

THIS PRINT COVERS CALENDAR ITEM NO.: 10.2

**MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Parking and Traffic Division

BRIEF DESCRIPTION: Approving traffic and parking modifications itemized below

SUMMARY:

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

Benefit to the SFMTA 2008 – 2012 Strategic Plan:

- Goal 1 – Customer Focus
 - 1.1 – Improve safety and security across all modes of transportation
- Goal 2 – Customer Focus
 - 2.4 – Reduce congestion through major corridors
 - 2.5 – Manage parking supply to align with SFMTA and community goals

ENCLOSURES:

1. MTAB Resolution

APPROVALS:

DATE

DIRECTOR OF DIVISION

PREPARING ITEM _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ASSIGNED MTAB CALENDAR DATE: _____

ITEMS: (All items were heard at 4/18/08 Public Hearing.)

- A. RESCIND - NO PARKING ANYTIME AND ESTABLISH - TOW-AWAY, NO STOPPING EXCEPT FOR BUSES - Collingwood, west side from 19th Street to 135 feet southerly. **Requested By: SFUSD**
- B. ESTABLISH -25-MPH SPEED LIMIT –Masonic Avenue, from Geary Boulevard to Oak Street (replacing the present 30-MPH speed limit regulation). **Requested By: SFMTA**
- C. ESTABLISH - STOP SIGNS – Divisadero and Jefferson Streets, stopping Divisadero Street at Jefferson Street, making this intersection an all-way STOP **Requested by: Mayor Newsom** AND 24th and Hoffman Streets, stopping 24th Street, making this intersection an All-Way STOP **.Requested by: Sup. Dufty**
- D. ESTABLISH - TOW-AWAY, NO STOPPING ANYTIME - Steiner Street, west side, from Sacramento Street to the north line of the driveway for 2601-03 Sacramento Street (43-foot zone) AND Steiner Street, east side, from California Street to the south line of the driveway for 2490 California Street (40-foot zone). **Requested By: SFMTA**
- E. ESTABLISH - RED (NO PARKING ANYTIME) ZONES –Holloway Avenue, south side, from Monticello Street to 20 feet easterly AND Holloway Avenue, south side, from Monticello Street to 23 feet westerly. **Requested By: Resident**
- F. RESCIND - 1-HR PARKING, 7 AM TO 6 PM, EXCEPT SUNDAY AND ESTABLISH - RESIDENTIAL PERMIT PARKING AREA "C", 2-HR PARKING, 8 AM TO 4 PM, MONDAY THROUGH SATURDAY –Sutter Street, south side, between Leavenworth and Larkin Streets (900 - 1000 blocks). **Requested By: Resident**
- G. RESCIND - 1-HR PARKING, 7 AM TO 4 PM, EXCEPT SUNDAY AND ESTABLISH RESIDENTIAL PERMIT PARKING AREA "C", 2-HR PARKING, 8 AM TO 4 PM, MONDAY THROUGH SATURDAY - Sutter Street, north side, between Leavenworth and Larkin Streets (900 - 1000 blocks). **Requested By: Resident**
- H. INSTALL - SPEED HUMPS –Richland Avenue, between Murray and Leese Streets AND Richland Avenue, between Andover and Murray Streets. **Requested By: Resident**

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

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

- A. RESCIND - NO PARKING ANYTIME AND ESTABLISH - TOW-AWAY, NO STOPPING EXCEPT FOR BUSES - Collingwood, west side from 19th Street to 135 feet southerly.
- B. ESTABLISH -25-MPH SPEED LIMIT –Masonic Avenue, from Geary Boulevard to Oak Street (replacing the present 30-MPH speed limit regulation).
- C. ESTABLISH - STOP SIGNS – Divisadero and Jefferson Streets, stopping Divisadero Street at Jefferson Street, making this intersection an all-way STOP AND 24th and Hoffman Streets, stopping 24th Street, making this intersection an All-Way STOP.

- D. ESTABLISH - TOW-AWAY, NO STOPPING ANYTIME - Steiner Street, west side, from Sacramento Street to the north line of the driveway for 2601-03 Sacramento Street (43-foot zone) AND Steiner Street, east side, from California Street to the south line of the driveway for 2490 California Street (40-foot zone).
- E. ESTABLISH -RED (NO PARKING ANYTIME) ZONES –Holloway Avenue, south side, from Monticello Street to 20 feet easterly AND Holloway Avenue, south side, from Monticello Street to 23 feet westerly.
- F. RESCIND - 1-HR PARKING, 7 AM TO 6 PM, EXCEPT SUNDAY AND ESTABLISH -RESIDENTIAL PERMIT PARKING AREA "C", 2-HR PARKING, 8 AM TO 4 PM, MONDAY THROUGH SATURDAY –Sutter Street, south side, between Leavenworth and Larkin Streets (900 - 1000 blocks)
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- H. INSTALL - SPEED HUMPS –Richland Avenue, between Murray and Leese Streets AND Richland Avenue, between Andover and Murray Streets.

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 as attached.

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

Secretary, Municipal Transportation Agency Board

THIS PRINT COVERS CALENDAR ITEM NO. : 10.3

**MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Finance and Administration

BRIEF DESCRIPTION:

Authorizing the Executive Director/CEO to issue a Request for Proposals for Armed and Unarmed Security Services, to select the highest-ranking proposer and negotiate a Contract with the selected proposer for a three-year term.

SUMMARY:

- The current Contract's original term, which began in August 2002, was for three years, with a not-to-exceed amount of \$8.5 million.
- The Contract was extended through Modifications 1 and 2 until December 31, 2008, with a not-to-exceed amount of \$11.75 million.
- The SFMTA issued an Invitation for Bids (IFB) on September 18, 2007 and awarded the new contract to King Security on December 4, 2007.
- The Board of Supervisors did not approve the new contract before the December 31st expiration date of the current Contract; the Office of Contract Administration (OCA) subsequently extended the Contract from January 1, 2008 to February 29, 2008, and raised the not-to-exceed amount to \$12.24 million.
- On February 19, 2008 the SFMTA Board requested that the OCA extend the current Contract until August 31, 2008 and authorized raising the not-to-exceed amount by \$1.36 million to \$13.6 million.
- The SFMTA Board also granted the Executive Director/CEO approval to reject all bids, pending staff evaluation of the bid process and consideration of an alternate Request for Proposal (RFP) solicitation process.
- After staff review, the Executive Director/CEO authorized the rejection of all bids on March 31, 2008.
- The RFP has been drafted to allow a larger pool of potential contractors to compete for the contract, and the RFP process gives the Proposal Evaluation Panel the ability to consider and evaluate quality of services offered in addition to the cost of services provided, and to weigh the relative experience of the Proposers submitting responses, in addition to cost considerations.

ENCLOSURES:

1. SFMTAB Resolution
2. RFP and Scope of Services for Armed and Unarmed Security Guard Services

APPROVALS:

DIRECTOR OF DIVISION
PREPARING ITEM _____

DATE _____

FINANCE _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ADOPTED RESOLUTION

BE RETURNED TO Lorraine Fuqua

ASSIGNED SFMTAB CALENDAR DATE: _____

EXPLANATION:

Background

The San Francisco Municipal Transportation Agency (“SFMTA”) collects more than \$230 million in annual revenue from transit fares, citation payments and sales of various fare media and has more than 15 facilities throughout the city, including transit stations, vehicle storage yards and service centers. These facilities require the services of security guards to act as a first deterrent for inappropriate activities and for the safety of SFMTA personnel, the protection of SFMTA property and the public, and to guard against vandalism. All security-related services are managed by the Deputy Director of Security and Enforcement, with the assistance of a security guard services contractor who provides personnel for various security-related functions.

Proposition E, Article 8A of the San Francisco Charter, allows the SFMTA to purchase materials, supplies and general services directly. After the passage of Proposition E, the Executive Director/CEO of the SFMTA delegated the purchasing authority to the City’s Office of Contract Administration (OCA). In 2002, OCA conducted a selection process for security services for the SFMTA, awarded a contract for Security Guard Services (Armed and Unarmed) For The Revenue And Cost Accounting Sections Of The San Francisco Municipal Railway For the Term August 1, 2002 Through June 30, 2005 with King Security Services, Inc. (“Contract”), with a not-to-exceed amount of \$8.5 million. The following modifications were made to the Contract:

- Contract Modification No. 1 extended the Contract term from June 30, 2005 to June 30, 2006 and increased the not-to-exceed amount by \$500,000 to \$9 million. (As a low-bid contract, the Contract was not required to go to the SFMTA Board or to the Board of Supervisors.)
- Contract Modification No. 2 extended the Contract term from July 1, 2006 to December 31, 2007 and increased the not-to-exceed amount by \$2.75 million to \$11.75 million. (SFMTA Board Resolution 07-098; Board of Supervisors Resolution 440-07)
- Contract Modification No. 3 extended the Contract term from January 1, 2008 to February 29, 2008 and increased the not-to-exceed amount by \$490,000 to \$12.24 million. (No approval required from SFMTA Board or Board of Supervisors.)
- Contract Modification No. 4 extended the Contract term from March 1, 2008 to August 31, 2008 and increased the not-to-exceed amount by \$1.36 million to \$13.6 million.

(SFMTA Board Resolution 08-034; Board of Supervisors Resolution 079-08.)

The SFMTA issued an Invitation for Bids (IFB) on September 18, 2007 for a new Armed and Unarmed Security Guard Services contract. King Security Services, Inc. was selected as the lowest responsive and responsible bidder and the SFMTA Board approved a new contract with King Security Services, Inc. on December 4, 2007 for a three-year term and an amount not to exceed \$17.1 million. Additionally, the Finance Committee of the Board of Supervisors approved the new contract with King Security Services, Inc. and forwarded it to the full Board on December 11, 2007.

The full Board of Supervisors did not approve the proposed contract with King Security before the December 31, 2007 deadline. OCA issued Modification No. 3 to allow the Board of Supervisors more time to consider the proposed contract. As of February 19, 2008 the Board of Supervisors had not approved the new contract. On February 19, the SFMTA Board requested that OCA extend the current Contract until August 31, 2008; authorized raising the not-to-exceed amount by \$1.36 million to \$13.6 million, and gave the Executive Director/CEO approval to reject all bids, pending staff evaluation of the bid process and consideration of an alternate Request for Proposal (RFP) solicitation process.

The Board of Supervisors did not approve the new contract with King Security before the February 29th deadline; however, they did pass the six-month contract extension request on February 26, 2008. On March 31, 2008 the SFMTA opted to reject all bids resulting from the IFB.

Request for Proposals Process

The RFP is drafted to allow a larger pool of potential contractors to compete for the contract, and the RFP process will give the Proposal Evaluation Panel the ability to consider and evaluate the quality of services offered in addition to the cost proposal, and to weigh the relative experience of the Proposers submitting responses, in addition to cost considerations.

One reason to more thoroughly consider service quality is that the needs of the contract vary, and go beyond simple building security. Armed Security Guards serve as escorts when SFMTA staff transfer revenue and fare media. In addition to armed and unarmed guard services, the SFMTA's security contractor provides personnel for the Americans with Disabilities Act Observers Program, which currently monitors services on buses and light rail vehicles. The Cable Car Observer's Program will be added under the new contract to monitor cable cars. The contract also provides personnel to supervise the agency's security control center, as well as for video surveillance monitoring and for administrative functions related to the contract.

The proposed RFP would be for a three-year term, with the option to renew for up to three additional years. The not-to-exceed amount cannot be determined until all proposals have been received, and the highest-ranking Proposer has been chosen. Included in the RFP document is the SFMTA's Communications Policy with regards to the competitive solicitation and procurement of services. In sum the policy states that only employees identified in the RFP as contacts for the 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. The RFP and Appendix A, Scope of Services, have been attached to this briefing.

The Scope of Services will encompass approximately 98,336 hours of unarmed guard services and 43,125 of armed guard services annually. In addition, 28,736 hours have been scheduled for video surveillance and other miscellaneous security administrative tasks, and 7,500 hours will be scheduled for both Observers Programs.

The minimum requirements for participation in the selection process were modified from the prior IFB as follows:

- The amount of armed guard experience required for armed and unarmed services was adjusted to more accurately reflect service level needs.
- Proposers are given the option to demonstrate experience levels using multiple clients, instead of requiring both armed and unarmed guard experience for a single client.

Since the Scope of Services has not been modified for the RFP, the 5% subcontracting goal established for the prior IFB has been carried over to the RFP.

In order to increase the quality of proposals without jeopardizing continued security services, the SFMTA has provided the RFP in draft form to potential Proposers conditional upon SFMTA Board approval.

Benefit to the SFMTA 2008 – 2012 Strategic Plan

The SFMTA will further the following goals of the Strategic Plan through adoption of the Armed and Unarmed Security Guard Services Contract:

- Goal 1 – Customer Focus
 - 1.1 – Improve safety and security across all modes of transportation
 - 1.2 – Improve cleanliness of SFMTA Stations and vehicles by providing a clean, comfortable experience
- Goal 4 – Financial Capacity
 - 4.2 – Ensure efficient and effective use of resources
- Goal 5 – SFMTA Workforce
 - 5.2 – Improve facilities in which people are working

Both the Contract Compliance Office and the City Attorney's office have reviewed the item.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The SFMTA collects more than \$230 million in annual revenue from transit fares, citation payments and sales of various fare media and has more than 15 facilities throughout the city, including transit stations, vehicle storage yards and service centers; and,

WHEREAS, After the passage of Proposition E, the Executive Director/CEO of the SFMTA delegated the purchasing authority for general services to the City's Office of Contract Administration (OCA); and,

WHEREAS, In 2002, OCA conducted a selection process for security services for the SFMTA, and entered into an Award of Security Guard Services (Armed and Unarmed) For The Revenue And Cost Accounting Sections of The San Francisco Municipal Railway For the Term August 1, 2002 Through June 30, 2005 with King Security Services, Inc. with a not-to-exceed amount of \$8.5 million; and,

WHEREAS, Modifications 1 and 2 extended the Contract until December 31, 2007 and raised the not-to-exceed amount to \$11.75 million; and

WHEREAS, Following a low-bid solicitation and evaluation process, King Security was awarded the new contract for Security Services on December 4, 1007; and,

WHEREAS, The Board of Supervisors did not approve the proposed contract before the December 31, 2007 expiration of the current contract; and,

WHEREAS, OCA issued a third modification extending the contract January 1, 2008 to February 29, 2008 and raising the not-to-exceed amount to \$12.24 million; and,

WHEREAS, The Board of Supervisors did not approve the new contract before the February 29, 2008 expiration date; and,

WHEREAS, The SFMTA Board and the Board of Supervisors approved a six-month extension of the contract until August 31, 2008, with a new contract not-to-exceed amount of \$13.6 million; and,

WHEREAS, The SFMTA Board also granted the Executive Director/CEO approval to reject all bids, pending staff evaluation of the bid process and consideration of an alternate Request for Proposal (RFP) solicitation process; and,

WHEREAS, The Executive Director/CEO authorized the rejection of all bids on March 31, 2008; and,

WHEREAS, The RFP will allow a larger pool of potential contractors to compete for the contract, and give the Proposal Evaluation Panel the ability to consider and evaluate the depth, breadth and quality of services offered and the weigh the relative experience of the Proposers

submitting responses, in addition to cost considerations; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO to issue a Request for Proposals for Armed and Unarmed Security Services, to select the highest-ranking proposer and negotiate a Contract with the selected proposer for a three-year term.

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

Secretary, Municipal Transportation Agency Board

ARMED AND UNARMED SECURITY GUARD SERVICES

#08-1024

Date issued:	MAY 20, 2008
	<i>(Conditional upon SFMTA Board Approval)</i>
Pre-proposal Conference:	MAY 21, 2008, 10 a.m.,
Proposal due:	JUNE 6, 2008, 12 Noon

Request for Proposals for Armed and Unarmed Security Services

Table of Contents

Page

I.	Introduction and Schedule	1
II.	Scope of Work	2
III.	Submission Requirements.....	2
IV.	Evaluation and Selection Criteria	5
V.	Pre-proposal Conference and Contract Award	7
VI.	Terms and Conditions for Receipt of Proposals	8
VII.	City Contract Requirements.....	14
VIII.	Protest Procedures.....	17

Appendices:

- A. SFMTA Security Guard Services Scope of Work
- B. SFMTA Schedule of Fees
- C. HRC Attachment 3: Requirements for General Service Contracts, for contacts \$29,000 and over.
- D. Standard Forms: Listing and Internet addresses of Forms related to Taxpayer Identification Number and Certification, to Business Tax Declaration, and to Chapters 12B and 12C, and 14B of the S.F. Administrative Code. (Attached to RFP)
- E. Agreement for Professional Services (form P-500)
- F. Attestation of Compliance
- G. Certification Regarding Debarment, Suspension, and Other Responsibility Matters
- H. Certification Regarding Lobbying
- I. Background Questionnaire
- J. References
- K. Cost Proposal Form

I. Introduction and Schedule

- A. General**

OVERVIEW

The San Francisco Municipal Transportation Agency ("SFMTA", "City" or "Department") is seeking a Contractor through this Request for Proposals (RFP) with the ability to provide management, staffing and equipment for armed and non-armed security guard services as defined in this RFP.

The selected Contractor shall be responsible for the following:

- a. Management – On- and off-site management as required to plan, schedule, perform, and manage security personnel deployments;
- b. Staffing Levels – Staffing levels required to support the services in this RFP;
- c. Reporting and Meetings – Providing required reports and attending meetings as outlined in this RFP;
- d. Equipment – Supplying all equipment required by this RFP; and
- e. Compliance – Adhering to all laws, rules, regulations, and procedures applicable to the services to be provided under the Contract.

The RFP establishes minimum mandatory requirements that the Proposer must meet in order to be eligible for consideration. This RFP also specifies the information to be included in each proposal.

CONTRACT TERM

The contract resulting from this RFP shall have a term of three (3) years.

CONTRACT EXTENSION

The contract that results from this RFP may be extended, in whole or in part, for a period or periods which may not cumulatively exceed 3 years, by mutual agreement in writing. The maximum contract period shall not be more than 6 years.

B. Schedule

The anticipated schedule for selecting a contractor is:

<u>Proposal Phase</u>	<u>Date</u>
RFP is issued by the City (conditional upon SFMTA Approval)	May 21, 2008
Pre-proposal conference and Site Visit	May 21, 2008 10 a.m.
Deadline for submission of written questions or requests for clarification	May 28, 2008 5 p.m.
Proposals due	June 6, 2008 12 Noon
Oral interview with firms selected for further consideration	June 18, 2008 <i>times to be determined</i>

II. Scope of Work

The scope of work for this Contract is described in Appendix A. Please review the scope of work carefully and completely to be certain that your firm is able to provide the service levels and types of services required for this contract.

III. Submission Requirements

A. Time and Place for Submission of Proposals

Proposals must be received by **12 Noon, on June 6, 2008**. Postmarks will not be considered in judging the timeliness of submissions. Proposals may be delivered in person and left with the SFMTA 7th Floor Reception Desk, attention to the SFMTA liaison named below, or mailed to:

San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103
ATTN: Lorraine R. Fuqua

E-mail: lorraine.fuqua@sfmta.com
Phone: 415-701-4678

Proposers shall address any questions regarding the RFP to the SFMTA liaison named above. Proposers shall not contact other executives, managers or employees of the SFMTA without permission of the SFMTA liaison (See Section VI.O and Appendix F for further information regarding communication restrictions and disclosure requirements).

Proposers shall submit **10** copies of the proposal clearly marked “**SFMTA Armed and Unarmed Security Guard Services Proposal**” and two (2) copies (separately bound) of required HRC Forms (listed in Section VI.N.3) to the above location. Proposals that are submitted by fax or e-mail will not be accepted. Late submissions will not be considered.

B. Format

Please submit each copy of the proposal in a separate three-ring binder. Please use three-hole recycled paper, print double-sided to the maximum extent practical. Please do not bind your proposal with a spiral binding, glued binding, or anything similar. You may use tabs or other separators within the document.

For word processing documents, the SFMTA prefers that text be unjustified (i.e., with a ragged-right margin) and use a serif font (e.g., Times Roman, and not Arial), and that pages have margins of at least 1” on all sides (excluding headers and footers).

If your response is lengthy, please include a Table of Contents.

You must also enclose in your submission an electronic version of the proposal on CD.

C. Content

Firms interested in responding to this RFP must include in their proposal the following information, in the order specified below:

1. Introduction and Executive Summary (up to 2 pages)

Submit a letter of introduction and executive summary of the proposal. The letter must be signed by a person authorized by your firm to obligate your firm to perform the commitments contained in the proposal. Submission of the letter will constitute a representation by your firm that your firm is willing and able to perform the commitments contained in the proposal.

2. Management Approach (up to 3 pages)

Describe in detail how your firm's personnel will be organized to manage this project. Indicate by title and position the person who will be the project manager and primary contact for this contract. Explain whether the contact assigned will have direct responsibility for the services offered. If not, describe the level of the project manager's responsibilities, and provide the name, title and position of the person who bears overall responsibility for contract deliverables.

Include an organizational chart depicting the structure of the firm management in relation to the employees directly responsible for this contract, and any regional firm support. Indicate each key person on the project team, the role each person will play in the project and a written assurance that the key individuals listed and identified will be performing the work and will not be substituted with other personnel or reassigned to other projects without notification and written approval of the SFMTA so long as they continue to be employed by the firm. Provide a description of the experience and qualifications of the project team members, including brief resumes if necessary. Enclose any attachments pertinent to this section immediately following the response to this section.

3. Project Approach (up to 7 pages)

All staff and supervisors provided for this project must have sufficient training, experience and qualifications to ensure the efficiency of SFMTA operations and the safety of SFMTA personnel. Describe in this section how recruitment and selection of security officers is accomplished. Please include examples of the process of documenting the employment process including application, interview questions, and background check procedures.

Describe your firm's process of developing and promoting officers, supervisors and managers within the organization. Include proposals on how to maintain coverage during breaks and ensure that staff are deployed in the most efficient way possible. Also describe any programs designed to retain employees and procedures needed to increase or decrease guard personnel in emergency and non-emergency circumstances.

Describe administrative procedures, controls and processes designed to monitor and ensure compliance with contract service responsibilities, including available electronic databases or reporting systems used to track and monitor performance and accountability. Include in this section descriptions of conduct and performance standards, employee evaluation procedures, corrective action procedures and methods used to monitor, document and report employee-related incidents. Enclose any attachments pertinent to this section immediately following your response to this section.

4. Firm Experience (up to 3 pages)

Provide information on your firm's background and qualifications which addresses the following:

The name, address, telephone number and e-mail address of the official contact person for the proposal submission process, along with a brief description of your firm, as well as how any joint venture or association would be structured, and a description of not more than three (3) projects similar in size and scope completed by your firm, including client name, reference contact information, staff members who worked on each project, budget, schedule and project summary.

Descriptions should be limited to one (1) page for each project. If joint venture partners are proposed, the proposal must include the information required by this Section III.C.4 for each joint venture partner. Enclose any attachments pertinent to this section immediately following the response to this section.

5. References (up to 5 pages)

Provide references for the lead firm, including the name, address, e-mail address and telephone number of at least three (3) but no more than five (5) recent clients (preferably other public agencies). Please provide a brief description of the services provided for said client. References clients should be of a type similar in function and amount to services described in Appendix A if this RFP. At least one (1) reference must be for armed security guard services. The references provided in a proposal must demonstrate the proposing firm's compliance with the minimum qualifications for both armed and unarmed security guard services that are described in Section IV.A.1 of this RFP.

Proposers must also complete Appendix J, “References”, and attach it to this section of the proposal.

6. Cost Proposal

The SFMTA intends to award this contract to the firm that it considers will provide the best overall program services. 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.

Please provide two (2) copies of the cost proposal, each in a separate, sealed envelope, labeled “**SFMTA Security Cost Proposal**”. Please use Appendix K (“Cost Proposal”) for your cost proposal submission. Please fill out the document completely, as instructed. Please submit only one (1) cost proposal for the RFP. Incomplete forms, or submittal of multiple bids will be considered non-responsive and will result in the rejection of the submitted proposal.

7. HRC Forms

Proposers must submit the following forms, separately bound, with their proposal:

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

If a joint venture between firms is proposed, then the proposal must include:

Form 4	Joint Venture Participation Schedule
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Please see Appendix C of this RFP for the HRC forms contained in HRC Attachment 3 – Requirements for General Services Contracts.

Other forms may also be required to be filed with the City to meet City requirements, but do not have to be included with the proposal. For a list of such forms, see Appendix D.

8. Appendices F, G, H and I
9. Five (5) years of financial statements as described in Section IV.A.2
10. Copies of all licenses required by Section IV.A.3
11. Bid Bond, as required in Section IV.A.4
12. Letter of Commitment from a bonding agency as required in Section IV.A.5.

IV. Evaluation and Selection Criteria

A. Minimum Qualifications

Each proposal that does not demonstrate compliance with the minimum qualifications listed in this Section IV.A will be deemed non-responsive and will not be scored.

- 1. Documented Experience:** The Proposer must have at least five (5) years direct experience managing both armed and unarmed security services. Services levels for armed guard services must be for a minimum of 3,000 hours per month during the previous two (2) years. Service levels for unarmed guard services must be for a minimum of 8,000 hours per month during the previous two (2) years. The required experience may be for one (1) client, or for multiple clients. Information provided in the References section of the proposal must document that this requirement has been met.
- 2. Financial Solvency:** Proposer must demonstrate \$5 million in combined gross annual revenue or liquid current assets for the past three (3) years. Proposers may demonstrate compliance with this requirement by showing compliance during the last three (3) fiscal years of the firm, the last three (3) calendar years, or the last thirty-six (36) contiguous months of business operation.

To meet this requirement, Proposer must submit a total of five (5) years of reviewed financial statements, including the three (3) years that demonstrate compliance with the financial solvency requirement as described above.

- 3. Licensing:** The Contractor shall be licensed under the State of California, Private Investigators and Patrol Operators Adjustor's Act. The Contractor's license must not be currently under probation or suspension as set forth by the State of California, Department of Consumer Affairs.
- 4. Bid Bond:** Each Proposer shall provide a bid bond, or money order, cashier's check or certified check, in the amount of **one thousand dollars (\$1,000)** payable to the **San Francisco Municipal Transportation Agency** to guarantee the filing of Performance Bond and Insurance Certificates, and proper execution of the contract.
Personal or company checks will not be accepted. After the contract is awarded or the SFMTA has rejected all proposals, all bid securities, except those which may have been forfeited, will be returned to the respective Proposers.
- 5. General Bonding and Insurance:** Award of this contract is conditional upon the Contractor's provision of performance and fidelity bonds and insurance meeting the requirements described in Appendix E, Section 15. Proposers must provide a Letter of Commitment from a bonding agency that confirms the Proposer will be able to secure bonding at the time of Contract Award.
- 6. Contractor must have an office located within a 30-mile radius of SFMTA Facilities.**

Any proposal that does not demonstrate that the Proposer meets these minimum

requirements as of the deadline for submittal of proposals will be considered non-responsive and will not be eligible for award of the contract.

B. Selection Criteria

Proposals will be evaluated by a selection committee comprised of parties with expertise in **project management, contract management and/or security services**. The SFMTA intends to evaluate the proposals generally in accordance with the criteria itemized below. Up to **three (3)** of the firms with the highest scoring proposals will be interviewed by the committee to make the final selection.

Scoring:

I. PROPOSAL EVALUATION:

Management Approach and Firm Experience: 35 points

- Demonstration of Contractor's commitment and responsibility to contract deliverables through assignment of appropriate personnel.
- Experience and qualifications of firm personnel assigned to the project.
- Depth and breadth of firm experience with projects of similar type and complexity.
- Specificity and adequacy of training suggestions for Guards that fall outside SFMTA-required training.

Project Approach: 35 points

- Quality of controls and procedures described to ensure compliance with contract service responsibilities.
- How well does Proposer address and document Guard performance issues, including conduct, evaluation, disciplinary actions and complaints.
- How well does Proposer address recruitment and retention of guard forces to be employed
- Quality of response to education and advancement opportunities for Guards

Cost Proposal: 30 points

The lowest cost proposal shall receive the total number of points assigned to the fee evaluation criterion. The other fee proposals shall be scored by dividing the amount of the lowest fee by the fee proposal being scored and multiplying the result by the total number of points assigned to the fee evaluation criterion.

For example, if a total of 30 points are assigned to rate financial proposals responding to an RFP, the Proposer who offers the lowest cost proposal of \$10,000 receives all 30 points. The next lowest proposal that offers \$15,000 receives a score of 20 points (\$10,000 divided by \$15,000, multiplied by 30 points).

TOTAL POSSIBLE: 100 POINTS

The three (3) Proposers with the highest combined score will be chosen for the Oral Evaluation.

Part II. ORAL EVALUATION:

Criteria for Scoring

- General cohesiveness of presentation
- Presentation of management style and organization
- Overall quality of proposed solutions to service objectives
- Appropriateness of references provided

TOTAL POSSIBLE: 40 POINTS

The interview will consist of an oral presentation and standard questions asked of each of the finalists.

The Proposer with the highest cumulative score will be chosen to enter into negotiations with the SFMTA for Contract Award.

V. Mandatory Pre-proposal conference, Optional Site Visit, and Contract award

A. Pre-Proposal Conference

Proposers **must** attend a mandatory pre-proposal conference on **May 21 at 10 a.m.. to be held at One South Van Ness Avenue, 3rd Floor (Room 3074)**. Representative(s) from SFMTA's Contract Compliance Office will be available to answer questions regarding the city's Local Business Enterprise/Non-discrimination Requirements and HRC forms. If Proposers have questions prior to the pre-proposal conference, they must be submitted in writing to the e-mail address of the SFMTA liaison listed in Section VI.B. Questions may also be submitted in writing during or after the Pre-proposal Conference, however, **all questions must be received by Noon on May, 23, 2008.** Questions submitted after this date will receive no response.

SFMTA responses to questions will be posted by May 28, 2008 at the following address:
<http://mission.sfgov.org/OCABidPublication/ReviewBids.aspx>

B. Optional Site Visit

Immediately following The Pre-proposal Conference those Proposers who wish to may accompany SFMTA staff on a site visit to the major locations affiliated with the contract. The site visit is expected to last up to two (2) hours. If you wish to participate in the site visit, please e-mail Lorraine Fuqua at the following e-mail address: lorraine.fuqua@sfmta.com by May 14, 2008.

C. Contract Award

The SFMTA will select a Proposer with whom SFMTA staff shall commence contract negotiations. The selection of any proposal shall not imply acceptance by the SFMTA of all terms of the proposal, which may be subject to further negotiations and approvals before the SFMTA 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 (5) 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 notices of an intent to request written modification or clarification of the RFP, must be directed to:

**San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103
ATTN: Lorraine R. Fuqua**

**e-mail: lorraine.fuqua@sfmta.com
phone: 415-701-4678**

Inquiries must be written down, may be hand delivered or sent by e-mail only. **Inquiries**

made orally (e.g. by telephone) will receive no response. Firms should be aware that any inquiries and/or questions during the evaluation process may be subject to disclosure to all Proposers.

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 (10) 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 Change Notices, which will be posted on the website <http://mission.sfgov.org/OCABidPublication/ReviewBids.aspx>. The Proposer shall be responsible for ensuring that its proposal reflects any and all Change Notices issued by the Department prior to the proposal due date regardless of when the proposal is submitted. Therefore, the SFMTA recommends that the Proposer consult the website frequently, including shortly before the proposal due date, to determine if the Proposer has downloaded all Change Notices.

E. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 180 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, the Department may require a Proposer to provide oral or written clarification of its proposal. The Department reserves the right to make an award without further clarifications of proposals received.

G. Errors and Omissions in Proposal

Failure by the Department 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

The 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 the SFMTA and may be used by the SFMTA in any way deemed appropriate.

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 (3) 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 (6) 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.

J. 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.

K. 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 (2) 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.

L. 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.

M. 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.

N. Local Business Enterprise Goals and Outreach

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”) shall apply to this RFP.

1. LBE Sub-consultant Participation Goals

The LBE subconsulting goal for this project is **5 %** of the total value of the goods and/or services to be procured. Please see HRC’s homepage at www.sfgov.org/sfhumanrights for HRC’s Local Business Enterprise Directory of certified LBE firms.

No part of the LBE sub-consulting goal for this Contract may be met by subcontracting for personnel to perform Guard Services. All Guards provided to meet the requirements of the Contract must be employees of the prime contractor.

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. Lobes 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 sub-consulting 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 3, Requirements for General Services Contracts.

Proposals which fail to comply with the material requirements of S.F. Administrative Code §§ 14B.8 and 14B.9, HRC Attachment 3 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. Sub-consulting goals can only be met with HRC-certified Lobes located in San Francisco.

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 3: 1) HRC Contract Participation Form, 2) HRC "Good Faith Outreach" Requirements Form, 3) HRC Non-Discrimination Affidavit, and 4) HRC Employment Form. If these forms are not returned with the proposal, the proposal may be determined to be non-responsive and may be rejected.
- b. Please submit only two (2) copies of the above forms with your proposal. The forms should be submitted with the proposal in a sealed envelope labeled "HRC Forms." The HRC forms are contained in Appendix C of this RFP namely, HRC Attachment 3 – Requirements for General Services Contracts.

If you have any questions concerning the HRC Forms, you may call Naomi Steinway the Contract Compliance Officer for SFMTA Contract Compliance Office at 415-701-4363

O. 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 (Appendix F) 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.

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 endorsement, 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 Administrative Code

Chapters 12B and 12C, Nondiscrimination in Contracts and Benefits, (§ 34 in the Agreement); the Minimum Compensation Ordinance (§ 43 in the Agreement); the Health Care Accountability Ordinance (§ 44 in the Agreement); the First Source Hiring Program (§ 45 in the Agreement); and applicable conflict of interest laws (§ 23 in the Agreement); The Displaced Worker Protection Act (§ 61 of the Agreement), as set forth in paragraphs B, C, D, E, F and G 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.

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 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 §43.

For the amount of hourly gross compensation currently required under the MCO, see www.sfgov.org/olse/mco. Note that this hourly rate may increase on January 1 of each year and that contractors will be required to pay any such increases to covered employees during the term of the contract.

Additional information regarding the MCO is available on the web at www.sfgov.org/olse/mco.

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 www.sfgov.org/olse/hcao.

E. First Source Hiring Program (FSHP)

If the contract is for more than \$50,000, then the First Source Hiring Program (Admin. Code Chapter 83) may apply. 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 and from the First Source Hiring Administrator, (415) 401-4960.

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 the City on behalf of the successful Proposer might be deemed consultants subject to 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 (10) calendar days of the City notifying the successful Proposer of contract award.

G. Displaced Worker Protection Act

Proposers are hereby notified of the requirements to comply with the Displaced Worker Protection Act (DWPA, Article 33C of the San Francisco Police Code). An "employee" for the purpose of the DWPA includes any service employee of the contractor or its subcontractor(s) who works at least 15 hours per week and whose primary place of employment is in the City but does not include: 1) managerial, supervisory or confidential employees as defined by the Fair Labor Standards Act; or 2) employees who do not possess or have not maintained a required occupational license.

For contracts subject to the DWPA, the contractor is under the following obligations:

1. Transition Employment Period

- (a) Where the SFMTA has given notice that a service contract has been terminated or ended, or where a service contractor has given notice of such termination, upon giving or receiving such notice, as the case may be, the terminated or ending contractor shall, within ten (10) days thereafter, provide to the successor contractor, the name, date of hire, and employment occupation classification of each employee employed at the site or sites covered by the prospective contractor at the time of contract termination (employment information). This provision

shall also apply to the subcontractors of the terminated contractor.

If the terminated contractor does not know the identity of the successor contractor, if any, by the time of the contract termination notice, the terminated contractor shall obtain such information from the SFMTA at such time. Where a subcontractor of a service contractor has been terminated prior to the termination of the service contract, the terminated subcontractor shall be deemed a terminated contractor for purposes of the DWPA.

- (b) A successor contractor shall retain, for a 90-day transition employment period, employees who have been employed by the terminated contractor or its subcontractors, if any, for the preceding eight months or longer at the site or sites covered by the contract.
- (c) If at any time a successor contractor determines that fewer employees are required to perform the new service contract than were required by the terminated contractor (and subcontractors, if any), the successor contractor shall retain employees by seniority within job classifications.
- (d) During such 90-day period, the successor contractor (or subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered employees not retained by the successor contractor (or subcontractor) from which the successor contractor (or subcontractor) shall hire additional employees.
- (e) Except as provided in subsection (c) of this section, during such 90-day period, the successor contractor (or subcontractor, where applicable) shall not discharge without cause an employee retained pursuant to the DWPA. Cause for this purpose shall include, but not be limited to, the employee's conduct while in the employ of the terminated contractor or subcontractor that contributed to any decision to terminate the contract or subcontract for fraud or poor performance, excluding permissible union-related activity.
- (f) At the end of such 90-day period, a successor public sector contractor (or subcontractor, where applicable) shall perform a written performance evaluation for each employee retained pursuant to the DWPA. If the employee's performance during such 90-day period is satisfactory, the successor public sector contractor (or subcontractor) shall offer the employee continued employment under the terms and conditions established by the successor contractor (or subcontractor) or as required by law.
- (g) Contractors must include a provision in all subcontracts requiring subcontractors to comply with the obligations imposed by the DWPA.

2. Enforcement

- (a) An employee who has been discharged in violation of the DWPA by a successor contractor or its subcontractor may bring an action in the Municipal Court or Superior Court of the State of California, as appropriate, against the successor contractor and, where applicable, its subcontractor, and may be awarded back

pay, including the value of benefits, for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

1. The average regular rate of pay received by the employee during the last three years of the employee's employment in the same occupation classification; or
 2. The final regular rate received by the employee.
- (b) If the employee is the prevailing party in any such legal action, the Court shall award reasonable attorney's fees and costs as part of the costs recoverable.

3. Successor's Prior Employees

A successor contractor or subcontractor may replace an employee retained pursuant to the DWPA with a person employed by the contractor or subcontractor continuously for eight months prior to the commencement of the successor service contract or subcontract in a capacity similar to that proposed under the successor service contract or subcontract, but only if the existing employee of the successor contractor or subcontractor would otherwise be laid off work as a result of the award of the successor contract.

VIII. Protest Procedures

A. PROTEST OF NON-RESPONSIVENESS DETERMINATION

Within five (5) business days of the SFMTA's issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that the SFMTA 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 SFMTA on or before the fifth working day following the SFMTA'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 SFMTA to determine the validity of the protest.

B. Protest of Contract Award

Within five (5) business days of the SFMTA's issuance of a notice of intent to award the contract, any firm that has submitted a responsive proposal and believes that the SFMTA has incorrectly selected another Proposer for award may submit a written notice of protest. Such notice of protest must be received by the SFMTA on or before the fifth working day after the SFMTA'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 SFMTA to determine the validity of the protest.

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 SFMTA received the protest. **Protests or notice of protests made orally (e.g., by telephone) will not be considered.** Protests must be delivered to:

**San Francisco Municipal Transportation Agency
Finance Division, Professional Services and Fare Media Unit
One South Van Ness Avenue, Seventh Floor
San Francisco, CA 94103
ATTN: Steve Bell, Manager**

**APPENDIX D
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 (3) 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) 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

Item	Form name and Internet location	Form	Description	Return the form to; For more info
1.	Request for Taxpayer Identification Number and Certification www.sfgov.org/oca/purchasing/forms.htm www.irs.gov/pub/irs-fill/fw9.pdf	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 www.sfgov.org/oca/purchasing/forms.htm	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
3.	S.F. Administrative Code Chapters 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits www.sfgov.org/oca/purchasing/forms.htm – 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. Contract-by-Contract Compliance status vendors must fill out an additional form for each contract.	Human Rights Comm. 25 Van Ness, #800 San Francisco, CA 94102-6059 (415) 252-2500

Item	Form name and Internet location	Form	Description	Return the form to; For more info
4.	HRC LBE Certification Application www.sfgov.org/oca/purchasing/forms.htm – In Vendor Profile Application		Local businesses complete this form to be certified by HRC as Lobes. Certified Lobes 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/
Purchasing forms: Click on “Required Vendor Forms” under the “Information for Vendors and Contractors” banner.

Human Rights Commission

HRC’s homepage: 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 A

SFMTA SECURITY GUARD SERVICES SCOPE OF WORK

TABLE OF CONTENTS

1. DEFINITIONS34
2. CONTRACTOR RESPONSIBILITIES-OVERVIEW37
3. INITIAL CONTRACT DELIVERABLES37

A.	POST ORDERS.....	37
B.	LIST OF ASSIGNED GUARDS.....	38
C.	TRAINING PLAN.....	38
D.	PROOF OF TRAINING.....	38
i.	<i>Individual Guards</i>	38
ii.	<i>All Guards</i>	38
iii.	<i>Training</i>	38
iv.	<i>Affidavits</i>	39
E.	FACILITY PATROL PLAN.....	39
F.	PROPOSED UNIFORM DESIGN.....	39
G.	SUPERVISOR CONTACT LIST.....	39
H.	PROPOSED FORM OF EMERGENCY REPORT.....	39
I.	REPORT TEMPLATES.....	39
4.	CONTRACTOR DUTIES.....	39
A.	GENERAL GUARD DUTIES.....	39
B.	FACILITY PATROLS.....	41
C.	EMPLOYEE ACCESS CONTROLS.....	41
D.	REVENUE SECURITY.....	42
E.	FAILURE TO PERFORM GUARD DUTIES.....	42
5.	UNIFORMS.....	42
A.	UNIFORMS TO BE SUPPLIED AND MAINTAINED.....	42
B.	UNIFORM DESIGN.....	43
C.	UNIFORM ITEMS.....	43
6.	EQUIPMENT.....	44
7.	SITES.....	44
A.	REQUESTED LOCATIONS.....	44
B.	REGULAR LOCATIONS.....	44
C.	FUTURE SITES.....	46
8.	PERSONNEL.....	46
A.	CONTRACTOR RESPONSIBLE FOR PERSONNEL.....	46
B.	REMOVAL WITHOUT CAUSE.....	47
C.	REMOVAL WITH CAUSE.....	47
D.	REASSIGNMENT, AUGMENTATION, REDUCTION OF WORKFORCE.....	47
E.	DRUG AND ALCOHOL SCREENING.....	47
F.	QUALIFIED EMPLOYEES.....	49
G.	TRAINING REQUIREMENT.....	50
9.	TYPES OF SERVICES.....	53
A.	ARMED PERSONNEL.....	53
i.	<i>Armed Revenue Escort Security Officer Guards</i>	53
ii.	<i>Armed Revenue Guard Supervisor</i>	53
B.	UNARMED PERSONNEL.....	53
i.	<i>Revenue Tower Officers</i>	53
ii.	<i>Senior Console Supervisor</i>	53
iii.	<i>Security Control Console Monitors</i>	54
iv.	<i>Field Supervisor</i>	54
v.	<i>Graffiti Unit Supervisor</i>	54

vi.	<i>Graffiti Unit Guards</i>	54
C.	SUPERVISOR DUTIES	55
D.	CONTRACT SECURITY ADMINISTRATIVE SUPPORT	55
E.	AS-NEEDED AND EMERGENCY GUARD SERVICE	55
F.	ACCOUNT MANAGER	55
G.	OBSERVER PROGRAM	56
H.	CABLE CAR OBSERVER'S PROGRAM	56
10.	TIMES OF SERVICE	57
A.	TIME RECORDS	57
B.	HOURS OF SERVICE	57
i.	<i>Shift Schedule</i>	57
ii.	<i>Limitation on Overtime</i>	58
C.	HOLIDAYS	58
D.	SPECIAL EVENTS	58
11.	REPORTS AND MEETINGS	59
A.	QUARTERLY MEETINGS	59
B.	REPORTS -	59
i.	<i>General Report Requirements</i>	59
ii.	<i>Incident Reports</i>	59
iii.	<i>Annual Summary Reports</i>	60
iv.	<i>Other Required Reports</i>	60
12.	MATERIALS TO BE PROVIDED BY SFMTA	61
13.	LIQUIDATED DAMAGES	62

EXHIBIT A – SECURITY HOURS CHART

1. DEFINITIONS

For the purpose of the Special Conditions in this Contract Proposal, the following terms shall have the following meanings:

- A. Agreement, Contract.** The contract to be negotiated and executed by the SFMTA and the successful proposer, which shall include this Request for Proposals, the Contractor's proposal, the Post Orders, Staffing Plan, Facility Patrol Plan, Training Plan and Standard Operating Procedures, and all other attachments and appendices to those documents.
- B. Americans with Disabilities Act, ADA.** The Americans With Disabilities Act of 1990, as amended, including all relevant regulations adopted by the U.S. Department of Justice and the U.S. Department of Transportation.
- C. Armed Guard Card.** An identification card issued by the State Department of Consumer Affairs that provides proof of weapons certification.
- D. As Needed Guard Services.** Armed and unarmed Guard requests that are not a part of the regular schedule, as set forth in the current monthly Staffing Plan, where SFMTA has provided at least four (4) hours notice.
- E. CCTV.** Closed circuit television.

- F. Central Control.** The SFMTA's operational dispatch center for all revenue vehicles, located at 151 Lennox St.
- G. Contract, Agreement.** The contract to be negotiated and executed by the SFMTA and the successful proposer, which shall incorporate by reference this Request for Proposals, the Contractor's proposal, the Post Orders, Staffing Plan, Facility Patrol Plan, Training Plan and Standard Operating Procedures, and all other attachments and appendices to those documents..
- H. Days.** Calendar days, unless otherwise specified.
- I. Deputy Director of Enforcement and Security.** The city employee appointed to the position of Deputy Director of Enforcement and Security by the SFMTA, or his or her designee.
- J. Effective Date.** The effective date of the Agreement between the Contractor and SFMTA shall be the date on which the last required approval is received and all contract documents are executed.
- K. Emergency Guard Service.** Armed or Unarmed Guard Services that are requested by the SFMTA with less than four (4) hours notice.
- L. Emergency Report.** A written report required to be submitted by Contractor to SFMTA following the occurrence of an Unavoidable Delay, a sudden and unanticipated event that results in injury, death or property damage, or any other circumstances requiring an Emergency Report as specified in the Agreement.
- M. Executive Director/CEO.** The Director of Transportation for the San Francisco Municipal Transportation Agency, or his/her designee.
- N. Fare Media.** Items issued by the SFMTA to users of public transit and parking to provide evidence of payment for use of services.
- O. Graffiti.** 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, shelters, kiosks, 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" does 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.).
- P. Guard.** Trained, equipped and qualified employees of Contractor assigned to security Guard duties as required by this Contract.

- Q. Guard Card.** An identification card that verifies that a person has completed the required classes and clearances to work as a security guard, as issued by the State Department of Consumers Affairs (see Business and Professions code section 7583.11).
- R. Incident Report.** The report required to be filed to document events or conditions on SFMTA Property that represent a security concern, as further defined in Section 11.B.
- S. Mobile Patrol Guards.** Guards assigned to the Graffiti Unit with orders to patrol unstaffed SFMTA Sites such as LRV platforms, kiosks and bus shelters using a vehicle supplied by Contractor.
- T. Observers. Personnel hired by the Contractor to assist with the Americans With Disabilities Act Observer's Program and the Cable Car Observer Program.**
- U. Records.** All documents created, received or maintained by Contractor in connection with performance under this Agreement, including, but not limited to, books, accounts, invoices, maintenance and service logs, database information, contracts, construction documents, payroll information, maintenance, construction and service logs and other documents, whether or not kept in electronic format.
- V. Relief.** A Guard assigned to cover an authorized break, sick leave or vacation of a Guard who is regularly assigned to the Site.
- W. Security Office. The SFMTA security office located at 875 Stevenson Street, Room 224.**
- X. Services.** The Security Guard services to be provided by Contractor in accordance with the requirements and specifications of this Contract.
- Y. SFMTA.** The Municipal Transportation Agency of the City and County of San Francisco, acting by and through its Executive Director/CEO or his or her designee.
- Z. SFMTA Properties.** The Sites listed in Section 7, and any other real property in which the SFMTA has a property interest or acquires such interest during the duration of this Contract.
- AA. Site.** A property or facility to which Guards are assigned pursuant to this Contract or which may be established during the term of this Contract. Current Sites are listed in Section 7.
- BB. Standard Operating Procedure (SOP).** Written procedures, policies and guidelines used by the Contractor in day to day operations that will be provided by the SFMTA.
- CC. Supervisor.** An employee of Contractor whose primary job duties include oversight, supervision, scheduling and managing assigned Guards on duty, certifying Guard time records and collecting Guard reports for each shift. Specific duties of Supervisors under this Contract are further defined in Section 9.

- DD. Revenue Section, Revenue.** The Division of SFMTA that handles Fare Media and Fare Collection, located at One South Van Ness.
- EE. Unavoidable Delay.** A delay in Contractor's performance of its duties under the Contract that Contractor demonstrates within 10 Days of City demand could not have been avoided by Contractor's exercise of due care, prudence, foresight, or diligence and that arises directly from: an act of God; fire; flood; windstorm; tornado; earthquake; war; riot; insurrection; epidemic; quarantine restrictions; acts of terrorism; inability of Contractor to procure labor to the extent that such inability is not caused by disputes related to collective bargaining; inability of Contractor to procure material; accident; the prevention by the City of Contractor from commencing or prosecuting any of its duties under the Contract; inability of Contractor to obtain applicable permits and licenses from relevant governmental authorities; or failure of public utility service.

2. CONTRACTOR RESPONSIBILITIES-OVERVIEW

Contractor agrees that the Services to be performed, including the locations where and the hours during which Services are to be performed, and the number of Guards to be furnished by the Contractor, shall be subject to the approval of the SFMTA. Contractor agrees that the schedules set forth in a staffing plan may be changed at any time, without any penalty to the SFMTA, provided the SFMTA gives at least ten (10) business day's notice of the change.

The Contractor will provide and supervise Guards for all shifts as directed by the SFMTA. Contractor will provide Guards for assignment to duties and locations as described in the Scope of Services or other times or locations designated by the SFMTA. . Contractor agrees that the schedules set forth in a staffing plan may be changed at any time, without any penalty to the SFMTA, provided the SFMTA gives at least ten (10) business day's notice of the change.

3. INITIAL CONTRACT DELIVERABLES

A. Post Orders.

Within fifteen (15) Days of the Effective Date, Contractor shall deliver to SFMTA draft comprehensive Post Orders for **all designated Sites** for SFMTA review and approval. SFMTA shall review and return same to Contractor with instructions for revisions. Contractor will prepare completed and approved Post Orders and submit them to the SFMTA within ten (10) days of receipt of SFMTA revisions. Final Post Orders approved by SFMTA are incorporated by reference and shall become part of the Contract as though fully set forth. Post Orders shall include, but are not limited to:

- i. General Safety Procedures
- ii. Emergency Procedures (including contact lists)
- iii. Investigation, Incident and Emergency Report Procedures and Forms
- iv. Shift Patrol Procedures

- v. Communication Procedures
- vi. Dress and Grooming Standards
- vii. Training Procedures including harassment training
- viii. Photographs and diagrams of each Site.
- ix. Human Resources Policies and Hiring and Disciplinary Procedures
- x. Templates for required reports as listed in Section 11.B.

B. List of Assigned Guards.

Contractor, prior to starting any work, must furnish SFMTA with a complete list of all Guards assigned, their assignment and a copy of their application for employment. Records of criminal convictions, driving history, parking citations, military service, education and prior employment must be checked by Contractor prior to the assignment of any Guard

C. Training Plan.

No later than ten (10) Days after the Effective Date, Contractor shall provide the SFMTA with a draft Training Plan consisting of the following: (i) the proposed curriculum for each required subject matter listed in Section 8.H below, (ii) the dates, times, and location of each block of instruction, and (iii) a resume for each instructor must be submitted seven days prior to the commencement of training. SFMTA shall review and return the draft Training Plan to Contractor with any instructions for revisions. Contractor shall deliver the completed Training Plan to the SFMTA for its approval prior to the commencement of training required by this Contract. The final approved Training Plan is incorporated by reference and shall become part of the Agreement as though fully set forth herein.

In addition to the initial training required above, Contractor will provide 24 hours of training each year of the Contract to all Guards used in performance of the Contract. Training shall include but is not limited to components as described in Section

D. Proof of Training.

i. Individual Guards.

Prior to assignment of any Guard, Contractor shall provide proof of required training for that Guard. Such proof shall include an affidavit of training, on a form to be approved by the SFMTA, signed by the Contractor and the Guard certifying that each type of training required by this Contract has been completed.

ii. All Guards.

Within thirty (30) Days of the Effective Date of the Agreement, Contractor must provide proof of having completed required training of each and every Guard assigned to this Contract.

iii. Training.

Contractor shall provide proof of attendance for at least 24 hours of annual training with attendance sheets signed off by Guards participating in training, along with the day, time, duration and training subject matter. Proof of attendance shall be submitted quarterly to the SFMTA. See Section 8.H for further information on training requirements.

iv. **Affidavits.**

Falsified affidavits of training shall be grounds for immediate removal and replacement of a Guard. Contractor is responsible for verifying the truth and accuracy of each affidavit. Contractor agrees that failure to verify training affidavits is a material breach of the Agreement.

E. Facility Patrol Plan.

Contractor shall provide Guards to patrol bus yards and subway and rail tracks to minimize trespassing, vandalism, and exposure to liability. On the Effective Date of the Agreement, Contractor shall provide a Facilities Patrol Plan to identify specific measures to prevent and minimize theft, graffiti, vandalism, sabotage and trespassing at Sites to be patrolled, and procedures for Guards to respond to such incidents. The Facility Patrol Plan shall be subject to SFMTA approval. The final approved Facility Patrol Plan is incorporated by reference and shall become part of the Agreement as though fully set forth herein.

F. Proposed Uniform Design.

Contractor shall submit proposed Guard uniform designs to SFMTA for approval within ten (10) Days of the Effective Date.

G. Supervisor Contact List.

Upon the Effective Date Contractor shall provide a contact list with 24-hour contact information (phone or pager) for all Supervisors.

H. Proposed form of Emergency Report.

Upon the Effective Date Contractor shall provide a proposed form of Emergency Report for SFMTA approval.

I. Report Templates.

Upon the Effective Date, Contractor shall provide to SFMTA templates for all reports that are required by this Contract (Emergency Reports, Training Affidavits, Incident Reports, Guard Timesheets, Lost/Stolen Item Reports, a Daily Security Report (DSR), Radio Logs, Armed Guard Daily Report, Observer Reports, monthly invoice, and an Excel matrix of Planned/Unplanned Scheduled Events to track date/time of event, location, number of guards, hours of service, etc.) for SFMTA approval. The final approved report templates are incorporated by reference and shall become part of the Agreement as though fully set forth herein.

4. CONTRACTOR DUTIES

A. General Guard Duties.

The Contractor shall provide and supervise Guards to provide Services for all shifts and Sites for which Guards are required by this Contract or requested by the SFMTA. Except in the Revenue Section, Contractor shall make best efforts to assign Guards consistently to certain Sites so that Guards become more familiar with the procedures and authorized persons associated with that Site. Guards shall be provided to perform the following duties at all Sites in accordance with the Standard Operating Procedures unless otherwise provided in the Contract or as instructed by SFMTA:

- i. Protect the safety of persons on the Site
- ii. Prevent and minimize fire, theft, damage and trespass on SFMTA properties;
- iii. Prohibit entry into secure Sites by anyone other than persons carrying valid SFMTA identification or as otherwise instructed by SFMTA;
- iv. Report any unusual incidents or hazardous conditions;
- v. Maintain a daily log for each shift in accordance with all policies for the Site (*e.g.* sign in and sign out requirements for visitors);
- vi. Complete rounds of assigned facilities as required for each Site to ensure that all access doors are secure;
- vii. Maintain log of all security violations and report occurrences to SFMTA Security as quickly as possible considering the nature of the violation;
- viii. Monitor security desk consoles (*i.e.*, employee access control and alarm computer, CCTV video monitors, DVRs); as well as:
 - (a) Be familiar with and implement emergency fire or fire alarm procedures including familiarity with floor plans with locations of fire alarm pull boxes, fire extinguishers, fire alarm monitoring panel and other life/safety systems;
 - (b) Be familiar with and implement emergency intrusion alarm procedures including the use of computer programs, closed circuit television monitors, voice intercom systems, alarms and alarm enunciator panels and other equipment required for monitoring and control of building access;
 - (c) Guards shall be responsible for all building and systems keys in their possession and shall account for the whereabouts of keys at all times. Keys shall not be loaned to anyone for any reason. If keys are lost or stolen, Guards shall notify Contractor no later than the end of the shift during which the keys were lost or stolen, and Contractor shall notify SFMTA immediately upon receiving the Guard's report so that appropriate action can be taken to safeguard the premises.

Contractor is responsible for the cost of replacement of lost, stolen or damaged keys;

- ix. Be familiar with and implement procedures and protocols for responding to medical emergencies, bomb threats, riots, fires, earthquakes, hazardous spills, floods and other emergencies;
- x. Be familiar with and implement procedures for receiving and forwarding requests for maintenance;
- xi. Guards shall not use cell phones except as required to perform their duties, and may not use or be in possession of any personal electronic devices or reading materials not related to Guard duties at a Site; and
- xii. Guards shall, at all times, be polite, courteous, respectful, and responsive to any person authorized to be on the Site.
- xiii. Guards shall not be engaged in or conduct any personal business or business outside those described in this Contract at any time while assigned to perform Services except for authorized breaks.
- xiv. Guards shall comply with all FCC rules and regulations when using the SFMTA's radio frequency, radio base station and handheld radio equipment.

B. Facility Patrols

Guards shall patrol the grounds of SFMTA Property as required by this Contract and as requested by SFMTA, including subways and rail tracks, to prevent trespassing, vandalism, sabotage, injury and liability in accordance with the Facility Patrol Plan.

C. Employee Access Controls

Guards shall monitor the access of employees and members of the public to SFMTA Property as required by this Contract and as requested by SFMTA. During business hours, most facilities allow employees access to all work areas except for secured areas (*e.g.* Revenue offices, the money counting room, various Revenue storage areas), and restricted areas (*e.g.* certain parts or tools storage areas, dispatch offices, and Central Control). Control of employee access to restricted areas during and after work hours is accomplished through a card access / reader system. Guards shall notify Contractor no later than the end of the shift during which any cards in the possession of Guards at the Site are lost or stolen or if any card reader is not working properly and Contractor shall notify SFMTA immediately upon receiving the Guard's report. Contractor is responsible for the cost of replacement of lost, stolen or damaged cards in the possession of Contractor's employees.

D. Revenue Security

Guards shall escort and protect SFMTA's Revenue Division employees who handle cash and negotiable fare media as requested by SFMTA. SFMTA may elect to use armed or unarmed Guards to escort and protect Revenue staff. Revenue staff collects cash from the operating divisions, subway fare gates and some surface platforms on a daily basis. Special events also require Revenue staff to collect fares directly from transit passengers or from various collection points. Contractor must provide sufficient numbers of Guards to ensure uninterrupted protection of Revenue staff during the performance of Revenue operations as requested by SFMTA.

- i. The daily Revenue operations require constant alarm and video monitoring as well as armed Guards to ensure both the safety of Revenue personnel and the integrity of the revenue collection and counting process. Guards assigned to Revenue operations must be observant, aware and alert at all times.
- ii. Contractor must rotate Guard assignments a minimum of once every two months for Revenue related activities, and take such other measures as required to minimize the opportunity for collusion between Guards and SFMTA employees.
- iii. Contractor must ensure uninterrupted Guard service for Revenue operations.
- iv. Guards assigned to the Tower of the New Revenue Center must be thoroughly familiar with:
 - (a) all of the Site's life safety systems, CCTV video system, alarm and access control systems, operation of revenue parking garage doors and loading areas, SFMTA building security policies;
 - (b) equipment removal policy and procedures; and
 - (c) procedures for deliveries of freight, supplies, equipment, mail, packages.

E. Failure to Perform Guard Duties

Any acts of vandalism, sabotage or theft of SFMTA vehicles, buildings or equipment that is the direct result of the Contractor, or Contractor's agents or representatives, failing to perform as required by this Contract, shall result in a credit to the City of up to 100% of the cost of repair or replacement of the lost, damaged or stolen asset, plus all applicable SFMTA administrative costs and overhead.

5. UNIFORMS

A. Uniforms to be Supplied and Maintained.

Contractor must furnish and maintain all uniform items for all Guards provided to perform the Services required by this Contract, including outdoor clothing appropriate for the weather and season, with necessary safety clothing and equipment. All

Guards must wear a complete uniform of the type required by this Section at all times while on duty. When reporting for duty, Guards' shoes must be shined, all uniform items must fit well and be clean and pressed and must generally present a professional image to the public. The Contractor shall be responsible for the cleaning, pressing, and repair costs for all uniforms.

B. Uniform Design.

All Guards shall wear the same color and style of uniform. Uniform design shall be a police/military style uniform subject to the approval of the SFMTA. Any changes to uniform design or color required by the SFMTA shall be made at no additional cost to the SFMTA. Uniforms must be in the in the following colors or a combination of such colors:

- i. Dark Blue
- ii. Dark Grey
- iii. Forest Green
- iv. Tan

Shoulder patches with Contractor identification and not larger than 4-1/2 inches by 4-1/2 inches shall be worn on the uniform's left shoulder. No other Contractor identification is to be worn or displayed on the uniform. A lettered breast badge and cap ornament displaying the Contractor's name shall also be worn.

C. Uniform Items.

Contractor shall issue to all Guards issued a uniform, which must include, at a minimum, the following items:

- i. Shirts (long and short sleeve);
- ii. Trousers;
- iii. Black Garrison style belt;
- iv. Cap;
- v. Jacket (cold weather use);
- vi. Sweater (optional);
- vii. Rain gear in bright yellow or orange with "Security" printed on back;
- viii. Black gloves, leather and lined;
- ix. Belt keepers;
- x. Name plate, gold or silver (over left breast pocket with badge number, first initial and last name) and SFMTA-issued photo I.D. badge;
- xi. Keys with key holder

- xii. Contractor's insignia shoulder patch (each shirt and jacket);
and
- xiii. Black shoes or boots, leather.

6. EQUIPMENT

- A. Flashlight and batteries;
- B. Flashlight holder, black, ring or snap style;
- C. Radio holder, black;
- D. Handcuffs and case or pouch (if required);
- E. Expandable baton (if required by SFMTA);
- F. Expandable baton holder, black (if required);
- G. Whistle (thunder type) with chain attachment;
- H. .40 Caliber Semi-automatic firearms for armed Guards only or other firearm if requested by the SFMTA
- I. Approved chemical agent (subject to prior approval of use of chemical agents by the Management of Enforcement and Security, SFMTA);
- J. Body armor to the extent determined necessary by Contractor;
- K. Vehicles for Field Supervisor and Graffiti Unit;
- L. Cellular telephones for all Supervisors
- M. All other equipment determined by Contractor to be necessary to the successful performance of the Services.

7. SITES

A. Requested Locations.

Contractor shall provide armed and unarmed Guards at any location within the City and County of San Francisco within twenty-four (24) hours of SFMTA request.

B. Regular Locations.

Contractor shall provide regular Guard Services at the following Sites in accordance with the schedule set forth in Exhibit A. The SFMTA reserves the right during the term of the Agreement to add Sites or to eliminate any Site.

- i. ***Curtis E. Green Metro Center*** – This Metro Center, located at 425 Geneva Avenue is a rail operations and maintenance complex that houses major maintenance and storage facilities for light rail vehicles and historic streetcars, dispatch offices, storage of maintenance equipment and supplies, and administrative offices for the maintenance division.

ii. **Geneva Metro Center** – The smaller portion of Green Center is located at 2301 San Jose Avenue and is primarily the maintenance center and storage area for the system’s historic fleet.

iii. **John M. Woods Motor Coach Center** – The John M. Woods Center, located at 22nd and Indiana Streets, is the largest maintenance and storage facility for the system’s standard motor coaches and includes administrative offices for operations dispatch and maintenance, parts storage, heavy repair, light repair, machine shops, body and paint functions, and a carpentry shop.

iv. **Potrero Trolley Coach Division** – Potrero Division, located at Hampshire and Mariposa Streets, is the system’s largest trolley coach division. This facility includes storage and maintenance facilities for standard and articulated trolleys and offices for SFMTA’s street supervisors.

v. **Kirkland Motor Coach Division** – Kirkland Division is located at North Point and Stockton Streets and is the operations, maintenance and storage facility for about 200 standard motor coaches

vi. **Welton M. Flynn Motor Coach Division** – Flynn Division, located at 1940 Harrison Street, is the operations, maintenance and storage facility for the motor coach fleet.

vii. **Presidio Trolley Coach Division** – The Presidio Division, located at Geary Blvd. and Presidio Avenue, houses system safety and training divisions classrooms and offices in addition to the maintenance and storage of trolley coaches.

viii. **Cable Car Division** – The Cable Car Division, located at Washington and Mason Streets, houses the cable power and machinery for operating the City’s historic cable cars, the maintenance and storage facility for cable cars, and the Cable Car Museum.

ix. **SFMTA Headquarters** – located at 1 South Van Ness Avenue is owned by the City and leased by SFMTA (SFMTA currently occupies the 7th, 3rd & Basement levels, and anticipates occupying the 6th floor in 2008). SFMTA Headquarters is occupied by senior administrative staff, finance staff, the Revenue Division, Human Resources, Construction, Planning, Parking and Traffic, Information Technology, and External Affairs.

x. **SFMTA Customer Service Center** – located at 11 South Van Ness and included in the lease for 1 South Van Ness. The hours of operation are 8am-5pm Monday–Friday. The Customer Service Center houses parking citation payments, parking citation hearings and fare media sales. Contractor shall provide the following for the Customer Service Center:

- (a) One unarmed Guard shall be posted at the front desk for metal detector monitoring.
- (b) A second armed Guard shall patrol the interior perimeter on a regular basis and escort daily deposits to the Revenue Center.

(c) The Guards shall be responsible for opening the Customer Service Center at 8am and closing the facility to the public at 5 pm.

xi. **Burke Avenue Warehouse** – A SFMTA Materials Management warehouse at 1570 Burke Ave. is used for storage of bus parts before distribution to individual storerooms at the divisions.

xii. **700 Pennsylvania Facilities** – located at the corner of Pennsylvania & 22nd St., currently houses facilities and track maintenance staff, including the crafts, special machine shop and custodial crew along with the signal crew and fleet engineering.

xiii. **Sixth & King** – is used as a temporary storage yard for trains until Muni Metro East is completed in late 2008.

xiv. **1399 Marin Facility** – Houses track maintenance swing shift and their equipment and the video shop trailers. The yard is used to store the reserve motor coach fleet and has a fuel pumping station used in emergencies.

xv. **The Howard St Facility** – located at 821 Howard St., houses the Central Subway construction staff.

xvi. **Subways** – SFMTA has responsibility for the upkeep of four subway stations that are owned by the Bay Area Rapid Transit (BART) District: Embarcadero Station, Montgomery Station, Powell Station, and Civic Center Station. SFMTA also owns and operates five additional stations in its Metro System: Van Ness Station, Church Station, Castro Station, Forest Hill Station and West Portal Station.

Trackways – SFMTA's Metro System encompasses over 70 miles of trackways throughout the city, primarily along the J, K, L, M, N and T light rail lines. The remaining trackways access tracks linking the Metro Center other tracks. 6.2 miles of this system is in the Metro Subway running from Embarcadero Station to the West Portal Station at the end of the Twin Peaks Tunnel.

C. Future Sites

(a) **Muni Metro East** – is in the final construction phase and is scheduled to be completed in September of 2008

(b) **Islais Creek** –(Kirkland Replacement) is still in development, with a 2010 tentative completion date for project

(c) **Additional sites as requested by the SFMTA.**

8. PERSONNEL

A. Contractor Responsible For Personnel.

Contractor shall provide adequate numbers of trained and qualified personnel to fully staff all posts for all locations for which Guard Services are required to be provided by this Contract. All Guards must be employees of the Contractor. Hiring, training, payment of wages and benefits, uniforms, equipment, supervision, transportation costs, direction and discharge of Guards shall be the responsibility of the Contractor. The payment of federal,

state, and local taxes and all wages shall be the responsibility of the Contractor. Contractor is responsible for complying with all required federal, state and local employment laws and regulations. SFMTA may request Contractor to remove any Guard from its premises at any time it desires and for any reason. The Contractor shall provide Relief for Guards who are on authorized breaks or leaves.

B. Removal without Cause.

SFMTA may request Contractor to remove any Guard from performing Services under this Contract at any time it desires and for any reason. Contractor shall remove and replace personnel within 24 hours when requested by the SFMTA.

C. Removal with Cause.

Contractor shall remove and replace a Guard within 30 minutes of SFMTA request for any cause or condition that renders the Guard incapable of performing their duties, which shall include but is not limited to: Sleeping on duty, theft, alcohol or illegal drug use. Contractor shall remove and replace personnel within 24 hours for other violations or performance failures set forth in the Agreement when requested by the SFMTA.

D. Reassignment, Augmentation, Reduction of Workforce.

Within five (5) Days of SFMTA request, Contractor shall reassign Guards, and such reassignment shall be at no cost to the SFMTA. If SFMTA's need for Services increases or decreases the number of Guards required to fulfill this Contract, the City's cost shall be based on actual hours of Services provided at the billing rates set forth in this Contract.

E. Drug and Alcohol Screening

Federal Transit Administration (FTA) regulations require that all armed personnel undergo random substance (drug and alcohol) abuse screening as a condition of employment or contracting with SFMTA, as follows:

In implementation of the Omnibus Transportation Employee Testing Act of 1991 (49 U.S.C. App. 1618a), the Federal Transit Administration (FTA), in February 1994, issued regulations requiring its grant recipients to institute drug and alcohol testing programs. These regulations, as amended, are found in Title 49 of the Code of Federal Regulations, Part 655. Additionally, Part 40 contains procedures for collecting and analyzing drug and alcohol specimens.

Generally speaking, FTA requires testing of all transit system employees, including part-time employees, certain volunteers and contractors who perform "safety-sensitive functions." A safety-sensitive function includes maintaining a revenue service vehicle or equipment used in revenue service. Maintenance includes both preventive maintenance and overhaul of such vehicles or equipment.

Accordingly, any contractor receiving the award of this contract will have to (1) implement its own drug and alcohol testing program in compliance with FTA regulations or (2) use the services of a third party administrator to fulfill these requirements. Those contractors that perform work at SFMTA may (3) participate in Muni's program. As a condition of receiving an award of this contract, Contractor shall notify in writing which

of the three options it elects.

The drug and alcohol testing requirements include, but are not limited to:

- Testing for alcohol, by means of a breathalyzer test
- Testing for five drugs (cocaine, marijuana, amphetamines, PCP, and opiates), by means of a urine specimen
- Six types of testing: pre-employment, random, post-accident, reasonable suspicion, return-to-duty, and follow-up
- Adoption of a policy statement explaining the various testing requirements, including procedures and the consequences for those employees who test positive. The policy must be distributed to all of the contractor's safety-sensitive employees.
- Training of all safety-sensitive employees. Each safety-sensitive employee will need a minimum of one hour of training on the effects and consequences of prohibited drug use and on the signs and symptoms indicating prohibited drug use. Supervisors who may make reasonable suspicion determinations need an additional two hours of training on the indicators of probable drug use and alcohol misuse.
- Referral of employees who test positive to a Substance Abuse Professional
- Record-keeping and reporting. The regulations include requirements for retention of records and annual reporting of drug and alcohol testing information by SFMTA to FTA.
- Obtaining information from previous employers on all applicants who apply for safety-sensitive positions

One hundred percent (100%) of all armed Guards assigned to SFMTA shall be screened on an annual basis. Contractor must provide written proof of testing of each armed Guard prior to that Guard providing any Services under this Contract. All new employee names must be provided to The Employees Services Section of SFMTA's Human Resources prior to the employee's start date.

- i. **Options 1 and 2:** (If the contractor implements its own program or contracts with a third party administrator)

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655 and 49 CFR Part 40, produce any documentation necessary to establish its compliance with Parts 40 and 655, and permit any authorized representative of the U.S. Department of Transportation or its operating administrations, the California Public Utilities Commission (in its capacity as state oversight agency), or the City and County of San Francisco to inspect the facilities and records associated with the implementation of the drug and alcohol testing program and review the testing process. The Contractor agrees further to certify annually its compliance with Part 655 by December 1st of the calendar year and to submit the Management Information System (MIS) reports before March 1st (for the prior calendar year) to the Manager of Muni's Employee Services Section. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published

annually in the Federal Register.

The Contractor further agrees to submit within thirty (30) days of the Effective Date: (1) verification that its safety-sensitive employees are included as part of a safety-sensitive random testing pool; (2) a copy of Contractor's policy statement developed to implement its drug and alcohol testing program; and (3) the name of its third party administrator, if applicable. Failure to submit such documents within the prescribed time period, or failure to submit any other documentation relevant to the testing requirements as required by SFMTA, shall be cause for withholding payments to Contractor until the requirements of this section are met.

- ii. **Option 3:** (If the contractor's employees perform work at SFMTA and the contractor chooses to participate in SFMTA's program.)

Contractor agrees that its safety-sensitive employees will participate in the SFMTA's federally mandated drug and alcohol testing program. This participation shall include the following services: training, testing and collection, laboratory, medical review officer and substance abuse professional. Fees for these services shall be billed to Contractor at the rates identified on Exhibit B hereto. Payment shall be due within 30 days of the date of invoice. Contractor agrees that if it does not timely pay SFMTA for such services, SFMTA may withhold the unpaid amount of the invoice from its payments to Contractor.

Contractor shall be responsible for preparation and adoption of a policy statement in compliance with the requirements of Part 655 of the Code of Federal Regulations and for complying with any other federal requirements, including, but not limited to, obtaining required previous employment information regarding applicants for safety-sensitive positions (in compliance with 49 CFR § 40.25). Contractor shall also be responsible for the costs of any rehabilitation or employee assistance benefits for its employees.

F. Qualified Employees.

Employees hired by the Contractor as Guards shall possess the following skills and abilities:

- i. Guards shall have the ability to speak, read, write, understand and properly use documents written in English.
- ii. Contractor shall communicate all written materials provided by SFMTA to Guards, including rules, procedures, regulations, guidelines and instructions, and shall ensure that Guards adhere to the standards set forth in such materials.
- iii. Each and every Guard provided under this Contract shall have the minimum qualifications required for the position for which he/she is provided as set forth herein, to include a license from the Department of Consumer Affairs, Bureau of Collections and Investigative Services, Private Investigation Act, Article 3.2, Section 7544.6 (commonly known as a "Guard Card"). The SFMTA or may require proof of such qualifications at any time from either the Guard or the Contractor.
- iv. Guards must be at least twenty-one (21) years of age. This requirement may be waived for veterans of military service with the written approval of the SFMTA.

v. Any Guard assigned to armed duty shall meet all qualifications and have all required licenses and certifications to carry firearms.

vi. The following persons are not qualified to work as Guards:

(a) Persons with felony or serious misdemeanor convictions(s) during the last five years.

(b) Persons presently on probation or parole.

(c) Guards removed for cause at any time during this Agreement

(d) Guards who do not possess the required certifications or training specified in this Agreement.

vii. Should any employee be found unqualified for the position to which he/she is assigned, Contractor shall remove such employee immediately and provide a replacement within four (4) hours at no additional cost to the SFMTA.

viii. The SFMTA shall not pay for any Service provided by Contractor's employees who do not meet the qualifications set forth herein. In the event that the SFMTA discovers, at anytime, that it has already paid the Contractor for Services provided by an unqualified employee of the Contractor, the Contractor shall refund any such payment to the SFMTA within ten (10) business days of notification by the SFMTA. The SFMTA may, at its option, deduct an equal amount from any payment due or to become due to the Contractor under this Agreement or any other agreement.

G. Training Requirement

i. State Requirements: Contractor shall require all Guards to have current Guard Cards in their possession. Contractor shall provide to the SFMTA a photocopy of current Guard Cards for all Guards assigned to SFMTA facilities ten days prior to the Effective Date. Photocopies of valid Guard Cards for new employees shall be provided 24 hours prior to their start date at SFMTA Sites. Photocopies of Guard Card renewals or proof of payment for the renewals shall be provided to the SFMTA quarterly. In addition to the Guard Card, all Armed Guards must have in their possession an Armed Guard Card as issued by the State Department of Consumer Affairs.

ii. SFMTA Requirements:

Within five (5) Days of the Effective Date of the Agreement, Contractor and SFMTA will meet to develop written training plans and implement a training program. Contractor and SFMTA will have five (5) days to complete the training plan and three (3) weeks to complete all training.

Prior to assignment at any SFMTA Site, all Guards shall complete the SFMTA Contractor Safety Course (4 hours). Training will include but is not limited to

SFMTA specific curriculum to address safety issues related to work at a transit facility and CALOSHA safety training.

Additional training requirements for more specialized positions (the type of training depends on assigned duties) are as follows:

b. Field Supervisor –Unarmed 3 days

Training will include learning the location and routes to all SFMTA facilities, all identified security vulnerabilities and alarm response procedures. Training will also include doors to be secured or unlocked at 949 Presidio at prearranged times as well as the safe vehicle and proper radio usage procedures to assist in monitoring deployment of unarmed staff. They will also be instructed on proper radio usage. As this is a supervisory position the field supervisor will also learn how to train new unarmed Guards assigned to do a foot patrol of the Site, to document their activities and to issue radio and other needed equipment to them.

c. Console Supervisor-Unarmed (Security, 875 Stevenson St) 3 days

Training will include proper radio usage procedures and documentation of calls to assist in monitoring deployment of unarmed personnel and abide by FCC rules, inventory & key control. Training will also include CCTV & alarm monitoring procedures, alarm response duties and emergency contact procedures, and incident report writing. As this is a supervisory position those assigned to this position will also be trained on how to fill open posts and weekly scheduling of unarmed Guards.

d. Video Guard-Unarmed (Trailer & 875 Stevenson St.) 3 days

Training will include instruction on how to monitor multiple cameras at multiple platforms, facilities and sites for unusual activities, video downloading procedures, incident report writing and emergency contact procedures.

e. Tower Guard-Unarmed (Revenue Center-1 SVN basement) 3 days

Training will include proper radio usage procedures, inventory control, CCTV and alarm monitoring procedures, downloading of requested video to CDs, alarm response duties and emergency contact procedures, approved procedures to control access to revenue loading dock and secured areas to authorized personnel. They will also be instructed on proper radio usage.

f. Armed Revenue Supervisor (Revenue Center-1 SVN basement) 3 days

Training for this position will include all training in procedures provided to armed revenue Guards. The armed supervisor will also be trained in revenue loading dock procedures and how to monitor the daily Loomis pickup. As this is a supervisory position those assigned to this position will also be trained on how to schedule/rotate armed Guards through different collections as required by the contract and how to fill open posts.

g. Armed Revenue Guards (Revenue Center-1 SVN basement) 3 day

Training will include orientation to all platforms, sites and facilities to which armed Guards escort revenue staff during revenue operations. During this training Guards will be instructed on each area's vulnerabilities as well as proper placement and responsibilities while on escort duty and when returning to base. They will also be instructed on proper radio usage.

h. Graffiti Supervisor-Unarmed 3 days

Training for this position will include all training in procedures provided to Graffiti Patrol Guards. As this is a supervisory position those assigned to this position will also be trained on how to schedule Guards assigned to this unit and how to fill open posts.

i. Graffiti Patrol-Unarmed 3 days

Training will include learning the routes to all SFMTA bus yards, facilities, portals, stations and platforms where Graffiti is likely to occur, pictorial and written documentation of procedures for Graffiti attacks, as well as safe vehicle usage. They will also be instructed on proper radio usage.

j. Facility Guard-Unarmed 1 hour orientation of assigned facility

Training shall include identification of the facility vulnerabilities and the assigned patrol area, instruction on other duties including proper radio usage; verifying employee IDs, and keeping unauthorized people out of restricted areas.

k. Observer–Unarmed 4 hours

Training will include an orientation on all ADA compliance issues that operators are required to follow while driving a transit vehicle, documentation of non-compliance, filling out ride reports and time sheets.

l. Cable Car Observers (2 days MTA training)

Cable Car Observer Training will include an orientation to SFMTA and its cable car fare handling operations. The training will consist of a review of the rules, policies and procedures that all cable car operators (grip men and conductors) are required to follow regarding proper cash handling. Training will include types of violations and previously discovered methods of inappropriate handling of funds.

Personnel assigned to the Cable Car Observer position should be fully trained in undercover investigations and loss prevention as well as proper report writing techniques. Previous training should also include observation techniques and documentation, communications and signaling when working with a partner, legal and liability issues, court room procedures and demeanor, and conflict resolution. Documentation of training shall be provided to SFMTA for any Guard assigned to the SFMTA Cable Car Observer program prior to the assignment.

iii. Ongoing Training Requirements

The Contractor must ensure that training as described in Section ii. above is conducted annually or when a Contractor hires any new Supervisor, armed Guard or a group of ten (10) unarmed Guards within a given quarter. The SFMTA reserves the right to test Guards'

knowledge of the training curriculum required by this Contract.

The Contractor shall ensure that all Guards have completed an Anti-Discrimination and Harassment Course (4 hours) within one (1) year of assignment to this Contract.

iv. Training Waivers

Contractor may request the training requirement to be waived for a particular Guard if Contractor submits adequate documentation to demonstrate that the Guard's skills already exceed the training requirements and the SFMTA approves the waiver request. No waivers for safety and CALOSHA training are allowed under this Agreement.

9. TYPES OF SERVICES.

A. Armed Personnel.

Contractor shall provide the following Guards and Services in accordance with Exhibit A:

i. *Armed Revenue Escort Security Officer Guards*

Contractor shall provide Armed Revenue Escort Security Officer Guards who are assigned to Revenue escort duties. These Guards must be armed and fully equipped (.40 Caliber Semi-automatic, handcuffs, baton, approved chemical agent, holsters) to escort Revenue staff.

ii. *Armed Revenue Guard Supervisor.*

Contractor shall provide an Armed Revenue Guard Supervisor, who shall supervise all armed Guards assigned the Revenue Section to ensure that making sure that such Guards follow all established procedures. This includes but is not limited to checking in armed Guards, issuing equipment, collecting reports, scheduling of armed Revenue Guards and Relief, and additional duties as requested.

B. Unarmed Personnel.

Contractor shall provide the following unarmed personnel:

i. *Revenue Tower Officers*

Guards posted at the Tower will be stationed in an elevated tower at SFMTA headquarters at 1 South Van Ness in the basement area connected to the Revenue Vault section to secure the Vault and adjacent areas. Guards at this post must be proficient in PC based software, CCTV and employee access control and alarm systems, monitor and control all entry into the garage area and Vault sections. Guards at this post shall screen individuals through metal detectors installed at the Vault entrances and shall also use handheld scanners to isolate detected items and conduct searches as authorized by SFMTA Security

ii. *Senior Console Supervisor*

One Senior Supervisor (Monday through Friday) shall be responsible for monitoring the deployment of Guards and supervising all consoles, Mobile Patrols, and unarmed Guard operations, managing communications, and reporting directly to the Contractor's Account Manager. The Senior Console Supervisor shall be responsible for scheduling all Guards and Relief, as well as monitoring all access and CCTV systems, making

CD copies of CCTV recordings and backing up of access control system databases as instructed SFMTA. SFMTA requires a minimum of one (1) unarmed Console Supervisor to be assigned to Security Control Consoles per 8-hour shift.

iii. *Security Control Console Monitors*

Contractor shall provide Guards to monitor Security Control Consoles, at 2-3 Sites, 24 hours per day, 7 days per week. Security Control Consoles contain: the radio base station, CCTV monitors, digital video recorder (DVR) and the employee access control system.

iv. *Field Supervisor*

Contractor shall provide one (1) unarmed Field Supervisor, whose primary responsibility shall be to patrol SFMTA's various facilities and Sites and respond to all dispatch requests by the Security Control Console Supervisor for any alarms. When requested, or when there is an incident that requires such response, the Field Supervisor shall meet San Francisco Police Department (SFPD) and/or SFMTA staff at the location with keys or access cards as required in order to allow them access into the building. The Field Supervisor must remain in contact with the Security Control Console Supervisor while on patrol using a hand held radio to be provided by SFMTA.

v. *Graffiti Unit Supervisor*

Contractor shall provide a Graffiti Unit Supervisor who shall supervise Graffiti Unit personnel and perform all of the duties of the Graffiti Unit Personnel described below. The Graffiti Unit Supervisor shall be responsible for scheduling Guards in the Graffiti Unit and their Relief. The Graffiti Unit Supervisor shall also be responsible for ensure that police reports are filed for all major Graffiti hits, tracking tags and Graffiti hits of SFMTA equipment and property, labeling photographs, for insuring that all photos and reports are sent to the SFPD Graffiti unit, and to ensure that Contractor's anti- Graffiti efforts are coordinated with SFPD.

vi. *Graffiti Unit Guards.*

Contractor shall provide uniformed and undercover Mobile Patrol Guards to prevent Graffiti from occurring and to gather evidence to prosecute vandals. The locations that must be patrolled by the Graffiti Unit include but are not limited to T-line platforms, the perimeters of all Sites, and any Site that is a bus, trolley or light rail vehicle storage yard. Graffiti Unit Guards may not be used as Relief.

(a) **The Graffiti Unit** must patrol the affected SFMTA Property following the report of a Graffiti attack on any bus, trolleys or light rail vehicle while parked on SFMTA Property. After arriving on site, Graffiti Unit Guards shall inventory vehicles with Graffiti, interview SFMTA employee(s) who reported or saw the incident, get a track sheet indicating where the coaches marred by Graffiti are located in the yard, and take digital photographs of the individual Graffiti "tags". The Guard will advise the Senior Console Supervisor to contact SFMTA Central Control with a request for SFPD to respond to the Site to issue a police report. The Guard shall remain on-site to assist SFPD. The Incident Report will include an SFPD case number along with photographs and a track sheet.

C. Supervisor Duties

- i. Each Supervisor of an upcoming shift shall, prior to shift change, determine the readiness of Guards preparing to be posted and ensure adequate number of properly uniformed and equipped Guards are available for the shift.
- ii. Each Supervisor shall communicate any changes in post assignments or procedures, any special instructions, announcements, or any other pertinent information that may affect security operations.
- iii. On-duty Supervisors shall be available at all times during their shift to receive and implement orders or special instructions from the SFMTA concerning matters which affect the operation and security of assigned areas.
- iv. Supervisors shall instruct Guards as to their daily duties at the beginning of each shift. Guard duties shall not interfere with the operations of the SFMTA.
- v. Other than Graffiti Unit Supervisor, no on-duty Supervisor may perform the duties of a Guard on patrol or Relief except in emergencies. During emergencies, the Supervisor may staff a post for a period not to exceed two (2) hours in any consecutive eight (8)-hour period, unless this requirement is waived by the SFMTA. An Emergency Report shall be submitted to SFMTA by the Supervisor no later than the next business day after the emergency.

D. Contract Security Administrative Support

Contractor shall provide all necessary administrative support to manage Contractor's employees; to prepare reports, compile statistics and provide information as requested by the SFMTA. Contractor shall provide one (1) administrative employee, to be stationed between the hours of 8 a.m. and 5 p.m., at a location to be determined by the SFMTA.

E. As-Needed and Emergency Guard Service

In addition to requested scheduled Services, Contractor shall provide As-Needed Guard Service whenever requested by SFMTA, so long as SFMTA gives at least four (4) hours notice of a request for additional Services. Guards requested under As-Needed Guard Service shall be paid at the regular rate for armed and unarmed Guards. SFMTA anticipates the As-Needed Guard Service requirements to be approximately 1,500 hours annually.

Contractor may be asked to provide armed or unarmed Guards for Emergency Guard Service. Contractor shall provide an Emergency Guard within 30 minutes of SFMTA request. Contractor may charge an emergency rate for the first four (4) hours of services only. After the first four hours, the rate of pay will revert to regular rates.

F. Account Manager

Contractor shall provide an Account Manager to coordinate Contract Services. The Account Manager shall be responsible for managing the SFMTA account and responding to all SFMTA requests for additional Services or any other SFMTA concerns regarding staffing or security

issues. The Account Manager shall report directly to SFMTA's Deputy Director of Enforcement and Security.

The Account Manager must be available to participate in security audits and evaluations of SFMTA facilities, practices and procedures. This requirement is a material term of this Contract.

G. Observer Program

Contractor shall provide unarmed plain-clothes Guards as needed and as approved by the SFMTA to act as field observers. The Observer Program was established by court decree to ensure SFMTA's adherence to ADA requirements. The Observer will be assigned to specific SFMTA operators where complaints about non-compliance with ADA requirements have been reported. Observers shall complete a daily written report in a form to be provided by the SFMTA, documenting their observations while riding each vehicle. Although the primary purpose of Observers is to document ADA compliance by SFMTA operators, such Observer report may also include observation of other transit service-related issues, such as fare evasion, customer service problems, or vandalism. The estimated amount of Observer hours that will be required during the term of the Contract is 5,000 hours annually. No single individual employed as part of the Observer Program may work as an Observer more than 20 hours per week. The Observer shall, at a minimum, document the following observations:

- i. Whether the operator calls out stops and transfer points.
- ii. Whether the operator is courteous and accommodating to patrons with disabilities.
- iii. Whether the wheelchair ramp or the coach is lowered when needed.
- iv. Whether wheelchair patrons are properly secured in the designated wheelchair area when the coach is in motion.
- v. That the designated seats are kept open for patron(s) who are elderly or who have disabilities.
- vi. Whether the bus is operated safely with a minimum amount of jerking motions.
- vii. Whether all service animals are allowed on the vehicle.
- viii. Whether the operator checks to make sure that riders are carrying appropriate fare media or paying the required cash fare.
- ix. Whether the fare boxes on the vehicle are functioning properly.

H. Cable Car Observer's Program

The selected Contractor must provide personnel as needed and as approved by the designated MTA Security Manager to act as field observers on the Cable Cars. The primary function of the observers is to be alert for any fare handling violations. The unarmed plainclothes observers will be assigned to ride designated Cable Car lines. Observers will be required to complete a report, provided by SFMTA, documenting their observations

while riding each vehicle.

Observers shall work individually or in teams of two. They will work on an as needed basis, days and times may vary. A total of 6 to 8 part time personnel shall be hired so shifts can be rotated to avoid identification by Operators.

10. TIMES OF SERVICE

A. Time Records

- i. Time records shall be signed by Guards at the beginning and end of each shift and include a standard description of assignments for each day broken down in actual increments [i.e. - Metro TVM collection - 4 hours, Fare Media delivery – 2 hours, break – 1 hour, etc.]. No other Guard, Supervisor or individual is authorized to sign time records.
- ii. All original time records and payroll records for an employee's time for which the SFMTA is charged shall be maintained within 100 miles of San Francisco and shall be retrievable within 24 hours of SFMTA request.
- iii. Contractor shall maintain electronic records of actual daily Guard assignments and functions in a standard and reportable manner
- iv. Contractor shall make all time records and payroll records available for inspection, copying or audit for the entire term of the Agreement and for two years after the term of the Agreement. This section shall survive termination or expiration of the Agreement.
- v. Time records shall be signed at the end of each shift by the shift Supervisor certifying the accuracy of the time record for that Guard.
- vi. Time records for all Guards shall be maintained at the Security Office at 875 Stevenson until the end of each calendar year.

The Contractor must provide the assignment of duties and location one week prior to commencement for approval by the Deputy Director of Enforcement and Security. Contractor must also describe how arrangements will be made for rotating coverage during breaks for Guards stations at revenue locations, and must show assignment rotation a minimum of once a month for Revenue related activities.

B. Hours of Service

vii. Shift Schedule.

The Contractor shall provide Guards to fill all shifts listed in **Exhibit A**. SFMTA reserves the right to change the times or locations of the shifts listed in Exhibit A. Contractor agrees that the Services to be performed by it herein, including the

locations and areas where Services are to be performed, the hours for which such Services are to be maintained, and the number of trained, equipped and qualified Guards to be furnished by the Contractor hereunder shall be subject to the approval of the SFMTA. Contractor agrees that the scheduled work hours and days of Services may be changed at any time, without any penalty to the SFMTA, provided the SFMTA gives ten (10) business days notice of any changes to Exhibit A, except in emergencies.

viii. **Limitation on Overtime.**

No Guard shall work more than twelve (12) hours on one or more Sites, for other clients of Contractor or for or any other job in any twenty-four (24) hour period unless the work periods are separated by an eight (8) hour non-duty period. This limitation shall not apply where Contractor demonstrates in writing within one (1) business day after the event, any condition that prevented Contractor's compliance with this requirement. All requests for an exception to this requirement must receive prior written approval from the SFMTA. The Contractor shall obtain a written confirmation of the waiver of this requirement from the SFMTA for each occurrence.

C. Holidays

Contractor shall provide Services on the following official City holidays:

- i. New Years Day
- ii. Martin Luther King's Birthday
- iii. President's Day
- iv. Memorial Day
- v. Independence Day
- vi. Labor Day
- vii. Columbus Day
- viii. Veterans Day
- ix. Thanksgiving Day
- x. Day after Thanksgiving
- xi. Christmas
- xii. Any additional official City holidays during the term of the Agreement

D. Special Events

The Contractor shall provide additional Services for miscellaneous special events that require armed or unarmed Guard coverage. SFMTA will provide at least five (5) business days notice of the number of Guards needed for a Special Event. These events include but are not limited to:

- i. Bay to Breakers (armed)
- ii. Halloween (armed and unarmed)
- iii. New Years Eve (armed and unarmed)

- iv. Gay Freedom Day Weekend (armed)
- v. Rodeo (unarmed)
- vi. Cable Car Bell Ringing (unarmed)
- vii. Fleet week (unarmed)
- viii. San Francisco 49ers Football games (armed)
- ix. San Francisco Giants Baseball games (armed)

11. REPORTS AND MEETINGS

A. Quarterly Meetings

Contractor's Account Manager shall attend quarterly status meetings with SFMTA staff to discuss issues related to the Agreement including, but not limited to, performance, invoice payments, Agreement status, personnel issues, etc. At least one (1) week prior to the quarterly status meeting, the Account Manager shall provide a quarterly status report that summarizes the status of performance of the Agreement with respect to the subject matters listed above and any others that either party requests be included on the agenda for the quarterly status meeting.

B. Reports -

i. General Report Requirements.

Whenever a written report is required under the Agreement, any such report must be written in legible English. . All reports must be submitted in a Microsoft Word or compatible format in the approved template as set forth in Section 3. Any changes to report content or formats requested by SFMTA shall be made at no cost to the SFMTA. All written reports are to be submitted by the beginning of the next business day to:

SFMTA Deputy Director of Enforcement and Security (or designee)

505 – 7th Street

San Francisco, CA 94103

(e-mail address and fax number to be provided at time of contract award)

ii. Incident Reports.

Incident Reports shall be prepared no later than the end of the shift during which an incident occurs by each and every Guard who witnessed or responded to the incident. Included in the incident report is a description of the reported incident and status such as “no incident”, “all clear” or “further investigation and follow-up required.” The Incident Report shall be submitted to the SFMTA Deputy Director of Enforcement and Security, or a designated representative in the approved template as set forth in Section 3. Incident Reports must be submitted by Guards whenever there is an event or condition on or adjacent to SFMTA Property involving injury to persons or property, criminal activity, security breaches, departures from required procedures, suspicious activity, unauthorized persons on SFMTA property or any significant confrontations or altercations among or between SFMTA employees, contractors (including Contractor's employees) or members of the public. Original Incident Reports must be

submitted to SFMTA each business day for the prior business day's incidents in electronic format as well as by fax. An Incident Report must be filed in any of the following circumstances:

- (a) A Guard is required to intervene between any two or more persons, including other Guards, members of the public or SFMTA staff;
- (b) A Guard witnesses any crime or suspected crime, including assault;
- (c) A Guard witnesses any incident in which there is a potential personal injury, whether or not medical attention is requested or required, or in which loss or damage to public or private property occurs;
- (d) A Guard is required to give direction or an order to any person on a Site and they protest or express their unwillingness to comply;
- (e) A Guard discovers any unlocked doors or any activated alarms, false or otherwise;
- (f) A Guard discovers any evidence of an area being used and/or occupied by vagrants or loiterers.
- (g) A Guard observes suspicious or unusual activities, intrusion alarm information, or Graffiti attacks.

iii. **Annual Summary Reports**

Each year, 90 days before each anniversary date of this Contract, Contractor must furnish a report of the total services ordered under this Contract during the preceding twelve months. The report must be in a format acceptable to SFMTA and must list by department or location the following: (1) all services awarded under this contract; and (2) total quantity and dollar value of each service ordered, including services for which there were no orders. Contractor must also furnish a separate similar report for the total of all services ordered by SFMTA which are not part of this Contract.

iv. **Other Required Reports.**

(a) All malfunctions, vandalism and loss of said equipment stored in the Security Control Console Office must be reported within four (4) hours of the occurrence. The Security Control Console Office contains SFMTA equipment for which Contractor shall be responsible.

(b) When a Guard observes suspicious or unusual activities, intrusion alarms, or a Graffiti attack, a report must be telephoned in to SFMTA Central Control within 5 minutes of the occurrence.

(c) Upon the Effective Date Contractor shall submit a monthly staffing plan that includes the number of Guards that are delegated to each assignment listed in Exhibit A for the upcoming month. The first staffing plan shall include the first two months of the Contract, and each staffing plan shall be submitted 30 days in advance of the month covered by the staffing plan. Supervisors must report any variances from established staffing plans and schedules that occur within a given shift by location and hour, within one (1) business day of the variance. The staffing plan must include arrangements for rotating coverage during breaks for Guards stationed at Revenue Sales locations, and must show assignment rotation a minimum of once a month for Revenue related Activities.

(d) Lost/Stolen Item report: Guard completes report when a lost or stolen item is reported to provide description of lost/stolen item, location, name of facility and date.

(e) Daily Security Report (DSR): a log of a Guard's activity during an assigned shift. Items to be filled out include but are not limited to time of patrols and breaks/lunch which is kept on file at the SFMTA Security Office..

(f) Radio Logs: Record of all Guard and Supervisor radio transmissions that travel over the SFMTA designated radio frequency. Logs include time of transmission, station call letters and an hourly time check. Log is kept on file at the SFMTA Security Office.

(g) Armed Guard Daily Report: A log of activity of Armed Guards during a given shift. Log includes arrival and departure time, the name of the SFMTA revenue worker to whom they have been assigned. Log is turned Revenue at the end of each shift.

(h) Excel Matrix of Planned/Unplanned Scheduled Events to track the date and time of an event, its location, the number of Guards assigned, hours of service, etc.

12. MATERIALS TO BE PROVIDED BY SFMTA

- A.** Approved form of Affidavit of Training Form;
- B.** Approved form of Monthly Access Card Inventory;
- C.** SFMTA required Standard Operating Procedures;
- D.** Site's life safety systems, CCTV, computer system, alarm systems, operation of revenue parking garage doors and loading areas, SFMTA building security policies, and key and access card control;
- E.** Emergency fire or fire alarm procedures including floor plans with locations of fire alarm pull boxes, fire extinguishers, fire alarm monitoring panel and other life/safety systems;

- F.** Emergency intrusion alarm procedures including computer programs, closed circuit television monitors, voice intercom systems, alarms and alarm enunciator panels and other equipment required for monitoring and control of building access;
- G.** Procedures and protocols for responding to medical emergencies, bomb threats, riots, fires, earthquakes, hazardous spills, floods and other emergencies;
- H.** Procedures for deliveries of freight, supplies, equipment, mail, packages, to the New Revenue Center;
- I.** Equipment removal policy and procedures of the New Revenue Center;
- J.** Procedures for receiving and forwarding requests for maintenance;
- K.** Procedures and protocols for issuing, canceling, using, replacing, and confiscating access control devices including keys and access cards;
- L.** SFMTA Security shall provide the Contractor with a list of contact names and departments, with land line, cell phone and pager numbers. These names are to be used when Contractor needs to notify various individuals or departments about incidents, or to request information and assistance.
- M.** SFMTA organization chart and list of names and phone numbers of all relevant contacts for the Contractor including Security and Enforcement, Revenue, Operations, Contracts and Procurement, Equal Opportunity and Diversity and Accounting units.
- N.** SFMTA e-mail address for use in submitting electronic reports as described in Section 11B and fax number for use in performance of this Contract.

13. LIQUIDATED DAMAGES

A. Failure to submit Post Orders within fifteen (15) days of the Effective Date as set forth in Section 3.A shall result in a credit to the City of \$100 per 24-hour period of delay.

B. Failure to provide a draft Training Plan no less than ten (10) Days prior to commencement of training as set forth in Section 3.C shall result in a credit to the City of \$100 per 24-hour period of delay.

C. Failure to provide Proof of Training as set forth in Section 3D shall result in a credit to the City of \$100 per employee.

D. Submitting false affidavits for training verification as set forth in Section 3.D.iv. shall result in a credit to the City of \$1,000 per incident.

E. Failure to submit a Facilities Patrol Plan on the Effective Date as set forth in Section 3.E shall result in a credit to the City of \$100 per 24-hour period of delay.

F. Failure to submit proposed Guard uniform designs to SFMTA for approval within ten (10) Days of the Effective Date as set forth in Section 3.F shall result in a credit to the City of \$ 50 per 24-hours period of delay.

G. Failure to submit Supervisor Contact List on the Effective Date as set forth in Section 3.G shall result in a credit to the City of \$50 per 24-hour period of delay.

H. Failure to submit Proposed Form of Emergency Report on the Effective Date as set forth in Section 3.H shall result in a credit to the City of \$50 per 24-hour period of delay.

I. Failure to provide the all Report Templates to be used by the Contractor on the Effective Date as set forth in Section 3.I shall result in a credit to the City of \$50 per 24-hour period of delay.

J. Failure to provide Services at all times during Revenue operations as set forth in Section 4.D shall result in a credit to the City of \$100 per incident.

K. Failure to Perform Guard Duties-Section 4.E. Any acts of vandalism, sabotage or theft of SFMTA vehicles, buildings or equipment that is the direct result of the Contractor, or Contractor's agents or representatives, failing to perform as required by the Agreement in Post Orders shall result in a credit to the City of up to 100% of the cost of repair or replacement of the lost, damaged or stolen asset, plus all applicable SFMTA administrative costs and overhead.

L. Failure to ensure that Guards report to duty with all uniform elements required by Section 5 shall result in a credit to the City of \$250 per incident

M. Failure to ensure that each Guard reports for duty with all required equipment required by Section 6 shall result in a credit to the City of \$250 per incident.

N. Failure to provide Guards to SFMTA Sites listed in Section 7, in accordance with Exhibit A shall result in a credit to the City of \$1,000 per day per shift not covered by a Guard.

O. Failure to remove and replace Guards as set forth in Section 8.C and within deadlines in the Agreement shall result in a credit to the City of \$50 per 30 minute delay.

P. Failure to reassign Guards within five (5) Days of SFMTA request at no cost to the SFMTA, as set forth in Section 8.D shall result in a credit to the city of \$150 per incident.

Q. Failure to provide all new employee names and documentation of drug testing to the SFMTA for each armed Guard as set forth in Section 8.E shall result in a credit to the City of \$250 per incident.

R. Failure to submit an Emergency Report within the deadline set forth in Section 9.C.v shall result in a credit to the City of \$50 per day of delay.

S. Failure to provide Contract Security Administrative Support to the SFMTA as set forth in Section 9.D shall result in a credit to the City of \$250 per incident.

T. Failure to provide any required personnel and hours of coverage for the Account Manager as set forth in Section 9.F shall result in a credit to the City of \$500 per day per staff person not provided.

U. Failure to provide any required personnel and hours of coverage for the Observer Program as set forth in Section 9.G shall result in a credit to the City of \$500 per day per staff person not provided.

V. Failure to provide any required personnel and hours of coverage for the Cable Car Observer program as set forth in section 9.H shall result in a Credit to the City of \$500 per day per staff person not provided.

W. Failure to provide the adequate level of personnel and hours of coverage for Special Events as described in Section 10.D shall result in a credit to the City of \$500 per day per staff.

X. Failure to attend quarterly meetings with the SFMTA as set forth in Section 11A shall result in a credit to the City of \$100 per incident

Y. Failure to provide any report as set forth in Section 11.B shall result in a credit to the City of \$250 per incident.

End of Scope of Services

EXHIBIT A – Security Hours Chart

TABLE 1

<i>Armed Services Assignments</i>	<i># of staff needed</i>	<i>Hours/Day</i>	<i>Days/Week</i>	<i>Days/Month</i>	<i>Hours/Month</i>	<i>Weeks/Year</i>	<i>Notes</i>	<i>Total Hours/year</i>
Accompany SFMTA staff to collect and distribute passes to vendors	3	7	n/a	4	84	n/a		1,008
Accompany SFMTA staff to collect and distribute RTC passes to vendors	3	7	n/a	4	84	n/a		1,008
Accompany SFMTA staff to deliver passes to Safeway for distribution to participating outlets	1	4	n/a	1	4	n/a		48
AM, Powell/Market Booth: Stand near booth to deter robberies	1	8	7	n/a	n/a	52		2,912
PM, Powell/Market Booth: Stand near booth to deter robberies	1	8	7	n/a	n/a	52		2,912
AM, Hyde/Beach Booth: Stand near booth to deter robberies	1	8	7	n/a	n/a	52		2,912
PM, Hyde/Beach Booth: Stand near booth to deter robberies	1	8	7	n/a	n/a	52		2,912
AM, Bay/Taylor Booth: Stand near booth to deter robberies	1	8	7	n/a	n/a	52		2,912
PM, Bay/Taylor Booth: Stand near booth to deter robberies	1	8	7	n/a	n/a	52		2,912
Line Sales, F-Line: Stand near revenue staff selling tickets in line.	2	9	7	n/a	n/a	14	<i>In operation from Memorial Day to Labor Day 14 weeks)</i>	1,764

<i>Armed Services Assignments</i>	<i># of staff needed</i>	<i>Hours/Day</i>	<i>Days/Week</i>	<i>Days/Month</i>	<i>Hours/Month</i>	<i>Weeks/Year</i>	<i>Notes</i>	<i>Total Hours/year</i>
Montgomery Street Station Pass sales; regular shifts (year round)	1	7.25	5	n/a	n/a	52		1,885
Montgomery Street Station Pass sales; monthly peak-time shifts (1st and 4th wks of each month)	1	7.25	5	n/a	n/a	26		943
MMX, Wkday shift, 1-coll.-rev in subway station; 1 stays w/ rev. vehicle	2	7	5	n/a	n/a	52		3,640
MMX, Weekend shift, 1-coll.-rev in subway station; 1 stays w/ rev. vehicle	2	5	2	n/a	n/a	52		1,040
Change Machines 1-coll.-rev from machine; 1 stays w/ rev. vehicle	2	6	7	n/a	n/a	52		4,368
Autelca machines, 1-coll.-rev from machine; 1 stays w/ rev. vehicle (19th Avenue)	2	2.5	5	n/a	n/a	52		1,300
Subway Collection, weekday, PM 1-collect revenue; 1-stay with vehicle	2	3.5	5	n/a	n/a	52		1,820
Subway Collection, Saturday PM 1-collect revenue; 1-stay with vehicle	2	7	1	n/a	n/a	52		728
Subway Collection, Sunday PM 1-1 collect revenue, 1-stay with vehicle	2	2.5	1	n/a	n/a	52		260
PM CUBIC collection truck from divisions	1	7	6	n/a	n/a	52		2,496
F-Line Streetcar collection	1	8	6	n/a	n/a	52		936
F-line Streetcar collection Saturday	1	8	1	n/a	n/a	52		416
Baseball	2	4.5	n/a	n/a	n/a	n/a	77 games/year	693
Special Events	2	10					65 days per year	1,300

<i>Armed Services Assignments</i>	<i># of staff needed</i>	<i>Hours/Day</i>	<i>Days/Week</i>	<i>Days/ Month</i>	<i>Hours/ Month</i>	<i>Weeks/Year</i>	<i>Notes</i>	<i>Total Hours/year</i>
							TOTAL	43,125

TABLE 2

<i>Unarmed Guard Services Assignments</i>	<i>Site</i>	<i># of staff needed</i>	<i>Hours/Day weekdays (x 5 days)</i>	<i>Hours/ weekends (x 2 days)</i>	<i>Total hours weekly</i>	<i>Days/ Week</i>	<i>Weeks/ year</i>	<i>Notes</i>	<i>Total Hours/ Year</i>
Back Gate	Geneva	1	8	24	88	n/a	52	<i>wkday shifts are 9p to 5a; weekends run 5a Sat to 5a Monday, unless otherwise indicated.</i>	4,576
Front and Back Gate	Green	1	8	24	88	n/a	52		4,576
23rd Street	Woods	1	8	24	88	n/a	52		4,576
Tubbs	Woods	1	8	24	88	n/a	52		4,576
Front Door	Flynn	1	8	24	88	n/a	52		4,576
Back Gate	Presidio	1	8	24	88	n/a	52		4,576
Front Gate/Building	Presidio	1	8	8	56	n/a	52		2,912
Upper Yard	Potrero	1	8	8	56	n/a	52		2,912
Lower Yard-house	Potrero	1	8	24	88	n/a	52		4,576
Secondary Gate	Kirkland	1	8	8	56	n/a	52		2,912
Primary Gate	Kirkland	1	8	24	88	n/a	52	<i>Hours: 6p to 6a</i>	4,576
Museum/Barn	Cable Car	1	8	8	56	n/a	52		2,912
Tower Guard-Revenue Center-One South Van Ness		1	24	7	n/a	n/a	52		8,736

<i>Unarmed Guard Services Assignments</i>	<i>Site</i>	<i># of staff needed</i>	<i>Hours/Day weekdays (x 5 days)</i>	<i>Hours/weekends (x 2 days)</i>	<i>Total hours weekly</i>	<i>Days/Week</i>	<i>Weeks/year</i>	<i>Notes</i>	<i>Total Hours/Year</i>
Graffiti Patrol	All Sites	4	8	8	224	n/a	52		11,648
General Patrol – Metro East (9/1/08)	6th and King	1	24	n/a	168	7	52		8,736
General Patrol	6th and King/ swing-grave	1	8	n/a	56	7	52		2,912
General Patrol	Marin	1	24	n/a	168	7	52		8,736
General Patrol	Marin (night)	1	12	n/a	84	7	52		4,368
Customer Services Center – 11 South Van Ness		2	8	5	n/a	n/a	52- 178 holiday hours	2 Guards total, 1 armed and 1 unarmed	3,984
Special Events		2	8				60 days/year		960
								TOTAL	98,336

TABLE 3

<i>Supervisor Assignments</i>	<i># of staff needed</i>	<i>hours/day</i>	<i>Days/Week</i>	<i>Weeks/year</i>	<i>Total hours/year</i>
Senior Console Supervisor (M-F Days)	1	8	5	52	2,080
Security Console Supervisor (M-F Swing and Grave)	1	16	5	52	4,160
Security Console (weekend)	1	24	2	52	2,496
Armed Supervisor (Shift TBD)	1	24	7	52	8,736
Field Supervisor	1	24	7	52	8,736
Graffiti Supervisor	1	8	5	52	2,080
					28,288

TABLE 4

<i>Miscellaneous Assignments</i>	<i>No. Staff</i>	<i>Hours/Day</i>	<i>Days/Week</i>	<i>Weeks/Year</i>	<i>Hours/Year</i>
Video Surveillance Stevenson (Swing and Grave)	1	16	7	52	5,824
Video Surveillance T-line Trailer (hours TBD)	2	26	7	52	18,928
Administrative Support	1	8	5	52 wks (- 88 hours)	1,992
Account Manager	1	8	5	52 wks (-88 hours)	1,992
TOTAL				TOTAL	28,736

MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco

DIVISION: Off-Street Parking Operations

BRIEF DESCRIPTION:

Approving the City of San Francisco Downtown Parking Corporation’s request to extend the Operating Agreement for the management of the Fifth and Mission Garage, for a term not to exceed 12 months.

SUMMARY:

- On April 1, 1992, the City and County of San Francisco executed a lease for the Fifth and Mission Garage (“Garage”) to the City of San Francisco Downtown Parking Corporation (“Corporation”).
- Pursuant to the lease, the Corporation is required to obtain San Francisco Municipal Transportation Agency (SFMTA) Board of Directors’ authorization to solicit bid/proposals, and approval of the solicitation and contract award process.
- On June 1, 2001, the Corporation commenced an Operating Agreement with Ampco System Parking (“Operator”) for the daily operation and management of the Garage. The initial term of this 5-year contract ended on May 31, 2006. Pursuant to the Agreement, the Corporation extended the contract on a month-to-month basis.
- In June 2007, the SFMTA Board of Directors approved a 12-month extension to the contract, ending on May 31, 2008.
- Any extension beyond twelve-months or May 31, 2008 must be approved by the SFMTA Board of Directors.
- During the last year, staff has worked extensively with the City Attorney’s Office and the non-profit corporations to finalize a boilerplate RFP and operating agreement for the non-profit garages. The RFP was approved by the SFMTA Board of Directors in February 2008.
- An RFP soliciting bids for the day to day operations and management of the Garage was advertised on May 7, 2008.
- Staff support the Downtown Parking Corporation’s request to extend the current contract on a month-to-month basis, allowing the Corporation to complete the RFP process, and execute a new contract with the selected vendor. Staff estimates that this selection process should take no longer than twelve months.
- The City Attorney’s Office has reviewed this calendar item.

ENCLOSURES:

1. MTAB Resolution

APPROVALS:

DATE

DEPUTY OF DIVISION

PREPARING ITEM

Amit M. Kothari

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY

ADOPTED RESOLUTION

SHOULD BE RETURNED TO: Amit M. Kothari, Off-Street Parking

ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

Background:

On April 1, 1992, the City and County of San Francisco executed a lease for the Fifth and Mission Garage (“Garage”) to the City of San Francisco Downtown Parking Corporation (“Corporation”). The Corporation issued debt to finance the Garage, and is responsible for servicing that debt. Pursuant to the lease, the Corporation is required to obtain SFMTA Board of Directors’ authorization to solicit bid/proposals and approvals for the solicitation process used and award of the contract.

On June 1, 2001, the Corporation commenced an Operating Agreement with Ampco System Parking (“Operator”) for the daily operation and management of the Garage for a term of five years ending on May 31, 2006. Pursuant to the Agreement, the Corporation extended the contract on a month-to-month basis. Subsequently, in June 2007, the SFMTA Board of Directors approved a 12-month extension to the contract to May 31, 2008. Any extension beyond twelve-months or May 31, 2008 must be approved by the Municipal Transportation Agency Board of Directors. During such extensions, all terms and conditions remained the same, including the \$4,600 monthly management fee. All operating expenses are paid by the Operator and reimbursed by the Corporation. No incentive fees or other compensation is paid to the management company.

Over the last year, staff has worked extensively with the City Attorney’s Office and the non-profit corporations to finalize a boilerplate RFP and operating agreement for the non-profit garages. The RFP was approved by the SFMTA Board in February 2008. An RFP soliciting bids for the day to day operations and management of the Garage was advertised on May 7, 2008. Based on the current evaluation process and the schedule, it is anticipated that a contract will be awarded by December 2008.

Downtown Parking Corporation has requested a 12-month extension to the current agreement with Ampco System Parking with no change in the current contract terms. Staff supports this request as it will allow the Corporation to complete the RFP process, and execute a new contract with the selected vendor. Based on the current schedule of the RFP process, a 12-month extension is warranted.

The City Attorney’s Office has reviewed this item.

Recommendation:

Staff recommends that the SFMTA Board of Directors adopt the attached resolution, authorizing the City of San Francisco Downtown Parking Corporation to extend the operating agreement with Ampco System Parking on a month-to-month basis not to exceed twelve months, ending May 31, 2009.

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The City of San Francisco Downtown Parking Corporation (“Corporation”) oversees the operation of the Fifth & Mission Street Parking Garage (“Garage”) on behalf of the City and County of San Francisco under a lease agreement with the City; and,

WHEREAS, Pursuant to the lease, the Corporation is required to obtain SFMTA Board of Directors’ authorization to solicit bid/proposals and approvals for the solicitation process used and award of the contract; and,

WHEREAS, On June 1, 2001, the Corporation commenced an Operating Agreement with Ampco System Parking (“Operator”) for the daily operation and management of the Garage for a term of five years that expired May 31, 2006. Pursuant to the Agreement, the Corporation extended the contract on a month-to-month basis with all terms and conditions remaining the same. In June 2007, the SFMTA Board of Directors approved an extension of the contract for a 12-month period, ending on May 31, 2008. Any extension beyond twelve-months or May 31, 2008 must be approved by the SFMTA Board of Directors; and,

WHEREAS, Over the last year, staff has worked extensively with the City Attorney’s Office and the non-profit corporations to finalize a boilerplate RFP and operating agreement for the non-profit garages. The RFP was approved by the SFMTA Board in February 2008. An RFP soliciting bids for the day to day operations and management of the Garage was advertised on May 7, 2008; and,

WHEREAS, The staff support Corporation’s request to extend the agreement on a month-to-month basis for a 12-month period, allowing sufficient time for the Corporation to complete the RFP process and enter into an agreement with the new vendor; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the City of San Francisco Downtown Parking Corporation to extend the operating agreement for the Fifth and Mission Garage with Ampco System Parking on a month-to-month basis, for a term not to exceed May 31, 2009.

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

Secretary, Municipal Transportation Agency Board

THIS PRINT COVERS CALENDAR ITEM NO: 10.5

MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco

DIVISION: Finance & Administration

BRIEF DESCRIPTION:

Authorizing the Executive Director/CEO to execute an Agreement with Milliman, Inc. to conduct an actuarial study to compare the conditions and benefits of employment other than wages for SFMTA Transit Operators to the top two comparable jurisdictions identified by the SFMTA and determine the actuarial valuation of wages and benefits for all negotiated SFMTA labor contracts and bargaining agreements.

SUMMARY:

- Under Charter section A8.404, the wages, conditions, and benefits of employment of Municipal Railway platform employees and transit operators shall be determined and fixed annually.
- On or before the first Monday of August, the City must certify the average of the two highest wage schedules in effect on July 1st of that year for the top two comparable jurisdictions.
- Section A8.404 also requires the certification of the economic level of benefits provided to platform employees and transit operators by the same two comparable transit systems. If the value of the benefits paid is less than the other two systems, the SFMTA must pay the difference into the San Francisco Municipal Railway Trust Fund (“Trust Fund”) administered jointly with the Transport Workers Union Local 250-A.
- In recent years, the Trust Fund selected an actuarial firm to conduct this certification. Beginning in FY 2007-2008, the SFMTA has assumed this responsibility and selected an actuarial firm through a formal RFP process in collaboration with the Trust Fund to conduct the annual actuarial study.
- The RFP was issued on January 23, 2008 (SFMTA Board Resolution #08-005) and Milliman, Inc. was selected as the most qualified proposer.
- The scope of work for the Actuarial Study includes: 1) Comparing the benefit schedules provided to SFMTA platform employees and transit operators with the average benefit schedules for the top two comparable transit jurisdictions to determine any difference in the value of benefits paid; 2) Determining the actuarial valuation of wages and benefits for all negotiated SFMTA labor contracts and bargaining agreements in accordance with applicable accounting and financial standards such as GASB 43 and 45 Regulations;
- The term of the contract is for three years from May 23, 2008 through May 22, 2011, with an option for two one-year extensions. The three-year contract not-to-exceed amount is \$206,830.
- The City Attorney’s Office has reviewed this item.

ENCLOSURES:

1. SFMTA Board Resolution
2. Agreement between the SFMTA and Milliman, Inc.

APPROVALS:

DATE

DEPUTY OF DIVISION
PREPARING ITEM

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY

ADOPTED RESOLUTION

SHOULD BE RETURNED TO:

Sonali Bose, Finance & Administration

ASSIGNED MTAB CALENDAR DATE:

EXPLANATION:

Background

Under Charter section A8.404, on or before the first Monday of August, the City must certify the economic level of benefits provided to platform employees and transit operators in comparison to the top two comparable jurisdictions identified by the SFMTA. If the value of the benefits paid is determined to be less than the other two systems, the SFMTA must pay the difference into the San Francisco Municipal Railway Trust Fund (“Trust Fund”) administered jointly with the Transport Workers Union Local 250-A (“Local 250-A”).

In recent years, the Trust Fund selected an actuarial firm to conduct this certification. Beginning in FY 2007-2008, the SFMTA has assumed this responsibility and selected an actuarial firm through a formal RFP process in collaboration with the Trust Fund to conduct the annual actuarial study.

In addition, the scope of work for the Actuarial Study will include the current and projected economic level of benefits for all negotiated SFMTA labor contracts and bargaining agreements for long-term budgeting and risk management purposes. Further, if the SFMTA decides to issue debt as provided by Proposition A, it will be required to provide the actuarial liabilities for salaries and benefits for all SFMTA labor contracts and bargaining agreements to various financial institutions, including rating agencies.

Request for Proposal (RFP) Process

The RFP process was conducted as follows:

<u>Phase</u>	<u>Date</u>
RFP Issued	January 23, 2008
Pre-proposal Conference	February 6, 2008
Proposals Due	February 29, 2008
Proposal Evaluation	March 6, 2008
Oral Interview	March 19, 2008

SFMTA received three bid proposals by the proposal deadline. The SFMTA Office of Contract Compliance evaluated the required Human Rights Commission and Good Faith Efforts (GFEs) forms submitted with the proposals, and determined that two bid proposals were non-responsive due

to either the failure to meet the Local Business Enterprise (LBE) participation subcontracting goal or the lack of adequate documentation to explain why the LBE goals could not be met.

The proposal review panel consisting of SFMTA staff and representatives of Transport Workers Union Local 250-A conducted the review of the bid proposal submitted by Milliman, Inc. Milliman, Inc. was the only proposer that met the required LBE subcontracting goal. Milliman, Inc. responded in writing to the questions raised by the proposal review panel.

Milliman, Inc.'s proposed not-to-exceed cost for the contract is as follows: \$67,830 for the first year, \$68,500 for the second year, and \$70,500 for the third year. If the two one-year contract extension options are exercised, the not-to-exceed fee for the fourth year is \$72,500 and \$74,500 for the fifth year. The total not-to-exceed amount for the first three years is \$206,830.

SFMTA staff has completed contract negotiations with Milliman, Inc. and requests authorization for the Executive Director/CEO to execute the Agreement effective May 23, 2008, in order to meet the certification deadline of August 4, 2008 required by the City Charter.

Scope of Work

The scope of work for the Actuarial Study includes:

- Comparing the benefit schedules provided to SFMTA platform employees and transit operators with the average benefit schedules for the top two comparable transit jurisdictions identified by the SFMTA to determine any difference in the value of benefits paid in compliance with City Charter requirements;
- Determining the actuarial valuation of wages and benefits for all negotiated SFMTA labor contracts and bargaining agreements in accordance with applicable accounting and financial standards, such as GASB 43 and 54 Regulations, as directed by the SFMTA.

Strategic Plan

This item directly supports Goal 4 Improved Financial Stability, Goal 5, Improved Work Environment and Workforce, and support all the other Strategic Plan Goals indirectly.

The City Attorney's Office has reviewed this item.

The SFMTA Contract Compliance Office has reviewed and approved this calendar item.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, Under Charter section A8.404, the wages, conditions, and benefits of employment of Municipal Railway platform employees and transit operators shall be determined and fixed annually; and

WHEREAS, Under Charter section A8.404, on or before the first Monday of August, the City must certify the average of the two highest wage schedules in effect on July 1st of that year for the top two comparable jurisdictions as determined by the SFMTA; and

WHEREAS, Charter section A8.404 also requires the certification of the economic level of benefits provided to platform employees and transit operators by the same two comparable transit systems; and

WHEREAS, If the value of the benefits paid is less than the other two systems, the SFMTA must pay the difference into the San Francisco Municipal Railway Trust Fund administered jointly with the Transport Workers Union Local 250-A; and

WHEREAS, If the SFMTA decides to issue debt as provided by Proposition A, it will be required to provide the actuarial liabilities for salaries and benefits for all SFMTA labor contracts and bargaining agreements to various financial institutions, including rating agencies; and

WHEREAS, A contract for a three-year term with an option to extend for two one-year terms will assist the SFMTA in meeting the above objectives;

WHEREAS, An RFP was issued on January 23, 2008, and Milliman, Inc. was selected as the most qualified proposer to conduct the actuarial study; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO to execute the Actuarial Study Agreement with Milliman, Inc., with a contract term of three years from May 23, 2008, through May 22, 2011, and a total contract amount not to exceed \$206,830; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO or his designee, at his or her discretion, to extend the term of the Agreement for a maximum of two one-year terms.

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

AGREEMENT

**City and County of San Francisco
Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, California 94103**

**Agreement between the City and County of San Francisco
and Milliman, Inc. for Actuarial Study for Wages and Benefits**

This Agreement is made this 20th day of May, 2008, in the City and County of San Francisco, State of California, by and between Milliman, Inc., whose San Francisco Office is located at 650 California Street, 17th Floor, San Francisco, CA 94108, 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 obtain actuarial and consulting services from Contractor to conduct an actuarial study for wages and benefits for all SFMTA labor contracts and compare the benefits schedule adopted by the City pursuant to Charter section A8.404 to the two highest benefits schedules for transit operators in comparable jurisdictions; and,

WHEREAS, a Request for Proposals (“RFP”) was issued on January 23, 2008, and City selected Contractor as the most qualified proposer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Personal Service Contract number 4095-07/08 on February 19, 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 from May 23, 2008 to May 22, 2011, with an option of two consecutive one-year extensions at the end of this agreement term.

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. Contractor shall comply with the Project Schedule attached as Appendix C and shall provide updates at the end of each Task, as described in Appendix A and the Proposal.

5. Compensation

Compensation 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 Executive Director/CEO, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed Two Hundred and Six Thousand, Eight Hundred and Thirty Dollars (\$206,830). In the event that both parties agree to excise the option of contract extension, the not-to-exceed amount for the fourth year shall be Seventy-Two Thousand and Five Hundred Dollars (\$72,500), the not-to-exceed amount for the fifth year shall be Seventy-Four Thousand and Five Hundred Dollars (\$74,500), and the total amount for the two one-year extensions shall not exceed One Hundred and Forty-Seven Thousand Dollars (\$147,000). 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 department 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.

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 provided by City to Contractor. 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. Left Blank by Agreement of the Parties

10. Taxes

a. Payment of any taxes, including possessory interest taxes but excluding 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 reasonably requested in writing 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, 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 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:

**Eloida Leonardo
Financial Compliance Manager
Finance and Administration Division
San Francisco Municipal Transportation Agency
One South Van Ness Ave., 7th Floor
San Francisco, CA 94103**

Copy to: **Office of Contracts and Procurement
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 pursuant to the provisions of this section.

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

Contractor shall defend, indemnify and save harmless City and its officers, agents and employees from 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. The extent of Contractor's duty to defend, indemnify and save harmless City and its officers, agents and employees from 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, shall not exceed \$10 million dollars.

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 that arise from the Contractor's gross negligence, fraud, or willful misconduct.

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 subconsultants) and liabilities of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees and costs of investigation), based upon third party claims against the City that arise directly or indirectly, in whole or in part, from any grossly negligent or willful act or omission of the Contractor and subconsultant 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 Indemnitee or the contractors of any Indemnitee.

(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 gross negligence, fraud, or willful act or omission.

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 third party 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. Omitted by Agreement of the Parties

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 EXCEPT FOR THE GROSSLY NEGLIGENT, RECKLESS, OR WILLFUL DISCLOSURE OF CONTRACTOR'S WORK PRODUCT IN VIOLATION OF SECTION 62.

19. Omitted by Agreement of the Parties

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 without cure 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 at least seven days prior 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 and if permissible under the terms of such orders and subcontractors, 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.

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.

Confidential information shall not include information (i) that is previously known to Contractor, (ii) that is independently developed by Contractor, (iii) which Contractor appropriately receives from a third party not under an obligation of confidentiality to City, (iv) that is already in or becomes part of the public domain through no fault of Contractor, or (v) that is required by law, subpoena, or court order to be disclosed.

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: **Eloida Leonardo**
Financial Compliance Manager
Finance and Administration Division
San Francisco Municipal Transportation Agency
One South Van Ness Ave., 7th Floor
San Francisco, CA 94103
E-mail: eloid.leonardo@sfmta.com
Fax: 415-701-4743

Copy to: **Office of Contracts and Procurement**
San Francisco Municipal Transportation Agency

**One South Van Ness Ave., 7th Floor
San Francisco, CA 94103**

To Contractor: **Richard A. Wright
Milliman, Inc.
650 California Street, 17th Floor
San Francisco, CA 94108
Tel: 415-394-3716
E-mail: rich.wright@milliman.com
Fax: 415-403-1334**

Each party may change the name of the contact, the address to which notice is to be sent by giving written notice thereof to the other party. If e-mail notification is used, the sender must specify a Receipt notice. Any notice of default must be sent by registered mail, overnight delivery or courier with receipt signature.

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 reports, diagrams, surveys, 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 as set forth herein. 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 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 fifteen percent (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. 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. 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 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 in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of HRC 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 with regard to the subject matter set forth herein, and supersedes all other oral or written provisions regarding such subject matter. 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 under this Agreement 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 limited 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 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. 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.

61. Liability of Contractor

THE PARTIES AGREE THAT CONTRACTOR, ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, SHALL NOT BE LIABLE TO THE CITY, UNDER ANY THEORY OF LAW INCLUDING NEGLIGENCE, TORT, BREACH OF CONTRACT OR OTHERWISE, FOR ANY DAMAGES IN EXCESS OF \$1 MILLION DOLLARS. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR LOST PROFITS OF THE CITY OR ANY OTHER TYPE OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. THE FOREGOING LIMITATIONS SHALL NOT APPLY IN THE EVENT OF THE GROSS NEGLIGENCE, INTENTIONAL FRAUD, OR WILLFUL MISCONDUCT OF THE CONTRACTOR.

62. Limitation on Distribution of Contractor's Work Product

Contractor recognizes that the 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 (collectively "Work Product") it delivers to the City may be public records subject to disclosure to third parties, however, Contractor does not intend to benefit and assumes no duty or liability to any third party who receives Contractor's Work Product and may include disclaimer language on its Work Product so stating. The City agrees not to alter, obscure, or remove any disclaimers affixed to the Work Product. To the extent that Contractor's Work Product is not subject to disclosure under applicable public records laws, the City agrees that it shall not disclose the Contractor's Work Product to third parties without Contractor's prior written consent; provided, however, that the City may distribute Contractor's Work Product in its entirety (1) when legally required to do so pursuant to any local, state or federal law; (2) to the Transport Workers Union, Local 250-A; (3) to any rating agency, when necessary as determined by the SFMTA and subject to inclusion of Rating Agency Release Agreement provided by the Contractor; and (4) to any other third party if mutually agreed to by the parties in writing, which may require execution by the third party of the Contractor's Third Party Release Agreement. The City may also distribute the Contractor's GASB 43/45 valuation in its financial statements without reference or attribution to Contractor.

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

<p>CITY</p> <p>San Francisco Municipal Transportation Agency</p> <hr/> <p>Nathaniel P. Ford, Sr. Executive Director/CEO</p> <p>Approved as to Form:</p>	<p>CONTRACTOR</p> <p>Milliman, Inc.</p> <p>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.</p>
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<p>Dennis J. Herrera City Attorney</p> <p>By: _____ John I. Kennedy Deputy City Attorney</p> <p>AUTHORIZED BY:</p> <p>MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS</p> <p>Resolution No: _____</p> <p>Adopted: _____</p> <p>Attest: _____ Roberta Boomer, Secretary to the SFMTA Board of Directors</p>	<p>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.</p> <p>_____</p> <p>Richard A. Wright Principal and Consulting Actuary Milliman, Inc. 650 California Street, 17th Floor San Francisco, CA 94108</p> <p>City vendor number: 53288</p>
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Appendices

- A: Services to be provided by Contractor
- B: Calculation of Charges
- C. Project Schedule

Appendix A

Services to be provided by Contractor

1. Annual Actuarial Study

The Contractor shall complete a detailed annual Actuarial Study each fiscal year of the valuation of benefit liabilities based on the provisions of existing labor contracts in accordance with all applicable accounting and financial standards such as GASB 43 and 45 Regulations to the satisfaction of the SFMTA. The valuation shall be determined annually each fiscal year for each labor contract separately and for each benefit level for SFMTA as a whole as directed by the SFMTA.

In addition, the Contractor shall complete a separate annual report each fiscal year for transit operators. The Contractor shall calculate the fiscal year monetary differences of vacation, health, and retirement benefits of SFMTA transit operators, and conduct comparative studies with the top two comparable transit systems in the U.S. as identified by the SFMTA.

The result of each Actuarial Study shall address the following assumptions:

- a. Turnover
- b. Retirement age
- c. Disability retirement age
- d. Mortality
- e. Projected post retirement benefit increases
- f. Inflation rate
- g. Healthcare cost trend data for northern California region
- h. Amortization time frame
- i. Investment return
- j. Participation level
- k. Marital status and dependents
- l. Plan options
- m. Payroll increases

The Contractor shall document the issues raised in meetings and discussions during the actuarial review in order to develop options the SFMTA may consider.

The Contractor shall submit written draft and final reports each year during the contract term, beginning with fiscal year 2007-2008. Each report shall contain the following:

1. The consultant's recommendations;
2. A glossary of terms and sufficient explanatory text to permit a reasonable understanding of the actuarial analysis;
3. A summary of the advantages and/or disadvantages of possible funding options;
4. Completed GASB 43 and 45 Regulations and other required accounting and financial statement and footnote disclosures required for Annual Financial Reports;
5. GASB 43 and 45 Regulations and any other financial and accounting requirements in

- each actuarial valuation report, including:
- a. Benefit costs and obligations
 - b. Summary of data used for the valuation
 - c. Summary of actuarial methods and assumptions
 - d. Summary of plan provisions
6. Actuarial certification

As part of the annual actuarial study, the Contractor shall perform the following tasks to the satisfaction of the SFMTA:

A. Task No. 1 – Comparison of Benefits for Transit Operators

The Contractor shall compare the conditions and benefits of employment other than wages as compensation for transit operators as provided under Charter section A8.404 with the average conditions and benefits of the top two comparable jurisdictions identified by the SFMTA and determine the annual monetary differences in compliance with City Charter requirements.

Time Allotted	6 weeks
Deliverables	Actuarial written report as a result of comparative study of benefits with top two comparable transit agencies within the U.S. as identified by the SFMTA
Schedule	Draft report to be submitted to SFMTA by May 15*, and the final report to be received by SFMTA no later than June 1* each year during the contract term

*For FY 2007-2008 only, the draft report is due by July 7, 2008 and the final report is due no later than July 15, 2008.

B. Task No. 2 – Actuarial Valuation of Wages and Benefits for All Negotiated Labor Contracts

The Contractor shall annually determine the actuarial valuation of wages and benefits for all negotiated SFMTA labor contracts and bargaining agreements in accordance with all applicable accounting and financial standards, such as GASB 43 and 45 Regulations, as directed by the SFMTA.

As part of the Contractor's actuarial valuation, the Contractor shall perform the following:

- Contractor shall review the GASB 43 / 45 actuarial study already performed for the City and County of San Francisco to determine the extent to which SFMTA employees have been included in the study. If the SFMTA employees were already included, the liability for the SFMTA employees will be extracted out of the City valuation.
- Contractor shall perform an independent valuation of the retiree health liabilities for SFMTA employees, separated by bargaining unit.

- Contractor shall verify that the actuarial assumptions used for the City GASB 43 / 45 valuation can be reasonably applied to SFMTA. If not, the Contractor shall recommend new actuarial assumptions to be used by SFMTA.
- Contractor shall review the current actuarial cost method for appropriateness. If a change is needed, Contractor shall discuss the relative differences between the cost methods and recommend a method that is consistent with the SFMTA's objectives.
- Contractor shall determine the amount required to amortize the Unfunded Actuarial Liability based on an amortization period selected by the SFMTA. The normal cost plus the amortization of Unfunded Actuarial Liability equals the Annual Required Contribution.
- Contractor shall provide the results of its valuation, including required disclosures, a summary of the assumptions, methodology and data used in its valuation in a written report. All cost and liability estimates shall be broken down between actives and retirees, and by employment category.

Time Allotted	8 weeks
Deliverables	Detailed report describing the liabilities and Annual Required Contribution required to be recognized by GASB 43 / 45, including an analysis of plan design and funding options for SFMTA to consider.
Schedule	Draft report to be submitted to SFMTA by August 1*, and the final version of the report to be received by SFMTA no later than August 31 each fiscal year during the contract term.

* For FY 2007-2008 only, the due date for the draft report is August 22, 2008, and the final report is due no later than August 31, 2008.

2. Required Data and Information for the Actuarial Study Project

The SFMTA shall provide the Contractor with all necessary documents and information needed in order to perform the services and deliverables required under this Agreement.

3. Reports

Contractor shall submit written reports as requested by SFMTA. The content format for all 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.

4. Department Liaison

In performing the services provided for in this Agreement, Contractor’s liaison with SFMTA will be Eloida Leonardo, the Financial Compliance Manager.

Appendix B Calculation of Charges

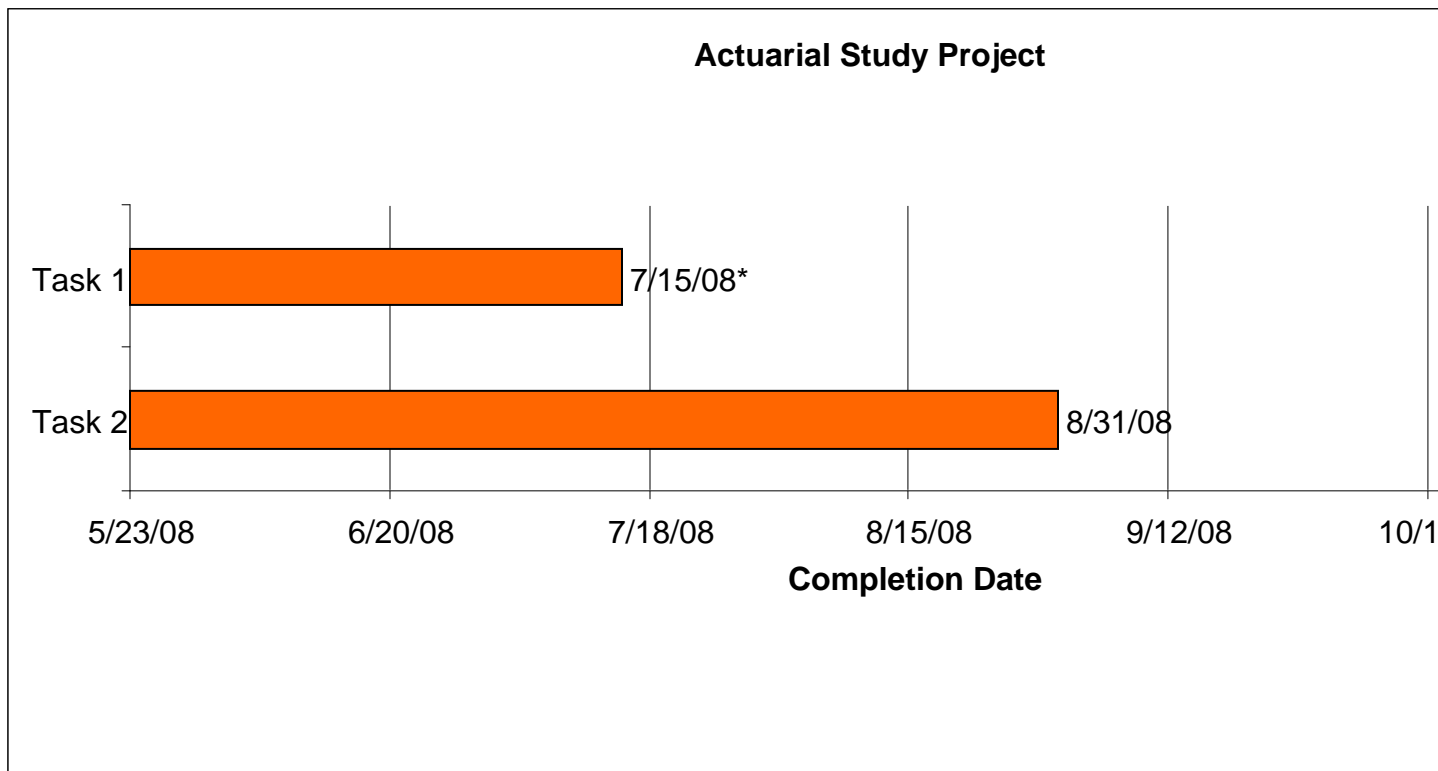
Below is the calculation of charges for the contract term, and the two additional one-year extensions, if exercised by the SFMTA. The hourly rates listed below cover all overhead and other costs. No additional charges for travel, communications, mail, or other costs are permitted. The estimated increase for contract years 2, 3, 4 and 5 is based on an estimated cost of living adjustment.

	<i>Estimated Hours</i>	<i>Hourly Rate</i>	<i>Total</i>
1. Annual Local 250 Benefit Comparison			
Project supervisor and actuary	20	\$375	\$ 7,500
Actuarial staff	75	\$180	13,500
Market research analyst (<i>subcontractor</i>)	54	\$120	<u>6,480</u>
Total estimated for year one			\$27,480
Year 1 – “Not to Exceed” fee			\$27,480
Year 2 – “Not to Exceed” fee			\$28,500
Year 3 – “Not to Exceed” fee			\$29,500
<i>If contract is extended</i>			
Year 4 – “Not to Exceed” fee			\$30,500
Year 5 – “Not to Exceed” fee			\$31,500
2. Actuarial valuation of benefits in accordance with GASB 43 and 45			
Project supervisor and actuary	30	\$375	\$11,250
Actuarial staff	120	\$180	21,600
Market research analyst (<i>subcontractor</i>)	25	\$120	3,000
Reconciliation Data by Actuarial Staff 1	25	\$180	<u>4,500</u>
Total estimated for year one			\$40,350
Year 1 – “Not to Exceed” fee			\$40,350
Year 2 – “Not to Exceed” fee			\$40,000
Year 3 – “Not to Exceed” fee			\$41,000

1 Assumes we can rely upon the data and per capita health costs prepared by the actuary for the City and County of San Francisco as of their most recent GASB 45 valuation. If an independent reconciliation of data and a calculation of retiree health costs are required, then additional charges may result. Any change in the calculation of charges shall be made in compliance with Section 48 of this Agreement.

	<i>Estimated Hours</i>	<i>Hourly Rate</i>	<i>Total</i>
<i>If contract is extended</i>			
Year 4 – “Not to Exceed” fee			\$42,000
Year 5 – “Not to Exceed” fee			\$43,000
Grand Total :			
Estimated Fee for Year 1			\$67,830
Estimated Fee for Year 2			\$68,500
Estimated Fee for Year 3			<u>\$70,500</u>
Estimated Total Fee for Three Years			\$206,830
Estimated Fee for Year 4			\$72,500
Estimated Fee for Year 5			\$74,500

**Appendix C
Project Schedule**



Task I: Comparison of Benefits for Transit Operators

*Draft report for FY 2007-2008 shall be submitted to SFMTA by July 7, 2008; for

subsequent fiscal years, draft reports are due by May 15th and final reports are due by June 1st.

Task II: Actuarial Valuation of Wages and Benefits for All Negotiated Labor Contracts

Draft reports for FY 2007-2008 to be submitted to SFMTA by August 22, 2008; for subsequent fiscal years, draft reports are due by August 1st. SFMTA shall provide required census data in electronic format to the Contractor by June 1st for FY 2007-2008 and by May 1st for subsequent fiscal years.

THIS PRINT COVERS CALENDAR ITEM NO: 10.6

MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco

DIVISION: Finance & Administration

BRIEF DESCRIPTION:

Authorizing the Executive Director/CEO to execute the Second Amendment to a contract with MuniFinancial to extend the term of the Agreement to December 31, 2008.

SUMMARY:

- The SFMTA awarded a \$10,000 contract to MuniFinancial on October 25, 2007 to analyze options and data available to support the imposition of transit fees.
- The City selected MuniFinancial as the most qualified respondent pursuant to a competitive process.
- Because of the small dollar value, the contract was awarded by the Executive Director/CEO under the authority delegated to him by SFMTA Resolution No. 02-110.
- The original contract term was from October 25, 2007 to April 30, 2007 with a not-to-exceed contract amount of \$10,000.
- The Executive Director/CEO extended the First Amendment to extend the term to May 21, 2008.
- According Resolution No. 02-110, the Executive Director/CEO may only extend the term of a contract by 10% without Board approval.
- Because of the ongoing work of the Revenue Panel and the possibility that the Panel's recommendations might affect the requested work, SFMTA staff requested MuniFinancial to extend the completion of the project till December 2008.
- The SFMTA Board is asked to approve the Second Amendment extending the Agreement through December 31, 2008 in order to allow the remaining MuniFinancial work to be guided by the recommendations of the Revenue Panel.

ENCLOSURES:

3. SFMTA Board Resolution
4. Second Amendment to the Agreement between the SFMTA and MuniFinancial

APPROVALS:

DEPUTY OF DIVISION

PREPARING ITEM

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY

ADOPTED RESOLUTION

SHOULD BE RETURNED TO:

DATE

_____	_____
_____	_____
_____	_____
_____	_____

Sonali Bose, Finance & Administration

ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

Background

The SFMTA is exploring the possibility of a new annual fee on certain businesses located in downtown San Francisco that generate demand for public transit service in order to help fund the cost of transit service.

Consulting services were needed to analyze the publicly available data that might support the imposition of such a fee.

The Consultant, MuniFinanical, was selected through a competitive selection process to complete this task. The original Agreement was from October 25, 2007 to April 30, 2007 with a not-to-exceed contract amount of \$10,000. The Civil Service Commission approved the original personal service contract (PSC #3034-07/08) on October 11, 2007.

Subsequently, the Executive Director/CEO executed the first Amendment extending the original Agreement to May 21, 2007 while retaining the not-to-exceed contract amount of \$10,000. As the Executive Director/CEO's authority to extend the term of a contract is limited to 10% of the original time of duration or term of contract, the SFMTA Board is asked to approve a second amendment extending the Agreement to December 31, 2008 retaining the not-to-exceed contract amount of \$10,000.

The extension is required in order to incorporate the recommendations from the Revenue Panel on transit fees.

The City Attorney's Office has reviewed this item.

The SFMTA Contract Compliance Office has reviewed and approved this calendar item.

Strategic Plan

This item directly supports Goal 4 Improved Financial Stability.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION No. _____

WHEREAS, The SFMTA wishes to obtain consulting and analytical services of

MuniFinancial to study and make recommendations concerning the possible imposition by the City of transit fee; and

WHEREAS, MuniFinancial was selected as the most qualified respondent through a competitive process; and

WHEREAS, MuniFinancial represents and warrants that it is qualified to perform the services required by the City as set forth under this Contract; and

WHEREAS, The Executive Director/CEO of SFMTA executed an Agreement with MuniFinancial for the term October 25, 2007 through April 30, 2008 at a not-to-exceed amount of \$10,000; and

WHEREAS, The Executive Director/CEO of SFMTA executed an amendment extending the contract through May 21, 2008 with no changes to the not-to-exceed amount, and

WHEREAS, Under the SFMTA Board Resolution No. 02-110, the Executive Director/CEO has the authority to extend the time of duration or term of the contract if cumulative extensions in the contract duration/terms do not exceed 10% of the original contract duration or term, now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Executive Director/CEO to execute the Second Amendment to the Agreement with MuniFinancial for analysis of possible transit fees and to extend the contract for a period from May 22, 2008 through December 31, 2008 with no change of the original not-to-exceed contract amount of \$10,000.

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

ATTACHMENT

**City and County of San Francisco
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103**

SECOND AMENDMENT

THIS AMENDMENT (this "Amendment") is made as of May 20, 2008, in San Francisco, California, by and between MiniFinancial, a California corporation ("Contractor"), and the City and County of San Francisco, a municipal corporation hereinafter referred to as "City", acting by and through its Municipal Transportation Agency ("SFMTA").

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 to extend the performance period;

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 October 25, 2007 between Contractor and City.

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" of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from October 25, 2007 to April 30, 2008.

Such section is hereby amended in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from October 25, 2007 to December 31, 2008.

b. Appendix A. Section "Project Timeline" of the Appendix A of the Agreement currently reads as follows:

Project Timeline:

Week 1:	Notice from SFMTA to Contractor to Proceed with Task 1 Draft Memo
Week 1-2:	Contractor Complete and Submit Task 1 Draft Memo
Week 3:	SFMTA Review of Task 1 Draft Memo

Week 4: Contractor Finalize Task 1 Memo

Week 5: SFMTA Approval of Task 1 Memo

Week 5: Notice from SFMTA to Contractor to Proceed with Task 2 Draft Memo

Week 6-7: Contractor Complete and Submit Task 2 Draft Memo

Week 8: SFMTA Review of Task 2 Draft Memo

Week 9: Contractor Finalize Task 2 Memo

Week 10: SFMTA Approval of Task 2 Memo

Such section is hereby amended in its entirety to read as follows:

Project Timeline:

Week 1 (11/02/07):
Notice to Proceed with Task 1 from SFMTA to Contractor

Week 2-9 (11/5/07-12/28/07):
Contractor Complete and Submit Task 1 Draft Memo

Week 10-20 (12/31/07-3/14/08):
SFMTA Review of Task 1 Draft Memo

Week 21-26 (3/17/08-4/21/08):
Contractor Finalize Task 1 Draft Memo

Week 27 (4/28/08):
Notice from SFMTA to Contractor to Proceed with Task 2 Draft Memo

Week 27-35 (4/28/08-6/27/08):
Contractor Complete and Submit Task 2 Draft Memo

Week 36-42 (6/30/08-9/26/08):
SFMTA Review of Task 2 Draft Memo

Week 43-45 (9/29/08-10/17/08):
Contractor Finalize Task 2 Memo

Week 46-49 (10/20/08-11/14/08):
SFMTA Review and Approve Final Version of Task 1 and Task 2 Memo

Week 50-51 (11/17/08-11/28/08):

Contractor Submit Final Version of Task I and Task 2 Memo

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after May 22, 2008.

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

San Francisco Municipal Transportation Agency

MuniFinancial

Recommended by:

Nathaniel P. Ford, Sr.
Executive Director/CEO

Frank G. Triperi
President/CEO
MuniFinancial
1700 Broadway, 6th Floor
Oakland, California 94612

City and County of San Francisco vendor
number: 19106

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Julia Friedlander
Deputy City Attorney

AUTHORIZED BY:

MUNICIPAL TRANSPORTATION
AGENCY BOARD OF DIRECTORS

Resolution No: _____

Adopted: _____

Attest: _____

Roberta Boomer, Secretary to the
SFMTA Board of Directors

**MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Off-Street Parking Operations

BRIEF DESCRIPTION:

Authorizing the Executive Director/CEO of the San Francisco Municipal Transportation Agency (SFMTA), or his or her designee, to establish and authorize parking rates during special events at all SFMTA managed off-street parking facilities.

SUMMARY:

- SFMTA administers off-street parking facilities throughout the City and County of San Francisco which serve an important role in supporting special events.
- Periodically, special events attract additional vehicles to the garages resulting in increased demand that require different operational measures to achieve maximum efficiencies.
- It is critical that parking rates during special events are such that convenient access to parking facilities is maintained without unnecessary delay when large numbers of vehicles enter or exit the facilities within a short period of time.
- By setting an appropriate parking rate for special events, the SFMTA can meet both on-going operational expenses and provide convenient access to parking facilities without unnecessary delay.
- Although the SFMTA Board of Directors sets parking rates for various off-street parking facilities, the Board of Directors may authorize the SFMTA Executive Director/CEO to implement special events rates within certain limits.
- Charter Section 16.112 and the Rules of Order of the SFMTA Board of Directors require that an advertisement be placed in the City's official newspaper to provide notice that the SFMTA Board of Directors will hold a public hearing. The advertisement must run for at least five days and not less than fifteen days prior to the public hearing. In compliance with this requirement, an advertisement was published in the San Francisco Chronicle beginning on April 18, 2008 for a five-day period informing the general public of a public hearing on May 20, 2008.
- The City Attorney has reviewed this document.
- City Planning has reviewed this document.

ENCLOSURES:

1. Resolution

APPROVALS:

	DATE
DIRECTOR OF DIVISION	
PREPARING ITEM:	_____
FINANCE:	_____

Amit M. Kothari, Off-Street Parking

EXECUTIVE DIRECTOR/CEO: _____

SECRETARY: _____

ADOPTED RESOLUTION

BE RETURNED TO: Amit M. Kothari, Off-Street Parking

ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

The SFMTA administers off-street parking facilities throughout the City. During special events, these facilities serve an important role by providing convenient parking for the event attendees. Many special events attract additional vehicles in the vicinity of the venues. By setting an appropriate parking rate for special events, the SFMTA would be able to meet both on-going operational expenses and provide convenient access to parking facilities without unnecessary delay when large numbers of vehicles enter or exit the facilities within a short period of time.

The SFMTA Board of Directors sets parking rates for various off-street parking facilities. The SFMTA Board of Directors may authorize the SFMTA Executive Director/CEO to set special event parking rates within certain limits.

Staff recommends that the SFMTA Board of Directors establish a range for special event parking rates, and authorize the SFMTA Executive Director/CEO to set the appropriate rate for a specific event based on type of the event, estimated attendance, rates at other parking facilities within the general vicinity, operational issues, and other factors that may affect the occupancy at the garage and traffic conditions around the event and parking facility. It is expected that most special events will require parking for at least two hours to a maximum of ten hours a day. After reviewing the current rates at all Parking Authority and SFMTA facilities and accounting for future rate changes, staff recommends establishing a range of \$5 (minimum) to \$40 (maximum) per vehicle, per entry, per day. Staff also recommends a rate of \$2 per entry per day for motorcycles.

The SFMTA Board of Directors' authorization to the SFMTA's Executive Director/CEO to set special event parking rates will be subject to the following conditions:

- The special event rate may be available to the general public or limited to attendees of a special event sponsored by or benefiting a not-for-profit, charitable organization or association.
- Attendees at special events sponsored by or benefiting a not-for-profit, charitable organization or association may be required to present an appropriate evidence that is acceptable to the Executive Director/CEO (e.g. event ticket or invitation) documenting the users' attendance at the special event.
- The parking facility subject to the special event rate must be within one-half mile of the event site.
- The special event rate must not breach any contractual obligations or City rules and regulations.

- The special event rate must be in effect only on the day(s) and time(s) of the special event.
- The special event rate must be a flat fee per vehicle per entry between the range of \$5 to \$40 per day. The special event rate for motorcycles shall be \$2 per entry per day. All other applicable fees and charges apply.
- The Executive Director/CEO or his/her designee must consider various factors in deciding an appropriate rate for a particular event, including the type of event, expected attendance, event rate at other parking facilities within general vicinity, operational issues, and other factors that may affect the occupancy at the garage and traffic conditions around the event and parking facility.
- The special event rate must not exceed fourteen consecutive days without prior approval from the SFMTA Board of Directors.

This item directly supports Goal 2, Improved Service Delivery and Goal 4, Improved Financial Stability and other 2008-2012 Strategic Plan Goals indirectly.

The City Attorney's Office has reviewed this document.

RECOMMENDATION

It is recommended that the SFMTA Board adopt the attached resolution authorizing the Executive Director/CEO of the SFMTA to establish and approve special event parking rates at various off-street parking facilities subject to the conditions outlined above.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) administers numerous off-street parking facilities throughout the City and County of San Francisco; and,

WHEREAS, These off-street parking facilities serve an important role in supporting special events by providing convenient parking to event attendees; and,

WHEREAS, Charter section 16.112 and the Rules of Order of the SFMTA Board of Directors require that an advertisement be placed in the City's official newspaper to provide notice that the Board of Directors will hold a public hearing to discuss parking garage rates; and,

WHEREAS, In compliance with this requirement, an advertisement was published in the San Francisco Chronicle beginning on April 18, 2008, for a five-day period informing the general public of a public hearing on May 20, 2008, and a public hearing was held on May 20, 2008; and,

WHEREAS, Special events attract additional vehicular traffic that increases demand for on-street and off-street parking; and,

WHEREAS, By setting a parking rate for special events, the SFMTA can meet both on-going operational expenses and provide convenient access to parking facilities without unnecessary delay when large numbers of vehicles enter or exit the facilities within a short period of time ; and,

WHEREAS, The SFMTA Board of Directors sets parking garage rates for off-street parking facilities, and the Board may authorize the SFMTA Executive Director/CEO to implement special event parking rates within certain limits; and,

WHEREAS, The San Francisco Planning Department has determined that the proposed project is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA); and,

WHEREAS, Said CEQA determination is on file with the Secretary of the SFMTA Board of Directors and is incorporated herein by this reference; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the SFMTA Executive Director/CEO, or his or her designee, to establish and approve special event parking rates at various off-street parking facilities; and, be it

FURTHER RESOLVED, That the SFMTA Board of Directors' authorization to set special event parking rates is subject to the following conditions:

- The special event rate may be available to the general public or limited to attendees of a special event sponsored by or benefiting a not-for-profit, charitable organization or association;
- Attendees at special events sponsored by or benefiting a not-for-profit, charitable organization or association may be required to present an appropriate evidence that is acceptable to the Executive Director/CEO (e.g. event ticket or invitation) documenting the users' attendance at the special event;
- The parking facility subject to the special event rate must be within one-half mile of the event site.
- The special event rate must not breach any contractual obligations or City rules and regulations;
- The special event rate must be in effect only on the day(s) and time(s) of the special event;
- The special event rate must be a flat fee per vehicle per entry between the range of \$5 to \$40 per day. The special event rate for motorcycles shall be \$2 per entry per day. All other applicable fees and charges apply.
- The Executive Director/CEO or his/her designee must consider various factors in deciding an appropriate rate for a particular event, including the type of event, expected attendance, event rate at other parking facilities within general vicinity, operational

- The special event rate must not exceed fourteen consecutive days without prior approval from the SFMTA Board.

I hereby certify that the foregoing resolution was adopted by the SFMTA Board of Directors at its meeting of _____.

Secretary, Municipal Transportation Agency Board

THIS PRINT COVERS CALENDAR ITEM NO: 12

MUNICIPAL TRANSPORTATION AGENCY
CITY AND COUNTY OF SAN FRANCISCO

DIVISION: Operations

BRIEF DESCRIPTION:

Authorizing the Executive Director/CEO, or his designee, to execute an agreement with Cubic Transportation Systems, Inc. for the refurbishment of the fareboxes on all SFMTA revenue vehicles, equipment and software to account for fares and manage the fareboxes, and support for SFMTA staff, for a term of 26 months and an amount not to exceed \$19 million.

SUMMARY:

- The existing farebox system was procured in 1991 from Cubic Transportation Systems, Inc. ("Cubic"). Over the past 16 years, Cubic has provided additional fareboxes to support the growth of SFMTA fleet when needed.
- The fareboxes are currently far beyond their intended 10-year design-life; they frequently breakdown, need new parts, and require constant maintenance, all of which has become a critical service issue.
- Based on an analysis comparing complete replacement versus refurbishment of the farebox system, refurbishment is the best option for SFMTA based on funding availability, return on investment, integration of new technologies (such as smart cards), and project timeline.
- The Human Rights Commission has approved a sole source contract waiver for this project. The farebox system software and hardware are proprietary to Cubic. No other vendor can provide parts or software for the system, and no other fare system can easily integrate to SFMTA fareboxes.
- The proposed contract with Cubic to refurbish the farebox system is for a 26-month term, including 15 months for installation of refurbished fareboxes on all revenue vehicles and the equipment and software to account for fares and manage the fareboxes, and 12 months for post-installation training to support the system.
- The total amount of the contract to refurbish the farebox system is \$19 million. The contract requires Board of Supervisors' approval under Charter section 9.118.
- The City Attorney has reviewed this report and accompanying Resolution.

ENCLOSURES:

1. SFMTA Board Resolution
2. Agreement between the SFMTA and the Cubic Transportation Systems, Inc.

APPROVALS:

DEPUTY OF DIVISION
PREPARING ITEM

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY

ADOPTED RESOLUTION

SHOULD BE RETURNED TO:

DATE

_____	_____
_____	_____
_____	_____
_____	_____

Kenneth McDonald, Operations

ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

Background

The existing farebox system, provided by Cubic Transportation Systems, Inc. ("Cubic"), was procured under a 1990 contract that was completed in 1991. The delivery and installation of the farebox system was completed in 1991.

The SFMTA has purchased additional fareboxes from Cubic over the past 16 years to support the growth of the revenue fleet as needed. The 1991 farebox system had a 10-year design life, and now is well past its useful life. Fareboxes break down repeatedly, and the fare collection system requires constant maintenance and new parts. Replacement or refurbishment of the existing fareboxes has become a critical service issue that must be addressed immediately.

Comparison of Full Replacement vs. Refurbishment Options

Based on the following factors, refurbishing the existing farebox system is preferable to replacing it.

- **Cost.** Procurement of a new farebox system would cost approximately two to three times the cost of refurbishing the existing farebox system, based on costs incurred by other transit systems that have recently replaced their farebox systems.
- **Return on investment.** With the upcoming implementation of TransLink, staff anticipates that patrons will more frequently use that system (and in the future, other cashless systems) to pay fares, so the high investment cost of a new cash farebox system is unnecessary.
- **Technology:** New fareboxes currently available are "validating" fareboxes that are slower to process cash fares and more complex to use than the SFMTA's existing fareboxes, which use a faster "registering" methodology to count coins and bills.
- **Timeline:** Based on industry experience, replacement of an entire farebox system with new technology would take approximately 30 to 36 months, while a refurbishment project of an existing farebox system can usually be completed in less than 16 months.

Sole Source Contract Justification

The San Francisco Human Rights Commission has approved a sole source contract with Cubic for this project. The contract for refurbishing the farebox system must be issued as a sole-source contract because the technology used in the system is propriety to Cubic, which does not license its technology to other vendors. The SFMTA conducted several competitive procurement bid requests for additional fareboxes and replacement modules/parts over the last 16 years. Cubic was the only respondent to these requests for bids, because no other vendor can provide the parts and software for the existing system. Moreover, no other farebox system can be integrated with a Cubic farebox. These circumstances are not unique to Cubic, as the other manufacturer of registering farebox systems, GFI Corporation, also does not license its proprietary technologies to other vendors, and other vendors cannot integrate with a GFI farebox system or provide spare parts for GFI systems.

Evaluating staff has experience completing similar projects for other transit agencies and are well aware of the appropriate and competitive market price for the system. With this knowledge, staff negotiated the terms and scope of the contract to ensure a competitive price that is fair, reasonable and acceptable to the City. The not-to-exceed amount for this project is \$19 million, which includes refurbished fareboxes on all SFMTA revenue vehicles, computer hardware and software to account for fares and manage the fareboxes, and support and training for SFMTA staff.

The \$19 million will be funded from the FY2007-08 Public Transportation Modernization, Improvement, and Service Enhancement Account funds from the State of California as approved by the Board on March 18, 2008.

Strategic Plan

This project supports Goals 1, 2 and 4 of the SFMTA's Strategic Plan, namely, Customer Focus, System Performance and Financial Capacity.

Recommendation

As compared to procuring a new farebox system, based on the lower cost of refurbishing the existing system, the time it will take to complete the refurbishment and upgrades, and the needs of the SFMTA, staff recommends approval of a contract with Cubic to refurbish the existing farebox system.

Board of Supervisors' approval of the contract is necessary under Charter section 9.118 because the amount of the contract exceeds ten million dollars.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The SFMTA procured its existing farebox system in 1990 from Cubic Automatic Revenue Collection Group, now called Cubic Transportation System, Inc. ("Cubic"); and

WHEREAS, The existing farebox system is far beyond its design life of ten years, and has become a critical service issue as many of its components are outdated or worn out, it frequently breaks down, and requires new parts; and

WHEREAS, The SFMTA conducted an analysis and determined that refurbishing the existing farebox system is more cost effective and is of greater benefit to the Agency than replacing it; and

WHEREAS, Due to the proprietary design of the existing farebox system and system integration requirements, the proposed refurbishment can only be conducted by Cubic; and

WHEREAS, The San Francisco Human Rights Commission has granted a sole source contract waiver to SFMTA to implement this project; and

WHEREAS, Upgrades to the farebox system will require execution of licenses for new or upgraded software to support the system; and

WHEREAS, The contract for this project is for an amount not to exceed \$19 Million, and a term not to exceed 26 months, which includes a 15-month installation period followed by a 12-month support services period; and

WHEREAS, Board of Supervisors' approval of the contract is required under Charter section 9.118; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO or his designee to execute a contract with Cubic Transportation Systems, Inc. for the refurbishment of the farebox system, including the fareboxes, computer hardware and software to account for fares and manage the fareboxes, and to provide support services for SFMTA staff, for a term not to exceed 26 months and an amount not to exceed \$19,000,000; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO or his designee to execute such software and other technology license agreements with Cubic Transportation Systems, Inc. as are necessary for the full implementation of the project described herein at no additional cost and upon such other terms as the Executive Director/CEO determines are in the best interests of the SFMTA; and be it further

RESOLVED, That the SFMTA Board of Directors recommends that the Board of Supervisors approve the proposed contract.

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

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

**AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND
CUBIC TRANSPORTATION SYSTEMS, INC.
FOR FARE SYSTEM REHABILITATION AND UPGRADES**

This Agreement for Fare System Rehabilitation and Upgrades, dated for convenience as June 1, 2008, in the City and County of San Francisco, State of California, by and between: Cubic Transportation Systems, Inc., with its offices at 5650 Kearny Mesa Road, San Diego, CA 92111, hereinafter referred to as "Cubic" or "Contractor," and the City and County of San Francisco, a municipal corporation, acting by and through its Municipal Transportation Agency, hereinafter referred to as "City" or "SFMTA."

RECITALS

WHEREAS, The SFMTA wishes to refurbish its existing fare collection system, hereinafter "Fare System," to improve the customer experience, improve operator interaction with the Farebox, and improve the reliability of the system and data retrieval/reporting; and,

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by the SFMTA as set forth under this Agreement; and,

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Agreement number 4137-07/08 on April 21, 2008;

Now, THEREFORE, the parties agree as follows:

1. DEFINITIONS

The following words and phrases shall have the meanings set forth below when used in this Agreement:

A. **Agreement:** This document, its Appendices, the Program Plan and Project Schedule, as adopted in accordance with Appendix A to this Agreement, and other documents attached hereto or specifically incorporated herein by reference.

B. **Confidential Information.** Information owned or controlled by a party that is provided to the other party and that is identified as proprietary or confidential.

C. **Days.** Consecutive calendar days, including weekends and holidays, unless otherwise specified.

D. **Deliverables.** The hardware, software, Equipment, reports, documentation or other materials, supplies or documents to be provided by Contractor to City as specified within each Task listed in Appendix A.

E. **Director of Transportation:** The Executive Director/Chief Executive Officer of the Municipal Transportation Agency of the City and County of San Francisco.

F. Documentation. All written technical publications, reference manuals, installation or Equipment specifications, user guides, and training materials relating to the use of the System provided by Contractor to City as a Deliverable.

G. Effective Date. The date upon which all required approvals are obtained and all signatures of the parties have been affixed hereto.

H. Equipment. The computers, servers, and other computer hardware or components, software, farebox modules and other farebox components, vaulting equipment, optical probes, and other parts and electronic, mechanical or electrical components Contractor shall provide to the SFMTA to complete the Project under this Agreement.

I. Fare System. The fareboxes used on SFMTA vehicles and each of their modules, components and auxiliary control panels, electrical, mechanical and electronic parts, the Central Computer System, Depot Computers, software, network system and , cabling, vaulting, optical probes and all other Equipment that comprise the fare collection system at the SFMTA.

J. Final Acceptance. Written notice to be provided by City to Contractor of City's determination that the Fare System and Equipment to be provided under this Agreement meet all requirements of this Agreement in accordance with the testing and Acceptance criteria to be developed as part of the Program Plan by mutual agreement of the parties.

K. Force Majeure. Any event arising subsequent to Effective Date which is beyond the control, and not caused by the fault or negligence, of either party, including governmental actions, war or war conditions, acts of terrorism, riots, sabotage, fire, flood, typhoons, earthquakes, accidents, hurricanes, explosions, pandemics, epidemics, quarantine restrictions, embargoes, or strikes, failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approval, authorizations, licenses or permits (including but not limited to import or export approvals or licenses).

L. Milestone. Work, services, delivery of Equipment, or other portion of the Project that when completed pursuant to mutually agreed upon Acceptance Criteria triggers the City's duty to issue payment to Contractor for that work, services, or Equipment. Appendix B Cost Schedule.

M. Notice to Proceed or "NTP". Written notice from the SFMTA to the Contractor that the City's Controller has certified funds for this Agreement and the Project, and that Contractor shall proceed with the Project.

N. Project or Work. The work, services, and Equipment that Contractor shall provide to the SFMTA under this Agreement.

O. Project Manager. The individual designated by City to be the primary liaison to Contractor for the purposes of this Agreement. As of the Effective Date, the Senior Operations Manager, SFMTA Operations is designated by City as Project Manager, and City will provide Contractor advance written notice of any change in the designation of the individual to serve as Project Manager in accordance with Section 25 herein.

P. System. The combined and integrated Equipment and software that has been Accepted by City following completion and Acceptance of all milestones.

Q. **Acceptance Criteria.** The parties will prepare and agree upon specific, objective written criteria to determine if a particular Milestone shall be accepted. The Acceptance Criteria shall be completed within ninety (90) days of the City's issuing NTP to Contractor.

R. **Work.** The services Contractor shall provide and the Equipment Contractor shall procure for the benefit of the SFMTA under this Agreement.

AGREEMENT

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 the Effective Date and shall remain in effect for twenty six (26) months thereafter, but shall be extended by any additional period authorized by the SFMTA during which Contractor completes any work required for System Acceptance, and including any extension of this Agreement by agreement of the parties.

3. Effective Date of Agreement

This Agreement shall become effective on the date that the City provides to the Contractor Notice to Proceed ("NTP") with the Work under the Agreement.

4. Services Contractor Agrees to Perform

The Contractor agrees to perform the services and provide the Equipment as set out in this Agreement including but not limited to the services and Equipment described in Appendix A, "Services to be provided by Contractor", attached hereto and incorporated by reference as though fully set forth herein.

5. Compensation

Compensation shall be made in payments for work in accordance with the Milestone Payment Schedule set out in Appendix B, Cost Schedule, that the Director of Transportation, in his sole discretion, concludes has been performed as of the last day of the immediately preceding month, or that such Milestone has been accepted in accordance with Appendix A, Test and Acceptance Sections. In no event shall the amount of this Agreement exceed Nineteen Million dollars (\$19,000,000.00). The breakdown of charges associated with this Agreement appears in Appendix B - Cost Schedule, 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 Accepted by the Project Manager 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.

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 following address:

Cubic Transportation Systems, Inc.
PO Box 13410
Newark, NJ 07188-0410

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. City shall be responsible for paying Contractor for all Equipment to be provided to SFMTA under this Agreement, including all applicable sales taxes that are not included in the Equipment prices listed in this Agreement.

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, subject to the warranty provisions of this Agreement.

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 and Ownership of Equipment

a. 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 is furnished, rented or loaned to Contractor by City, unless such damage was caused by City.

b. Contractor shall transfer legal title and ownership to the City of every Fare System component, farebox module, computer, server, and any and all other Equipment procured by Contractor to be provided to the SFMTA under this Agreement. Upon Contractor's receipt of said Equipment, Contractor shall in writing transfer legal title and ownership of the Equipment to the SFMTA and shall include in said notification the brand, type, number, and serial numbers (or other manufacturer's identifying information) of the Equipment. Upon transfer of legal title and ownership of the Equipment from Contractor to the SFMTA, said Equipment shall become an asset of the SFMTA held by Contractor for the sole benefit of the SFMTA. The City may in its absolute discretion withhold from any required payment the value of Equipment received by Contractor for which title has not transferred to the SFMTA.

c. When ordering any Equipment or any component of Equipment to be provided to the SFMTA under this Agreement, Contractor shall include in such order forms submitted to a supplier the following:

Cubic purchases this Equipment on behalf of and for the benefit of the City and County of San Francisco. Upon payment by Cubic for said Equipment or upon delivery of said Equipment to Cubic, FOB the supplier, legal title to the Equipment shall pass to the City and County of San Francisco, irrespective of who may actually have said Equipment in their possession, care, custody or control.

d. Contractor shall guard and keep safe said Equipment that is the property of the SFMTA and shall insure it (as provided in Section 15 of this Agreement) against all loss for its full value, which shall be the value charged by Contractor to the SFMTA under this Agreement.

14. Independent Contractor; Payment of Equipment 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 Employment 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) Shipping Insurance with limits not less than the price charged by Contractor to the SFMTA for all Equipment Contractor shall provide to the SFMTA under this Agreement; said insurance coverage to be effective at anytime the Equipment or any part of the Equipment is not in the possession of the Contractor or of the SFMTA. Contractor shall fully indemnify the City for any applicable deductible for any claim under said Shipping Insurance.

(5) Inventory Insurance, which may be a rider to the General Liability or property policies, with limits not less than the price charged by Contractor to the SFMTA for all Equipment Contractor shall provide to the SFMTA under this Agreement; said insurance protect against loss of the Equipment and shall remain in effect at all times that the Equipment or any part of the Equipment is in the possession, care, custody or control of the Contractor or its subcontractors. Contractor shall fully indemnify the City for any applicable deductible for any claim under said Inventory Insurance.

b. Commercial General Liability, Commercial Automobile Liability Insurance, and Shipping Insurance and Inventory 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:

Senior Operations Manager, SFMTA Operations
San Francisco Municipal Transportation Agency
One South Van Ness Ave., 7th Floor
San Francisco, CA 94103

Copies to: Contracts and Procurement and
Chief Financial Officer
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.

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, 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 agrees to defend City against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the Deliverables provided under the Agreement infringe any U.S. patent, trademark, trade secret, copyright or other intellectual property right that is existing or issued as of the date the Agreement is executed and settle or pay damages related to such claims; provided that City give Contractor prompt written notice of such claim, grants Contractor control of the defense and any settlement thereof, and reasonably cooperates with Contractor, at Contractor's expense. In case the Deliverables or any part thereof is held to constitute an infringement and is enjoined, Contractor shall, at its own expense and option, either (i) obtain for City the right to continue using the Deliverables; (ii) modify the Deliverables so as to render them non-infringing; or, (iii) accept the return of the Deliverables and refund the total amount paid for the Deliverables by City. Notwithstanding the foregoing, Contractor shall have no liability to City if the claim of infringement is based upon or arises out of (1) alterations of the Deliverables by City or the agents of City that are not authorized by Contractor; (2) failure of City to use modifications provided by Contractor for avoiding infringement; or, (3) use of the Deliverables in combination with hardware or software not approved by Contractor if the claim could have been avoided if such unapproved combination had not been used.

17. Incidental and Consequential Damages.

In no event shall either party be liable to the other for any special, incidental, indirect, consequential, exemplary or punitive damages or losses which may be suffered by either of them with respect to the Agreement, including but not limited to, loss of present or prospective profits, loss of income or revenue, expenditures, investments or commitments, or loss of business or data, even if such party has been advised of the possibility of such damages.

18. Limitation of Liability

The total aggregate liability of either party for claims asserted under the Agreement shall be limited to the amounts paid during the most recent six (6) month period preceding the events giving rise to such liability.

Each party has a duty to mitigate the damages that would otherwise be recoverable from the other pursuant to the Agreement by taking appropriate and reasonable actions to reduce or limit the amount of such damages.

18a. Performance and Payment Bond.

Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force and furnish to the City within 15 calendar days after the SFMTA issues Notice to Proceed to Contractor, a corporate surety performance bond and a labor and materials bond (or a single combined performance, labor and materials bond), each in the amount not less than the total contract value of this Agreement to guarantee Contractor's faithful performance of all obligations of this Agreement and to guarantee Contractor's payment to all suppliers of labor and materials under this Agreement.

Within 20 days of receipt of a written Change Order from SFMTA adding work to the project that will increase the project price by more than five percent (of the total project price), Contractor shall increase performance and labor and materials bond amounts by 100 percent of the cost of the additional work to be performed or shall purchase additional bonds each of which shall cover 100 percent of the cost of the additional work, and Contractor shall furnish evidence of such increase to City.

Additions or increases in bond coverage shall not replace or reduce existing bond coverage, but shall augment existing bond coverage. Contractor may meet required increases in bond coverage as required by either increasing the amount of the bond(s) previously obtained for the Project, or by purchasing additional bonds.

All bonds must meet all requirements of this Agreement and shall be furnished to the City on the form provided by the City without any revisions.

18b. Surety Requirements

The corporate surety on all bonds obtained by Contractor must be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties must be satisfactory to the SFMTA Executive Director/CEO and to the Controller of the City and County of San Francisco. The surety issuing bonds for this Agreement shall have a minimum rating AM Best rating of A- VIII. Should the surety fall below that standard, the Contractor may meet surety requirements by purchasing reinsurance acceptable to the City's Risk Manager or employing a co-surety with an AM Best rating of XV.

During the period covered by applicable statutes of limitation, if the surety on these bonds shall, in the opinion of the City, become insolvent or unable to pay promptly the amount of such bonds to the extent to which surety might be liable, Contractor, within 30 days after notice given by the City to Contractor, shall by supplemental bonds or otherwise substitute another and sufficient surety approved by the City in place of the surety becoming insolvent or unable to pay. If Contractor fails within such 30 day period to substitute another and sufficient surety, Contractor shall, if the City so elects, be deemed to be in default in the performance of its obligations hereunder, and the City in addition to any and all other remedies may terminate the contract or bring any proper suit or proceeding against Contractor and the surety, or may deduct from any monies then due Contractor or which thereafter may become due under the Agreement for work which the insolvent (or otherwise unable to pay) surety would have guaranteed with the bonds, and the monies so deducted shall be held by the City as collateral security in lieu of the bonds.

18c. Warranty

The Warranties provided under this Agreement and the limitations thereto are set forth in the attached Appendix A, IV. The City waives any applicable warranties of merchantability.

19. Liquidated Damages

By entering into this Agreement, Contractor agrees that in the event that the Delivery/Installation/Test/SFMTA Acceptance of Fareboxes or Final Acceptance Milestones, as set out in Appendix B, are delayed beyond the Milestones and Work timelines provided in this Agreement, Contractor shall notify City and provide information relating to the estimated length of delay. The parties shall work to develop a plan to resolve any delays in the Delivery/Installation/Test/SFMTA Acceptance of Fareboxes and Final Acceptance milestones.

If Contractor is solely responsible for a delay in either the Delivery/Installation/Test/SFMTA Acceptance of Fareboxes or Final Acceptance Milestones, and such delay continues for forty-five (45) days after the particular Milestone dates specified in the Project Plan, then Contractor agrees that, subject to the limits set forth below, the City may deduct One Thousand dollars (\$1,000) per day for either or each of those two Milestone payments until the particular Milestone(s) is Accepted.

The deduction of these sums represents liquidated damages related to the delayed Milestone, from payment due to Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City and the public or loss of use of the delayed services or Equipment because of Contractor's failure to deliver to City within the time fixed or such extensions of time permitted in writing by the SFMTA.

Liquidated damages under this section for each Milestone shall not exceed \$250,000 and in no event in combination exceed \$500,000.

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, 15, 24, 30, 37, 53, 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 at least thirty (30) days' 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, 14, 15(d), 15(h)-(i), 16, 17, 18, 24, 26, 27, 28, 50 through 52, 56, 57, and 61.

b. Subject to the immediately preceding subsection (a), upon termination of this Agreement prior to expiration of the Term, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, excluding any and all of Contractor's intellectual property, 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

Each party agrees to exercise the same degree of care in protecting the disclosing party's Confidential Information that it does with its own Confidential Information and to confine knowledge of the disclosing party's Confidential Information only to its employees or agents

who require such knowledge for use in the ordinary course and scope of their performance under this Agreement. The receiving party shall not, both before and after termination of this Agreement, use the disclosing party's Confidential Information except for the purposes of this Agreement or disclose, divulge or make available the disclosing party's Confidential Information to any third party, either directly or indirectly, in any manner whatsoever, without obtaining the prior written permission of the disclosing party, and, if required by the disclosing party without the prior execution of a Non-Disclosure Agreement in form and substance consistent with this provision, and which includes the disclosing party as a third party to such an agreement, or as a third party beneficiary.

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: Senior Operations Manager, SFMTA Operations
San Francisco Municipal Transportation Agency
One South Van Ness Ave., 7th Floor
San Francisco, CA 94103

To Contractor: Cubic Transportation Systems, Inc.
1308 South Washington Street
Tullahoma, Tennessee 37388
Attention: Contracts Manager
Phone: (931) 455-8524
Fax: (931) 455-1108

With a copy to: Cubic Corporation Legal Department
9333 Balboa Avenue
San Diego, California, USA
Fax: 1 858 505 1559
Email: Law@cubic.com

Any notice of default must be sent by registered mail.

26. Intellectual Property Rights.

In the performance of this Agreement Contractor shall provide to the SFMTA software, Documentation and other materials (listed in Appendix A to this Agreement) that are the proprietary and valuable intellectual property of Contractor or of third parties, and will authorize the use of such intellectual property by City as provided below:

- a. License of Contractor's Software. Contractor agrees to grant the City a perpetual license to use the software to be provided pursuant to this Agreement in accordance with the terms of software license agreement(s) to be negotiated by the parties.

b. License of Third Party Software. Contractor agrees to procure for the City the third party software products as listed in Appendix A to this Agreement to which the City shall be licensee subject to all license terms applicable to the use of such software.

c. License of Documentation. The Documentation to be provided pursuant to this Agreement is the intellectual property of Contractor or of the third party software licensor or manufacturer. Contractor shall provide to City a non-exclusive and perpetual license to use, copy and modify such Documentation exclusively for the internal use of the SFMTA, which shall be license agreements separate from this Agreement.

27. Works for Hire

If, solely in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes or audiotapes, 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, such approval not to be unreasonably withheld. 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 in the same manner as this Agreement, such approval shall not be unreasonably withheld.

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. Left blank by agreement of the parties.

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. 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 Agreement, 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. 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 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 Agreement; 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 Agreement 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 and Changes

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. Any changes to the Agreement, including, but not limited to, any instruction or modification of the schedule, design, quality or quantity of the services or the addition, omission or substitution of any services or modification of any of the terms of Agreement shall be accomplished only by written modification (change order) to the agreement and must be executed by a duly authorized representative of each party.

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 Agreement sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement 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

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 Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Agreement, 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

61. Dispute Resolution Procedure

Any disputes that cannot be resolved between the SFMTA & Contractor, will be elevated for resolution to the SFMTA Chief Operating Officer and Cubic Senior Vice President and General Manager.

62. Force Majeure

In the case of a Force Majeure event, the Contractor shall inform the City in writing of the event affecting the performance of the Agreement, within ten (10) business days of becoming aware of the event, and shall submit to the City a statement providing specific details of the event and the extent to which the performance of the Agreement has been affected, including any documentation of delays required by Section 19.

63. Approval by Counterparts

The parties may execute this Agreement in counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same Agreement. Original ink-signed counterparts shall be delivered by one party to the other party by U.S. Mail, but copies may be delivered by telephone facsimile or email in PDF format for purposes of obtaining expedited approval of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the last date indicated below.

CITY

**San Francisco Municipal
Transportation Agency**

NATHANIEL P. FORD, SR.
Executive Director/CEO

Date: _____

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By: _____
Robert K. Stone
Deputy City Attorney

Date: _____

AUTHORIZED BY:

MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS

Resolution No. _____

Adopted: _____

Attest: _____
Roberta Boomer
Secretary to the
SFMTA Board of Directors

CONTRACTOR

Cubic Transportation Systems, Inc.

By signing this Agreement, Cubic certifies that it complies 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.

Richard Wunderle
Chief Financial Officer
5650 Kearny Mesa Road
San Diego, CA 92111
Federal Tax ID No.: 95-2773786.
City vendor number: 52238

Included Appendices

- A: Services to be provided by Contractor
- B: Cost Schedule

APPENDIX A

SCOPE OF WORK AND SERVICES TO BE PROVIDED BY CONTRACTOR

SFMTA Fare System Refurbishment

2. INTRODUCTION AND SUMMARY OF WORK

San Francisco Municipal Transportation Agency (SFMTA) requires the existing Automatic Fare Collection System ("AFCS" or "Fare System") be refurbished ("the Project") to improve the customer experience, improve operator interaction with the Farebox, and improve the reliability of the Farebox System and fare data retrieval/reporting.

Fare System Refurbishment

As more specifically described in Section III below, Contractor shall refurbish or replace with current technology the following elements of the Fare System:

Fareboxes Contractor shall refurbish every Farebox. The upgrade shall include the replacement of all Farebox Modules, the addition of a Driver Control Unit, and the replacement of locks and keys for the Cashbox.

Driver Control Unit The existing Farebox includes a 12-key keypad that is integral to the Farebox. Over the years, access to the keypad has become restricted, precluding reasonable access by the vehicle operator. Contractor shall replace the keyboard with a new Driver Control Unit (DCU) to facilitate operator interaction and control of the Farebox. The DCU shall provide for standardized operation across the fleet and integration with and control of other on-board systems, including automatic vehicle location and automatic passenger counters. The DCU shall be mounted onto the Farebox.

Garage Equipment Contractor shall replace or refurbish all Garage Equipment in the six Garages (Woods Division, Flynn Division, Kirkland Division, Potrero Division, Presidio Division, and Green Division), including Optical Probes, Mobile Safes, Receiver/Vaults, and Depot Computers. Contractor shall upgrade keys and software at Metro East Maintenance Facility.

Data System Contractor shall replace the existing data system, which was originally installed by Contractor in 1991, with a new Data System that will include the Central Computer System, Depot Computers in the Garages, and Software. Contractor shall also upgrade the Depot Computer at the Metro East Facility and install a new Depot Computer at the Geneva Repair Facility.

See Figure 1 for a representation of the new SFMTA Fare System to be installed by Contractor.

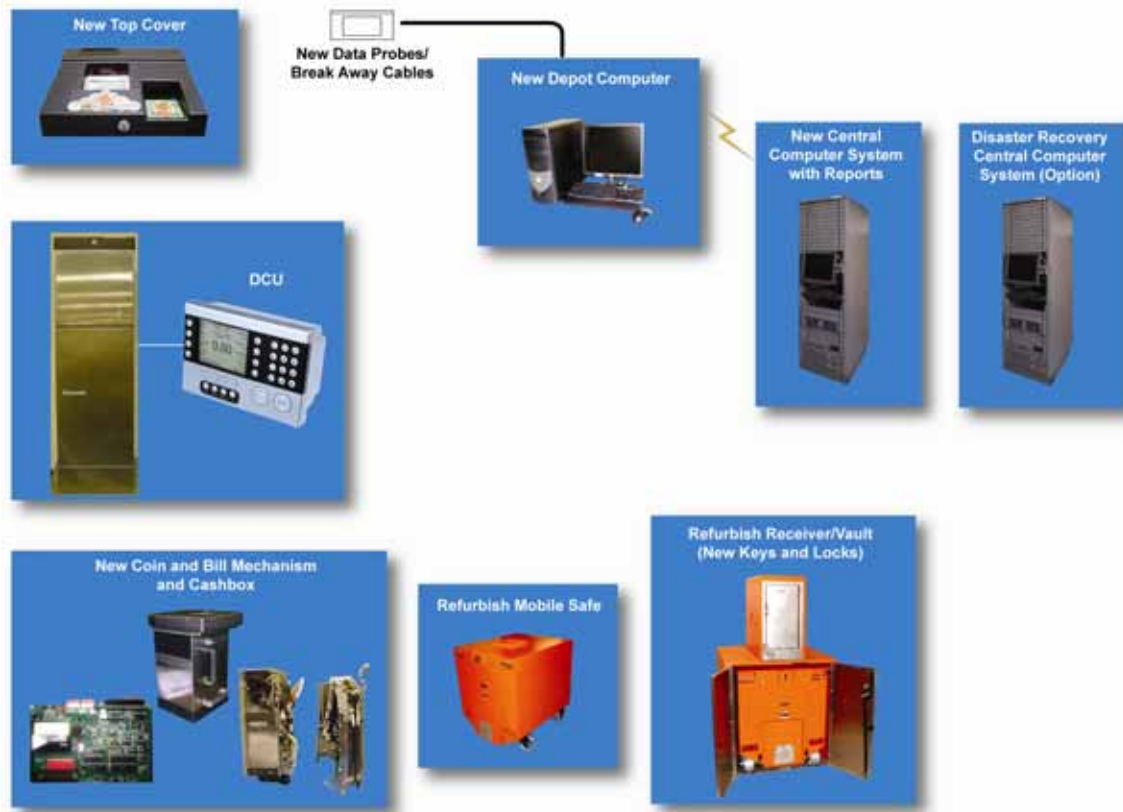


Figure 1 SFMTA Fare System Agreement Scope

Project Objectives

The primary objectives of the Project are to upgrade the Fare System to improve its reliability, expand its functionality, extend for ten years the its useable life in the shortest possible time, and to upgrade the Data System and data reporting functions of the Fare System to ensure timely, accurate, and flexible reporting of revenue data.

Summary Services and Equipment to be Provided by Contractor

As more specifically described in Section III, Contractor shall provide the Equipment and services listed below to accomplish the Work required under this Agreement.

A “Float” of seventy two (72) new Fareboxes to facilitate exchange of the Fareboxes currently installed in all SFMTA vehicles (including motors coaches, trolley coaches, Light Rail Vehicles, Presidents’ Conference Committee streetcars (PCC) and all other streetcars) for refurbishment and upgrade.

All parts, modules, and assemblies required for the refurbishment and upgrade of one thousand three hundred twenty-two (1322) Fareboxes, of which one thousand two hundred fifty (1250) will be installed in transit vehicles, and seventy-two will be delivered to the SFMTA as spares.

One thousand three hundred twenty-two (1322) new Driver Control Units installed on the refurbished Fare Boxes.

Refurbish all Mobile Safes and Receiver Vaults in six SFMTA Garages and provide all parts and assemblies necessary to complete that refurbishment.

Replace the Optical Data Probes in six SFMTA Garages.

At the Metro East Maintenance Facility, replace the keys in the Receiver/Vaults and update the Software in the Depot Computer to integrate it into the new Data System.

Provide a complete new set of Garage Equipment for the Geneva Repair Facility, including one Depot Computer, two Receiver/Vaults, four Mobile Safes, two Optical Data Probes, and installation and testing of the new system.

Provide labor required to perform the refurbishment of the Fare System, including:

Removal of Fareboxes from all transit vehicles,

Removal of old or worn Vault Receiver and Mobile Safe parts, cleaning of the Vault/Receiver cabinet and Mobile Safes, and installation of new parts,

Installation of the refurbished Fareboxes on all transit vehicles,

Installation of Driver Control Units on all Fareboxes,

Installation and testing of new a Data System (including replacement of the Central Computer System, Depot Computers, and Software) capable of supporting the operation of the existing SFMTA transit vehicle fleet and provide expansion capabilities to support future growth of the SFMTA transit fleet and transit services.

Temporary storage of Fare System parts during refurbishment, and new components, new parts and new Farebox modules during refurbishment,

Disposal of all salvaged material when refurbishment completed, as directed by SFMTA.

Documentation and Training Materials, including:

DCU Operations Manual,

Central Computer System Operations Manual,

Transit operator Training (including Train the Trainer materials),

Field Maintenance Training (for new Equipment only),

Program Reports, including:

Program Plan and Schedule (to be delivered for SFMTA review and approval within 45 days of NTP)

Monthly Project Status Reports

Miscellaneous Work, as directed by the SFMTA, to be billed against allowance.

Extend the usable life of the Fare System another ten years, commencing upon Final Acceptance, as provided in this Agreement.

Implementation and Program Management

Qualified Personnel Contractor and personnel assigned by Contractor to this Project shall be knowledgeable of the operation of the existing Fare System. Contractor shall provide resources as necessary to verify the current system operation within 45 days of the SFMTA issuing NTP.

Program Plan and Schedule Contractor shall within 45 days of the SFMTA issuing NTP submit to the SFMTA for its review and approval a Program Plan Schedule setting out tasks and work to be completed within each Milestone, sequence of Work, dates for completion of Milestones, , and detailing support to Contractor or actions required of the SFMTA. The SFMTA shall review and approve or provide comments and direct changes to the Program Plan and Schedule. Contractor shall incorporate into the Program Plan and Schedule the Price and

Payment Schedule set out in Appendix B to the Agreement, so that SFMTA payment obligations are clearly tied to progress of the Work, completion of Milestones, and SFMTA acceptance of deliverables.

Transition to New System Contractor shall implement the refurbished Farebox System as specified in this Agreement to ensure a seamless transition from the existing Fare System to the refurbished Fare System. Contractor shall ensure that during the transition period in which Contractor is installing, testing and implementing the new Fare System, the existing Fare System shall provide revenue and ridership data in the same format and manner as it did before Contractor started work on this Project.

Refurbished System Contractor shall provide a Maintenance Information System. Contractor shall use incident reports completed by SFMTA to create timely reports on the number and nature of maintenance incidents of the Fare System and its components, including Data System Problems, module repair histories, and other system failures, times for Relief and Resolution, and corrective actions proposed to maintain appropriate levels of Fare System reliability and availability.

Refurbishment Facility Contractor shall provide a Farebox Refurbishment Facility located in the San Francisco Bay Area for its warehousing and refurbishment of Fare System components.

Reports, Submittals, and Requests for Information

2.1.1. Contractor shall timely submit reports, submittals, testing procedures, requests for information, and written recommendations as required by the Program Schedule, this Agreement, and as necessary to inform the SFMTA of the progress of the Work. The SFMTA shall have 30 days from its receipt of said reports to approve the report or return it with comments or other directives. If a report is returned by the SFMTA for changes or additional work, Contractor shall have 15 days to make the required changes and resubmit the report to the SFMTA, which will have an additional 15 days to review the resubmitted report.

Training and Implementation Assistance Contractor shall assign qualified personnel to train and assist SFMTA managers and garage personnel in the use and maintenance of the new Fare System, in accordance with Section III.AA.

3. DEFINITIONS AND TRADEMARKS

AFC Device Network – The dedicated network established in support of the Automatic Fare Collection (AFC) system.

Bill Module – The mechanism within the Farebox that recognizes a bill has been inserted.

Cashbox – The secure repository within the Farebox for collected Fare Media.

Central Computer System Application Server – The specific server within the Central Computer System that communicates with the Depot Computers and interfaces to the Oracle® Server.

Central Computer System – The collection of centralized computers allowing data collection, reporting and analysis, and system configuration.

Coin Module – The mechanism within the Farebox that recognizes deposited coins.

Collaboration E-Room – Electronic, web-based document depository in which authorized personnel from Cubic and SFMTA may access Project plans and documents.

Data System – The Depot Computers, the Central Computer System, and the Software.

Depot Computer – The computer located within a Garage that communicates with the on-bus AFC devices, the Central Computer System, and that Garage's Receiver/Vaults.

DMZ Environment – A Demilitarized Zone (DMZ) is a network area existing between two other networks that are unknown to and untrusting of each other.

DNS/Tools Server – The specific server within the Central Computer System that hosts infrastructure tools and services such as the Domain Name System (DNS) and Active Directory.

Driver Control Unit – An enhanced display and keypad unit that allows a transit operator or maintenance technician to input and receive information to and from the Farebox.

Farebox – The Cubic fare collection equipment installed on SFMTA transit vehicles that registers, records and retains bills and coins inserted for fare payment.

Farebox Components – The Components of a refurbished Farebox are the Bill Module, Coin Module, the Master Controller, the Cashbox, the Top Cover, the Main Farebox Power Cable, the Driver Control Unit, the Bill Viewing Window, and the Farebox Housing.

Farebox Refurbishment Facility – A shop and warehouse facility located in the San Francisco Bay Area where Contractor will refurbish Fareboxes.

Fare Media – United States currency (coins and bills), tokens, and other material approved by SFMTA for payment of fare that must be deposited in the Farebox.

Fare System – (also "Automatic Fare Collection System" or "AFCS") – As described in this Agreement, the Fareboxes and all components of the Fareboxes and the Data System,

Farebox Maintenance and Inventory System (FMIS) – A software application and related hardware used for tracking data of inventory of Farebox parts and Farebox maintenance history.

Final Acceptance – Approval by SFMTA of all acceptance test results verifying that the refurbished Fare System and Equipment meet the specifications and requirements of this Agreement.

Float – A quantity of equipment in excess of what is required to be installed that is used to replace non-refurbished equipment.

Garage – A SFMTA transit maintenance facility equipped with Garage Equipment for the removal and processing of cash fares from Fareboxes. The Garages are in the following eight facilities: Woods, Flynn, Kirkland, Potrero, Presidio, Green, and Geneva, and Muni Metro East.

Garage Equipment – The equipment installed at each Garage, consisting of the Depot Computer, Optical Data Probes, Mobile Safes, and Receiver/Vaults.

Farebox Implementation Team – Contractor's Personnel assigned to perform refurbishment of Fareboxes under this Agreement, consisting of Depot Repair Technicians, Field Maintenance and Inventory System Administrator.

IT Implementation Team - Contractor's personnel assigned to perform Work on the Data System, including a System Administrator and a Report Writer

Main Farebox Power Cable – The internal cable that routes power from the bottom of the Farebox to the Master Controller.

Maintenance Information System – Database tool that uses the Oracle database program in the CCS that the SFMTA can configure to track maintenance history of Fare System components.

Master Controller – The circuit board within the Farebox that controls the Coin and Bill Modules and communicates with the Depot Computer via the Optical Data Probe.

Milestone – An operationally significant portion of the Work.

Mobile Safe – The removable vault that is housed within the Receiver/Vault into which Fare Media is deposited from Fareboxes.

NTP - Notice to Proceed issued by the SMFTA to Contractor confirming that the City's Controller has certified funds for the Project and authorizing Contractor to begin the Work.

Optical Data Probe – A data communication device that opens the Farebox cabinet and transmits revenue information and other data between the Depot Computer and Farebox.

Problem – A software, imbedded code, hardware or other technology fault or failure that causes loss of Data System function.

Program Plan and Schedule – The document prepared by Contractor for SFMTA review and approval describing in detail the Work to be performed by Contractor, and how and in what order Contractor shall perform the various elements of the Work., and the dates by which the elements of the Work shall be completed. Contractor shall include a cost-loaded project schedule (using Primavera or Microsoft Project software) that identifies Milestones, dates for completion of Milestones, and agreed payment/compensation for the Milestones or other elements of the Work.

Receiver / Vault – The device used to securely empty Cashboxes into a Mobile Safe.

Relief - A temporary fix, patch or work around of a Problem to restore Data System function.

Resolution - A permanent fix , patch, or work around or other solution to a Problem.

Revenue Center – The SFMTA facility that receives the Mobile Safes from the Garages and that removes and processes Fare Media from the Mobile Safes.

RSA Key Fob – A digital display key fob that provides security codes for authorized access to a Depot Computer or the CCS. The RSA Key Fob shall use the authentication parameter used with the Rivest-Shamir-Adleman (RSA) encryption key.

SFMTA Facility – Space provided by the SFMTA to house the Central Computer System and basic office space for Contractor's personnel assigned to work with SFMTA personnel.

Software – The software programs utilized in the Data System, as listed in Table 4.

System Documentation –Documents showing the operations and connections of Data System components, as installed by Contractor, including a network diagram of the CCS, wireless network diagram, security system diagram, server specifications, and Depot Computer specifications.

Top Cover – The hinged top of the Farebox allowing maintenance access.

TCP/IP – Transmission Control Protocol/Internet Protocol is the technology implementing the network.

VPN Access – Virtual Private Network access allows remote users to access the system as if they were on a system local to the AFC Device Network.

Work – The services Contractor shall provide and the Equipment Contractor shall procure for the benefit of the SFMTA under this Agreement.

LIST OF TRADEMARKS

BI Query™ is a trademark of Hummingbird Ltd.

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4. SCOPE OF WORK - SFMTA FARE SYSTEM COMPONENT REFURBISHMENTS AND UPGRADES

Contractor shall refurbish the following Fareboxes and other Fare System components as described below. Where a requirement or specification is stated in this Agreement in the passive voice or is otherwise not specifically identified, the parties understand and agree that Contractor shall be responsible for implementing or otherwise taking such action as is necessary to ensure that the Fare System or any component of the Fare System meets that requirement or specification. The City or SFMTA's obligations under this Agreement are limited to those requirements specifically assigned to the City or the SFMTA.

Fareboxes

Farebox Installation

Contractor shall remove the existing fareboxes from each SFMTA transit vehicle and replace it with a refurbished farebox from the Float. Contractor shall install the DCU at the same time it installs the refurbished Farebox.

Contractor shall refurbish and clean the removed farebox to restore the Float, continuing until every transit vehicle has a refurbished Farebox and DCU installed. The Float of Fareboxes and DCUs remaining after the last transit vehicle has been equipped with an installed refurbished Farebox and DCU will be delivered to the SFMTA for use as spares.

The position of the Farebox and DCU when mounted in the vehicle shall allow for clear view by the operator from a normal, upright driving position of the coin and bill insertion areas and the DCU display. Contractor shall install the refurbished fareboxes using the existing farebox mounting holes in the transit vehicles.

Power Cable Not Included Replacement of the existing power and signal cabling to the Farebox from a transit vehicle is not included in this Agreement

Farebox Modules Contractor shall replace the Master Controller Module, Coin Module, and Bill Module within the Farebox with new modules that are compatible with the existing Fare System design and fit in the existing Farebox. The functions, specifications, and requirements of these modules are described below

4.1.1. Contractor shall replace the main internal farebox power and communications cable. The new cable shall be compatible with the existing cable. The new cable shall include an RS-422 port provided by the DCU. The cable connector shall be routed to the bottom of the farebox.

4.1.2. Contractor shall remove the old top cover of each Farebox and replace it with a new top cover of the same design.

4.1.3. Contractor shall replace the main internal farebox power and communications cable. The new cable shall be compatible with the existing cable. The new cable shall include an RS-422 port provided by the DCU. The cable connector shall be routed to the bottom of the farebox.

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4.1.4. Contractor shall provide new coin and bill viewing windows.

Master Controller Contractor shall replace the Master Controller in each Farebox with a new Master Controller. The Master Controller shall be responsible for the overall operation of the Farebox. The Master Controller shall interface to the new Driver Control Unit, the Coin Module and Bill Module, and record the Fare Media deposited in the Cashbox. All revenue collection data shall be created and stored by the Master Controller for later transmission to the Depot Computer. The Master Controller shall communicate with the Depot Computer via the Optical Data Probe.

When the Optical Data Probe is inserted in the Farebox and a successful connection is made between the Master Controller and the Depot Computer, the Depot Computer shall authorize the Master Controller to cause the Farebox cabinet door locks to release so that the Cashbox may be removed from the lower portion of the Farebox. The Master Controller shall control the electric motor that locks and unlocks the Farebox cabinet door, as directed by the Depot Computer.

Coin Module The Coin Module shall be an intelligent Farebox component that accepts coins and tokens inserted by the patron and accurately determines the coin or token's denomination. The Coin Module shall communicate with the Master Controller via a serial communications interface. The Coin Module shall use an inductive sensor to properly classify the coin/tokens. The Farebox shall accept coins at a rate of not less than 10 coins per second. The Coin Module entry bezel opening shall be large enough to allow multiple coins to pass through it at the same time. Under no circumstances shall a patron be required to insert one coin at a time to prevent coins from jamming in the bezel.

After the Coin Module classifies a coin, it shall advance the coin and hold it in a display window that is visible to the transit operator until either the operator clears (dumps) the coins into the Cashbox or a Timeout elapses. A Timeout is a set period of time after which the Coin Module will release coins in the display window into the Cashbox.

The Coin Module shall read and communicate the Cashbox serial number to the Master Controller.

The sockets for all Integrated Circuits (ICs) installed on the Coin Modules shall have 28 pins or more.

The service loops of the Electric Lock cable must be shielded to prevent the cable from being damaged by contact with mechanical components of the Farebox or by rubbing and vibration.

Bill Module. The Bill Module shall classify bills (paper currency) and other Fare Media inserted to the Farebox.. The Bill Module shall measure the length of inserted media and determine the value of the media based on measured length; all currency or other materials inserted to the Farebox that are the length of a US Dollar bill shall be classified as one Dollar. The transit operator shall be able to view currency inserted to the Farebox and reclassify a bill as a \$5, \$10, or \$20 bill using the Driver Control Unit keypad.

The entry bezel for the Bill Module shall be positioned such that it shall fit within the existing opening in the Farebox top cover. All media inserted shall be advanced to a display window that can be seen through an opening in the Farebox cabinet. The display window shall allow the transit operator to verify the media inserted and determine if reclassification is required. All media inserted shall be retained in the display window until the operator clears (dumps) the bill, another paper media is inserted, or a Timeout elapses.

All currency accepted by the Bill Module shall be securely advanced within the Farebox cabinet for subsequent insertion into the Cashbox.

The Bill Module shall communicate to the Master Controller via a serial communications interface.

Integrated circuit sockets in the Bill Module shall accommodate integrated circuits with 28 pins or more.

Contractor shall modify the mounting of all bill length sensor printed circuit boards to ensure that the circuit boards are protected from damage caused by shock and vibration, and mishandling. .

Contractor shall improve the microprocessor logic in the new Bill Modules so that the Bill Module will detect bill jams and prevent the bill advance mechanism motor from burning.

Every Bill Module shall accurately count the number of bills inserted into the Farebox, and shall not record a bill except when one is actually inserted to the Farebox.

Cashbox

Replacement of Cashboxes Contractor shall replace all Cashboxes, including all Cashbox keys and locks. All Cashboxes shall be the same size, shape and design. Contractor shall ensure that every Cashbox fits within the dimensions of the lower portion of every Farebox and in every Receiver/Vault. Cashboxes shall be interchangeable and shall be accepted by all Fareboxes and Receiver/Vaults. A Cashbox shall have separate compartments to receive and

retain coins and tokens in one compartment, and bills, tickets and other paper Fare Media in another compartment. A Cashbox shall be of sufficient volume to hold and transfer not less than \$500 mixed coins and 800 bills. The coin and bill compartments of each Farebox shall align with the respective coin and bill compartments in the Mobile Safes.

Serial Number Each Cashbox shall have a unique serial number. The serial number shall be capable of being read by the Farebox and the Receiver/Vault. The Farebox and the Receiver/Vault shall each report the serial number of a Cashbox to the Data System via the Depot Computer.

Optical Probe Reporting The Farebox shall report via the Optical Probe to the Depot Computer the revenue counts for each Cashbox, and the Receiver/Vault shall report to the Depot Computer all Vaulting activity for each Cashbox. The reporting functions of the Cashbox and the Receiver/Vault shall be designed so that the SFMTA may perform accurate revenue audits and track revenues collected.

Cashbox Improvements Contractor shall make the following improvements to the existing Cashbox design and construction:

Contractor shall replace all Cashbox locks and keys with new keys and locks that do not utilize the small leading tooth of the current key design. Existing keys now in use by SFMTA shall not operate in the new Cashbox locks

Cashbox keys shall be unduplicable. Cashbox keys shall be of a proprietary design, and blank keys and replacement keys shall not be available for purchase by the general public.

Each Cashbox key shall be marked with a unique serial identification number that is sequential within a group of keys provided by Contractor. Contractor shall provide the SFMTA a log of the serial numbers of all Cashbox keys, so that the Agency may inventory and account for them.

Contractor shall provide replacement keys to SFMTA only upon a confirmed purchase order signed by the SFMTA's Executive Director/CEO, Chief of Staff, Director of Operations, Director of Revenue, or Chief Financial Officer. Contractor may confirm a purchase order for replacement keys by fax or email sent to the SFMTA signatory on the purchase order.

The Cashbox lid pin shall be case hardened.

The edges of the Cashbox handles shall be rounded or given a radius edge so that they are not sharp and may be comfortably carried even when full.

The Cashbox flag retainer shall be redesigned to provide greater Cashbox lid closing clearance.

The Cashbox lid guides shall be redesigned to minimize jams and to protect the lid edges from damage when the lid is closed.

Contractor shall install three additional serial or identification number labels to the Cashbox (2 on body, 1 additional on lid)

Contractor shall ensure internal fingers on the bill side of each Cashbox are recessed to prevent contact with the lid.

All lock retainers shall be stainless steel.

Contractor shall investigate and provide recommendations to redesign or otherwise improve the durability of the Cashbox ID sensor mount in the Receiver/Vault . Contractor shall report to the SFMTA as to the practicability of replacing the current unit with a spring loaded floating connector.

Driver Control Unit (DCU) Design and Installation

Contractor shall design, manufacture and install the Driver Control Unit on the Farebox in conformance with the following specifications and criteria:

Single Interface The Driver Control Unit (DCU) shall provide operators, management and maintenance personnel with a single interface for bus systems log-on and operation, system configuration management, collection and communications of fare transactions and execution of maintenance diagnostics.

Integration with Other Technology The DCU shall be capable of integrating with intelligent transportation systems including automatic passenger counters (APC), smart card validators, ticket issuers, magnetic processors, passenger signage, security monitoring, automated vehicle announcement (AVA), automated vehicle monitoring (AVM), and computer-aided dispatch and automated vehicle location (Computer Aided Dispatch/AVL) systems.

DCU Design Criteria

Contractor shall design and build the DCU to have the following characteristics:

Open Architecture, Flexible Operating System:

Industry standard Windows® CE operating system

Large processing capacity with 300 MHz CPU

Memory with up to 512 MB of Flash and up to 256 MB of DRAM for on-board data and program storage

Connectivity with Universal Serial Bus (USB)

Single interface for log-on, operations and communications of all on-board devices:

Clear, non-glare, transfective liquid crystal display that is easy to read from a distance of four feet in bright or low light

16 programmable soft keys, numeric keypad, large enter button

Distinct audible tones to alert transit operator of Farebox status

Communications — WLAN, optional GPS Receiver, optional cellular modem (GPRS, CDPD, CDMA)

Fare processing intelligence for managing fare tables and new methods of fare payment, including complex fare structures using time, zone, value and/or multi-trip factors

Ability to use the following fare payment methods: cash, proof-of-payment.

Case Construction and Power Requirements The DCU shall meet the following specifications:

Case Material: high impact plastic

Power requirement: 9 to 36 Volts Direct Current, protected to 120 VDC

Power Dissipation: 16W Max, .8W Min

Overall dimensions for the DCU: 9 inches (W) x 6.5 inches (H) x 3.75 inches (D)

External Interfaces The DCU shall meet the following specifications:

RS-232 (1 Std) – reserved for interfacing with the Farebox

RS-422/485 (1 Std)

PCMCIA Type II Slot (2, 1 assigned to WLAN)

USB (1) (Used for expansion capabilities – Not included in this specification)

GPS Connector

TTL for GPS

Speaker

User Interfaces The DCU shall meet the following specifications:

Operator Interface/Display: 120 mm (4.7 inches) monochrome LCD, 320 x 240 pixels, 33 key.

Text size for soft key descriptors shall be approximately 14 point while deposited cash numeric text size is approximately 67 points, as adjusted by the screen resolution.

Environmental Operating Parameters The DCU shall be designed to function and shall operate within the following environmental parameters:

Storage Temperature: -30°C to +85°C (-22°F to +185°F)

Operating Temperature: -20°C to +60°C (-4°F to +140°F)

Relative Humidity: 15% to 95%

Vibration: Mil-Std-810D, Method 514.3, Category 8,1g (RMS) all three axes, 5 to 200 Hz

Shock: Mil-Std-810D, Procedure I, half-sine pulse, 5g peak, 11 msec

Ingress Protection: IP54

Immunity: EN61000-6-2, EN50121-4

Emissions: EN61000-6-3, FCC 15B, Class B, C

Flammability: UL 94V-0

Depot Refurbishment Facility

4.2. Contractor shall establish a Depot Refurbishment Facility in the San Francisco Bay Area to perform repair and refurbishment operations on SFMTA Equipment. Contractor shall not perform repair or refurbishment of fareboxes or other equipment other than SFMTA Equipment

and Fareboxes at the Bay Area Depot Refurbishment Facility. The facility shall include the required tools, hardware, supplies, parts and administrative material necessary to provide local repairs, which shall be provided by Contractor. Contractor shall provide two technicians to operate and maintain the Depot Refurbishment Facility. The technicians shall be experienced in repairing SFMTA's Fareboxes. The technicians shall test and repair Farebox parts and modules returned by SFMTA for repair. The technicians shall complete all repairs in a timely manner providing a one-for-one module or Farebox exchange. Repaired items shall be returned to SFMTA's inventory locations. SFMTA shall be responsible for the packaging and shipment of all failed modules to Contractor's Depot Refurbishment Facility. Contractor shall be responsible for transporting all Fareboxes to and from the Depot Refurbishment Facility.

Contractor Shall Not Alter Transit Vehicles

4.3. Contractor shall not alter any part of a transit vehicle or other SFMTA equipment, including but not limited to cutting holes for wiring or security equipment, except as expressly provided in this Agreement or as directed by the SFMTA in writing.

Contractor Shall Not Operate a Transit Vehicle

4.4. Contractor's activities on a transit vehicle shall be limited to removal of existing Farebox Components and installation of new or refurbished Farebox components. Contractor shall not at anytime operate, attempt to operate, or otherwise physically move any transit vehicle for any reason.

Installation Schedule and Vehicle In-Service Requirements.

Contractor shall manage its Work so that no transit vehicle is ever out of service for an scheduled run to which it is assigned. Contractor shall schedule Work to refurbish, replace, and install Fareboxes per the Program Plan. Contractor shall refurbish and install no fewer than 60 Fareboxes per week, until it has refurbished, installed on transit vehicles, tested, and the City has accepted 575 Fareboxes (approximately 50 percent of the Fareboxes Contractor is to refurbish and install). Contractor shall then refurbish and install no fewer than 30 Fareboxes per week, until it has refurbished, installed on transit vehicles, tested, and the City has accepted an additional 285 Fareboxes (for an approximate total of 80 percent of the Fareboxes Contractor is to refurbish). Contractor shall then refurbish and replace no fewer than 15 Fareboxes per week, until it has refurbished, installed on transit vehicles, tested, and the City has accepted an additional 173 Fareboxes (for an approximate total of 90 percent of the Fareboxes Contractor is to refurbish). Contractor shall then refurbish and replace no fewer than 7 Fareboxes per week, until it has refurbished, installed on transit vehicles, tested, and the City has accepted the all of the Fareboxes that Contractor is to refurbish. Contractor shall incorporate this installation schedule into its Program Plan and Schedule.

If the SFMTA is unable to produce a transit vehicle for Contractor to install a Farebox, the SFMTA may in its sole discretion waive the installation of a Farebox on a transit vehicle, and may elect to have Contractor deliver the Farebox to the SFMTA as a spare.

Probing/Vaulting Equipment

Optical Probes Contractor shall provide and install 40 new Optical Data Probes in the Garages. The Optical Data Probes shall be compatible with the optical port on the Farebox Master Controller. Contractor shall provide protective sleeving and grips on the Optical Data Probes similar to those that have been installed by the SFMTA on the Probes currently in use in the Garages.

Receiver/Vault

Contractor shall provide parts and labor to refurbish the Receiver/Vaults in the Garages. Contractor shall provide the SFMTA a detailed plan describing how Contractor shall refurbish the Receiver Vaults without interrupting the SFMTA's daily transit and vehicle maintenance operations as part of the Preliminary Refurbishment Readiness meeting discussed in Section II.X..

Contractor shall make the following improvements to the Receiver/Vaults:

Contractor shall replace all Receiver/Vault locks and keys. Existing keys now in use by SFMTA shall not operate in the new Receiver/Vault locks

Receiver/Vault keys shall be unduplicable. Receiver/Vault keys shall be of a proprietary design, and blank keys and replacement keys shall not be available for purchase by the general public.

Each Receiver/Vault key shall be marked with a unique serial identification number that is sequential within a group of keys provided by Contractor. Contractor shall provide the SFMTA a log of the serial numbers of all Receiver/Vault keys, so that the Agency may inventory and account for them.

Contractor shall provide replacement keys to SFMTA only upon a confirmed purchase order signed by the SFMTA's Executive Director/CEO, Chief of Staff, Director of Operations, Director of Revenue, or Chief Financial Officer. Contractor may confirm a purchase order for replacement keys by fax or email sent to the SFMTA signatory on the purchase order.

Contractor shall replace existing microswitches with sealed microswitches.

Contractor shall replace each Receiver's dash pot style door-open alarm timer with an electronic timer.

Contractor shall replace the Receiver lock plate with a stainless steel plate to prevent the plate from bending.

Contractor shall redesign the large connector that plugs into the Receiver to make it more robust and prevent wires from breaking, similar to the improvement already implemented by SFMTA in some Receivers.

Receiver/Vault Functions The contents of a Cashbox shall be deposited into a Mobile Safe using the Receiver/Vault, as follows. When SFMTA personnel insert an Optical Data Probe into a Farebox, the Depot Computer shall establish a connection to and communicate with the Farebox Master Controller; the Depot Computer, through the Optical Data Probe shall read and record the identification number of the Cashbox. Only when that communication between the Master Controller and Depot Computer has been established shall the Farebox cabinet door release, allowing access to the lower portion of the Farebox, so that the Cashbox may be removed by SFMTA personnel. When removed from the Farebox, the Cashbox shall have been automatically closed and locked by the Farebox so that no person may access the contents of the Cashbox, except with an authorized key. The contents of the Cashbox shall be deposited into a Mobile Safe by inserting the Cashbox into the Receiver/Vault so that the key located at the back of the Receiver/Vault engages the Cashbox lock. The Receiver/Vault shall sense and report to the Depot Computer the identification numbers of the Mobile Safes and Cashboxes inserted into it, and shall also transmit that information to the Central Computer System. When the Cashbox is turned in the Receiver/Vault, the Cashbox and the Mobile Safe shall open so that the contents of the Cashbox fall through the Receiver/Vault into the Mobile Safe. At no time shall any person be able to access the contents of a Cashbox while it is inserted in a Receiver/Vault. The Receiver/Vault shall operate such that if a Mobile Safe is not securely inserted in the Receiver/Vault, the Cashbox inserted in the Receiver/Vault cannot open. It shall not be possible to open a Mobile Safe except when it is properly inserted into a Receiver/Vault or is opened by a Mobile Safe key.

New Parts Contractor shall replace all the parts of the Receiver/Vault as shown in

Table 1.

Table 1. Receiver/Vault Kit Parts

PART NUMBER	PART DESCRIPTION	QTY PER	BOM UM
801-1394-3	ASSY-VIBRATOR	1	EA
827-1854	CASHBOX ID ASY-PHS 3 RCVR	1	EA
827-2115-7	BLOCK GUIDE, CASHBOX	1	EA
827-2115-8	BLOCK GUIDE, CASHBOX	1	EA
827-2116	BLOCK-GUIDE, ARM, RATCHET P	1	EA
827-2118	RAIL-SHUTTER PHS 3 RCVR	2	EA
827-2122	BLOCK-GUIDE, C.B. STOP PH	1	EA
827-2131	BLOCK-GUIDE, ACT. ROD PHAS	1	EA
827-2149	WINDOW-FLAG, TIMER PHASE I	1	EA
827-2165	GUIDE-C.B. I.D. PHASE III	1	EA
827-2167	HOUSING, KEY HOLDER PHASE	1	EA
827-2168	HOLDER-KEY PHASE III RECE	1	EA
827-2169	ACTUATOR-LOCK MOVEMENT PH	1	EA
827-2170	SPACER-ALIGNMENT, LOCK PH	1	EA
827-2200	TIMER ASSY-PH III RECEIVE	1	EA

PART NUMBER	PART DESCRIPTION	QTY PER	BOM UM
827-2204	SKID PLATE ASSY PHASE III	1	EA
827-2235	BEARING BLOCK ASSY-RECEIV	1	EA
827-2243	HANDLE, SHAFT-RATCHET PH I	1	EA
827-2262	ROLLER, GUIDE-C.B. STOP PH	1	EA
827-2265-7	STRIP, SUPPORT-CASHBOX CO	1	EA
827-2265-8	STRIP, SUPPORT- CASHBOX C	1	EA
827-2270	INSERT, GUIDE BLOCK-PHASE	2	EA
	Status LEDs	3	EA

4.4.1.

Mobile Safes

A Mobile Safe is used to transport Fare Media securely between a Garage and the SFMTA's Revenue Center. Each Mobile Safe must be compatible with every Receiver/Vault. Contractor shall refurbish the Mobile Safes in the six SFMTA Garages in conformance with the functional requirements and specifications described herein.

The Mobile Safe shall contain a coin/token compartment that is emptied by an authorized person unlocking and opening an access door to permit the coins to fall (by gravity) into a container. The Mobile Safe shall also contain a bill/ticket compartment that is emptied by an authorized person unlocking and opening an access door to manually empty the bills/tickets.

When removed from the Receiver Vault Housing, the Mobile Safe shall be in a closed and locked condition so that no person other than authorized Revenue Center personnel may access the Fare Media inside the Mobile Safe.

Contractor shall replace all Mobile Safe access door locks and keys to those locks. Existing Mobile Safe keys shall not operate in the new Mobile Safe locks. Each new Mobile Safe key shall be marked with a unique serial identification number that is sequential within a group of new keys provided by Contractor. Contractor shall provide the SFMTA a log of the serial numbers of all new Mobile Safe keys, so that the agency may inventory and track them.

The new Mobile Safe keys shall be unduplicable; Mobile Safe keys shall be of a proprietary design, and blank keys and replacement keys shall not be available for purchase by the general public. Contractor shall provide replacement keys to SFMTA only upon the confirmed purchase order signed by the SFMTA's Executive Director/CEO, Chief of Staff, Director of Operations, Director of Revenue, or Chief Financial Officer. Contractor may confirm a purchase order for replacement keys by fax or email.

The Mobile Safes shall utilize a “deadman” braking system that engages when the operator releases the steering handles mounted to the Mobile Safe.

The Mobile Safe shall have a minimum capacity of 10,000 U.S. bills in the bill compartment and minimum capacity of not less than 10,000 coins in the coin compartment.

The Receiver/Vault ID plug shall electronically read the Mobile Safe serial number when the Mobile Safe is inserted into the Receiver Vault Housing. The Mobile Safe serial number shall be transmitted to the Depot Computer for later transmission to the Central Computer System. Contractor shall improve the Mobile Safe ID plug to provide better protection for the cable that transmits the Mobile Safe serial number from the Receiver Vault to the Depot Computer.

Contractor shall provide parts and labor to refurbish the Mobile Safes. The Mobile Safe kit shall consist of the parts shown in Table 2.

Table 2. Mobile Safe Kit Parts

PART NUMBER	PART DESCRIPTION	QTY PER	BOM UM
1438-8	CASTERS SERIES 1400 MYE	2	EA
71601	PERCH, CLUTCH, SUNLINE	2	EA
827-0108-2	BRAKE CABLE ASSY-SHORT	2	EA

PART NUMBER	PART DESCRIPTION	QTY PER	BOM UM
827-0109-1	BRAKE CABLE ASSY-LONG	2	EA
827-2435-1	LEVER ARM ASSY	2	EA
827-2439-7	DOOR RAIL-PHASE III MOBIL	2	EA
827-2452-1	DOOR-TOP	1	EA
827-2485-7	MOUNTING BLOCK-MOD.	1	EA
827-2501-7	RETAINER-KEY, CASHBOX LOCK	1	EA
PO-16	BEARING-OPEN	1	EA
TMC 1106	C0360-029-1000-M	1	EA
827-2470-7	LENS-PHASE III MOBILE SAF	4	EA
827-2488-1	BRAKE HUB SYSTEM ASSY- PH	2	EA
827-2815-7	PIN, CATCH, COIN DOOR	1	EA
90099A031	3/8-16 ELASTIC LOCKNUT S/	16	EA
A-1676	CORNER BUMPER	4	EA
MS15795-814	WSHR FLT.406X.812X.065SS	16	EA
S-1272	SPRING-COMP .359D,.029 TH	1	EA

Integration of Metro East Maintenance Facility

Contractor shall replace the keys and locks in the Receiver Vaults at the Metro East Maintenance Facility to match the keys in the Receiver Vaults in the other Garages. Contractor shall update the Software in the Depot Computer at the Metro East Maintenance Facility so that it is fully integrated into the Data System.

Data System Components to be Replaced

Contractor shall replace with new the Data System components (the Depot Computers, the Central Computer, the Wireless Local Area Network, and all associated software) listed or described below. Contractor shall procure for the SFMTA licenses and associated maintenance agreements for the software listed or described below, for which the City shall be the licensee.

Depot Computers

Contractor shall procure, configure, install and test in the Woods, Flynn, Kirkland, Potrero, Presidio, Green, and Geneva Garages the Depot Computers meeting the functional requirements and specifications described herein. Contractor shall also update the Software in the Depot Computer at the Metro East Facility.

Each Depot Computer shall be a personal computer (PC) based system. The Depot Computer shall be located in the SFMTA Depot Operations Center at each SFMTA Maintenance Facility. The main function of the Depot Computer is to store and transfer files between the Central Computer System and the bus equipment.

The Depot Computer shall communicate with the CCS via a dedicated private network provided by SFMTA to upload transactions and equipment status and download configuration data, including software updates and fare tables.

The Depot Computer console shall consist of a commercial-off-the-shelf PC, keyboard, mouse, monitor, and Uninterruptible Power System (UPS). Screen selection shall be menu-driven from either the mouse or keyboard.

In addition to providing an interface to the system, the Depot Computer shall control the Garage Equipment, perform daily operations and diagnostics, display table data and device status information, maintain an activity and message log, and store and/or routes data.

Depot Computer Design Requirements Each Depot Computer shall meet the following design requirements:

Integrated operator console for depot control, monitoring and administration:

Manage data between central system and bus equipment

Communications via a dedicated network

Upload transactions and equipment status

Download software updates, fare tables

Simple and secure operations of Garage Equipment:

Release the Farebox Cashbox via an infrared probing event

Track Farebox Cashbox cycles, Receiver/Vault Cashbox cycles and Mobile Safe cycles

User-friendly interfaces:

Simple graphical user interface for operator

Standard PC, keyboard and mouse

432 mm (17 inches) monitor

Depot Computer Specifications Each Depot Computer shall have components and operation/environment tolerances meeting the following specifications:

External Interface Requirements:

USB Version 2.0,

Ethernet with RJ45 connector (2)

Serial port with DB-9 connector (2)

DB-25 Parallel or USB port

Communications Expansion board (4 Farebox communications channels)

Monitor output

Wireless Access Point

Environmental/Operating Requirements:

Storage Temperature: 0°C to +40°C (+32°F to +104°F)

Operating Temperature: +10°C to +32.5°C (+50°F to +90.5°F)

Relative Humidity: 20% to 80%

Wireless Local Area Network Security Contractor shall provide, configure, install and test a Wireless Local Area Network (WLAN) that will allow WPA encryption secured wireless transmission of data from a Farebox to the Depot Computer that meets SFMTA requirements. Where hardware for the WLAN (that meets the specifications and requirements of this Agreement) is already present in a Garage, Contractor shall use said existing hardware and credit the SFMTA the cost of hardware Contractor did not have to purchase for the Project. Contractor shall maintain the WLAN during the Term of this Agreement.

WLAN security with the on-bus equipment shall be based on the Wi-Fi Protected Access (WPA) with multiple authentication types, such as the Cisco 1310 series access points using the Cisco Internetwork Operating System (IOS) to provide Cisco LEAP with WPA authentication and Temporal Key Integrity Protocol (TKIP) encryption.

Standard Operating Procedures for Equipment Testing

For every component of the Fare System, Contractor shall develop recommended Standard Operating Procedures for field testing of the proper operation and full functionality of the Equipment. Said tests shall include field testing methods and procedures to ensure that the Farebox modules (Bill Module, Coin Module, Master Controller) are correctly counting cash deposited in the Farebox and are not counting cash and other Fare Media not deposited in the Farebox (i.e. Contractor shall design test procedures to ensure that the Fareboxes do not "self-count" or "double count"). Said field tests shall also include tests to ensure that the Optical Data Probe is communicating required Data to the Depot Computer.

Central Computer System

Contractor shall procure, configure, install and test a Central Computer System meeting the functional and design specifications described herein.

Overview. The Central Computer System (CCS) serves as the computational focal point for data processing, analysis, management, and control for the entire Fare System. This provides a system solution that reflects the characteristics of open systems architecture, high performance, reliability, availability, system security, and expandability.

The CCS software shall support the existing functionality of the SFMTA bus fleet. In addition, the CCS software architecture shall support multiple modes of transportation services, rail, bus, transit van, and parking plus the additional functionality associated with contactless smart cards.

Configuration The CCS shall consist of a series of servers each dedicated to a defined functionality.

Figure 2 presents an overview of the CCS. The hardware configuration is presented in Table 3.

The CCS software configuration is presented in Table 4.

Figure 2. Central Computer System Overview

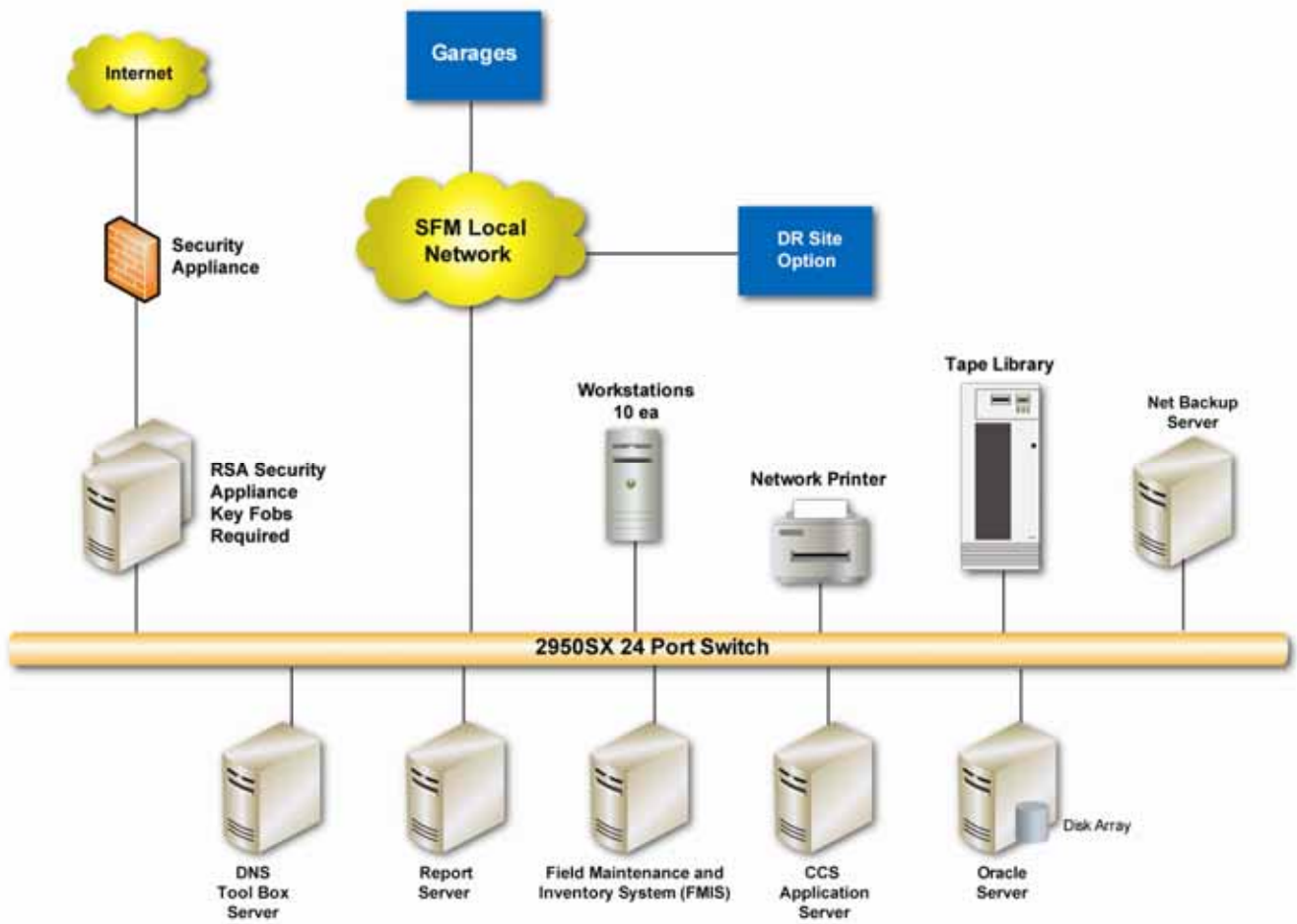


Table 3. Central Computer System Software Configuration

DESCRIPTION	SPECIFICATION
24 Port Switch	Cisco 2950 SX
CCS Application Server	ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 2x146 Raid 1, Windows 2003
Reports Server	ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 2x146 Raid 1, Windows 2003
Field Maintenance and Inventory System	ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 2x146 Raid 1, Windows 2003
Net backup Server	ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 5x146 Raid 5, Windows 2003
Oracle	ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 5x146 Raid 5, Windows 2003
Disk Array - SAS MD3000	Proliant DL 160 G5 1.2tb SAS storage 1u; Quad Core, 4gb RAM, 5x300gb HDD, Dual embedded NC105i PCIe gigabit
DNS/Tools Server	ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 2gb RAM, 2x146 Raid 1, Windows 2003
Tape Library, TL2000	HP StorageWorks MSL4048 2 LTO-4 Ultrium 1840 SCSI Tape Library
Rack	APC NetShelter SX 42U 750mm Wide x 1070mm Deep Enclosure, wide enclosure with increased cable management options for high density server
KVM Switch	16 x USB connection Server Interface Pod, includes CAT5 cable
Keyboard, LCD	16 Port Keyboard/Video/Mouse Digital Switch, 2161DS/2 PowerEdge
UPS	3000VA UPS 208 Volt, Battery Backup and Protection ,

DESCRIPTION	SPECIFICATION
Workstations	HP Compaq dc7800 Small Form Factor; Intel Core 2 Duo processor E6750 2.66 GHz 4mb L2 cache; 1333 MHz front side bus; 2GB 800 MHz DDR2 SDRAM Windows XP
Series adaptive security appliance	Cisco ASA 5510
Token Key Fobs	Quantity of 10

Table 4. Central Computer System Software Configuration

SOFTWARE & LICENSOR	SPECIFICATION	QUANTITY
Oracle Enterprise 10G 4X CPU License	CPU Enterprise perpetual license	4
Oracle Enterprise 10G - Maintenance	3 Years Maintenance Agreement Prepaid	4
Metrix	Perpetual license with 3 Years Maintenance Agreement Prepaid	1
Hummingbird	BI Start No Encryption, TFG BI Query, BI Query Admin, BI Query User, BI Ad Hoc User Named perpetual license	1
BI Web Starter Maintenance	3 Years Maintenance Agreement Prepaid	1
Single BI Query User (Named Ports)	40 Named Ports for Web Users perpetual license	1
BI Query User Maintenance	3 Years Maintenance Agreement Prepaid	1

SOFTWARE & LICENSOR	SPECIFICATION	QUANTITY
Weblogic	2 CPU perpetual license with Annual Maintenance renewed for a total of 3 years	1
Weblogic - Maintenance	3 Years Maintenance Agreement Prepaid	1
Legato Enterprise/BMR	Perpetual license with 3 Years Maintenance Agreement Prepaid	1
Legato DB Oracle Agent	Perpetual license with 3 Years Maintenance Agreement Prepaid	1
Antivirus Software	Perpetual license with 3 Years Maintenance Agreement Prepaid	16
Cisco Smartnet	Perpetual license with 3 Years Maintenance Agreement Prepaid	1

Software Licenses and Maintenance Agreements

Contractor shall procure from and pay the license fee to the licensor for a perpetual use license for each of the software products listed in Table 4 for use by the SFMTA; the City and County of San Francisco shall be listed as the licensee on each license. Contractor shall also procure from and pay to each licensor the maintenance fee for the software products and maintenance periods listed in Table 4. The City and County of San Francisco shall be listed in each maintenance agreement as the licensee or user to benefit from the maintenance agreement. Contractor may bill the SFMTA for the license and maintenance agreement for a software product listed in Table 4 upon Contractor's receipt of documentation from the software vendor granting the perpetual license to the City and execution of the maintenance agreement.

Oracle Server

4.4.2. Contractor shall procure and install the Oracle software (listed in Table 4) on a Windows platform to make maximum utilization of the Netbackup/Bare Metal Restore software and functionality. Contractor shall install or cause to be installed the Oracle application on a

ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 5x146 Raid 5, Windows 2003. The Disk Array shall be ProLiant DL 160 G5 1.2tb SAS storage 1u; Quad Core, 4gb RAM, 5x300gb HDD, Dual embedded NC105i PCIe gigabit.

The server shall run the Oracle 10G application Database software used by the CCS application. The Oracle database shall reside on an attached SAS Disk Array configured in Raid 10 with one terabyte usable storage, which shall provide higher performance on disk transactions and provide ample space for the data retention and expandability.

Oracle Database Software

4.4.3. Contractor shall procure and install the Oracle database software and management tools described below to facilitate database administration:

Oracle Diagnostic Pack The Oracle Diagnostic Pack enhances the performance of Oracle Enterprise Manager by helping to effectively monitor, diagnose, and plan within the Oracle database environment. The product also ensures high availability of mission-critical business systems by reducing the complex task of diagnosing and correcting performance problems.

Oracle Tuning Pack The Oracle Tuning Pack enhances the performance and functionality of Oracle Enterprise Manager by optimizing the database environment, avoiding costly upgrades of hardware, memory, and disks. Automated identification and tuning result in more efficient resource utilization, higher transaction throughput and faster query performance. Oracle Tuning Pack allows the administrator to tune every dimension of the database, including SQL, access methods, environmental parameters, and storage optimization. In addition, the tool shall also permit the database administrator to quickly identify and eliminate bottlenecks.

Oracle Partitioning The Oracle Partitioning Pack enhances Oracle Database's data management for OLTP, data mart and data warehouse applications. Oracle Partitioning improves the performance, availability and manageability of large underlying database tables and indexes. Oracle Partitioning enables large tables to be broken into individually managed smaller pieces, while retaining a single application-level view of the data. Range, hash, composite (range combined with hash), and list partitioning methods are supported.

Oracle Change Management Pack The Oracle Change Management Pack enhances the functionality of Oracle Enterprise Manager by enabling the administrator to devise, implement and track database and schema object changes to support new application requirements in the production environment. With this pack the administrator can minimize downtime by eliminating errors or data loss when making changes. It also allows the administrator to respond rapidly to new requirements with built in impact analysis, dependency correlation, change deployment, and change propagation results.

CCS Application Server The CCS Application server shall be a Windows platform installed on a ., ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb

RAM, 2x146 Raid 1, Windows 2003 server. The server runs the CCS back office application that consists of JAVA applications running on the WebLogic 8.1 server platform interfacing to devices and Oracle platform.

Reports Server The reports server shall be a Windows platform installed on a , ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 2x146 Raid 1, Windows 2003 server. The server shall run the COTS Hummingbird report software to enable users to run reports from different workstation over the web. The report software has the capability to run canned and ad-hoc reports manually or scheduled. In addition, the Hummingbird reports can be setup to be automatically emailed once ran to the requesting user or users.

DNS/Tools Server The Tool server shall be a Windows platform installed on a , ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 2x146 Raid 1, Windows 2003 server.. The tools server is used to host infrastructure tools and services. This may include DNS, Active Directory, and other support applications such as WinZip and Toad.

Field Maintenance and Inventory System The Field Maintenance and Inventory System shall be a Windows platform installed on a ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 2x146 Raid 1, Windows 2003 server. The server shall run the Metrix software used for asset management of the AFC system devices. Metrix shall enable users to track field issues by job number, device, open, closed and part disposition.

Netbackup Server The Netbackup server shall be a ProLiant DL360 G5 3.00 GHz High Performance Server, 2x Quad Core, 4gb RAM, 5x146 Raid 5, Windows 2003 server. The server shall run the EMC Legato Enterprise Backup software for backup of files and the Oracle database to disk and then to tape, and for restoration and reimaging of servers.

RSA Security To provide maximum network security, VPN access control shall be implemented with a firewall appliance to enable imposing firewall rules and creating a DMZ environment. Users requiring access to the Central Computer System shall require RSA Key Fob authentication to access the system. Two RSA appliances shall support the RSA appliance authentication software.

Substitution of Data System Equipment The SFMTA may in its sole discretion direct Contractor to substitute any of the computers, servers or other hardware listed herein with similar hardware from another manufacturer that is a functional equivalent. If the SFMTA directs Contractor to substitute Equipment at or prior to NTP, SFMTA shall bear the additional expense if it specifies substitute hardware that is more expensive than is listed in this Agreement, but SFMTA shall be credited the difference in price if the substituted hardware costs less than that specified in this Agreement. SFMTA shall compensate Contractor for its actual additional direct costs, including delay, if any, caused by the SFMTA's direction issued after NTP to substitute listed hardware.

Central Computer System AFC Software

The Central Computer System AFC Software shall be grouped into the following modules:

Data Transport Framework,
Operational Management,
Data Acquisition,
Data Summarization,
Reports Framework, and
Cash Collection and Reconciliation Reporting.

The required functionality of these Software modules is described below.

Data Transport Framework Module

The data transport framework module shall be the controlling process that moves data between the CCS and the AFC device network. This process shall perform the following functions:

Manages data transfer between various parts of the Data System;

Distributes various types of data including:

- Transaction data
- Audit register data
- Tables (fare, configuration, etc.)
- Software executables/images

Is configurable:

- Where data transfers are initiated
- Frequency of transfer (time-based, number bytes-based, or on demand)
- Supports TCP/IP
- Supports configuration management of deployed objects
- Is a guaranteed delivery system

The data transport framework module shall manage and distribute new versions of software to individual devices on the AFC network.

The SFMTA provided communication network must provide the bandwidth required to support software download, if this capability is to be implemented. The CCS shall send new versions of software to the garages for distribution to the AFC devices. Management of the configuration and authorization of software versions, which are utilized in the AFC system, is controlled by the Operational Management module.

Operational Management Module The Data System shall have a sufficient number of downloadable parameters to meet SFMTA needs that define the operational characteristics of the Fare System. Functions such as fare tables and peak/off-peak time periods are all controlled by variables downloaded from the CCS. The Operational Management Module controls and manages this variable data and the configuration and authorization of software versions for downloading to the AFC devices.

This process shall support:

- Definition of the garages, equipment, business rules, and fare policy;
- Collection and validation of the variable parameter data;
- Collection, validation, and authorization of versions of downloadable software;
- Definition of system users, user roles, and data access rights;
- Edit of variables; and
- Automatic broadcast of variables.

Distribution of variable data and downloadable software shall be automatic. The Operational Management Module shall support features that detect an improper set of variable data or software file in a processing location and re-establishes the required set.

Data Acquisition Module Data Acquisition shall be the process by which the CCS handles data received from AFC devices deployed in the system. The Data Acquisition Module supports a standard set of APIs that allow compliant devices to connect to and send data to the CCS. It supports the addition of translators that transform legacy device data into a compliant form. This application also validates and authenticates data.

Data Summarization Module The Data Summarization Module shall process the detail data and to create summary data in support of the standard and Ad Hoc report processes. This module provides the summary of transaction/rides and value for the following transaction attributes:

- Product type;
- Method of payment;
- Location (including route);
- Processing AFC device;

- Operator (transit operator); and
- Configurable transit operating periods (peak, lunch, off-peak and weekend).

During day-to-day operations, utilizing these summary tables in conjunction with the location configuration tables, report users shall be able to generate daily and monthly informational reports for each piece of equipment, vehicle, operator, operating period, or location in a timely and efficient manner.

The Data Summarization Module shall allow SFMTA to create ad hoc reports and sort data in customized reports.

Reports Framework Module

Reports The Reports Framework Module shall provide users with access to the standard set of reports, as well as Ad Hoc access to the database via Microsoft Excel, via Comma Separated Value. All reports that are required to support the various applications described herein shall be accessible from this framework. The reports framework provides:

- Secure access to the standard suite of reports.
- Common engine for scheduling and distributing reports including:
 - Ridership Reports,
 - Planning Reports,
 - Performance Reports, and
 - Accounting Reports.
- Generation of Ad Hoc reports:
 - Use a common third party tool.

Reports Framework Module The Reports Framework Module shall utilize Hummingbird's Business Intelligence (BI) Suites for all of its reporting needs. BI Suites allows the CCS to provide the standard reports described in this section and also facilitates Ad Hoc reporting as performed by transit operators.

Sample Reports The Data System shall generate, in addition to Ad Hoc reports, at a minimum the following reports;

- (1) Bus Facility Cash Breakdown
- (2) Vaulted Bus Cashbox Summary by Facility

- (3) Vaulted Bus Cashbox Cash Breakdown by Facility
- (4) Unvaulted Bus Cashbox Summary by Facility
- (5) Unvaulted Bus Cashbox Cash Breakdown by Facility
- (6) Mobile Safe Removal Summary by Facility
- (7) Mobile Safe Removal Cash Breakdown by Facility
- (8) Mobile Safe Reconciliation
- (9) Mobile Safe Counted Cash Breakdown
- (10) Bus Cashbox Reconciliation (Cashboxes Not Vaulted)
- (11) Bus Cashbox Counted Cash Breakdown
- (12) Farebox revenue by Run Identification Number

BI Suites BI Suites is a collection of applications for support of large enterprise business intelligence/ reporting operations. The CCS implementation of BI Suites shall consist of the components that are described below:

BI Broker BI Broker is an enterprise application server providing centralized report security and administration, a common model and report repository, report scheduling, and report notification and distribution for BI Query and BI Web clients. BI Broker is the foundation of Hummingbird's multi-tier business intelligence architecture. BI Broker runs on the Report Server.

BI Query Admin Hummingbird BI Query is an enterprise-strength query and reporting application that helps users ask questions about data and visualize the answers for more effective decision-making. BI/Query utilizes data models (graphical representations of underlying database structures) and a powerful reporting environment to access and analyze enterprise data sources quickly and easily. The product also allows the creation of models and reports containing data from multiple sources and present in a variety of styles, cross tabs, charts, maps, tables, rich text, and OLE objects, which can then be made available to BI Web users via BI Broker.

BI Web BI Web brings the powerful functions of Hummingbird's BI Query to corporate Intranets and Extranets. It is a Java-based client that enables users to conduct business intelligence tasks using their Web browsers. This creates a near zero administrative environment. Utilizing CORBA technology to communicate with BI Broker, BI Web requires no configuration, as all security information and content reside on BI Broker. BI Web allows the user to view and print BI Broker generated reports, create ad hoc queries, use On Line Analytical Processing (OLAP) to analyze data, view and navigate data models, qualify with interactive queries and reports, and organize work in a personal portfolio.

BI Named Port License: Allows a user to interface with BI Broker and BI Web via a Web Browser.

Cash Reconciliation Software Module The Cash Reconciliation Module is a series of financial reports used for cash counting and reconciliation functions. This module shall provide reconciliation of revenue and Fare Media registered by Fareboxes against revenue and Fare Media counted from Mobile Safes,.

Implementation and Program Management

Contractor shall provide Implementation and Program Management to ensure the successful completion of the Work under this Agreement. Contractor shall provide an Implementation Team, which will utilize Cubic's standard task tracking and resolution processes, as described herein.

I.T. Implementation Team

Contractor's I.T. Implementation Team shall consist of two system technicians experienced and expert in all aspects of the Data System. Responsibilities of the Implementation Team shall include maintenance reporting support, fault management, system monitoring, CCS backup and recovery, application support, AFC system report support, and providing on-the-job training to SFMTA personnel.

Applications and Operations Support Contractor shall provide during the Term of this Agreement the following CCS applications support:

- Hardware/software/communication monitoring and reporting,
- System maintenance system tuning, table management,
- Software management, configuration, reports management,
- Third party software maintenance management,
- Database backup and database disk space monitoring,
- Ad hoc reporting support,
- Database archiving,
- Transaction re-processing when needed.

Automatic Fare Collection CCS Fault Management

Response Time The I.T. Implementation Team shall respond to the SFMTA to CCS faults detected either through monitoring, observation, or by reports from users, log fault and capture pertinent data (e.g., record state of system components, take appropriate system dumps, record observations of users) and make necessary and appropriate notifications to SFMTA management and affected users, diagnose nature/cause of Problem(s), and determine

responsibility for correction of fault. The Implementation Team shall respond within one business day of SFMTA reporting a fault, correct faults or follow system procedures to contact the appropriate service provider and initiate response from/resolution by that provider. The I.T. Implementation Team shall then monitor and log response of service provider to trouble call.

Correction Verification The I.T. Implementation Team shall verify that the fault has been appropriately and completely corrected and that there are no uncorrected collateral problems either from the original fault or from the measures taken to correct the fault.

Fault and Response Log The I.T. Implementation Team shall log return to proper operation and record all pertinent data regarding fault: fault description and symptoms, how it was detected, impact on system operation, how it was diagnosed, diagnosis and response times, how it was corrected, and elapsed time to restored system operation.

4.5. Communications

SFMTA Contact Representatives

SFMTA shall, designate, in writing, up to three employees to serve as the contact representatives. SFMTA may, by notice in writing to Contractor, substitute other employees as its designated representatives, or designate particular SFMTA employees as contact persons for certain issues, project or problems.

Cubic Contact Representative

The process for technical support is as described in Section III.M.2. SFMTA shall submit initial requests to Contractor for technical support to a telephone contact number which shall be provided once the Contractors local office is in use.

VPN Access

SFMTA shall provide VPN access to Cubic support staff. Cubic may by notice in writing to SFMTA request to substitute its support staff as necessary.

Liaison with SFMTA

During the resolution stage in connection with all problems, Contactor's support engineer shall maintain contact with SFMTA to inform SFMTA of Contactor's progress. When a resolution is available, the support engineer will guide SFMTA's staff through any necessary resolution, configuration or setup procedures.

Collaboration E-Room

Cubic will establish a Collaboration E-room for the purposes of exchange of information. The periodic activity reports, progress report on open items and report on the consumption of the available hours will be posted and updated in the Collaboration E-room.

Maintenance Reporting Support

Contractor shall design and implement a Maintenance Reporting System in the CCS that is configurable by SFMTA that tracks maintenance incidents, such as Farebox jams, Fare Media jams, Farebox module and other component failures. The contractor shall identify all maintenance failure modes to the SFMTA. The Maintenance Reporting System shall calculate reliability, and identify the most common failure modes.

Contractor shall provide the SFMTA a full time, on-site Field Maintenance and Inventory System Administrator once the Maintenance Reporting System is installed. The I.T. Implementation Team shall remain on site at SFMTA for the Term of this Agreement to assist and train SFMTA staff. Information from the FMIS shall be available for use by the SFMTA to improve the performance of the Fare System, provide weekly maintenance reports, optimize reliability, minimize maintenance costs and extend the effective life of the system.

System Monitoring

On a scheduled basis, as approved by the SFMTA, the Implementation Team shall monitor the hardware and software components of the Data System to ensure that all components are operating within specified parameters. Based on these reviews, the Implementation Team will perform needed system upkeep (e.g., defragmenting disk files, purging obsolete files from directories, etc.) to ensure optimal operation of the system. The Contractor shall provide the list of tools used to monitor the CCS and Depot Computers.

The I.T. Implementation Team shall on a scheduled basis, as approved by the SFMTA, check system monitoring devices and programs, run-time system utilization parameters, and other diagnostic tools (e.g., file size and allocations, processor loading, response times, etc.) to ensure that all aspects of the system are operating properly and the system is meeting all specified performance criteria.

On scheduled and real-time basis, as approved by the SFMTA, the Implementation Team shall review system databases (including tables, indexes, and views/queries) to ensure that all databases are properly updated and appropriate integrity and synchronization of all system databases is maintained.

The I.T. Implementation Team shall maintain logs or other appropriate records of all monitoring and system upkeep activities and logs of all anomalies found during any monitoring activities and measures taken to correct those anomalies.

Confidentiality of Repair and Maintenance Information

4.6. To maintain the security of Fare Media at all times, Contractor shall treat all requests for maintenance, Problem assistance, fault diagnosis and other Equipment failure and repair matters as confidential, and shall communicate on those issues only with SFMTA personnel identified to Contractor as authorized by the SFMTA work on those issues. Under no circumstances shall Contractor discuss with any person not employed by Contractor or not identified by the SFMTA as authorized to work on those matters the potential weaknesses in the Fare System that might be exploited to steal or otherwise access Fare Media.

Central Computer System Back-ups and Archiving

The I.T. Implementation Team shall recommend standard operating procedures ("Operations Procedures") for the back-up and archiving of Data System records and data. The Implementation Team shall perform and shall train SFMTA personnel to perform said scheduled data, application, and system backups, as specified in the Operations Procedures, and shall further ensure that back-up media are properly stored, rotated on schedule, periodically tested and replaced appropriately and damaged tapes are properly discarded. The I.T. Implementation Team shall maintain logs of all back-up activity, rotation of back-ups, and usage/rotation of back-up media and records of any off-site data storage.

Fare System Report Services

During the Term of this Agreement, the I.T. Implementation Team shall provide SFMTA support in standardized report generation and interpretation, and creation of any customized reports beyond the standardized set. The standardized report set includes the following reports:

Bus Device Event History

Device Transaction History

Bus Route Activity

Bus Route Activity Summary

Ridership Totals by Category and Time of Day

Ridership Totals by Route, Category and Time of Day

Ridership Averages by Route, Category and Time of Day

Ridership Averages by Category and Time of Day

Ridership Totals by Device and Time of Day
Ridership Totals by Device and Category
Ridership Totals by Facility
Ridership Averages by Facility
Bus Facility Probe and Vault Activity
Buses from This Facility Probed at Another Facility
Buses from Another Facility Probed at This Facility
Buses not Probed
Cashboxes Probed not Vaulted
Cashboxes Vaulted not Probed
Buses not Heard from since Selected Date
Mobile Safe Removal Summary by Facility
Vaulted Bus Cashbox Summary by Facility
Bus Facility Cash Breakdown
Summary of Total Reported Cash

During the Term of the Agreement, the I.T. Implementation Team shall provide on-the-job-training, instruction, and assistance to SFMTA staff to sort data and generate custom reports, so that upon expiration of the Term of the Agreement, SFMTA staff may generate custom reports themselves. Contractor shall review and correct documentation created by SFMTA staff memorializing how to create custom reports. A sample customized report is shown in Figure 4.

	Week	26						
Ridership		Budget		Budget	Actual		YTD	
	Annual	Weekday	Weekly	YTD	Weekly	YTD	Variance	Weekly ridership
Motor Bus	40,000	132	769	20,000	576	14,998	(5,002)	
Trolley bus	40,000	128	769	20,000	790	20,470	470	
Light rail	14,000	59	269	7,000	280	7,360	360	
Cable Car	8,000	10	154	4,000	160	4,185	185	
	102,000	329	1,962	51,000		47,013	(3,987)	
Revenue		Budget		Budget	Actual			
	Annual	Weekday	Weekly	YTD	Weekly	YTD	Variance	Weekly revenue
Motor Bus	\$ 50,000	\$ 167	\$ 962	\$ 25,000	\$ 700	\$ 18,300	(6700.00)	
Trolley bus	\$ 50,000	\$ 167	\$ 962	\$ 25,000	\$ 970	\$ 25,260	260.00	
Light rail	\$ 17,500	\$ 58	\$ 337	\$ 8,750	\$ 330	\$ 8,620	(130.00)	
Cable Car	\$ 10,000	\$ 33	\$ 192	\$ 5,000	\$ 195	\$ 5,095	95.00	
	\$ 127,500	\$ 425	\$ 2,452	\$ 63,750		\$ 57,275	(6475.00)	
Revenue per ride		Budget		Actual	Payment type (YTD)			
Motor Bus	\$ 1.25		\$ 1.22		Cash	58210		
Trolley bus	\$ 1.25		\$ 1.23		Cr/Db	0		
Light rail	\$ 1.25		\$ 1.17		EFT	0		
Cable Car	\$ 1.25		\$ 1.22		Other	10969		
					Total	109179		
Distribution	Bus	Vendors	Ticket Offices	3rd Party	Web	Industry	Other	
MUNI	0	15000	15000	0	0	5000	0	
On board	69600	0	0	0	0	0	0	69600
Web sales	0	0	0	0	5000	0	0	5000
Third Party	0	0	0	13100	0	0	0	13100
Total	69600	15000	15000	13100	5000	5000	0	
				Availability	Target	Current period		
				Gates	99%	99.20%		
				Vendors	99.70%	99.80%		
				Bus	99.94%	99.80%		

Figure 4 1. General Manager's Report (simulated data)

I.T. Implementation Team Support

The I.T. Implementation Team shall also provide specialized support services as required to set-up and maintain the Data System, which shall include but is not limited to entry of the tables to support fare policy changes and management of the system configuration parameters, and the employee and equipment tables necessary for proper CCS operation. The I.T. Implementation Team shall coordinate with Contractor's engineering staff and the SFMTA to apply approved Fare System application upgrades.

Installation/Refurbishment – Order of Work

Contractor shall install the Fare System under the general direction of SFMTA staff, but Contractor is responsible for the means and methods of its Work. Contractor shall supply supervision and oversight and materials required for the proper installation of the equipment in the vehicles, Garages, and CCS facility. The tasks associated with this installation in general order in time are:

Install the Central Computer.

Build 72 new fareboxes and refurbish the spare units provided by SFMTA.

Build and procure the equipment listed in Table 5, Equipment Deliverables.

Deliver the equipment and stage the depots for the refurbishment/installation.

Build the "Float" of 72 Fareboxes before removing Fare Boxes from transit vehicles.

Perform an on-site survey of the vehicles and shall advise SFMTA if any changes are required to existing power and signal cabling.

Install the Fareboxes on the transit vehicles.

Install and refurbish the Garage Equipment.

Project Organization The people below are included in the pricing for this Firm Fixed Price contract

Project Oversight Contractor shall assign a dedicated Project Implementation Team within 15 days following NTP. Contractor's Project Implementation Team must include a Program Manager, Project Engineer, and a Contract Administrator. Each key member of the Project Implementation Team shall be full time employees and familiar with the existing SFMTA Fare System. The Project Implementation Team shall remain assigned to this Project until its successful completion. Contractor shall assign additional engineering, installation and support personnel to the Project, as required, to support the Project.

Project Management Contractor shall ensure that the Project is effectively and efficiently managed and implemented to the benefit of the SFMTA. Contractor shall employ as necessary the personnel, personnel hours, tools, and systems to manage and deliver the Project.

Contractor's Project Manager Contractor shall assign a qualified and Project Manager, subject to SFMTA approval, who shall be responsive to the needs of SFMTA as required by this Agreement. Contractor's Project Manager shall be competent and fully qualified in all aspects of the SFMTA Fare System, the Project, and the Agreement. Contractor shall not assign its Project Manager other work than under this Agreement without the written consent of the SFMTA. Contractor may reassign or replace the Project Manager only be with approval of SFMTA.

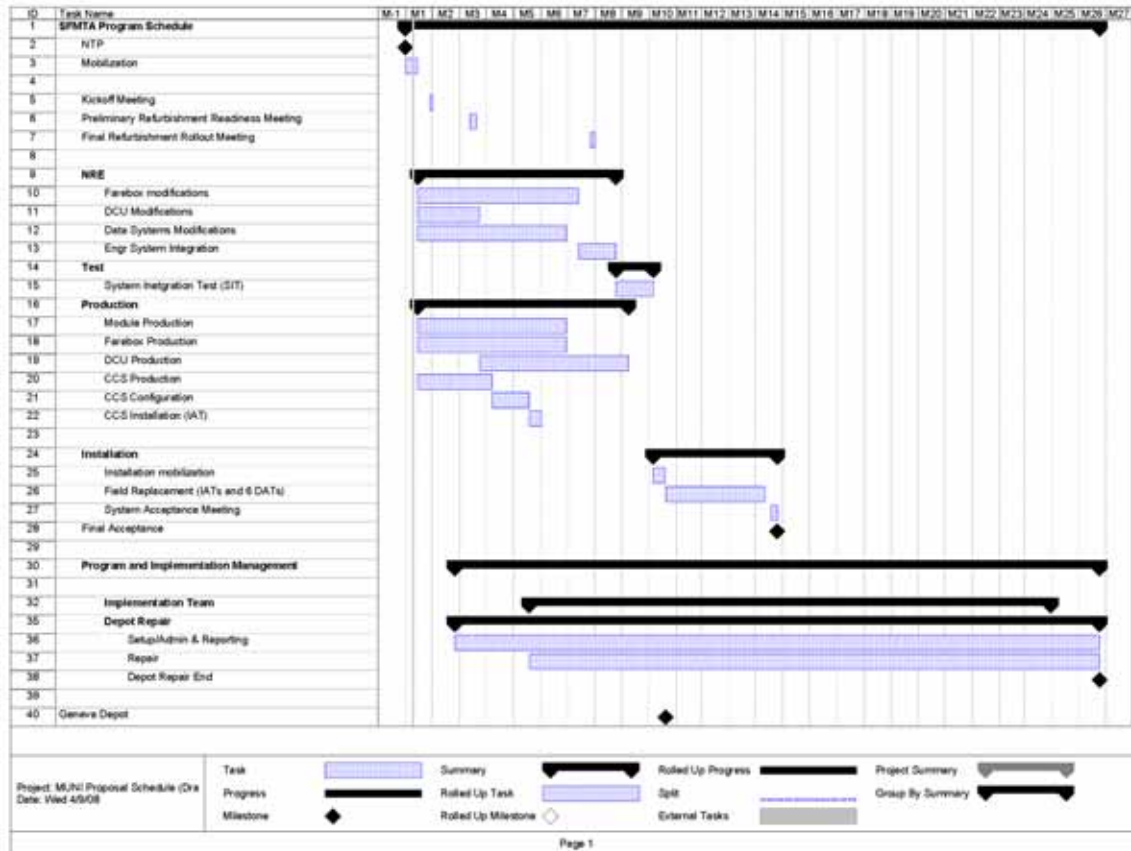
Contractor's Project Manager shall ensure that Project tasks are completed as provided in the Program Plan and Schedule. Contractor's Project Manager shall coordinate Contractor's design and engineering activities. Contractor's Project Manager shall keep the SFMTA fully informed of the status of the Project, shall promptly, and regularly notify SFMTA of any problems or difficulties that may affect the timely or effective completion of a task, a Milestone, or the Project. Contractor's Project Manager shall be responsible to coordinate and supervise work and services provided by personnel or groups outside the Project Implementation Team. Contractor's Project Manager shall have full authority from Contractor to assign priority to tasks as may be required to meet the requirements of the Project.

Project Schedule

Contractor shall submit a Program Plan and Schedule for SFMTA review and approval within 45 days following NTP, which shall describe the Milestones and principal tasks necessary to complete the Work, including design, approval, manufacture, delivery, installation, and implementation of the Project. The Plan shall include a performance and payment schedule setting out the Milestones for the Work, dates by which Contractor shall complete the Milestones, and payments associated with each Milestone. The schedule shall be based in Primavera or Microsoft Project Planner. The Project Schedule shall include tasks assigned to Contractor and the SFMTA. Contractor shall update the Project Schedule and submit it on or before the last day of each month for the SFMTA's review and approval. .

Contractor's preliminary Program Schedule is shown in Figure 5.

Figure 5. Preliminary Program Schedule



4.7.

4.8.

Submittals

Contractor shall describe in the Program Plan and Schedule methods, procedures, and controls it will use to identify, track, and record the status and completion of all required submittals. In the course of the Project, the parties may identify additional submittals or action items as the responsibility of Contractor and/or SFMTA. Contractor shall maintain a record of such submittals and action items and submit it to SFMTA with the Monthly Project Report, showing the status of all submittals and action items.

Project Meetings

Coordination As described herein or as requested by the SFMTA, Contractor shall coordinate, schedule and facilitate/conduct Project meetings as necessary for implementation of the Project,. Unless otherwise approved by SFMTA, Project meetings shall be held on SFMTA property at locations made available and provided by SFMTA. Contractor shall make every effort to obtain and provide to the SFMTA in a timely manner Project data and other information necessary for Project meetings to be productive. Contractor shall include these meetings in its Program Plan and Schedule.

Types of Meetings Contractor shall coordinate and conduct the following Project Meetings:

Kickoff Meeting: The Kickoff meeting shall be held to review the Contractor's proposed Program Plan and Schedule and to identify any Contractor or SFMTA constraints that may affect the successful completion of the Project. This meeting shall be held immediately after Contractor submits its proposed Program Plan and Schedule to the SFMTA. Contractor shall conduct a detailed site survey prior to the Kickoff Meeting, and shall incorporate its findings into the Program Plan and Schedule. All key Project personnel should attend the Kickoff Meeting.

Preliminary Refurbishment Readiness Meeting: This meeting shall be held to review the preliminary Refurbishment/Installation Plan. The Plan shall include the identification of those tasks that must be performed by both SFMTA and Contractor. This meeting shall be held at Contractor manufacturing facility in Tullahoma, Tennessee so that SFMTA key Project participants can observe the manufacturing, production, and testing facilities used for the components to be used in the Farebox refurbishment. Contractor shall record action items to be resolved prior the Final Refurbishment Rollout Meeting.

Final Installation Rollout Meeting: This meeting shall be held to review the updated Installation Plan based on closure of the action items taken during the Preliminary Refurbishment Readiness Meeting and any subsequent follow up meetings held to monitor the disposition of these items. The Refurbishment/Installation Meeting shall not be held until the SFMTA approves Contractor's Refurbishment/Installation Plan. The primary objective of this meeting is to ensure that both Contractor and SFMTA are ready for Contractor to install the refurbished Fareboxes on the transit vehicles.

Final Acceptance Meeting: This meeting shall be held to validate and document system refurbishment and SFMTA acceptance within 30 days after the refurbishment of the Fare System has been completed.

Status Reporting

Contractor shall submit to SFMTA monthly Project status reports. The monthly Project status reports shall describe all Work Contractor performed and Milestones completed for the Project in that month, and the percentage of all Project tasks and Milestones Contractor has completed for the entire Project and since the previous Project status report. Contractor shall submit the monthly Project status report no later than the 14 days after the last day of the month reported. Contractor shall submit the monthly Project status report with the invoice for Work performed in the month reported, as a condition of payment for that Work.

In addition to status reports issued on an on-going basis, Contractor shall implement a separate problem tracking, resolution and reporting system.

Quality Assurance and Work Standards

Contractor is an ISO 9001:2000 certified company and fully comply with the rigorous international quality assurance standards promulgated by the International Organization for Standardization (ISO). Notwithstanding any other provision of this Agreement, Contractor shall at all times perform the Work under this Agreement with due care and the highest professional standards as is due the design and implementation of a highly secure automated cash handling system. Contractor shall provide its quality assurance plan for review within 45 days for NTP as part of the Program Plan and Schedule.

Documentation and Training

Documentation Contractor shall provide documentation and manuals for all new Equipment. Contractor shall provide documentation for Refurbished Equipment showing the Fare System as it exists at Final Acceptance.

Operation and maintenance manuals provided by Contractor shall be written in clear and concise English, and shall assume the reader has no more than a high school education, unless otherwise directed by the SFMTA. Care shall be taken to provide easily understood directions and explanations and step-by-step instructions with cross references to all drawings, diagrams and photos.

Manuals shall be presented in a format consistent with existing Contractor manuals and shall be delivered to SFMTA in Adobe Acrobat format.

Training Contractor shall provide a training program to educate SFMTA personnel in all aspects of the refurbished Fare System, Equipment and new Software so that SFMTA staff can operate, service, and maintain the Fare System satisfactorily. Contractor shall provide course development, instructors, handouts, manuals, and classroom aids. Training shall focus on practical training in the shop and in the field using the Equipment. Contractor shall provide direct training and train-the-trainer training to 20 SFMTA supervisors or senior transit operators so that they can train all other SFMTA transit operators in the use of the refurbished Fare System. Contractor shall provide direct training to 20 SFMTA maintenance personnel in the maintenance requirements and procedures of the refurbished Fare System. Contractor shall provide on-the-job training to ten SFMTA computer personnel in the use and maintenance of the Data System.

Prior to commencing training, Contractor shall provide the SFMTA for its review and approval a training plan, which shall include a proposed schedule for classes and outline the number of hours required to satisfactorily complete the course, with recommended class sizes.

Acceptance Testing

Fare System Testing Plan Contractor shall submit for SFMTA review and approval a Fare System Testing Plan to perform, monitor, and document all tests required to prove that the

design and functionality of the refurbished Fare System meet the requirements of this Agreement and to establish that the Equipment meets approved design criteria. Contractor shall include in the Fare System Testing Plan a comprehensive test plan to demonstrate successful integration of all Fare System components and interfaces.

Contractor shall submit proof of successful test completion for every test required under this Agreement. A statement by Contractor, manufacturer, or supplier of any item, without appropriate substantiating evidence, shall not constitute adequate proof that a component meets the requirements of this Agreement, unless approved in writing by the SFMTA.

The Test Program Plan shall include descriptions, approximate scheduling, sequencing, and dependencies of all inspections, qualification tests, and revenue service acceptance tests to be performed. These inspections and tests shall demonstrate that the equipment produced is in compliance with the specified requirements. This plan shall include the format for test results documentation including test script, pass/fail criteria, result (pass/fail/repeat), classification of failures, and procedure for resolution of failures.

Contractor shall identify the locations and estimated time and staff required for conducting the inspections and tests of each type of Equipment, and where the integrated testing, is to be performed. The plan shall include time and resources to allow for repeat tests.

Description of Fare System Tests Contractor shall conduct the following tests to confirm that the Fare System meets SFMTA requirements:

Fare System Integration Test (FSIT): This test shall verify that the individual elements of new system including the system as a whole perform as specified. This test shall be conducted at Contractors facility.

Vehicle Installation Acceptance Test (VIAT): This test shall be executed for each refurbished farebox and DCU installed on transit vehicles. The VIAT shall document the transactions (insertions of Fare Media) performed for each transit vehicle. This data shall be later used during the Garage Equipment Acceptance Test.

Garage Equipment Acceptance Test (GEAT): The GEAT shall be executed for each Garage. The GEAT shall verify that the Depot Computer, Optical Data Probes, Receiver/Vaults and all refurbished bus equipment properly function as a whole. SFMTA shall ensure that all transit vehicles are made available for refurbishment, so that GEATs are not delayed.

Final Acceptance

Contractor shall provide test results to SFMTA for review and approval. SFMTA will accept the

System within 30 days of its approval of the results of the System Integration Test, Bus Installation Acceptance Test, and the individual Garage Equipment Depot Acceptance Tests.

Spare Parts and Post-Acceptance Services

Contractor shall supply Farebox spare parts and modules as identified in Table 6. Farebox modules and spare parts shall be functionally interchangeable with their corresponding parts provided in the original Equipment. All spare parts provided by Contractor for SFMTA inventory shall conform to the latest functional version.

Contractor shall provide the SFMTA with a list of recommended Farebox spare parts that the Agency will keep in inventory, as well a list of manufacturers and vendors that can provide those Farebox spare parts.

Contractor agrees that it shall provide SFMTA, for a reasonable price, spare parts, modules, and other components for Fareboxes, Receiver/Vaults, and Mobile Safes for a period of not less than ten years following Final Acceptance of the Work under this Agreement.

Contractor agrees that it shall provide SFMTA services necessary to upgrade Software, Depot Computers, and components of the CCS for a period of not less than ten years following Final Acceptance of the Work under this Agreement as required with mutually acceptable price and terms

Contractor agrees that it shall provide SFMTA with remote Data System assistance via telephone on a time and materials basis for a reasonable charge and other such terms to be negotiated prior to Final Acceptance.

Equipment Deliverables

4.9. Contractor shall provide the SFMTA the Equipment Deliverables listed below in Table 6.

4.10.

Table 6. Equipment Deliverables

DESCRIPTION	QUANTITY
Fareboxes	72
Farebox Refurbishment Kit	1,250
Driver Control Unit (includes Farebox mounting installation kit)	1,322
Receiver/Vault Refurbishment Kit	18
Mobile Safe Refurbishment Kit	38
Optical Data Probes	40
Depot Computers	6
Central Computer System	1
Geneva Repair Facility:	
Depot Computer	1
Receiver/Vaults	2
Mobile Safes	4
Optical Data probes	2
Installation	

DESCRIPTION	QUANTITY
<u>Spares:</u>	
DCU	120
Bill Module	120
Coin Module	120
Cashbox	120
Depot Computer	2

5. WARRANTIES

Express Warranties

Contractor warrants that commencing at Final Acceptance, Contractor shall provide a one-year warranty covering the Fare System, during which time the Fare System and each of its components shall operate within stated design specifications without further refurbishment other than replacement of parts and modules due to expected and normal wear through use. In addition, Contractor warrants that all replacement parts and modules shall operate within stated design specifications for one year from date of purchase. This warranty is conditional upon the SFMTA maintaining and repairing the Fare System in accordance with the System Documentation. The City understands and agrees that the SFMTA is wholly responsible for the repair and maintenance of the Fare System. The failure of the SFMTA to repair and maintain the Fare System in accordance with the System Documentation provided by Contractor shall render this warranty null and void as to those components of the Fare System that the SFMTA failed to so repair or maintain. Contractor shall transfer to the SFMTA all manufacturers' warranties and maintenance agreements for Equipment and Software, including but not limited to modules, computers, services, and other Fare System components. Contractor does not warrant that the computer and software components of the Fare System have a design life beyond the term of this Agreement or the applicable manufacturer's warranty or maintenance agreement, whichever is longer.

Design Life

Contractor states, but does not warrant, that the Fare System has an intended design life of ten years during which time the Fare System is expected to operate within stated design specifications without further refurbishment other than replacement of parts and modules due to expected and normal wear through use.

Replacement of Parts and Components

Contractor shall replace without charge parts and components of the Equipment that are defective or otherwise fail within the Term of this Agreement, except as parts and components that fail due to vandalism or intentional misuse.

Equipment Fleet Failure

Notwithstanding any other provision of this Agreement, should the same Farebox component in fifteen percent or more of all Fareboxes installed in Transit vehicles fail within the same 60 day period, (for one year after the final installation) a fleet failure may be declared. The SFMTA will cooperate with Contractor in determining the nature of the defect and to determine if said Farebox components are defective in manufacture and/or design. If the components are determined to be defective in manufacture or design the Contractor shall replace said Farebox Components without charge.

6. SFMTA'S PROJECT SUPPORT RESPONSIBILITIES

SFMTA shall provide the following personnel and facilities and will perform the following functions to support Contractor's Work on this Project:

Assign a Program Manager who shall be Contractor's main contact with the SFMTA and who shall coordinate the SFMTA's activities necessary to support Contractor's Work on the Project.

Assign an Installation Manager who shall coordinate availability of vehicles and maintenance space at SFMTA facilities for Contractor's removal and installation of Fareboxes and other Equipment.

Review and approve or provide comments and requested changes to reports, plans, and other submittals from Contractor within 30 days of receipt.

Provide meeting rooms and attend meetings with Contractor regarding the Project, as necessary.

Provide transit vehicles for Contractor to remove and replace Fareboxes and other Fare System refurbishment elements, as provided in the Program Plan and Schedule.

Determine if handrail modifications to transit vehicles are required within 60 days of receipt of Contractor survey of current vehicle types.

Provide transit operators, mechanics, and technicians, as needed to operate transit vehicles to facilitate Contractor's installation of Equipment on the vehicles.

At NTP, provide a Float of 48 spare Fareboxes to be refurbished.

Provide and maintain switches, routers and cable or Telco service necessary to network the Data System servers and Depot Computers and other networked components of the Fare System..

Provide SFMTA facilities for the Central Computer System and work space for Contractor's IT Implementation Team.

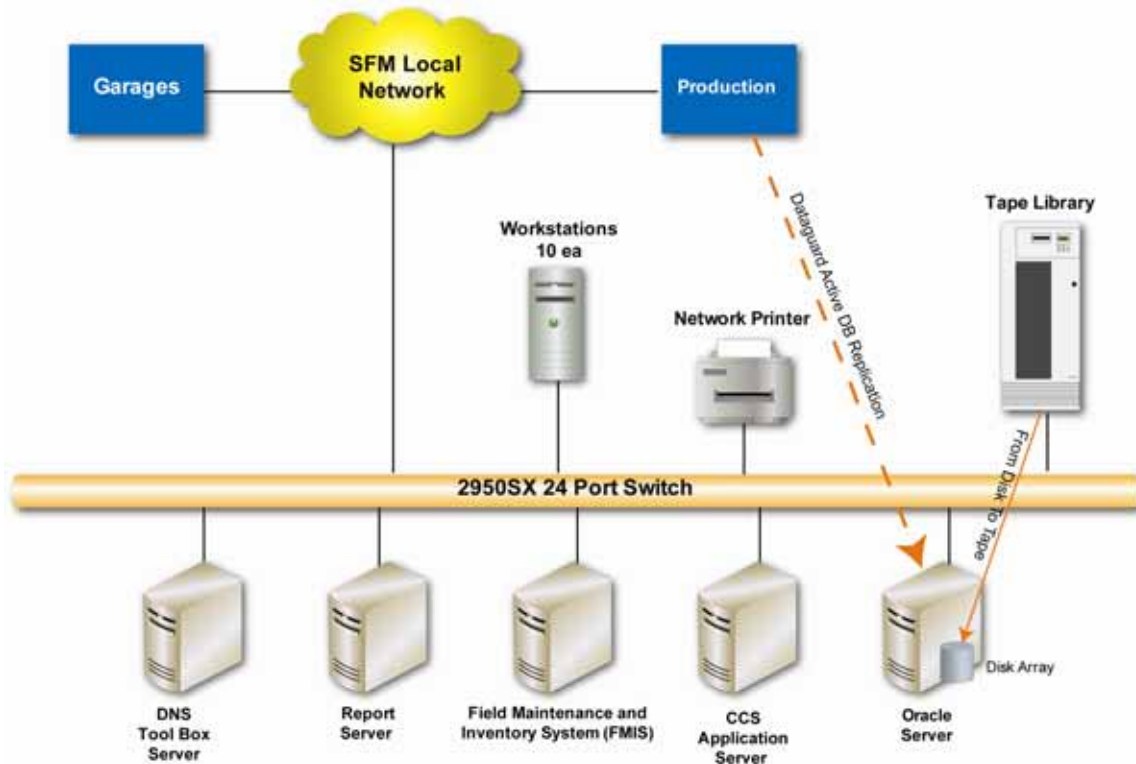
Determine and advise Contractor of SFMTA's data retention policies and data storage requirements CCS configuration.

Confer with Cubic staff to establish test and front end data collection during support and maintenance services.

7. DISASTER RECOVERY SITE DESIGN OPTION

The SFMTA has the option within the Term of this Agreement to direct Contractor to design a designated disaster recovery site to replace the production site in the event of a catastrophic failure as presented in Figure 6. The site would consist of production duplicate hardware and software that could be restored to production version utilizing the Bare Metal Restore imaging software. Oracle's Dataguard would be used as the primary method of backing up the database in near real time to the disaster recovery site. The Oracle database may also be replicated via Netbackup tapes through the tape library. If the SFMTA desires to exercise this option, the parties shall negotiate the price charged for these services.

Figure 6. Central Computer System with Optional Disaster Recovery



APPENDIX B

Cost Schedule

As provided in Section V.1. of Appendix A of the Agreement, within 45 days of NTP, Contractor shall incorporate the Equipment, deliverables, design elements, and services set out in Tables B-1 and B-2 into its Program Plan and Project Schedule to create a fully cost-loaded payment schedule. All Equipment and services are subject to SFMTA verification prior to payment becoming due. .

Table B-1. Design and Equipment Production and Installation Costs

Items 2, 3a, 3b, 3c, 4b, 5b, 5e, 6, and 7 are subject to SFMTA acceptance prior to payment.

Liquidated damages apply to Contractor's delay for Milestones listed below in 6, and 7, as further provided in Section 19 of the Agreement.

	Milestone Description	Milestone Value
1	Mobilization and Preliminary Costs (at NTP)	\$714,687
2	Program Plan, Project Schedule and Site Survey (due within 45 days of NTP)	\$714,687
3	Design Drawings	

a	50% Completion of Design			\$536,015
b	90% Completion of Design			\$536,015
c	Production Release of Drawings			\$536,015
4	Farebox Modules and Parts			
a	Contractor Issues Purchase Order for Farebox Parts to Vendors			\$804,023
b	Farebox Parts Delivered to Contractor for Assembly (95%)			\$2,807,986
5	Central and Depot Computer Systems (CCS)			
a	Contractor Issues Purchase Order for CCS Equipment to Vendors			\$848,000
b	CCS Equipment Delivered to Contractor, Software Installed and Configured at Contractor's Facility			\$848,000
c	CCS Installed in SFMTA Facilities			\$848,000
d	System Engineering Complete/Start System Integration Test(SIT)			\$1,000,000
e	Completion of SIT			\$1,216,090
6	Installation/Test/SFMTA Acceptance of Fareboxes	1,322 Total Fareboxes	\$1,092 per Farebox	\$1,443,624
7	Final Acceptance			\$1,403,910
	Total Equipment Price			\$14,257,052

Table B-2 - Personnel/Project Support Cost

Each marked box in the following Table B-2 indicates a fulltime equivalent employee assigned to perform the tasks in the position listed at the top of the column. The City's payment obligations for the services of the personnel listed below are subject to SFMTA verification, including but not limited to audit of payroll records.

Services Provided				
Month #	FMIS	Implementation Team	Depot Repair	Monthly Service Values
1				
2				
3	X			\$11,853
4	X			\$11,853
5	X			\$11,853
6	X	X	X	\$222,680

Month #	FMIS	Implementation Team	Depot Repair	Monthly Service Values
7	X	X	X	\$222,680
8	X	X	X	\$222,680
9	X	X	X	\$222,680
10	X	X	X	\$222,680
11	X	X	X	\$222,680
12	X	X	X	\$222,680
13	X	X	X	\$222,680
14	X	X	X	\$222,680
15	X	X	X	\$222,680
16	X	X	X	\$222,680
17	X	X	X	\$222,680
18	X	X	X	\$222,680
19	X	X	X	\$222,680
20	X	X	X	\$222,680
21	X	X	X	\$222,680
22	X	X	X	\$222,680
23	X	X	X	\$222,680
24	X	X	X	\$222,680
25	X		X	\$49,575
26	X		X	\$49,575
Total Services Price				\$4,365,629
Description				Value
Handrail and Misc. Items Allowance				\$286,688
Total Contract Price				\$18,909,369

THIS PRINT COVERS CALENDAR ITEM NO. : 13

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Transportation Planning & Development

BRIEF DESCRIPTION:

Authorizing the award of San Francisco Municipal Transportation Agency Contract No. MR-1216, Geneva Historic Car Enclosure Project, to Shimmick Construction Co. Inc., 8201 Edgewater Drive, Suite 202, Oakland, CA 94621, in an amount not to exceed \$6,935,000.

SUMMARY:

- On August 1, 2006, the San Francisco Municipal Transportation Agency Board of Directors adopted Resolution No. 06-093, which authorized the Executive Director/CEO to issue a Request for Proposals (RFP) for Contract No. MR-1216, Geneva Historic Car Enclosure Project.
- The scope of this project is Design-Build Services for the Geneva Historic Car Enclosure. The contractor will design and construct an enclosure over six uncovered tracks to protect 24 historic streetcars from the elements.
- One proposal was received on January 11, 2007 from Shimmick Construction Co. Inc.
- Staff evaluated the proposal and found it responsive to the RFP requirements.
- Staff negotiated a contract with the proposer in the amount of \$6,935,000.
- Funding is provided from a combination of Federal, State and Local funds.
- The Contract Compliance Office and the City Attorney Office have reviewed this calendar item.

ENCLOSURES:

1. SFMTAB Resolution
2. Project Budget and Finance Plan
3. Design Build Agreement

APPROVALS:

DATE

DIRECTOR OF DIVISION
PREPARING ITEM

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY

ADOPTED RESOLUTION
BE RETURNED TO Gigi Pabros

ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

Background

San Francisco Municipal Transportation Agency's (SFMTA) Contract No. MR-1216, Design-Build Services for Geneva Historic Car Enclosure ("Geneva Canopy Project"), is a design-build contract to construct an enclosure over six of the 14 uncovered tangent tracks at SFMTA's Geneva Yard to protect 24 historic streetcars from the elements. The Geneva Yard is located at Geneva and San Jose Avenues.

The Geneva Canopy Project will employ the "design-build" method of project delivery as opposed to the traditional "design-bid-build" method. In the traditional "design-bid-build" method, the owner contracts with an architectural and engineering firm (A/E) to design the project and prepare plans and specifications. The owner then contracts with a general contractor to construct the project according to the A/E's design. The owner and the A/E monitor the work and ensure that the contractor complies with the A/E's plans and specifications.

In the "design-build" method, the owner prepares project requirements, e.g., preliminary plans and specifications, which are used as a basis for the design, and contracts with a design builder (D/B) for both design and construction. The design builder completes the design of the project, and prepares the plans and specifications. The owner reviews the D/B's design to ensure that the design complies with the project requirements. Responsibility for the design and construction of the work will rest with the D/B contractor. The owner monitors the D/B's construction of the work, and ensures that the D/B complies with the D/B's quality control/quality assurance plan and the owner's operational requirements.

The use and importance of design-build as a project delivery method has been increasing in both the private and public sectors. SFMTA has not employed the design-build method before, but made a decision to use this method to determine whether it can achieve better quality, with integration of design and construction expertise, save time, and/or result in cost savings. When the designer and the builder are members of the same team, design decisions can be made quickly and with a common purpose, even after construction has commenced. Likewise, construction decisions can be made early in the design process, thus minimizing delays and cost overruns. Under the design-build project delivery method, the design risks are transferred from the owner to the D/B and the D/B is compensated accordingly. As a result, the initial contract price may be higher, but the total project costs at completion should compare favorably with the traditional design-bid-build method of project delivery.

The SFMTA Transportation Planning and Development Division and the Bureau of Architecture of the Department of Public Works have prepared preliminary design level drawings and technical specifications to be used as the basis for the D/B's final design. The concept design

allows for the enclosure to be expanded in the future. SFMTA has also prepared final detailed design drawings for the overhead contact system (OCS) and traction power system to provide better control during construction in this working rail yard.

The D/B will be responsible for completing the design of the architectural, civil, structural, mechanical, overhead and electrical elements; incorporating SFMTA's OCS design; finalizing the plans and specifications; securing necessary permits from the Department of Building Inspection and the Arts Commission; and constructing the work in accordance with SFMTA's project requirements. For the particular requirements of this project, it is best for the designer and contractor to work together on the integration of the design of the structure and its foundations and caissons, which require demolition of the retaining walls and excavation between tracks. Since Geneva is a working yard, the designer and contractor, working as team, would be better able to respond to issues that arise during construction. This joint effort could minimize delays particularly in demolition, excavation, underground obstructions, foundations, pipe jacking under tracks, trenching between tracks, change order processing, and SFMTA shutdown scheduling.

Scope of Design/Build Contract

The Geneva Canopy Project will be performed in two phases: Phase I covers completion of design. The design work will include all necessary surveys, investigations, design calculations, design submittals, design and construction drawings and specifications, design review, incorporation of SFMTA's overhead and traction power system design, and securing of necessary permits and approvals.

Phase II covers the construction work: Pre-construction inspection and surveys; demolition and removal of retaining walls, foundations, handrails, sanders, sander tower, and car wash; relocation or removal of utilities; excavation and reuse/disposal of site materials, temporary storage of construction materials, transportation and disposal of waste; dewatering work; traffic control; building construction, including lighting, public address and fire alarm/suppression systems; OCS system; ADA work; spare parts; testing; training; quality assurance/quality control; as-built drawings; and closeout documents.

Negotiations with Sole Proposer – Shimmick Construction Co. Inc.

The proposal submitted by Shimmick was reviewed upon receipt and found to be responsive to the requirements of the RFP. However, the proposed amount was significantly higher than the project budget. Staff's negotiations with the sole proposer resulted in significant cost reduction through design modifications to simplify the canopy structure and to allow easier access to the site during construction. Staff was successful in securing a reduction of approximately \$2.4 million in costs from the originally proposed cost of \$9,308,000 to a final negotiated amount of \$6,935,000. This negotiated amount includes additional scope of work for the contractor to obtain approval of the redesigned facility by both the Arts Commission and the Planning Commission.

The original Engineer's Estimate for the work was \$2,800,000. Errors were identified in this

estimate prior to receipt of proposals, and staff immediately started preparing a new estimate. The revised Engineer's Estimate is \$5,400,000 and was completed independently after receipt of the proposal, but without any knowledge of the proposed amount. The Contractor's cost proposal was kept confidential until the first round of negotiations. Every attempt was made to include the latest cost data in this revised estimate and to provide a reasonable estimate for the Contractor's risk associated with a design-build contract. However, inadequate experience with this type of contracting process resulted in underestimating the amount of risk premium reflected in the contractor's proposal.

SFMTA staff recommends award of this contract to Shimmick Construction Co. Inc. in an amount not to exceed \$6,935,000.

Copy of the Design Build Agreement and the Special Provisions to the Agreement are attached as Enclosure 3. The General Provisions, the Federal Transit Requirements, the Small Business Enterprise Requirements, the specifications, and drawings are not attached hereto, but are available at the SFMTA Board Secretary's office for review.

Duration of Contract; Funding; Small Business Enterprise (SBE) Requirements

The bid documents specify that the design and construction work shall be substantially completed within 700 calendar days from the date of the notice to proceed. Liquidated damages will be \$2,500 per day for each day that the Contractor fails to achieve substantial completion on time.

Funding for the Contract is detailed in Enclosure 2. Funding for the Geneva Canopy Project will be from a combination of Federal, State and Local funds.

The Contract Compliance Office has received documentation from Shimmick Construction Co. Inc., indicating its commitment to achieve at least fifteen (15) percent SBE participation for the design work and twenty-three (23) percent SBE participation for the construction work.

Action Requested

This calendar item seeks SFMTA Board authorization to award Contract MR-1216, and approval of the revised plans and specifications under the Design-Build method.

This calendar item has been reviewed by the City Attorney's Office and SFMTA's Contract Compliance Office.

Benefit to the SFMTA 2008 – 2012 Strategic Plan

This project will assist SFMTA in reaching the following goals of the Strategic Plan:

- Goal 1 – Customer Focus - To provide safe, accessible, reliable, clean and environmentally sustainable service

This facility will provide weather protection for 24 historic streetcars, thereby extending the lifespan of the exterior by ~30%.

- Goal 4 – To ensure financial stability and effective resource utilization
 - 4.2 – Ensure efficient and effective use of resources

This facility will enable the streetcars to be in service more often due to the reduction in required maintenance.

- Goal 5 – SFMTA Workforce - To provide a flexible, supportive work environment
 - 5.2 – Improve facilities in which people are working

This facility will provide weather protection for minor maintenance work, thereby providing an improved working environment for historic streetcar staff.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency wishes to issue a design-build contract to construct an enclosure over six tracks in the Geneva Yard at Geneva and San Jose Avenues to protect 24 historic streetcars from the elements; and,

WHEREAS, The San Francisco Municipal Transportation Agency Board of Directors adopted Resolution No. 06-093 on August 1, 2006, which authorized the Executive Director/CEO to issue a Request for Proposals (RFP) for Contract No. MR-1216, Geneva Historic Car Enclosure Project; and,

WHEREAS, On January 11, 2007, the SFMTA received one proposal in response to the RFP from Shimmick Construction Co. Inc.; and,

WHEREAS, The Contract Compliance Office has received documentation from Shimmick Construction Co. Inc., indicating its commitment to achieve at least fifteen (15) percent SBE participation for the design work and twenty-three (23) percent SBE participation for the construction work and,

WHEREAS, Completion of this project will assist SFMTA's in reaching Goals 1, 4, and 5 of the Strategic Plan to provide safe, accessible, reliable, clean and environmentally sustainable service, to ensure efficient and effective use of resources, and to improve facilities in which people are working; and,

WHEREAS, Contract No. MR-1216 is fully funded by a combination of federal, state and local transportation funds, now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the award of San Francisco Municipal Transportation Agency Contract No. MR-1216, Geneva Historic Car Enclosure Project to Shimmick Construction Co. Inc., in an amount not to exceed \$6,935,000.

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

_____.

Secretary, San Francisco Municipal Transportation Agency Board

ENCLOSURE 2
DESIGN-BUILD SERVICES FOR GENEVA HISTORIC CAR ENCLOSURE PROJECT
San Francisco Municipal Transportation Agency Contract MR-1216
Project Budget and Financial Plan

Cost Center	Amount
Conceptual Engineering Report:	
Staff Support (SFMTA and Other Dept. Services)	\$245,000
Design Phase:	
Staff Support (SFMTA and Other Dept. Services)	\$750,000
Construction Phase:	
Design-Build Contract	\$6,935,000
Staff Support (SFMTA and Dept of Admin Services)	\$1,565,000
Contingency	\$2,155,000
Total Cost	\$11,650,000

The Capital funds for this project are as follows:

Funding	Amount
Federal Transit Administration Section 5307	\$2,500,000
State Prop 1B Infrastructure Bond	\$7,500,000
Local Grants	
AB 664 Bridge Toll	\$625,000
Prop B Sales Tax	\$250,000
SF Municipal Railway Improvement Corp. #59	\$775,000
<i>Total Funding</i>	\$11,650,000

MUNICIPAL TRANSPORTATION AGENCY

DESIGN-BUILD AGREEMENT

This DESIGN BUILD AGREEMENT ("DBA"), made this _____ day of _____, 20_____, by and between

Shimmick Construction Company, Inc.

whose place of business is at 8201 Edgewater Drive, Suite 202, Oakland, CA 94621, ("Contractor"), and the **CITY AND COUNTY OF SAN FRANCISCO, a MUNICIPAL CORPORATION** (the "City"), by its **MUNICIPAL TRANSPORTATION AGENCY (the "Agency")**, acting under and by virtue of the authority vested in the Agency by the Charter and Administrative Code of said City and County and by ordinances enacted pursuant to said Charter.

WHEREAS, On the _____ day of _____, 200_, the Agency adopted Resolution No. _____, which awarded to the Contractor the Contract for

GENEVA HISTORIC CAR ENCLOSURE
DESIGN-BUILD
(Contract No. MR-1216)

NOW, THEREFORE, the Contractor, in consideration of the mutual covenants set forth in this DBA, promises and agrees to provide all services to design and construct the Project in accordance with the Contract, to perform said Work in a good and workmanlike manner to the satisfaction of the Agency, to furnish all labor, material and equipment necessary for use in the performance of the Work, to prosecute the Work with diligence from day to day to Final Completion, and to otherwise fulfill all of Contractor's obligations under the Contract, as and when required under the Contract, to the satisfaction of the Agency.

Article 1 – Definitions

The terms in the DBA shall have the same meanings as set forth in Section 1 (Definitions) of the General Provisions of the Contract. The Contract, as defined in the General Provisions, is incorporated into and made a part of this DBA.

Article 2 – Work

Contractor shall perform the Work according to the Contract, and all materials used in performing the Work shall comply with the Contract. The Work shall be performed in two phases: Phase I – Design and Securing Necessary Permits, and Phase II – On-Site Construction. The Work shall be commenced as soon as practicable upon issuance of Notice to Proceed, prosecuted diligently thereafter and completed within the time limit fixed in the Contract.

Article 3 – Contract Amount

- 3.01 Contractor and the City agree that the amount to be paid for the Work shall not exceed six million nine hundred and thirty-five thousand dollars (\$6,935,000) ("Contract Amount") as itemized on the Schedule of Bid Prices, commencing on Page 5 of this DBA. The City may adjust the Contract Amount upward or downward during performance or upon completion of the Work in accordance with applicable provisions of the Contract.
- 3.02 The Contractor understands and agrees that when, under any provision of the Contract, the City shall charge any sum of money against the Contractor, the amount of such charge shall be deducted and retained by the City from the amount of the next succeeding progress estimate, or from any other moneys due or that may become due the Contractor on account of the DBA. If on completion or termination of the DBA such moneys due the Contractor are insufficient to cover the City's charges against it, the City shall have the right to recover the balance from the Contractor or its sureties.
- 3.03 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 the City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.
- 3.04 Contractor understands and agrees that Contractor shall be solely responsible for providing all resources that may be necessary to provide the Work, and that City shall have no obligation whatsoever to finance any part of such costs except with respect to those amounts which become due under the terms and conditions of the Contract.

Article 4 – Design Standards

Contractor acknowledges and represents that it shall retain design professionals with the qualifications and experience necessary to perform the design work required under the Contract; and that the design work shall be in accordance with the Technical Specifications of the Contract, and shall meet or exceed the standard of care of a design professional in the San Francisco Bay Area.

Article 5 – Contract Times and Liquidated Damages

The Work shall be Substantially Complete within seven hundred (700) calendar days, from and including the official date for commencement of the work as designated by the Agency in its Notice to Proceed, and Finally Complete within one hundred twenty (120) calendar days after Substantial Completion, all as provided in Section SP-2 of the Special Provisions of the Contract.

It is understood and agreed between Contractor and the City that time is of the essence in all matters relating to the Contract. It is also understood and agreed that the City will suffer financial loss if (1) the Work is not completed within the above-stated Contract times, plus any extensions allowed in accordance with the Special Provisions or Section 79 of the General Provisions of the Contract, or (2) there is interference to the Agency in the prosecution of the Work. Contractor acknowledges and agrees that if the Work is not completed within the time periods set forth in the Special Provisions,

or if the construction causes interference to the Agency, the City will be damaged in an amount that is extremely difficult, if not impossible, to calculate. Accordingly, Contractor and the City agree that as liquidated damages (but not as a penalty) for failure to meet said requirements, the Contractor shall pay the City the amounts set forth in Section SP-6 of the Special Provisions of the Contract.

Article 6 – Labor Requirements

Wages and compensation to be paid for labor performed or services rendered under this DBA shall be in accordance with Sections 99 and 100 of the General Provisions of the Contract, Sections XI and XII of the FTA Requirements for Design Build Contracts, and Section 106 of the General Provisions of the Contract, to the extent applicable.

Article 7 – Resolution Of Conflict

7.01 It is expressly agreed by and between Contractor and the City that should there be any conflict between the terms of this DBA and the Proposal of Contractor, then this DBA shall control and nothing herein shall be considered as an acceptance of any terms of the Proposal which conflict with this DBA.

7.02 The Contract and any other agreements between the Parties relating to the Project are intended to be read together and integrated as a whole, and shall be construed and interpreted in a manner so as to avoid any conflicts to the extent possible. Supplementary provisions in the Contract shall not be deemed to be in conflict.

Article 8 - City's Charter And Administrative Code

The Contract is subject to, and Contractor agrees to comply with, all applicable provisions of the City's Charter and Administrative Code, including but not limited to section 6.61 (Design Build) and 6.80, *et seq.* (False Claims), of Chapter 6 of the San Francisco Administrative Code, which is incorporated by this reference as if set forth here in full.

Article 9 - Indemnity

To the fullest extent permitted by law, and consistent with California Civil Code section 2782, Contractor shall assume the defense of, indemnify and hold harmless the City, Municipal Transportation Agency, its directors, and all of their officers, agents, members, employees, authorized representatives, or any other persons deemed necessary by any of them acting within the scope of the duties entrusted to them, from all claims, suits, damages, actions, losses and liabilities of every kind, nature and description, including but not limited to attorney's fees, directly or indirectly arising out of, connected with or resulting from the performance or nonperformance of the Work. The liability of Contractor shall not be limited to the amount of insurance coverages required under the Contract. This indemnification shall not be valid in the instance where the loss is caused by the sole negligence or intentional tort of any person indemnified herein.

Article 10 – Warranty

All warranties shall conform to the requirements specified in the Contract.

Article 11 – Termination

This DBA and the other Contract documents shall, unless sooner terminated, terminate upon Final Acceptance of the Work or as set forth in Section 68 of the General Conditions of the Contract.

Article 12 – Liability Of City

It is understood and agreed that in no instance is any party signing this agreement for or on behalf of the City and County of San Francisco or acting as a member of the San Francisco Municipal Transportation Agency liable on this contract, or upon any warranty of authority, or otherwise, and it is further understood and agreed that the liability of said City and County is limited and confined to such liability as authorized or imposed by law.

IN WITNESS WHEREOF the parties to these presents have hereunto set their hands and seals and have executed this contract in triplicate the day and year first above written.

CITY AND COUNTY OF SAN FRANCISCO
Municipal Transportation Agency

CONTRACTOR

General

I have read and understand the section captioned MacBride Principles -- Northern Ireland in the

By: _____

Nathaniel P. Ford, Sr.
Executive Director/CEO

Provisions, 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.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By _____

Deputy City Attorney

By: _____

Title

(Corporate Seal When Required)

ATTEST:

Municipal Transportation Agency

Board of Directors

Resolution No. _____

Adopted: _____

Attest:

Secretary, Municipal Transportation Agency

CONTRACT NO. 1216
GENEVA HISTORIC CAR ENCLOSURE PROJECT

SCHEDULE OF BID PRICES

Name of Bidder: Shimmick Construction

Note: LS = Lump Sum, EA = Each

Ref. No.	Bid Item No.	Bid Item Description	Estimated Quantity	Unit	Unit Price	Total Amount
1	1	Mobilization -Design Phase (\$150,000 Max.)		LS		150,000.00
2	2	Mobilization and Demobilization - Construction Phase (\$100,000 Max.)		LS		100,000.00
3	3	Allowance for Reimbursable Expenses				95,000.00
4	4	Allowance for Differing Site Conditions (See 1210.1.02.A Differing Site Conditions)				130,000.00
5	5	Allowance for Pavement Stripping and Signage				35,000.00
6	6	Removal of the Sand Silo, Sand Dispenser Unit and Car Wash Facility		LS		260,000.00
7	7	Electrical Power Overhead Work		LS		250,000.00
8	8	Overhead Work		LS		375,000.00
9	9	OCS Wood Trough		LS		105,000.00
10	10	OCS Steel Trolley Pole	1	EA	\$12,000.00	12,000.00
11	11	OCS Pole Foundation	1	EA	\$20,000.00	20,000.00
12	12	OCS Remove Existing Steel Poles	7	EA	\$3,000.00	21,000.00
13	13	OCS Remove Existing Trolley Pole and Foundation	1	EA	\$5,000.00	5,000.00
14	14	OCS Furnish Overhead Spare Parts		LS		15,000.00
15	15	OCS Exploratory Holes	2	EA	2,500	5,000.00

CONTRACT NO. MR-1216
GENEVA HISTORIC CAR ENCLOSURE PROJECT

SCHEDULE OF BID PRICES

Name of Bidder: Shinnick Construction

BID RECAPITULATION

A. Subtotal from Page 5	\$	<u>1,578,000.00</u>
B. Subtotal from Page 6	\$	<u>5,357,000.00</u>
Amount of Total Base Bid Price:	\$	<u>6,935,000.00</u>
Total Bid Price:	\$	<u>6,935,000.00</u>

SUBCONTRACTORS

The Bidder submits the following information as to every subcontractor who will be performing work in excess of 1/2 of 1% of the contract amount that the bidder intends to employ if awarded the contract. At the time of submitting the proposal, Subcontractors must possess appropriate licenses covering subcontract work they will be performing. (See Specifications, Section 8 of the General Provisions)

Name and Address of Subcontractor, and Location of Mill or Shop	Description of Work, Reference to Contract Items	Price or Prices Under Subcontract	California License Number, Classes, Issue and Expiration dates	SF Business Tax Registration Certificate No.
Olson & Co. Steel - San Leandro	Steel Bldg	\$634,000	453003	
B&C Painting - San Francisco	Painting	\$80,000	493881	
Reliance Engineering - SF	Demo/Conc/Ex/Elec/pts. <small>parties</small>	\$1,238,000	836738	
ISI - San Francisco	Testing	\$10,000	n/a	
Pacific Boring - Caruthers	Boring	\$73,000	553794	
Superior Auto Sprinkles - Mill/Hos	Fire Sprinkler	\$120,000	287121	
Corbin Bldg - Oakland	Bathroom Upgrades	\$155,000	768385	
VBN Arch - Oakland	Architect/Engineering	\$881,000	n/a	
Railway Electric - Hayward	OCS partial	\$128,000	727652	

(Bidder to attach additional sheets if necessary)

TABLE OF CONTENTS

<u>Section No.</u>	<u>Description</u>	<u>Page No.</u>
SP-1	Alternatives/Options	S-1
SP-2	Time Allowance for Completion of Work	S-1
SP-3	Intermediate Milestones	S-2
SP-4	Construction Schedule Coordination Requirements	S-4
SP-5	Time Allowance for Overhead Line and Track Shutdowns/ Onsite Construction	S-4
SP-6	Liquidated Damages (Supplementing Section 86 of the General Provisions)	S-5
SP-7	Escrow Bid Documents	S-7
SP-8	Insurance (Supplementing General Provision Section 15)	S-11
SP-9	Site Constraints and Existing Site Conditions	S-12
SP-10	Inspection of Construction	S-13
SP-11	Work Hours, Night Work and Weekend Work (Supplementing Section 49 of General Provisions)	S-13
SP-12	Technical Specifications	S-14
SP-13	Wage Rates for Specified Employments (Supplementing Section 100 of the General Provisions)	S-14
SP-14	Conceptual Building Specifications	S-14
SP-15	Conceptual Building Drawings	S-15

SP-1 ALTERNATES/OPTIONS

This Section Not Used.

SP-2 TIME ALLOWANCE FOR COMPLETION OF WORK

Time is of the essence in completion of work under this Contract.

A. Time, and minimum interference and inconvenience to SFMTA services,

vehicular, and pedestrian traffic, local businesses and residents, and general public, are of the essence in performance and completion of the Work under this Contract.

B. The Contractor shall prosecute and perform the work in two (2) sequential phases under this contract as follows:

1. **Phase I:** The Contractor shall **complete** all the work required in Section 01110, Subsection 1.03 **Phase I: Design and Securing Necessary Permits** within

Four Hundred (400) calendar days

from and including the official date for commencement of the work as designated by SFMTA in accordance with Section 46 of the General Provisions, "Notice to Proceed (NTP)."

2. **Phase II:** The Contractor shall **Substantially Complete** the work required in Section 01110, Subsection 1.03 **Phase II: Onsite Construction** within

Three Hundred (300) calendar days

from and including the official date for commencement of the work as designated by SFMTA in the Notice to Proceed for Phase II."

Contractor shall not start work on Phase II (Onsite Construction) until SFMTA has issued the Notice to Proceed for Phase II. This will not occur until the Muni Metro East Project is operational. The Contractor shall consult with the SFMTA as to the timing before preparing the Baseline Schedule for Phase II. For bidding purposes, however, the Contractor shall assume that access to the work area shall occur on March 1, 2009 for the track closures described in SP-5A, SP-5.B, SP-5.C and SP-5.D. Contractor shall have complete access to the canopy building site (shown on drawing CL16578) no later than September 1, 2009 for the track closure described in SP-5.E.

Substantial Completion shall be defined as the completion of all necessary work in nature and character as shown in the Contract Plans and Specifications, tested and usable for the purposes for which it is intended, with no further interference or disruption to SFMTA, other City facilities, or the public. When SFMTA determines that the work is Substantially Completed, SFMTA shall establish the Substantial Completion date in accordance with Section 01770.107.

C. The Contractor shall complete all remaining work required to be provided under the contract within **One Hundred and Twenty (120) calendar days** of the completion of (B.2) above.

The Contractor shall continue to be responsible for maintenance and protection of the work until Final Completion.

SP-3 INTERMEDIATE MILESTONES

In addition to the time allowance and construction schedule coordination stipulated in Sections SP-1 and SP-2, the Contractor shall prosecute its work according to the following milestones and requirements:

- A. The Contractor shall complete all work required for Phase I, Milestone One – *Preliminary Design Phase* within Ninety (90) calendar days– from and including the official date for commencement of work designated in accordance with Section 46 of the General Provisions. **Milestone One** is defined as follows:

Completion of *the Preliminary Design Phase*, i.e., when the Contractor obtains all reviews and approvals required under subsection 1.06 (Construction Documents) of Section 01114 - Design Requirements of the Specifications and as required.

The Contractor agrees that SFMTA may withhold pending and future progress payments until Milestone One is fully achieved.

If approvals from City agencies required under Section 01114 - Design Requirements are not obtained within six weeks from the time that the Contractor completes submission of all required documents to the satisfaction of the agencies, the SFMTA will extend the time for the completion of work under this Milestone on a day-for-day basis until all required City approvals are obtained. Any extension of time for such delay shall be non-compensable unless the Contractor can demonstrate that the delay was a sole and direct result of the failure of SFMTA to meet its obligations under this contract.

- B. The Contractor shall complete all work required for **Milestone Two** – *Initial Design Phase* within **One Hundred and Sixty (160) calendar days** from the completion of Milestone One- *Preliminary Design Phase*. **Milestone Two** is defined as follows:

Completion of *Initial Design Phase*, as specified within section 01114 - Design Requirements and Services, of the Specifications . SFMTA will review the Initial Design Phase Package and provide comments as specified in section 01330.

The Contractor agrees that SFMTA may withhold pending and future progress payments should Contractor fail to achieve Milestone Two by the time specified, as such time may be extended, until Milestone Two is fully achieved.

- C. The Contractor shall complete all work required for **Milestone Three** –*Final Design Phase* within One Hundred and Twenty (120) calendar days from the completion of Milestone Two- *Initial Design Phase*. **Milestone Three** is defined

as follows:

Completion of the *Final Design Phase*, as specified within section 01114 - Design Requirements and Services, of the Specifications. SFMTA will review the Final Design Phase Package and provide comments as specified in section 01330.

The Contractor agrees that SFMTA may withhold pending and future progress payments should Contractor fail to achieve Milestone Three by the time specified, as such time may be extended, until Milestone Three is fully achieved.

D. **Milestone Four** is defined as follows:

Submission of the *Final Construction Documents* and receipt of all necessary permits from the San Francisco Department of Building Inspection and any other governmental agencies as required to proceed with construction.

Upon issuance of all such required permits, the Contractor shall transmit a copy of the *Final Construction Documents* to the SFMTA.

The Contractor may elect to use the site permit process of the San Francisco Department of Building Inspection / Department of City Planning to facilitate approvals.

The Contractor shall complete all work required for **Milestone Four** – Submission of the *Final Construction Documents* and approval of permits within

Four Hundred (400) calendar days

from and including the official date for commencement of the work as designated by SFMTA in accordance with Section 46 of the General Provisions, "Notice to Proceed (NTP)."

The Contractor agrees that SFMTA may withhold pending and future progress payments should Contractor fail to achieve Milestone Four by the time specified, as such time may be extended, and until Milestone Four is fully achieved.

In its schedule, the Contractor shall provide a reasonable time to obtain the required permits after final submission of contract documents or addenda, which time shall not be less than 30 calendar days.

SFMTA may extend the time for the completion of work under this Milestone on a day-for-day basis until all required permits are obtained if the governmental agencies permit process is longer than 30 calendar days and, contractor completes submission of all required documents to the satisfaction of the agencies. Any extension of time for such delay shall be non-compensable unless the Contractor

can demonstrate that the delay was a sole and direct result of the failure of SFMTA to meet its obligations under this contract.

SP-4 CONSTRUCTION SCHEDULE COORDINATION REQUIREMENTS

Contractor shall coordinate and schedule all construction (Phase I and II) work according to the following restrictions:

- A. Contractor shall coordinate any access to the worksite during the Phase I (Design) with the Engineer.
- B. In addition to General Provisions 31 and 43, Contractor is advised that there may be outside contractors or City employees working within the project site so that access to these work areas must be shared and coordinated.
- C. If access is not provided to the Contractor by the above dates or sooner, then for each day of delay, the completion date of the aforementioned work in the area shall be extended accordingly. Any extension of time for such delay shall be non-compensable unless the Contractor can demonstrate that the delay was a sole and direct result of the failure of SFMTA to meet its obligations under this contract.

SP-5 TIME ALLOWANCE FOR OVERHEAD LINE AND TRACK SHUTDOWNS / ONSITE CONSTRUCTION

The following track and overhead line shutdowns are permitted with prior approval of the Engineer: See section 1575 of the General Requirements.

- A. Track 15 may be shut down for five consecutive days from 7 a.m. to 5 p.m. for demolition of the sander tower. This line shall be returned to a safe operating condition daily by 6 p.m. Track 15 shall not be shut down concurrently with any other track / lane closure.
- B. Tracks 13 & 14 may be shut down from 9 a.m. to 10 p.m. on one weekend (Saturday: 9am to 10pm, and Sunday: 9am to 10pm) for demolition of the south sander. These lines shall be returned to a safe operating condition by 11 p.m. Tracks 13 and 14 shall not be shut down concurrently with any other track / lane closure.
- C. Tracks 13 & 14 may be shut down from 9 a.m. to 10 p.m. on one weekend (Saturday: 9am to 10pm, and Sunday: 9am to 10pm) for demolition of the north sander. These lines shall be returned to a safe operating condition by 11 p.m. Tracks 13 and 14 shall not be shut down concurrently with any other track / lane closure.
- D. Tracks 6 and 7 (or 12 and 13) and 1 adjacent track may be shut down to install the building foundation from 7 AM to 5 PM with the prior approval of the engineer

and shall be returned to a safe operating condition by 6 PM. This track closure work shall not be concurrent with any other track closure.

- E. Tracks 7, 8, 9, 10, 11 and, 12 may be shut down for five consecutive months during construction of all work within the streetcar envelope of these tracks. Track 6 or Track 13 (but not concurrently) may be shut down from 7 AM to 5 PM with the prior approval of the Engineer and shall be returned to a safe operating condition by 6 PM. Contractor shall provide SFMTA with a proposed Track Closure Schedule for review and approval.
- F. All other tracks not noted above shall remain active and usable to operate vehicles.

SP-6 LIQUIDATED DAMAGES (Supplementing Section 86 of the General Provisions)

Liquidated Damages - General:

The actual fact of the occurrence of damages and the actual amount of the damages that the City would suffer if the work were not completed within the specified times set forth in this Contract are dependent on many circumstances and conditions, which could prevail in various combinations, and the City and the Contractor agree that it will be impracticable and extremely difficult to fix the actual damages.

Damages the City would suffer in the event of delay include, but are not limited to, costs of renting equivalent space; expenses of prolonged employment of an architectural, engineering and construction management staff comprised of both City representatives and consultants; costs of administration, inspection and supervision; and the loss suffered by the public within the City and County of San Francisco by reasons for the delay in the construction of the Project to serve the public at the earliest possible time.

Therefore, the Contractor acknowledges that it understands, has ascertained, and agrees to the amounts set forth below to be paid by the Contractor to the City for failure of the Contractor to complete the work within the times specified, for various milestones in SP-2 and SP-3, or for failure to comply with certain contract requirements.

Liquidated Damages for Delay in Completion of Phase I work as described under SP-2.B.1:

The Contractor shall pay the sum of **One Thousand Dollars (\$1,000.00)** per day for each and every calendar day of delay, for delay in completion of all the Phase I work beyond the number of calendar days specified in SP-2.B.1 Phase I herein, with the actual number of days counted from and including the official date for commencement of the work, and continuing to the date at which all the work for Phase I is totally completed.

- C. Liquidated Damages for Delay in Completion of the Work in Phase II as described under SP-2.B.2:

The Contractor shall pay the sum of **Two Thousand Dollars (\$2,000.00)** per day for each and every calendar day of delay, for delay in substantial completion of the Phase II work beyond the number of calendar days specified in SP-2.B.2, with the actual number of days counted from the official date of Notice to Proceed for Phase II, and continuing to the date at which the Phase II work is Substantially Completed, as defined in SP-2.B.2.

- D. Liquidated Damages for Delay in Final Completion of Phase II work as described under SP-2.C:

The Contractor shall pay the sum of **Five Hundred Dollars (\$500)** per day for each and every calendar day of delay of Final Completion of Phase II Contract work beyond the number of calendar days specified in SP-2.C until the City has declared Final Completion of the Work in Phase II as described under SP-2.C.

- E. Liquidated Damages for Interference to SFMTA:

1. The Contractor shall pay the sum of **Five Hundred Dollars (\$500.00)** per hour or portion thereof for each hour past 6:00 p.m., for delay in returning all designated tracks to a safe operating condition daily as specified in SP-5.A, SP-5.D and, SP-5.E herein.
2. The Contractor shall pay the sum of **Five Hundred Dollars (\$500.00)** per hour or portion thereof for each hour past 11:00 p.m., for delay in returning all designated tracks to a safe operating condition daily as specified SP-5.B and SP-5.C, in herein.
3. The Contractor shall pay the sum of **Five Hundred Dollars (\$500.00)** per hour or portion thereof, per LRV vehicle, for any delay or interruption of operation by the Contractor not included in above paragraphs. This shall include delays or interruptions of LRV service due to materials on the rail or in the flangeways of the track.

It is further agreed that payment of liquidated damages under one of the aforementioned conditions will not relieve the Contractor from separate liquidated damage liability under the other conditions, each to the full extent of the specified amount, regardless of whether the times for which liquidated damages are to be paid do or do not run concurrently, or whether each liability is or is not a consequence of the other.

SP-7 ESCROW BID DOCUMENTS

- A. Scope

1. The Contractor shall submit one (1) copy of all documentary information generated in preparation of bid prices for this Contract. This material is hereinafter referred to as "Escrow Bid Documents". The Escrow Bid Documents of the successful bidder will be held in escrow for the duration of the Contract.
2. The submission of the Escrow Bid documents, as with the corporate surety bonds and insurance documents required under the General Provisions, Sections 14 and 15, is considered an essential part of the Contract award. Should the Contractor fail to make the submission within the allowed time specified, the Contractor shall be deemed to have failed to enter into the Contract, and the Contractor shall forfeit the amount of the bid bond or certified check accompanying the bid as specified under the General Provisions, Section 10.
3. The Contractor agrees, as a condition of award of the Contract, that the Escrow Bid Documents constitute all information used in the preparation of his bid, and that no other bid preparation information shall be considered in resolving disputes or claims.
4. Nothing in the Escrow Bid Documents shall change or modify the terms or conditions of the Contract Documents.

B. Ownership

1. The Escrow Bid Documents are, and shall always remain, the property of the Contractor, subject to joint review by the City and the Contractor, as provided herein.
2. The City stipulates and expressly acknowledges that the Escrow Bid Documents, as defined herein, constitute trade secrets. This acknowledgment is based on the City's express understanding that the information contained in the Escrow Bid Documents is not known outside the bidder's business, is known only to a limited extent and only by a limited number of employees of the Contractor, is safeguarded while in Contractor's possession, is extremely valuable to the Contractor, and could be extremely valuable to the Contractor's competitors by virtue of it reflecting the bidder's contemplated techniques of construction. The City acknowledges that it would be difficult for a competitor to replicate the information contained therein. City further acknowledges the Escrow Bid Documents and the information contained therein are made available to City only because such action is an express prerequisite to award of the Contract. The City acknowledges that the Escrow Bid Documents include a compilation of information used in the Contractor's business, intended to give the Contractor an opportunity to obtain an advantage over

competitors who do not know of or use the contents of the documentation. City further agrees to safeguard the Escrow Bid Documents, and all information contained therein, against disclosure to the fullest extent permitted by law.

C. Purpose

Escrow Bid Documents will be used as a guide to assist in the negotiation of price adjustments and change orders and in the settlement of disputes, claims, and other controversies. They will not be used for evaluation of the Contractor's anticipated methods of construction.

D. Format and Contents

1. The Contractor shall submit Escrow Bid Documents in its usual cost-estimating format; a standard format is not required. It is not the intention of this Specification to cause the Contractor extra work during the preparation of the proposal, but to ensure that the Escrow Bid Documents will be adequate to enable complete understanding and proper interpretation for their intended use. The Escrow Bid Documents shall be submitted in the English language.
2. It is required that the Escrow Bid Documents clearly itemize the estimated costs of performing the work of each bid item contained in the Bid Schedule. Bid items should be separated into sub-items as required to present a detailed cost estimate and allow a detailed cost review. The Escrow Bid Documents shall include all quantity takeoffs, crews, equipment, calculations of rates of production and progress, copies of quotes from subcontractors and suppliers, and memoranda, narratives, add/deduct sheets, and all other information used by the Contractor to arrive at the prices contained in the bid proposal. Estimated costs should be broken down into the Contractor's usual estimate categories such as direct labor, repair labor, equipment ownership and operation, expendable materials, permanent materials and subcontract costs as appropriate. Plant and equipment and indirect costs should be detailed in the Contractor's usual format. The Contractor's allocation of indirect costs, contingencies, markup and other items to each bid item shall be identified.
3. All costs shall be identified. For items amounting to less than \$10,000, estimated unit costs may be used without a detailed cost estimate, provided that labor, equipment, materials and subcontracts, as applicable, are included and provided that indirect costs, contingencies and markup, as applicable, are allocated.
4. Bid documents provided by the City should not be included in the Escrow Bid Documents unless needed to comply with the following requirements:

E. Submittal

1. The Escrow Bid Documents shall be submitted in a sealed container within ten (10) calendar days after the award. The container shall be clearly marked on the outside with the Contractor's name, date of submittal, Contract name, Contract number, and the words "Escrow Bid Documents – Open Only in the Presence of Authorized Representatives of Both the City and the Contractor."
2. The Escrow Bid Documents shall be accompanied with a "Bid Documentation Declaration" (see Paragraph J), signed by the individual who executed the bidding proposal, stating that the material in the Escrow Bid Documents constitutes all the documentary information used in preparation of the bid and he/she has personally examined the contents of the Escrow Bid Documents container and has found that the documents in the container are complete.
3. Upon submittal, Escrow Bid Documents will be examined, organized and inventoried by representatives of the City, together with members of the Contractor's staff who are knowledgeable in how the bid was prepared.
4. This examination is to ensure that the Escrow Bid Documents are legible and complete. It will not include review of, and will not constitute approval of, proposed construction methods, estimating assumptions, or interpretations of Contract Documents. Examination will not alter any condition or term of the Contract.
5. If all the documentation required in "Format and Contents" has not been included in the original submittal, additional documentation may be required, at the City's discretion. The detailed breakdown of estimated costs shall be reconciled and revised, if appropriate, by agreement between the Contractor and the City.
6. If the Contractor's proposal is based upon subcontracting or procuring any part of the work, each subcontractor or supplier whose total price exceeds five percent (5%) of the total Contract price proposed by the Contractor shall provide separate Escrow Bid Documents to be included with those of the Contractor. Such documents shall be opened and examined in the same manner and at the same time as the examination described above for the Contractor.
7. If the Contractor wishes to subcontract or purchase any portion of the work afterward, the City retains the right to require the Contractor to submit Escrow Bid Documents from the subcontractor or supplier before the subcontract or purchase order is approved.

F. Storage

The Escrow Bid Documents of the Contractor will be placed in escrow, for the life of the Contract, in a mutually agreeable institution. The Contractor will pay the cost of storage.

G. Examination

1. The Escrow Bid Documents shall be examined by both the City and the Contractor, at any time deemed necessary by both the City and the Contractor, to assist in the negotiation of price adjustment and change orders or the settlement of disputes and claims.
2. Examination of the Escrow Bid Documents is subject to the following conditions:
 - a. As trade secrets, the Escrow Bid Documents are proprietary and confidential as described in "Scope".
 - b. The City and the Contractor shall each designate, in writing to the other party and seven (7) calendar days prior to any examination, representatives who are authorized to examine the Escrow Bid Documents. No other person shall have access to the Escrow Bid Documents.
 - c. Access to the documents may take place only in the presence of duly designated representatives of both the City and the Contractor.

H. Final Disposition

The Escrow Bid Documents will be returned to the Contractor at such time as the Contract has been completed and final settlement has been achieved.

I. Bid Documentation Declaration

THE UNDERSIGNED HEREBY DECLARES UNDER PENALTY OF PERJURY PURSUANT TO THE LAWS OF THE STATE OF CALIFORNIA THAT THE BID DOCUMENTATION CONTAINED HEREIN CONSTITUTES ALL THE INFORMATION USED IN PREPARATION OF THE BID AND THAT I HAVE PERSONALLY EXAMINED THESE CONTENTS AND HAVE FOUND THAT THIS BID DOCUMENTATION IS COMPLETE.

By: _____

Title: _____

Firm: _____ Date: _____

SP-8 INSURANCE (Supplementing General Provision Section 15)

- A. Environmental Liability Insurance: In the event that the Contractor employs a subcontractor or entity for abatement of hazardous or contaminated materials, the Contractor shall require the subcontractor or entity to maintain environmental liability insurance with limits not less than \$1,000,000, policy written on an occurrence form, with any deductible not to exceed \$25,000, including coverages for Contractor's pollution legal liability for contaminated soils, asbestos, lead, PCBs and other hazardous materials which may be encountered at the site.
- B. 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, and any deductible not to exceed \$150,000 each claim. Such insurance shall be maintained for a period of not less than three (3) years after contract acceptance.
- C. All policies shall provide thirty days' advance written notice to City of cancellation mailed to the following address:
- Shahnam Farhangi
Deputy Director, Transportation Development
San Francisco Municipal Transportation Agency
One South Van Ness Ave., 3rd 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 do the following: (a) furnish to City certificates of insurance, and additional insured policy endorsements with insurers with ratings comparable to A-, VII 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, and (b) furnish complete copies of policies promptly upon City request.
- H. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

SP-9 SITE CONSTRAINTS AND EXISTING SITE CONDITIONS

- A. Development and implementation of the site investigation program to determine the existing site conditions (surface, subsurface or latent physical site conditions), and to verify information provided as reference documents are the responsibility of the Contractor and shall not be considered a differing site condition. Bid item 4, Allowance for Differing Site Conditions, shall not be used to relieve the Contractor of its design-build responsibilities. See 1210.1.02.A Differing Site Conditions.
- B. The Contractor also acknowledges and recognizes that SFMTA LRV vehicles are entering and leaving the Geneva Yard during the morning rush hours from 6:00 AM to 9:00 AM and the evening rush hours from 5:00 PM to 8:00 PM Monday thru Friday. San Jose Avenue is also a very busy route for trucks and other motor vehicles. Therefore, the Contractor agrees to minimize entering and leaving the Geneva Yard during rush hours.

SP-10 INSPECTION OF CONSTRUCTION

- A. The Contractor shall maintain an adequate inspection system and perform such inspections to ensure that work performed under the Contract conforms to the Contract requirements. The Contractor shall maintain complete inspection and testing records and make them available to the City.
- B. All work is subject to the City's and the Designer's own quality assurance activities as determined by the Engineer. City quality assurance activities may occur at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract. The City's activities are for the sole benefit of the City and do not:
 - 1. Relieve the Contractor of responsibility for providing adequate quality control measures;

2. Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
 3. Constitute or imply acceptance; or
 4. Affect the continuing rights of the City after acceptance of the completed work under paragraph (C) of this section.
- C. No acceptance or approval from the City shall relieve Contractor from its obligation to perform all conditions of the Contract.

SP-11 WORK HOURS, NIGHT WORK AND WEEKEND WORK (Supplementing Section 49 of General Provisions)

Because of schedule requirements, the construction will be permitted on a seven- (7) day week basis except as restricted by other requirements of this Contract.

Night work shall be subject to the requirements of Article 29, San Francisco Police Code, and Regulation of Noise. If night work is permitted, the Contractor shall notify all residences and businesses located within two hundred (200) feet of the work seventy-two (72) hours in advance of the scheduled work.

Weekend work shall be restricted to the hours of 8:00 a.m. to 9:00 p.m., unless otherwise noted.

SP-12 TECHNICAL SPECIFICATIONS

The Technical Specifications, Divisions 2 to 16 specify:

1. Requirements that the Contractor must include as part of the final construction documents.
2. Minimum City imposed design requirements and performance criteria that the Contractor must include and/or address as part of its final design.
3. Submittals that the architect or record, engineer of record, or licensed professional of record must review and approve, and the City must review and return before in-field construction can proceed. See 01330 Submittals.
4. Materials and Products required for the project and product substitution requirements. See 01630 Product Options and Substitutions.
5. Execution requirements to be incorporated into the final construction documents and adhered to during the construction phase.
6. Mock-ups or samples. These mock-ups and samples shall be approved by the City, and NOT by the architect of record or engineer of record.

Any deviation or modification of the requirements set forth in the Technical Specifications requires City approval. Contractor shall submit in writing requests for changes or modifications.

The above shall not be construed to relieve the Contractor and its sub-contractors at any tier of their responsibilities to prepare and fully develop the Technical Specifications for this project. The Technical Specifications developed by the Contractor's design team shall be in accordance with applicable codes, regulations, ordinances, and public contracting standards.

SP-13 WAGE RATES FOR SPECIFIED EMPLOYMENTS (supplementing Section 100 of the General Provisions)

The Contractor and its subcontractors are advised that the City considers proper classification for employees who perform all electrical work associated with the installation of underground-fed traffic signals to be that of Electrician: Inside Wireman. Printed versions of the current General Wage Rate Determinations are available from Muni: contact Mr. Andre Bourssé at (415) 701-4362. These rates are also available at <http://www.dir.ca.gov/DLSR/PWD>.

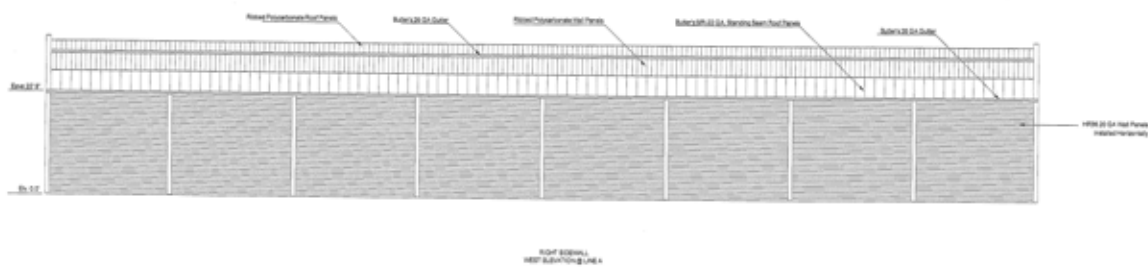
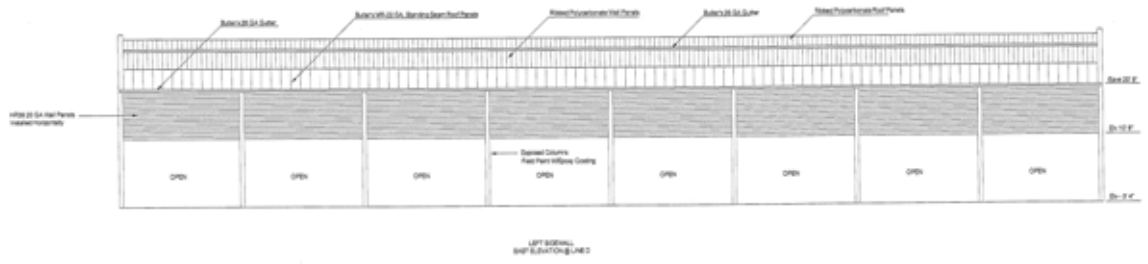
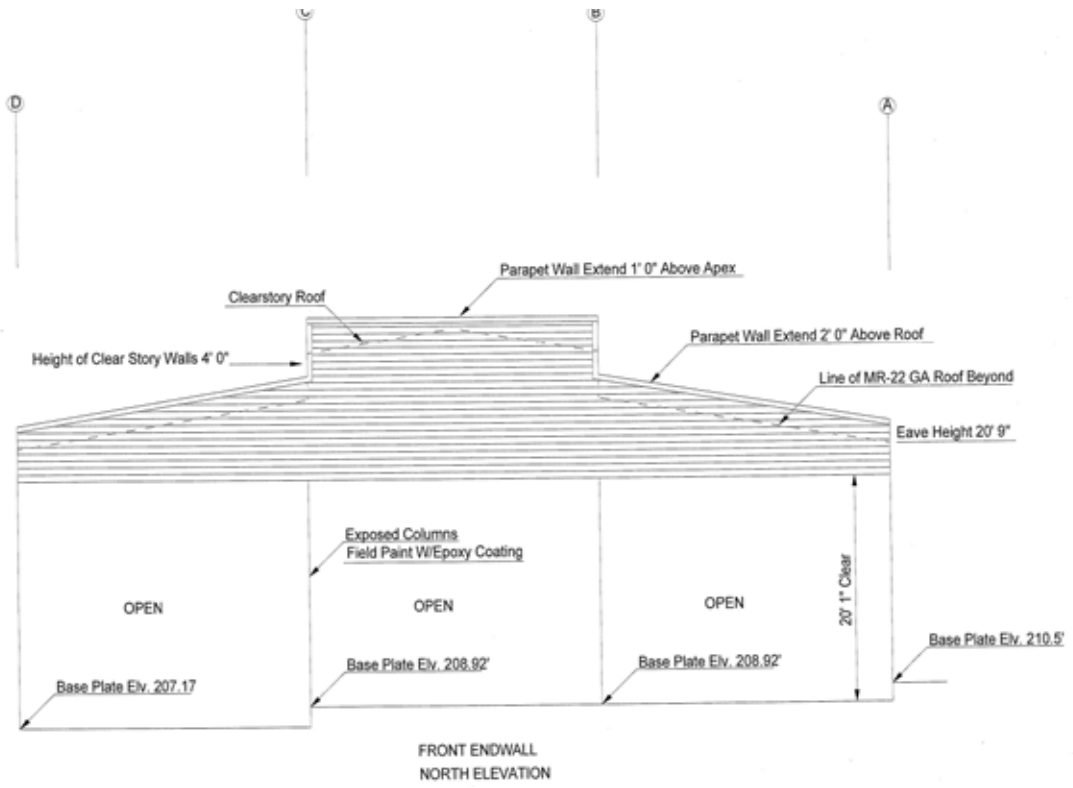
SP-14 CONCEPTUAL BUILDING SPECIFICATIONS

The Contractor shall include in its bid price the City's right to choose or exercise any standard color option listed in the following conceptual building specifications.

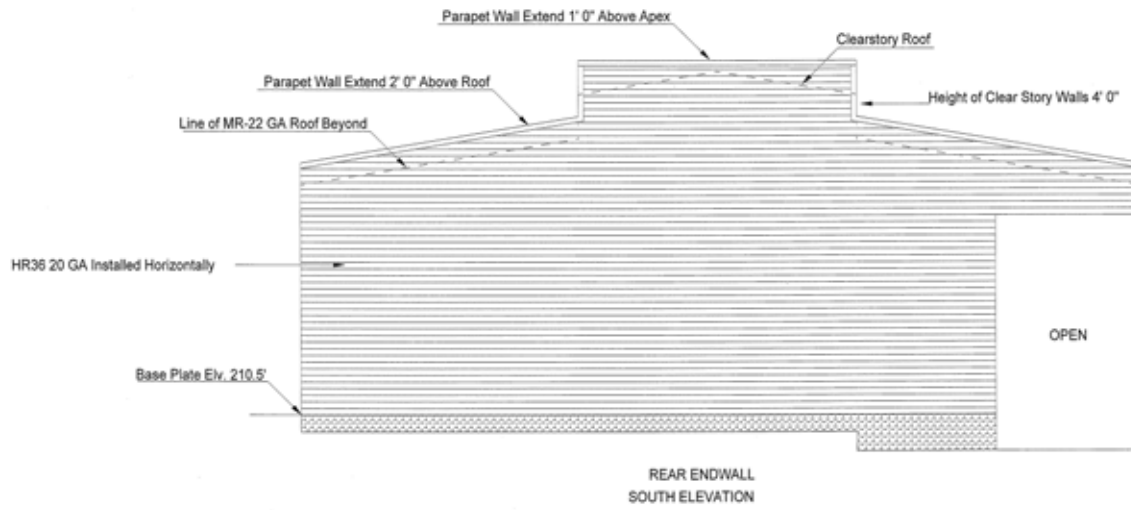
- a. AEP Span Wall Panels with Kynar Finish (exterior of building)
- b. Butler-Cote Finish System on Butler Products
- c. Butlerib II Wall System (back of parapet walls)
- d. SUNTUF Corrugated Polycarbonate Building Panels (clear story roof and wall)
- e. MR-24 Roof System (main roof)

SP-15 CONCEPTUAL BUILDING DRAWINGS

Contractor shall follow the general architectural guidelines shown in the following drawings:



NOTE: CLEAR STORY ROOF & WALL PANELS TO BE POLYCARBONATE PANELS
INSTALL BR2 24 GA WALL PANELS ON BACK SIDE OF PARAPET



END OF SPECIAL PROVISIONS

THIS PRINT COVERS CALENDAR ITEM NO. : 14

**MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Human Resources/Workers' Compensation Division

BRIEF DESCRIPTION: Requesting authorization for the Executive Director to execute the Third Amendment to an existing consulting agreement, increasing the not to exceed amount from \$95,000 annually to \$250,000 annually, between David Donn Consulting, Inc. and San Francisco Municipal Transportation Agency for workers' compensation bill review and medical cost containment services.

SUMMARY:

- The SFMTA Board of Directors approved a consulting and licensing agreement with David Donn Consulting, Inc., ("DDC") on February 21, 2006, for an amount not to exceed \$95,000.00 per year to provide workers' compensation medical bill review oversight services. DDC acts as "watchdog" ensuring that the SFMTA's claims adjusting and medical bill payment contractors achieve maximum savings under applicable fee schedules and preferred provider contracts.
- DDC's consulting and license fees are calculated as a percentage of SFMTA's cost savings for workers' compensation medical bills and bill review services.
- At the start of the contract, anticipated savings to the SFMTA were projected to be \$1.2 million. To date, the savings realized by the agency have been \$3.6 million, greatly exceeding the original savings estimates and rendering the original contract amount inadequate to compensate DDC for its services.
- To ensure that the SFMTA continues to receive maximum cost savings on workers' compensation medical costs through aggressive repricing of medical bills, staff requests that the SFMTA Board authorize the Executive Director/CEO to execute the proposed Third Amendment to the consulting agreement with DDC for a not to exceed amount of \$250,000 per year, retroactive to July 1, 2007.

ENCLOSURES:

1. MTAB Resolution
2. Third Amendment to David Donn Consulting, Inc. Managed Care Consulting Contract
3. Sole Source Designation

APPROVALS:

DATE

DIRECTOR OF DIVISION
PREPARING ITEM

FINANCE

EXECUTIVE DIRECTOR/CEO

SECRETARY _____

ADOPTED RESOLUTION

BE RETURNED TO Jefferey L. Gary

ASSIGNED MTAB CALENDAR DATE: _____

EXPLANATION:

Under the authority granted by Charter Section 8A.104 (C), the SFMTA assumed responsibility for management of its Workers' Compensation claims as of July 1, 2000. The SFMTA contracts with Sedgwick Claims Services to provide workers' compensation claims adjusting services. The SFMTA contracts with Fair Isaac Corporation to provide medical bill review services to reduce medical bills to state mandated fee schedules and negotiated fee schedules under preferred provider agreements.

To assist with the evaluation of medical bill review provider contracts and to negotiate terms and fee arrangements favorable to SFMTA, the Agency engaged the services of a managed care consultant, David Donn Consulting, Inc. (DDC) in August 2003. The contract was amended in 2005 to add RFP consulting services and was amended a second time in 2006 to include the licensing agreement for the proprietary methodology used to analyze medical bills. DDC is a sole-source provider of managed care consulting services to the SFMTA. DDC provides consulting services to municipalities and large private self-insureds in California to increase savings in workers' compensation medical costs. DDC acts as "watchdog" ensuring that the SFMTA's claims adjusting and medical bill payment contractors achieve maximum savings under applicable fee schedules and preferred provider contracts. DDC employs a proprietary medical bill review and monitoring model ("the DDC Model") that maximizes savings in medical bill reductions and medical bill review provider service fees. The SFMTA licensed the DDC Model, and by applying it to Fair Isaac's services has realized a twenty percent increase in savings over the past 36 months over what the Agency would have otherwise achieved from Fair Isaac alone, totaling approximately \$3.6 million in additional annual savings in workers' compensation costs.

To insure that the agency continues to receive maximum savings on this service, staff elected to incorporate the DDC Model as a supplement to the services of the bill review and payment contractor. Use of the DDC savings model will insure that the SFMTA continues to maximize cost savings for duration of the Fair Isaac contract.

The expected annual cost for the consulting and license fees was originally estimated at \$95,000 per year, based on projected cost savings of \$950,000 to \$1.2 million annually. To date, the savings realized by the agency have been in excess of \$3.6 million, rendering the original contract amount inadequate to compensate DDC for its services. Staff estimates, based on current savings, that the license fees to DDC will total approximately \$250,000 per year. The requested contract increase is retroactive to July 1, 2007 to compensate for DDC's services that

the agency has been unable to pay due to the limits of the existing agreement.

Funding for this proposed agreement is provided for in the fiscal year 2008 Workers' Compensation budget and will be budgeted on an annual basis thereafter.

The term of the amended consulting agreement and license agreement is five years.

Staff requests that the SFMTA Board of Directors authorize the Executive Director to execute the Contract Amendment #3 for Workers' Compensation Bill Review and Utilization Review monitoring with David Donn Consulting, Inc., increasing the contract by an amount not to exceed \$250,000 per year.

Staff is aware of the serious issue with having a contractor continue to provide services without appropriate authority.

To ensure that the agency continued to receive the financial benefit of this unique savings approach, staff chose to continue the service, as originally contracted, until additional savings data could be obtained.

Unlike a traditional expenditure contract, where the vendor is paid an agreed upon fee for a service, the services provided under this contract require analysis of cost and negotiation of rates on a retrospective basis. Each month, the prior month's payments are evaluated by the contractor and savings are calculated, evaluated and renegotiated. The final monthly savings are then used to calculate the fees paid to DDC, which by contract are 10% of savings. This process can sometimes take 60 to 90 days for one month's data. In that way, the agency is best served by receiving the maximum benefit of the fee analysis, but it is always done on a retrospective basis.

Due to the fact that we were continually exceeding the savings estimates, it was felt that a full year's data would be helpful in establishing a baseline of fee savings that could then be used to estimate future payments to DDC.

Now that we have established a baseline of savings we are confident the new "Not to Exceed" amount is sufficient.

The Human Rights Commission has granted a sole source and Local Disadvantage Business Enterprise participation sub-consulting waiver.

The City Attorney has reviewed this calendar item.

This requested action aligns with Goal 4 of the SFMT Strategic Plan – "To insure financial stability and effective resource utilization."

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (“SFMTA”) assumed responsibility for administration of its Workers’ Compensation claims as of July 1, 2000 under authority granted to the SFMTA under the San Francisco Charter; and,

WHEREAS, The SFMTA contracted with David Donn Consulting, Inc., on February 21, 2006, for an amount not to exceed \$95,000 per year to provide workers’ compensation medical bill review oversight services under a license of the consultant’s proprietary business model to achieve maximum savings under applicable medical fee schedules and preferred provider contracts; and,

WHEREAS, To date, through the services of David Donn Consulting, Inc., the SFMTA has reduced workers’ compensation treatment costs by more than 50 percent; and,

WHEREAS, David Donn Consulting’s fees are calculated as a percentage of SFMTA's cost savings for workers compensation medical bills and bill review services; and,

WHEREAS, At the start of the contract, anticipated savings to the SFMTA were projected to be \$1.2 million. To date, the savings realized by the agency have been \$3.6 million, greatly consistently exceeding the original savings estimates and rendering the original contract amount inadequate to compensate the consultant for its services since July 1, 2007.

WHEREAS, To ensure that the SFMTA continues to receive maximum cost savings on workers' compensation medical costs through aggressive repricing of medical bills, staff requests that the SFMTA Board authorize the Executive Director to execute the proposed Third Amendment to the consulting agreement with David Donn Consulting for a not to exceed amount of \$250,000 per year.

WHEREAS, Civil Service Commission approved the personal services contract for these services at its meeting of April 7, 2008, now therefore be it;

RESOLVED, That the Municipal Transportation Agency Board authorizes the Executive Director/CEO to execute Contract Amendment #3 to the Consulting Agreement for Workers’ Compensation Bill Review with David Donn Consulting, Inc. for an amount not to exceed \$250,000 per year, to be retroactive to July 1, 2007.

I hereby certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board at its meeting of _____.

Secretary, Municipal Transportation Agency Board

Third Amendment

**to Agreement between the City and County of San Francisco and
David Donn Consulting, Inc.**

This Third Amendment to the Agreement by and between David Donn Consulting, Inc., (“Contractor”) and the City and County of San Francisco (“City”), a municipal corporation, acting by and through the San Francisco Municipal Transportation Agency (“SFMTA”), an agency of the City, for professional and consulting services is dated for convenience as executed on February 15, 2008, in San Francisco, California.

By mutual agreement and in exchange for real and valuable consideration, receipt of which is hereby acknowledged, as set out herein, City and Contractor hereby modify the Agreement between the parties dated August 29, 2003 (the "Original Agreement") for managed care and bill review consulting services, and as modified under the First Amendment to Agreement, dated on or about June 3, 2005, and the Second Amendment to the Agreement, dated on or about October 17, 2005. Except as modified herein, all other provisions and requirements of the Agreement remain in full force and effect, which the parties reaffirm by their signatures to this document.

I. MODIFICATIONS

The Agreement is modified as follows:

A. Section 5 ("Compensation") is deleted and replaced with the following language:

5. Compensation

Compensation shall be made monthly no later than 30 days from presentation of the appropriate invoice with supporting documents for the prior month, based on Appendix A and Appendix B to this agreement thereafter and as set forth in Section 4 of this Agreement, that the SFMTA Workers’ Compensation Manager, in his or her sole discretion, concludes has been performed as of the approval of this agreement. In no event shall the amount of this Agreement exceed Two Hundred Fifty Thousand Dollars (\$250,000) per year, retroactive to July 1, 2007. 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.

Contractor shall be compensated for all performed services described in Appendix B, which is attached hereto and incorporated by reference as if fully set forth herein. Should any provision of appendix A or B conflict with the provisions in this document, the provisions of this document shall govern.

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 the SFMTA' Worker's Compensation Manager 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 Savings Improvement Fee and Fee Improvement Fee set out in Appendix B ("Calculation of Charges") to the Agreement shall constitute a license fee as consideration for the SFMTA's licensed use of the David Donn Consulting Model. The SFMTA shall continue to pay Contractor said fees, as provided in the Agreement, for as long as the License Agreement between the SFMTA and Contractor is in effect. A copy of the License Agreement, dated for convenience as October 17, 2005, is attached hereto and incorporated by reference as if fully set out here.

B. Counterparts; Facsimile

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. This Agreement may be delivered by executed facsimile transmission, which shall be deemed an original.

C. Appendix A

Appendix A, Section 3, "Contractor Services", is modified with addition of the following Section 3.1:

1. The parties have discovered that Fair Isaac may have failed to refund to the SFMTA the difference between bill review fees based on initial bill reductions and fees that should have been calculated on a lower bill reduction, where medical providers have protested an initial bill reduction and Fair Isaac has then renegotiated the reduction, resulting in a higher payment by the SFMTA and lower cost savings. For the purpose of seeking refunds from Fair Isaac to the SFMTA of the Un-refunded Difference between fees based on initial bill reductions and fees based on higher renegotiated charges ("the Un-refunded Difference"), Contractor shall review the bill reductions and performance fees charged to the SFMTA by Fair Isaac prior to November 1, 2005. Contractor shall be compensated a percentage of the refunds received by the SFMTA of the Un-refunded Difference, as provided in Appendix B, Section 4.

Appendix B

1. Appendix B, Section A, "Fees and Price Discount", is modified as follows:

Appendix B, Section A, "Fees and Price Discount," is amended to increase the fee and savings improvement fee from seven (7) percent to ten (10) percent. Said fee is a license fee for the SFMTA's use of the David Don Consulting Model. No other provisions of Section A are modified.

2. Appendix B, Section B, "Structure of Performance Fees", is modified with the addition of the following Section B.4:

4. The SFMTA shall pay Contractor for performance of services described in Appendix A, Section 3.1 a fee of seven (7) percent of refunds received by the SFMTA from Fair Isaac Corporation of the Un-refunded Difference for improper fees charges that Contractor identified prior to November 7, 2005. Should Contractor discover any additional or other improper charges or fees paid by the SFMTA to Fair Isaac prior to November 1, 2005 for which Contractor negotiates and the SFMTA receives a refund, the SFMTA shall pay to

Contractor a fee of fifteen (15) percent of said additional refunds. No fees for recovery of the Un-refunded Difference or other improperly charged fees shall be due Contractor until the SFMTA actually receives the refund.

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

SFMTA

Recommended by:

Jeffery L. Gary
Workers' Compensation Manager
SFMTA

Approved By:

Nathaniel A. Ford
Executive Director/CEO

Approved as to Form:

Dennis J. Herrera
City Attorney

By _____
Robert K. Stone
Deputy City Attorney

AUTHORIZED BY:

MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS

Resolution No. _____

Adopted: _____

Attest: _____
Roberta Boomer
Secretary
SFMTA Board of Directors

CONTRACTOR

David A. Donn
President
David Donn Consulting, Inc.
1255 Post Street, Suite 733
San Francisco, CA 94109
415-409-3666
Fed. Employer ID No. 03-0373997



HUMAN RIGHTS COMMISSION

B.F. ADMINISTRATIVE CODE CHAPTERS 12B and 14B WAIVER REQUEST FORM (HRC Form 201)

Section 1. Department Information

Department Head Signature: Jeffery L. Gary
 Name of Department: Municipal Transportation Agency
 Department Address: 401 Van Ness Ave., Rm. 308
 Contact Person: Jeffery L. Gary
 Phone Number: 654-4974 Fax Number: 554-4927

FOR HRC USE ONLY	
Request Number:	
DATE FEB 29 AM 8:04	S. F. HUMAN RIGHTS COMMISSION

Section 2. Contractor Information

Contractor Name: David Donn Consulting, Inc. Contact Person: David A. Donn
 Contractor Address: 1255 Post St., Ste. 733 - SF, CA 94109
 Vendor Number (if known): 62380 Contact Phone No.: 415 - 409-3866

Section 3. Transaction Information

Date Waiver Request Submitted: 02/20/08 Type of Contract: Professional Services
 Contract Start Date: 07/01/07 End Date: 09/30/10 Dollar Amount of Contract: \$250,000

Section 4. Administrative Code Chapter to be Waived (please check all that apply)

- Chapter 12B
- Chapter 14B Note: Employment and LBE subcontracting requirements may still be in force even when a 14B waiver (type A or B) is granted.

Section 5. Waiver Type (Letter of Justification must be attached)

- A. Sole Source
- B. Emergency (pursuant to Administrative Code §6.80)
- C. Public Entity
- D. No Potential Contractors Comply - Copy of waiver in file
- E. Government Bulk Purchasing Arrangement - Copy of waiver request sent to board of supervisors on:
- F. Sham/Shell Entity - Copy of waiver request sent to board of supervisors on:
- G. Local Business Enterprise (LBE) (for contracts in excess of \$5 million; see Admin. Code §14B.7.1.3)
- H. Subcontracting Goals

Post-It® Fax Note	7671	Date	3.5.08	# of pages	1
To	JEFFERY L. GARY	From	CHRIS IGLESIAS		
Co./Dept.	MTA	Co.	HRC		
Phone #	554-4974	Phone #	252-2500		
Fax #	-4927	Fax #	431-5764		

HRC ACTION	
12B Waiver Granted: _____	14B Waiver Granted: <input checked="" type="checkbox"/>
12B Waiver Denied: _____	14B Waiver Denied: _____
Reason for Action: _____	
HRC Staff: <u>[Signature]</u>	Date: 3/4/08
HRC Staff: <u>[Signature]</u>	Date: _____
HRC Director: <u>[Signature]</u>	Date: 3/4/08
DEPARTMENT ACTION - This section must be completed and returned to HRC for waiver types D, E & F.	
Date Waiver Granted: _____	Contract Dollar Amount: _____

