

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

Fifth Amendment to Agreement

Contract No. 2008/9-061

THIS AMENDMENT (this "Amendment") is made as of November 1, 2016 in San Francisco, California, by and between **PRWT Services, Inc.** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA").

RECITALS

- A. City and Contractor have entered into the Agreement (as defined below).
- B. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to exercise the option to extend the agreement for up to additional two years until October 31, 2018, and increase the not-to-exceed amount to cover operational expenses for the additional two year term.

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated November 1, 2008 between Contractor and City, as amended by the:

- First amendment, dated November 1, 2011,
- Second amendment, dated February 15, 2013,
- Third amendment, dated November 1, 2013,
- Fourth amendment, dated November 1, 2015.

1b. 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.

2a. Section 2 (Term of the Agreement) is replaced in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from November 1, 2016 until October 1, 2018.

2b. Section 5 (Compensation) is replaced in its entirety to read as follows:

Compensation shall be made in monthly payments on or before the 20th 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 provided for in Appendix A – Statement of Work of this Agreement as of the 15th day of the immediately preceding month. In no event shall the amount of this Agreement exceed seventy-seven million, eight hundred eighty-five thousand, five hundred ninety three dollars (\$77,885,593). 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 the 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, the Director of HRC 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.

2c. Section 64 is added to the Agreement, as follows.

64. Sugar-Sweetened Beverage Prohibition. Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

2d. Section 15 (Insurance) is replaced in its entirety to read as follows:

15. Insurance.

15.1.1 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:

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

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate for Bodily Injury and

Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) 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.

(e) Technology Errors and Omissions Liability coverage, with limits of \$1,000,000 each occurrence and each loss, and \$2,000,000 general aggregate. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:

(i) Liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, protected health information or other personally identifying information, stored or transmitted in electronic form;

(ii) Network security liability arising from the unauthorized access to, use of, or tampering with computers or computer systems, including hacker attacks; and

(iii) Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

15.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

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

(b) 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.

15.1.3 All policies shall be endorsed to provide 30 days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties." All notices, certificates and endorsements shall include the SFMTA contract number and title on the cover page.

15.1.4 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.

15.1.5 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.

15.1.6 Before commencing any Services, 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. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

15.1.7 If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as additional insureds.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this amendment.

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
<p>San Francisco Municipal Transportation Agency</p>	<p>PRWT Services, Inc.</p>
<hr/> <p>Edward D. Reiskin Director of Transportation</p>	 <hr/> <p>Malik Majeed President and CEO PRWT Services, Inc. 255 California Street, Suite 550 San Francisco, CA 94111</p>
<p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p>	<p>City vendor number: 43701-01</p>
<p>By:</p> <hr/>	
<p>John I. Kennedy Deputy City Attorney</p>	