interests at all levels in support of a timely reauthorization of federal surface transportation programs. Proposals currently under consideration range from tinkering with the current program to fundamental restructuring of federal transportation investment.

While this debate will unfold over the next year, San Francisco's priorities will be focused on development of a federal program that ensures the balanced investment that supports all users of the transportation network including transit, bicycling, walking, and travel demand management as well as highway and street improvements. Any new federal program must also recognize the economic impact of transportation investment in terms of job creation, access to jobs and overall metropolitan mobility. The nation's 100 largest metropolitan regions generate 75 percent of its economic output demanding that access and mobility in these centers be not just maintained but improved. Federal transportation policy should also focus on reducing energy usage, reducing greenhouse gas emissions and provide impetus to innovative alternative energy transportation investments.

### **3. Climate Change/Energy Policy**

SFMTA will monitor federal legislative efforts on climate change and energy policy to ensure that any legislation to reduce greenhouse gas emissions associated with transportation be structured to

Page 7

ensure that sustainable transportation investments, including public transportation, be an eligible recipient of any revenue.

#### **4. Central Subway-New Starts Final Design Approval**

The Central Subway will be seeking to advance into Final Design in 2009 and will work with the Federal Transit Administration (FTA) in the context of the federal New Starts process to ensure the process stays on schedule and is responsive to all aspects of federal project review.

**THIS PRINT COVERS CALENDAR ITEM NO. : 16**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Office of the SFMTA Board of Directors

**BRIEF DESCRIPTION:**

To amend the SFMTA Rules of Order to add a new section regarding the effective date of resolutions regarding provisions to the City's Transportation Code related to parking, traffic, and taxi service.

**SUMMARY:**

- Proposition A gave the SFMTA Board of Directors new authority to adopt provisions of the City's Transportation Code relating to parking, traffic, and taxi service.
- Under the City's Charter, ordinances on these subjects previously approved by the Board of Supervisors became effective at the beginning of the 31<sup>st</sup> day after approval by the Mayor.
- To ensure that the public retains the same opportunity to become familiar with these laws before they become effective, staff recommends that the SFMTA Board adopt a rule that clarifies these regulations become effective at the beginning of the 31st day after approval.
- This proposed rule would not effect other actions to approve contracts, budgets, departmental policies, and other matters that do not amend the San Francisco Transportation Code.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Revised SFMTAB Rules of Order

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION

PREPARING ITEM \_\_\_\_\_

FINANCE \_\_\_\_\_

EXECUTIVE DIRECTOR/CEO \_\_\_\_\_

SECRETARY \_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO Roberta Boomer

**ASSIGNED SFMTAB CALENDAR DATE:** \_\_\_\_\_

## **PURPOSE**

To amend the SFMTA Rules of Order to add a new section “Article 8 – Legislative Process Section 1. Effective Date. Resolutions that adopt provisions of the City's Transportation Code related to parking, traffic, and taxi service shall go into effect at the beginning of the 31st day after approval. The foregoing rule shall not affect actions of the board to approve contracts, budgets, departmental policies and other matters that do not amend the San Francisco Transportation Code.”

## **GOAL**

This calendar item will address the SFMTA’s Strategic Goal 3 – External Affairs/Community Relations: To improve the customer experience, community value, and enhance the image of the SFMTA, as well as ensure SFMTA is a leader in the industry.

Objective 3.2: Pursue internal and external customer satisfaction through proactive outreach and heightened communication conduits.

## **DESCRIPTION**

Proposition A gave the SFMTA Board of Directors new authority to adopt provisions of the City's Transportation Code relating to parking, traffic, and taxi service.

Under the City's Charter, ordinances on these subjects previously approved by the Board of Supervisors became effective at the beginning of the 31<sup>st</sup> day after approval by the Mayor (or passage of time for a veto). This provision as to the effective date of legislation facilitates public understanding of new laws before they become effective.

In order to ensure that members of the public retain the same opportunity to become familiar with measures that have the force and effect of law before they become effective, staff recommends that the SFMTA Board amend their Rules of Order to adopt a new rule that clarifies that regulations approved by the SFMTA Board that are to be incorporated in the City's Transportation Code become effective at the beginning of the 31st day after approval by the SFMTA Board of Directors.

This proposed rule would not affect actions of the SFMTA Board to approve contracts, budgets, departmental policies, and other matters that do not amend the San Francisco Transportation Code. These actions of the SFMTA Board are generally effective upon passage unless they provide otherwise by their stated terms.

Article 7, Section 4 of the SFMTA Rules or Order states that “an amendment to the Rules of Order may, after ten days’ notice, be adopted by the affirmative vote of a majority of the members of the board”. Notice was given on December 18, 2008 by placing notice on the SFMTA’s website and at the San Francisco Public Library. E-mail and mailed notice was also given to members of the public who receive notice of SFMTA Board meetings.

By approval of this calendar item, the SFMTA Rules of Order would be amended to add a new section:

#### **ARTICLE 8 – LEGISLATIVE PROCESS**

Section 1. Effective Date. Resolutions that adopt provisions of the City's Transportation Code relating to parking, traffic, and taxi service shall go into effect at the beginning of the 31st day after approval. The foregoing rule shall not affect actions of the board to approve contracts, budgets, departmental policies and other matters that do not amend the San Francisco Transportation Code.

#### **ALTERNATIVES CONSIDERED**

None.

#### **FUNDING IMPACT**

None.

#### **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

None.

The City Attorney has reviewed this report.

#### **RECOMMENDATION**

Amend the SFMTA Rules of Order to add language to clarify the effective date of resolutions that adopt provisions of the City's Transportation Code.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS  
RESOLUTION No. \_\_\_\_\_

WHEREAS, Proposition A gave the SFMTA Board of Directors new authority to adopt provisions of the City's Transportation Code relating to parking, traffic, and taxi service; and,

WHEREAS, Under the City's Charter, ordinances on these subjects previously approved by the Board of Supervisors became effective at the beginning of the 31<sup>st</sup> day after approval by the Mayor; and,

WHEREAS, This provision as to the effective date of legislation facilitates public understanding of new laws before they become effective; and,

WHEREAS, In order to ensure that members of the public retain the same opportunity to become familiar with measures that have the force and effect of law before they become effective, staff recommends that the SFMTA Board amend their Rules of Order to adopt a new rule that clarifies that regulations approved by the SFMTA Board that are to be incorporated in the City's Transportation Code become effective at the beginning of the 31st day after approval by the SFMTA Board of Directors; and,

WHEREAS, This proposed rule would not affect actions of the SFMTA Board to approve contracts, budgets, departmental policies, and other matters that do not amend the San Francisco Transportation Code; and,

WHEREAS, Article 7, Section 4 of the SFMTA Rules or Order states that “an amendment to the Rules of Order may, after ten days’ notice, be adopted by the affirmative vote of a majority of the members of the board”; and,

WHEREAS, Notice was given on December 18, 2008 by placing on the SFMTA’s website and at the San Francisco Public Library; now therefore be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors does hereby amend the SFMTA Rules of Order to add a new section “Article 8 – Legislative Process Section 1. Effective Date. Resolutions that adopt provisions of the City's Transportation Code relating to parking, traffic, and taxi service shall go into effect at the beginning of the 31st day after approval. The foregoing rule shall not affect actions of the board to approve contracts, budgets, departmental policies and other matters that do not amend the San Francisco Transportation Code.”

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors

## San Francisco Municipal Transportation Agency

## **RULES OF ORDER**

### **MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS CITY AND COUNTY OF SAN FRANCISCO**

#### **ARTICLE 1 - NAME**

Section 1. The name of this board shall be the "Municipal Transportation Agency Board of Directors."

#### **ARTICLE 2 - OFFICERS AND APPOINTMENTS**

Section 1. Officers. The officers of this board shall be a chairman and a vice-chairman. At the first regular meeting of the board after the 15th day of January each year, the members of the board shall elect from among their number a chairman and a vice-chairman of the board.

Section 2. Director of Transportation. The board of directors shall appoint a director of transportation who shall serve at the pleasure of the board. The director shall be employed pursuant to an individual contract with his or her compensation being comparable to the compensation of the chief executive officers of U.S. transportation agencies, which most closely resembles the Municipal Transportation Agency in size, mission and complexity.

Section 3. Board Secretary. The board shall appoint a board secretary to manage the affairs of the directors and who shall serve at the pleasure of the board. The board secretary shall affix his or her signature to each contract, lease or permit approved by the board attesting and certifying to approval by the board.

#### **ARTICLE 3 - POWERS AND DUTIES OF OFFICERS**

Section 1. Chairman. The chair shall preside at all meetings of the board, shall preserve order and decorum, shall decide all questions of order subject to appeal to the board by any member, and shall appoint any and all committees of the board. The chair shall have the right to participate in the proceedings of the board, including the right to make and second any resolution or other motion, and may speak to points of order in preference to the other members.

Section 2. Vice-Chairman. In the absence of the chairman, the vice-chairman shall preside. In the absence of both the chair and the vice-chair, the members shall select by motion a member to preside over the meeting.

Section 3. Requests Regarding Parking Citations. Members of the Board shall not attempt to influence or interfere with the procedures for issuing or disposing of particular parking citations by communicating with employees of the Department of Parking and Traffic regarding such citations. The members of the Board and the Secretary shall respond to any written or oral

requests to members of the Board regarding particular parking citations by referring to the prohibition contained in this Section. The Secretary shall not forward such requests to members of the Board. Nothing in this Section shall prohibit the Board or its members from exercising their authority over the affairs of the Department of Parking and Traffic as set forth in Article 8A of the City Charter.

## ARTICLE 4 - MEETINGS

Section 1. Regular Meetings. The board shall hold a regular meeting in the chambers of the Municipal Transportation Agency Board of Directors in City Hall at 2:00 p.m. every first and third Tuesday.

Section 2. Special Meetings of the Board. Special meetings of the board may be called at any time by the chairman or by a majority of the members of the board by delivering written notice to each member of the board and to the local media who have requested such notice in writing.

Such notice must be delivered at least 72 hours before the time of such meeting as specified in the notice.

The call and notice shall specify, the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the board.

Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting; further provided that the notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place.

Section 3. Open and Public Meetings. All meetings of the board shall be open and public, and all persons shall be permitted to attend any meeting of the board.

Section 4. Closed Sessions. The board may, with appropriate notice, meet in closed session to consider and act upon matters authorized by the Ralph M. Brown Act and the San Francisco Sunshine Ordinance. The secretary shall record any decisions made in the closed session. Any action taken in closed session shall be announced as required by law. After every closed session, the board must by motion and vote in open session elect either to disclose no information or to disclose part or all of the information discussed in the closed session.

Section 5. Quorum. A quorum for the transaction of official business shall consist of a majority of all the members of the Municipal Transportation Agency Board, or four (4) members thereof. In the absence of a quorum, the board may adjourn or may reschedule the meeting to a specific date and time.

Section 6. Order of Business. The order of business shall be as follows:

### 1. Call to Order

2. Roll Call
3. Announcement of Prohibition of Sound Producing Devices
4. Approval of Minutes
5. Communications
6. Board of Director's New and Unfinished Business
7. Director's Report
8. Citizen's Advisory Council Report
9. Public Comment
10. Calendar Matters
11. Adjournment

Section 7. Public Comment. Every calendar for regular and special meetings shall provide an opportunity for members of the public to directly address the board on items of interest to the public that are within the subject matter jurisdiction of the board.

Section 8. Cancellation of meetings. If a recommendation is made by the Director of Transportation or board secretary that a meeting be canceled or changed, the chairman, or a resolution adopted by a majority of the board may cancel the meeting. In the event of a meeting cancellation, the board secretary shall inform the board and shall post a notice of cancellation.

Section 9. Temporary Meeting Place-Emergency. In case of emergency, the board shall designate some other appropriate place as its temporary meeting place.

Section 10. Meetings for the Revision of Rates, Charges, Fares, Fees and Fines. Before adopting or revising any schedule of rates, charges, fares fees or fines, the Board shall publish in the official newspaper of the City and County for five days notice of its intention to do so and shall fix the time for a public hearing or hearings thereon, which shall be not less than fifteen days after the last publication of said notice, and at which any person may present his or her objection to or views on the proposed schedule of rates, fare or charges.

Section 11. Adjournment of Meetings. The board may adjourn any regular or special meeting to a time and place specified in the order of adjournment.

Section 12. Minutes of Proceedings. The secretary of the board shall audio record each regular and special meeting. The secretary must record the vote on all resolutions, minutes and on all other questions and a draft of the minutes must be available for inspection and copying no later than ten working days after the meeting. The officially adopted minutes must be available for inspection and copying no later than ten working days after the meeting at which the minutes are adopted.

Section 13. Attendance at Meetings. Except in the event of a notified absence, all members of the Board shall be in attendance at the hour appointed for each regular, special or recessed meeting of the Board. A member's absence shall constitute a "notified absence" when the member, in advance of the meeting, informs the Board Secretary that the member will be absent. An absence due to unforeseen circumstances such as illness or emergency shall also qualify as a notified absence where the member reports such absence to the Board Secretary as soon as reasonably possible. The Board Secretary shall maintain a record of members' attendance

including notified and non-notified absences. The Board Secretary shall report all instances of non-notified absences as well as any instance of three consecutive absences of a member at regular meetings in a fiscal year to the member's appointing authority. At the end of each fiscal year, the Board Secretary shall submit a written report to the MTA Board of Directors and then to the appointing authority detailing each Board member's attendance at all meetings of the Board for that fiscal year."

## ARTICLE 5 - VOTING

Section 1. **Vote Required.** Except as otherwise herein provided, an affirmative vote of at least four members of the board shall be required for the passage of any resolution, or for the passage of any other motion.

Section 2. **Excused from Voting.** Each member present at a meeting of this board when a question is put shall vote for or against it, unless the member is excused from voting by a motion adopted by a majority of the members present.

Section 3. **Voting.** A roll call shall not be interrupted, but a member may, prior to the calling of the roll, explain his or her vote, or file in writing an explanation thereof after the result of the roll call has been announced and recorded.

## ARTICLE 6 - PARLIAMENTARY PROCEDURE

Section 1. **Rules of Debate.** When a member desires to address the board, the member shall seek recognition, by addressing the presiding officer, and when recognized, shall proceed to speak, confining comments, to the question before the board. No discussion shall take place until a resolution or a calendared item has been introduced.

Section 2. **Privilege of Floor and Public Participation.** The privilege of the floor shall be granted to any member of the public or officers of the city and county of San Francisco, or their duly authorized representatives for the purpose of commenting on any question before the board.

Each person wishing to speak on an item at a regular or special meeting shall be permitted to be heard once per item for up to three (3) minutes. The presiding officer shall be the judge of the pertinence of such comments, and have the power to limit this privilege if in the presiding officer's opinion the comments are not pertinent to the question before the board or the comments are merely reiterative of points made by previous speakers.

Section 3. **Agenda Changes or Continuances.** Any agenda change or continuance shall be announced at the beginning of the board meeting, or as soon thereafter as the change or continuance becomes known to the presiding officer.

## ARTICLE 7 - RULES OF ORDER

Section 1. **Adoption of Rules of Order.** The adoption of the Rules of Order shall be by motion and shall require an affirmative recorded vote of a majority of the members of the board. When adopted, such Rules of Order shall remain in effect, unless suspended or amended as provided

herein.

Section 2. Parking Authority Rules of Order. The rules of the Board also shall serve as the Rules of Order of the Parking Authority Commission, provided that such rules are consistent with the provisions of Chapter 17 of the San Francisco Administrative Code.

Section 3. Suspension of the Rules of Order. Except for this rule and such other of these Rules of Order as are restatements of provisions of the charter, ordinances or resolutions of the Board of Supervisors, or other provisions of law, any of these rules of order may be suspended by the affirmative vote of the majority of the members of the board, provided that such suspension is entered upon the minutes of the board.

A motion to suspend the rules is debatable.

Section 4. Amendments to Rules of Order. An amendment to the Rules of Order may, after ten days' notice, be adopted by the affirmative vote of a majority of the members of the board.

**THIS ENTIRE SECTION IS NEW**

## **ARTICLE 8 – LEGISLATIVE PROCESS**

**Section 1. Effective Date. Resolutions that adopt provisions of the City's Transportation Code relating to parking, traffic, and taxi service shall go into effect at the beginning of the 31st day after approval. The foregoing rule shall not affect actions of the board to approve contracts, budgets, departmental policies and other matters that do not amend the San Francisco Transportation Code.**

ADOPTED: March 7, 2000

AMENDED: July 2, 2002

AMENDED: April 19, 2005

AMENDED: November 21, 2006

AMENDED:

**THIS PRINT COVERS CALENDAR ITEM NO. : 20**

**MUNICIPAL TRANSPORTATION AGENCY  
City and County of San Francisco**

**DIVISION:** Parking and Traffic

**BRIEF DESCRIPTION:**

Requesting the Municipal Transportation Agency Board of Directors to endorse the shared lane design recommended by the City Traffic Engineer for the eastbound Market Street approach to Octavia Boulevard.

**SUMMARY:**

- Endorsing the shared lane design recommended by the City Traffic Engineer for the eastbound Market Street approach to Octavia Boulevard.
- Since the opening of Octavia Boulevard on September 9, 2005 there have been 16 collisions between bicyclists and illegal right turns.
- Various steps taken to date have reduced the number of illegal turns from over 30 per hour in 2005 to less than one per hour in 2008; however, the number of collisions has not decreased.
- SFMTA engineers have developed a design to eliminate the conflict between bicycles and illegal right turns, the details of which are presented here for discussion and endorsement.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Existing and Proposed Design Drawings
3. Photographs

**APPROVALS:**

**DATE**

DIRECTOR OF DIVISION  
PREPARING ITEM

\_\_\_\_\_

FINANCE

\_\_\_\_\_

EXECUTIVE DIRECTOR/CEO

\_\_\_\_\_

SECRETARY

\_\_\_\_\_

ADOPTED RESOLUTION

BE RETURNED TO

Damon Curtis

**ASSIGNED MTAB CALENDAR DATE:** \_\_\_\_\_

## **PURPOSE**

This resolution will endorse the shared lane design, recommended by the City Traffic Engineer, as the preferred alternative to increase safety at the intersection of Market Street and Octavia Boulevard.

## **GOAL**

This project meets and fulfills Goal 1 of the SFMTA Strategic Plan, Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy. Objective 1.1 Improve safety and security across all modes of transportation, and Objective 1.5 Increase percentage of trips using more sustainable modes (such as transit, walking, bicycling, rideshare).

## **DESCRIPTION**

### Background

In 2004 the Board of Supervisors decided to prohibit the right turn from Market to the Central Freeway to discourage the use of Market Street to access the freeway. See Fig. 1 Existing conditions.

### Collisions

Since the opening of Octavia Boulevard on September 9, 2005 there have been 16 collisions between bicyclists and illegal right turns. Various steps have been taken to discourage these illegal turns. See Fig. 2 - Octavia:

- Additional NO RIGHT TURN symbol signs
- Pavement markings (NO TURN)
- Freeway guide signs showing alternate routes
- Increased police enforcement
- Safe-hit posts to make the turn more difficult (January, 2007)
- A raised island to make the turn even more difficult (December, 2007)
- Sign reading “[bike logo] Watch for Prohibited Right Turns” aimed at bicyclists (April, 2008)

Although these measures have reduced the number of illegal turns from over 30 per hour in 2005 to less than one per hour in 2008, the number of collisions has not decreased. Since the installation of the raised island in December, 2007 there have been six collisions. There have

### **PAGE 3.**

been three collisions since the installation of the warning sign in April. This far exceeds the number of bicycle collisions at any intersection in San Francisco. Two bicycle collisions in one year would be considered high for San Francisco.

#### Decision Process

SFMTA sponsored a charrette in September, 2007 to discuss the ongoing problems at Market and Octavia and to consider alternatives. Attendees included representatives from the Bike Coalition, Bike Advisory Committee, Planning Department, SFMTA, City Attorney, and two outside traffic engineering experts experienced in tort liability. The charrette did not reach a consensus on an alternative. The idea of the warning sign came from the charrette and was implemented in April, 2008.

Because no consensus could be reached, SFMTA decided to go ahead and implement the raised island as a further deterrent to illegal right turns. We also brought the issue to the Transportation Advisory Staff Committee (TASC) to seek approval for the shared lane option. This was approved by TASC on May 22, 2008 with the understanding that it would not be implemented unless the number of collisions remained at a high rate – more than two per year. Since that time there have been three more collisions.

#### Alternatives Considered

- **Shared Lane** – This would require drivers to share the right lane with bicycles. The right turn would continue to be prohibited. The lane would be 11 feet wide—wide enough so that bikes could move slowly past a queue of cars waiting for the signal, but narrow enough so that bikes would not travel side by side with moving traffic. See Fig. 3 – Shared Lane. Note that this design is almost identical to the current design on Market Street at Church Street, Guerrero Street and at Gough Street. In each of these cases bicyclists must merge with vehicles in the traffic lane. None of these intersections have had high injury bicycle collisions reported with collisions caused by merging or turning motor vehicles. These are also the same bicyclists that use Market at Octavia so they are all familiar with this merge operation. It is also important to note that the SF Bicycle Coalition opposes this option since it would eliminate the bike lane for about 200 feet and would require bikes to merge with traffic.
- **Permitted Right Turn** – This design would allow the right turn. We do not recommend it at this time since it could lead to traffic congestion on Market Street. See Fig. 4 – Right Turn Lane.
- **Multiple Barrier Islands** – This idea came out of the charrette. The key feature of this option is a raised island in the middle of the two on-ramp lanes. This would make illegal right turns extremely difficult (except for motorcycles or very small cars). This alternative is not workable since this island would create a hazard for traffic entering the freeway from southbound Octavia Boulevard. This alternative would require approval from the California State Department of Transportation (“Caltrans”). Approval is not likely. See Fig. 5 – Multiple Barrier Island.

### **PAGE 4.**

- **Bike Lane Chicane** – This alternative would involve installing a large planted median between the bike lane and the adjacent traffic lane on the eastbound Market Street approach to Octavia Boulevard. This would provide the space to introduce a chicane in the bike lane, forcing bicyclists to slow down as they approach the intersection. See Fig. 6 – Bike Lane Chicane. In addition, other proposed features such as

narrowing the traffic lanes, installing other plantings in the median on Market Street and the southwest corner plaza area, and demarcating the crosswalks and possibly the bike lane with colored pavement, could help to reduce vehicular speeds, provide visual clues to motorists of other transportation modes (pedestrians and bicyclists), and de-emphasize the freeway on-ramp. We do not recommend the chicane part of this alternative since it does not eliminate the conflict with illegal right turns and could result in more serious injury collisions than the current design. By moving the bicyclists farther from the drivers view, such collisions would be more likely – this was what we experienced at Fell Street and Masonic Avenue. Also cars making illegal right turns would be more likely to hit the bicyclists, rather than the current situation where bikes run into illegal turning vehicles. A collision where a car hits the bicyclist would be a more severe than vice versa. The landscaping and demarcation of the crosswalks concepts could be incorporated into the Shared Lane Alternative.

### Preferred Alternative

SFMTA proposes to address the safety problem at the eastbound approach to the intersection of Market & Octavia by constructing a small island between the Muni F-line track lane and the number 2 lane. This will require drivers to merge to the right approaching the intersection and to merge with bicyclists. This would require ending the bike lane marking approximately 100 feet west of its current termination point. The design eliminates the situation where bicyclists are riding to the right of vehicles who may turn (albeit illegally). See Figure 7 – Preferred Alternative.

This is the same design that currently exists on Market Street at Church Street, Guerrero Street, and Gough Street. See Fig. 8 – Church, Fig. 9 – Guerrero, and Fig. 10 – Gough. None of these intersections have had any collisions between bicycles and cars turning from the right lane in the past five years. In addition, during the past five years, there has been only one reported collision at these three intersections between a car merging to the right and a bicycle (Market & Gough). Based on this we are confident that the same design will minimize the collision problem at Market and Octavia. The right turn from Market Street to the Central Freeway will continue to be illegal, and will continue to have a very tight turn radius, making the turn as difficult as possible for vehicles. We will also continue to work with the SFPD to see that this regulation is enforced.

### **FUNDING IMPACT**

The estimated cost to implement the preferred alternative is less than \$100,000. SFMTA staff is working to identify the funding source(s) to complete the work.

**PAGE 5.**

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The City Attorney has reviewed this report. No other approvals are required.

**RECOMMENDATION**

Requesting the Municipal Transportation Agency Board of Directors to endorse the shared lane design recommended by the City Traffic Engineer for the eastbound Market Street approach to Octavia Boulevard.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, Since the opening of Octavia Boulevard on September 9, 2005 there have been 16 collisions between bicyclists and vehicles making illegal right turns; and,

WHEREAS, SFMTA staff has implemented several additional traffic engineering measures to discourage illegal right turns, including the installation of additional NO RIGHT TURN symbol signs, NO TURN pavement markings, freeway guide signs showing alternate routes, increased police enforcement, safe-hit posts to make the turn more difficult (January, 2007), a raised island to make the turn even more difficult (December, 2007), and a sign reading “[Bike Symbol] Watch for Prohibited Right Turns” aimed at bicyclists (April, 2008); and,

WHEREAS, The aforementioned measures have reduced the number of illegal turns from over 30 per hour in 2005 to less than one per hour in 2008, but the number of collisions has not decreased; and,

WHEREAS, Since the installation of the raised island in December, 2007 there have been five collisions, and there have been three collisions since the installation of the warning sign in April, 2008, far exceeding the number of bicycle collisions at any other intersection in San Francisco; now, therefore, be it

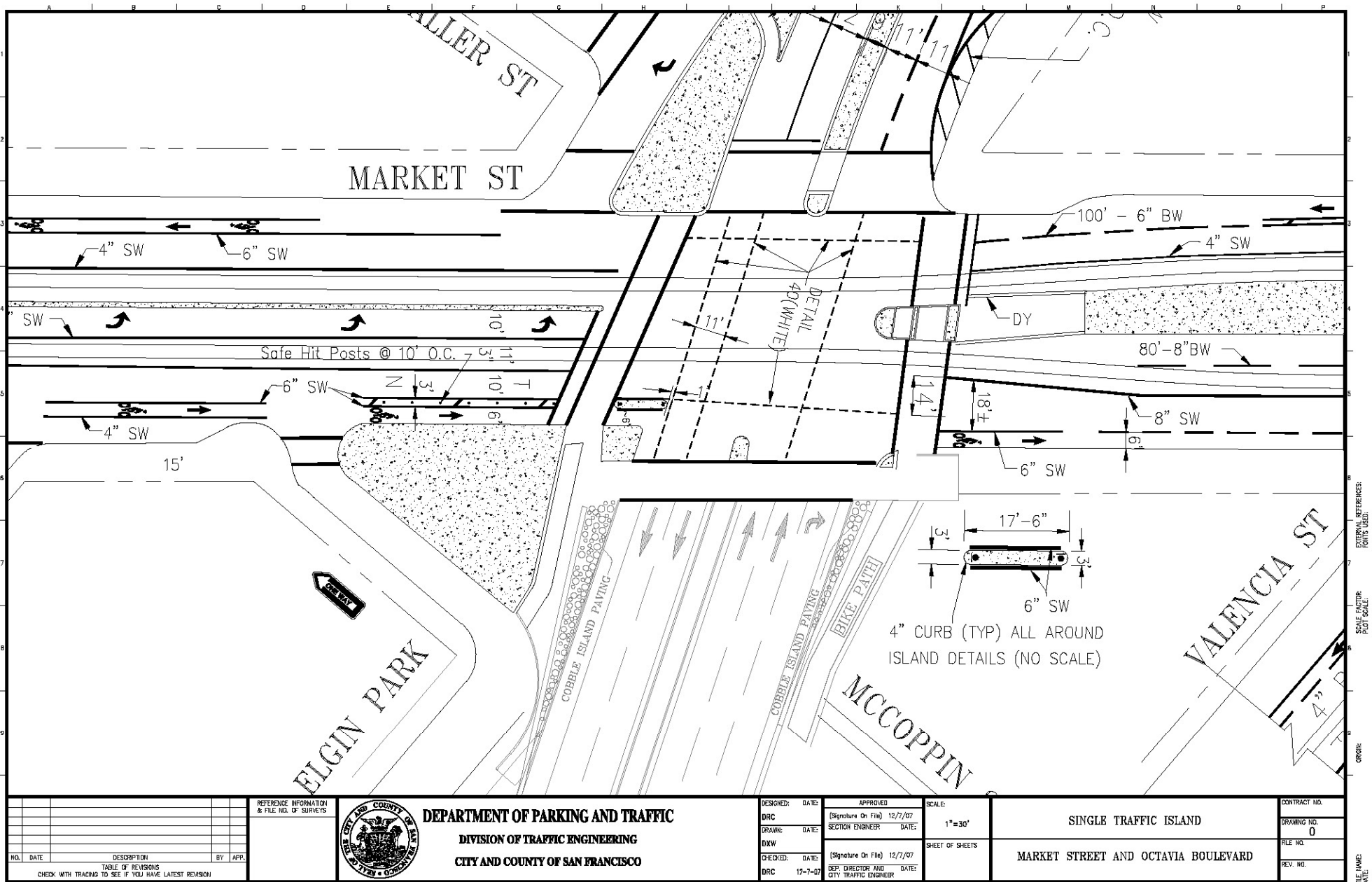
RESOLVED, That the Municipal Transportation Agency Board of Directors endorses the Shared Lane Design recommended by the City Traffic Engineer for the eastbound Market Street approach to Octavia Boulevard; and be it

FURTHER RESOLVED, That the Municipal Transportation Agency Board of Directors urges SFMTA staff to cooperate with other City Agencies in their efforts to make additional streetscape design improvements at the intersection of Market Street and Octavia Boulevard.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of \_\_\_\_\_.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

The following images are all described in the text for this calendar item.

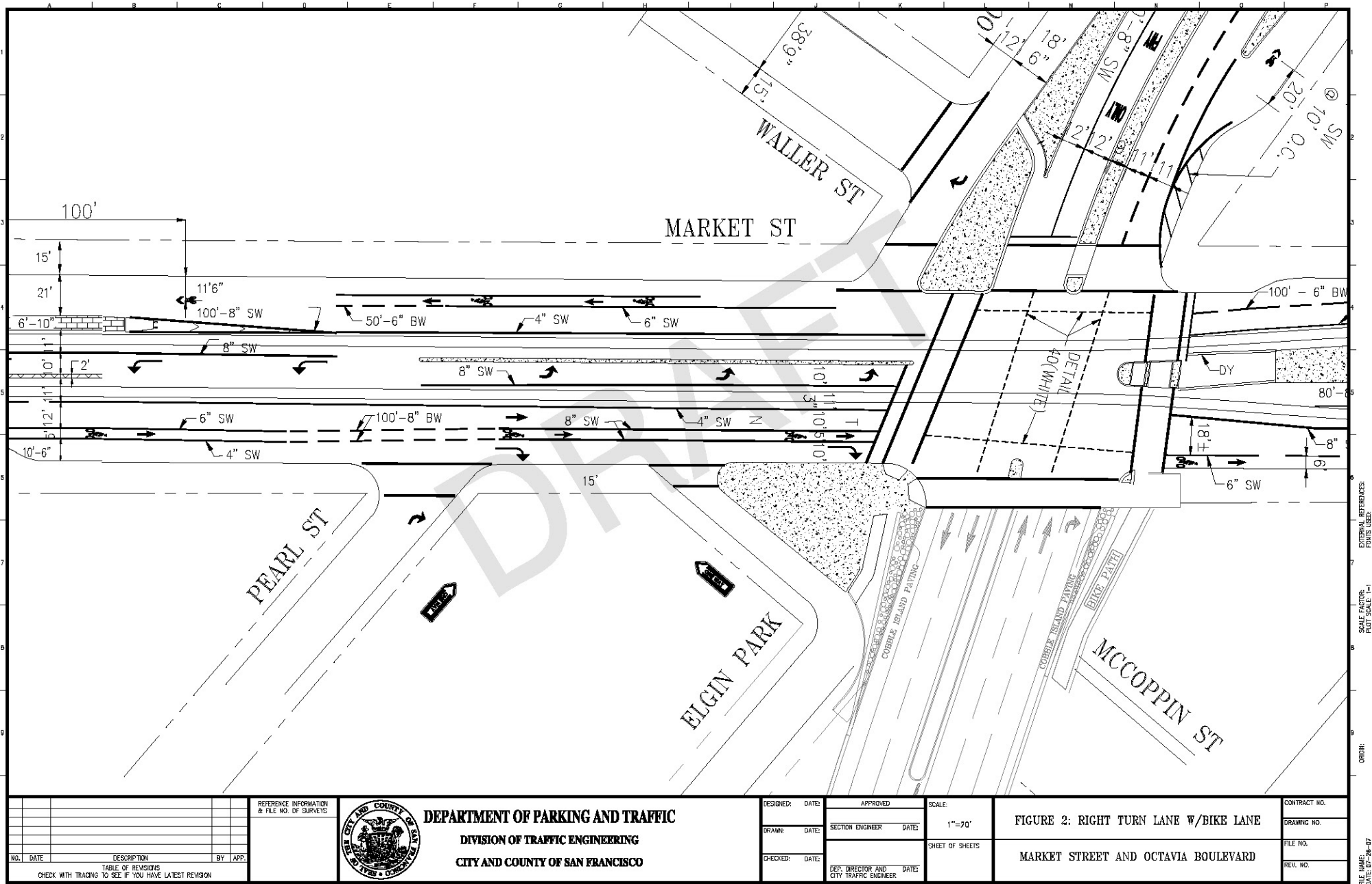


**Fig. 1 Existing Conditions**



**Fig. 2 Octavia**





**Fig. 4 Right Turn Lane**

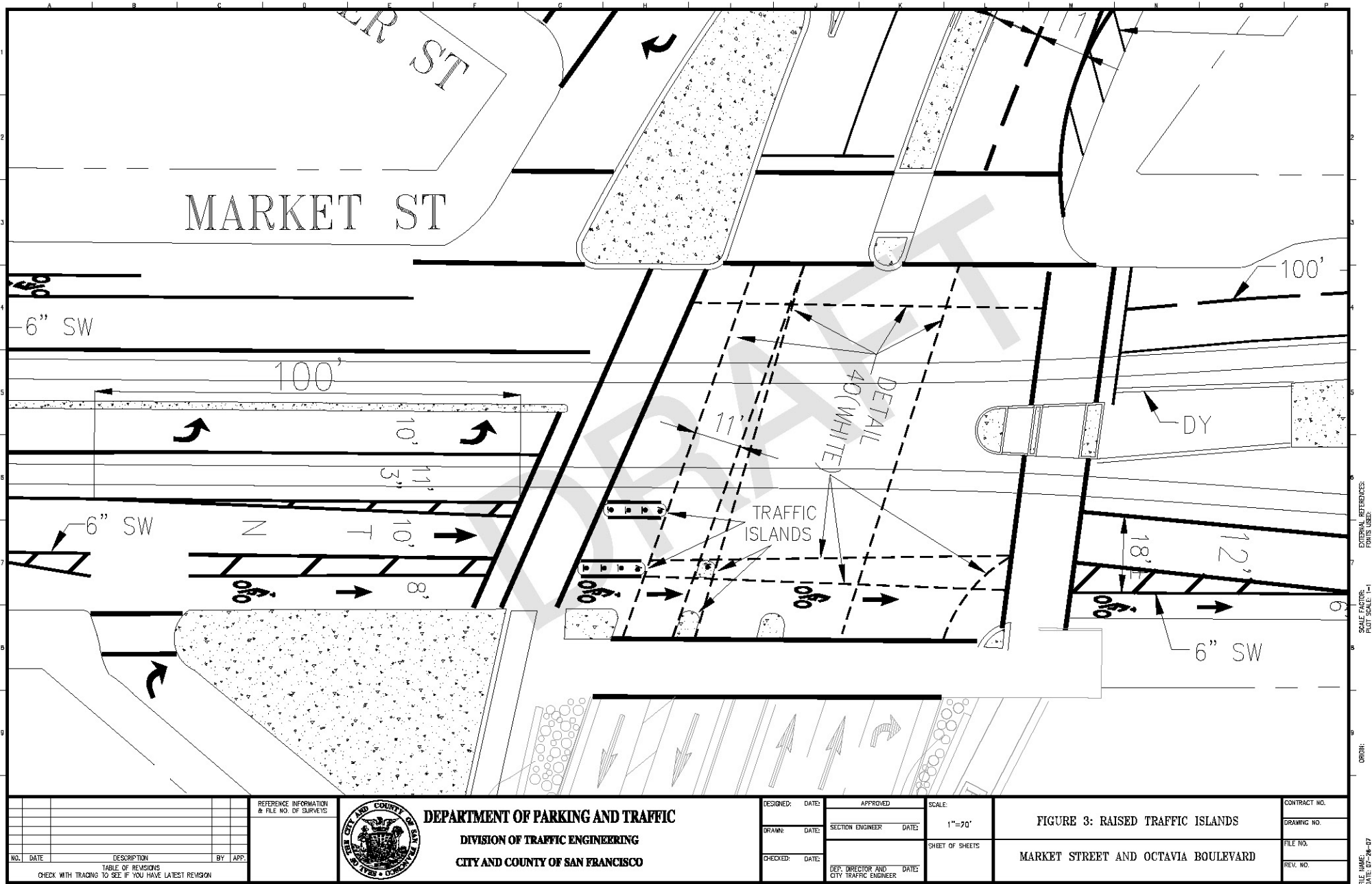
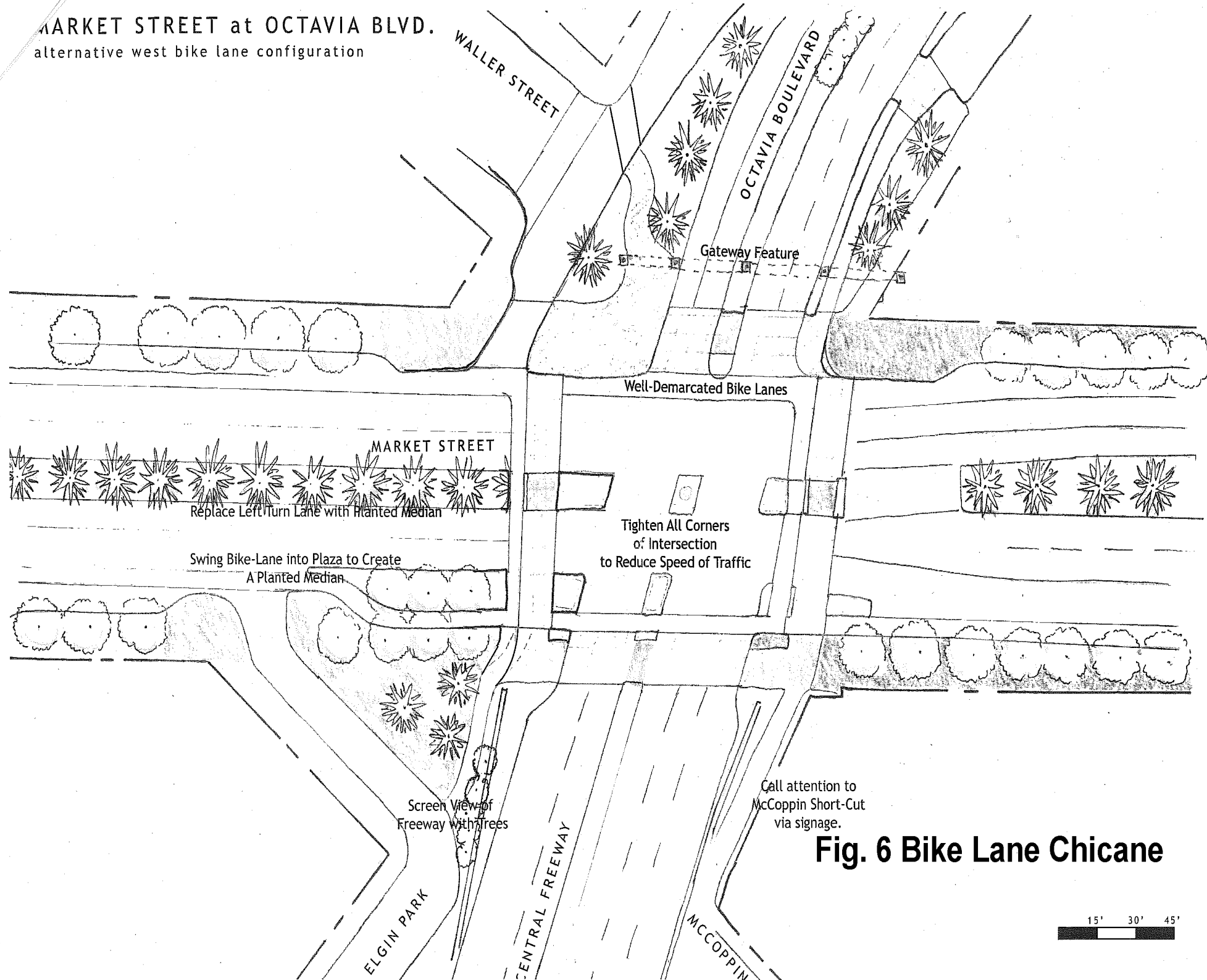
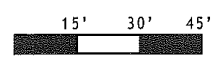


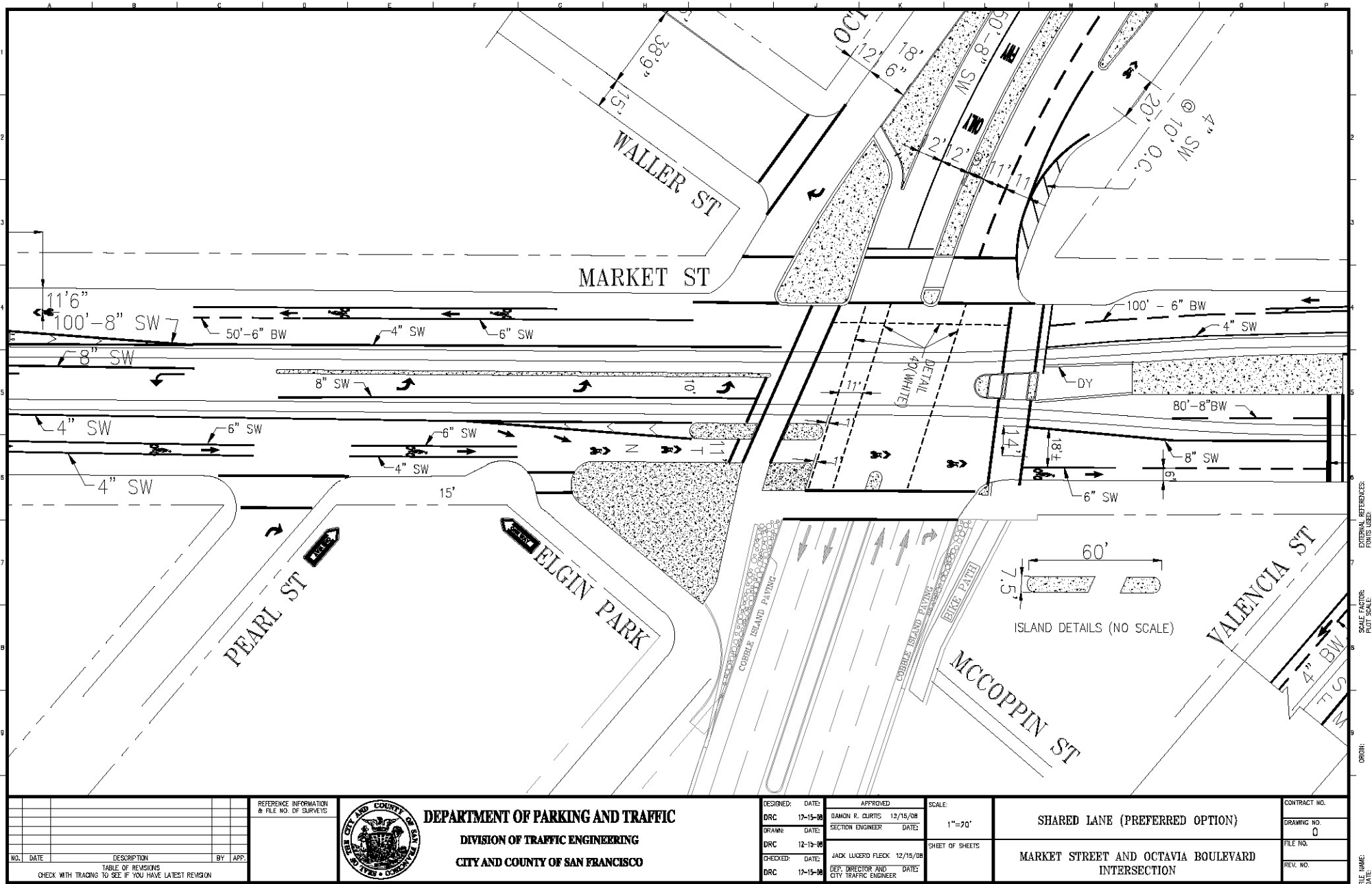
Fig. 5 Multiple Barrier Islands

MARKET STREET at OCTAVIA BLVD.  
alternative west bike lane configuration



**Fig. 6 Bike Lane Chicane**





**Fig. 7 Preferred Design**



**Fig. 8 Church**



**Fig. 9 Guerrero**



**Fig. 10 Gough**