

File No. 140334

Committee Item No. 7

Board Item No. 15

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date June 4, 2014

Board of Supervisors Meeting

Date June 10, 2014

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Award Letter |
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OTHER

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Completed by: Linda Wong

Date May 30, 2014

Completed by: L.W.

Date June 5, 2014

1 [Contract Amendment - Bridgestone Americas Tire Operations, LLC - \$11,750,000]

2
3 **Resolution authorizing the Office of Contract Administration to enter into the Sixth**
4 **Amendment between the City and County of San Francisco and Bridgestone**
5 **Americas Tire Operations, LLC, for the rental of bus tires, in which the amendment**
6 **shall increase the contract limit from \$9,950,000 to \$11,750,000, for a period to**
7 **commence upon Board approval through September 30, 2014.**

8
9 WHEREAS, The Office of Contract Administration, by competitive bidding,
10 selected and entered into an Agreement with Bridgestone Americas Tire Operations,
11 LLC, (Bridgestone) dated April 6, 2009, for the rental of bus tires and the provision of
12 associated tire services; and

13 WHEREAS, The original contract with Bridgestone Americas Tire Operations,
14 LLC, has a term of five years through March 31, 2014, with options to extend the term
15 through March 31, 2018, and an original contract limit of \$5,000,000; and

16 WHEREAS, The Director of the Office of Contract Administration and the
17 Purchaser approved the First Amendment to the contract on April 15, 2010, to increase
18 prices; and

19 WHEREAS, The Director of the Office of Contract Administration and the
20 Purchaser approved the Second Amendment to the contract on April 11, 2011, to
21 increase prices, to increase the contract limit from \$5,000,000 to \$8,500,000, and to
22 update standard contractual clauses; and

23 WHEREAS, The Director of the Office of Contract Administration and the
24 Purchaser approved the Third Amendment to the contract on April 12, 2012, to
25 increase prices, and to update standard contractual clauses; and

1 WHEREAS, The Director of the Office of Contract Administration and the
2 Purchaser approved the Fourth Amendment to the contract on December 4, 2012, to
3 increase the contract limit from \$8,500,000 to \$9,500,000, and to update standard
4 contractual clauses; and

5 WHEREAS, The Director of the Office of Contract Administration and the
6 Purchaser approved the Fifth Amendment to the contract on April 4, 2014, to extend
7 the contract by six months to September 30, 2014, to increase the contract limit from
8 \$9,500,000 to \$9,950,000, and to update the standard contractual clauses; and

9 WHEREAS, The Office of Contract Administration estimates that the money
10 projected to be spent with Bridgestone Americas Tire Operations, LLC, could reach the
11 contract's limit in the reasonably near future; and

12 WHEREAS, Charter Section 9.118(b), "Contract and Lease Limitations," requires
13 the Board of Supervisors to approve any contract estimated to exceed \$10 million in
14 expenditures or amendments exceeding \$500,000 to such contracts; now, therefore, be
15 it

16 RESOLVED, That the Board of Supervisors authorizes the Director of the Office
17 of Contract Administration and the Purchaser to enter into the Sixth Amendment to the
18 contract with Bridgestone Americas Tire Operations, LLC, in substantially the form
19 attached to increase the contract limit from \$9,950,000 to \$11,750,000; and, be it

20 FURTHER RESOLVED, That within thirty (30) days of the Sixth Amendment being
21 fully executed by all parties the Office of Contract Administration shall provide the final
22 Sixth Amendment to the Clerk of the Board for inclusion into the official file.
23
24
25

Item 7 File 14-0334	Department: San Francisco Municipal Transportation Agency (SFMTA)
EXECUTIVE SUMMARY	
Legislative Objective	
<ul style="list-style-type: none"> • The proposed resolution would authorize the Office of Contract Administration (OCA) to enter into the sixth modification to the existing contract between the City and Bridgestone Tire Operations, LLC (Bridgestone), for the lease of bus tires to the San Francisco Municipal Transportation Agency (SFMTA). This modification will increase the not-to-exceed amount by \$1,800,000, from \$9,950,000 to \$11,750,000. 	
Key Points	
<ul style="list-style-type: none"> • Bridgestone currently leases tires and provides associated services to SFMTA for all rubber-tire revenue vehicles, including diesel and hybrid coaches and electric trolleys. The original contract with Bridgestone was for five years from April 2009 through March 2014, with four one-year options to extend the contract through March 2018. Rather than exercise the first one-year option to extend the contract, OCA extended the contract by six months to September 30, 2014 in order to competitively bid for a new tire and tire services vendor. OCA advertised the bids in April 2014 with a bid due date of June 20, 2014. • As of April 2014, SFMTA had spent \$9,942,488 of the contract not-to-exceed amount of \$9,950,000. This proposed resolution would allow OCA to increase the contract limit by \$1,800,000 to fund the remaining six months of the contract with Bridgestone Tire Operations. 	
Fiscal Impact	
<ul style="list-style-type: none"> • SFMTA's estimate of \$1,800,000 in additional not-to-exceed authorization is based on estimated monthly expenditures of \$276,374 (\$1,658,244 for six months) plus a contingency of \$141,756 (8.5 percent of expenditures). This amount is based on historical expenditures and expected price increases due to changes in service and possible acquisition of a new bus model. Funding for this contract comes from SFMTA's operating budget. 	
Recommendation	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that either (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

Background**Bridgestone Tire Leasing**

The San Francisco Municipal Transportation Agency (SFMTA) operates San Francisco's public transportation network, including Muni's fleet of approximately 861 busses and trolleys. Since April 2009, tires for the bus fleet have been provided by Bridgestone Tire Operations, LLC (Bridgestone) under a contract awarded by competitive bid with the City's Office of Contract Administration (OCA).

The original contract with Bridgestone was for five years from April 1, 2009 through March 31, 2014, with four one-year options to extend the contract through March 31, 2018. Rather than exercise the first one-year option to extend the contract, OCA extended the contract by six months from April 1, 2014 through September 30, 2014 in order to competitively bid for a new tire and tire services vendor for SFMTA. OCA projects that the cost of the current five-year contract will exceed \$10,000,000 during this six-month extension period. Therefore, OCA seeks Board of Supervisors approval to increase the not-to-exceed contract amount by \$1,800,000, from the current not-to-exceed amount of \$9,950,000 to the proposed not-to-exceed amount of \$11,750,000.

The contract between OCA and Bridgestone provides for the lease by SFMTA from Bridgestone of an unlimited number of tires over the contract period with payment determined by the number of miles driven per tire. Bridgestone provides tires and tire services in six separate Muni bus yards.

SFMTA currently pays Bridgestone between approximately \$0.008 and \$0.009 per tire per mile, depending on the type of tire needed for each particular coach. In addition, SFMTA pays a monthly fee of \$69,507 to Bridgestone to provide personnel and equipment in Muni bus yards to support tire operations. Bridgestone handles the entire lifecycle of the tire, including recycling and disposal. SFMTA reports that leasing tires rather than purchasing from Bridgestone is beneficial because leasing reduces costs related to the disposal of the tires, reduces liability related to product quality, and provides for Bridgestone tire experts in six of the SFMTA bus yards.

Since the implementation of the contract, SFMTA has paid Bridgestone an average of \$1,898,955 annually to provide tires and tire services, including inspection and replacement services. Annual payments vary based on the types of buses operated and changes in service frequency and/or routes. Over the five year and one month contract period from April 2009 through April 2014, SFMTA has paid Bridgestone a total of \$9,942,488, as shown in Table 1 below.

Table 1: Annual Payments to Bridgestone Tire Operations for Tire Leasing Services

Contract Period	Payment Amount
April 2009 – March 2010	\$1,484,117
April 2010 – March 2011	1,982,906
April 2011 - March 2012	1,647,975
April 2012 – March 2013	2,379,186
April 2013 – March 2014	2,000,589
April 2014	447,715
Total	\$9,942,488

OCA previously entered into five contract modifications, as shown in Table 2 below, in addition to the original contract, with the sixth modification pending based on this proposed resolution. The original contract and five prior modifications were not subject to Board of Supervisors' approval because the contract term was less than 10 years and the total amount was less than \$10,000,000.

Table 2: Bridgestone Contract and Modifications

Date	Modification Number	Contract Changes
April 6, 2009	Original	
April 15, 2010	1	1) Price increase
April 11, 2011	2	1) Price increase 2) Increase contract limit from \$5,000,000 to \$8,500,000
April 12, 2012	3	1) Price increase 2) Update contractual clauses
December 4, 2012	4	1) Increase contract limit from \$8,500,000 to \$9,500,000 2) Update contractual clauses
April 4, 2014	5	1) Increase term limit to September 30, 2014 2) Increase contract limit from \$9,500,000 to \$9,950,000 3) Update Contractual Clauses
TBD	6	1) Increase contract limit from \$9,950,000 to \$11,750,000

-DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Office of Contract Administration on behalf of SFMTA to enter into the sixth modification to the existing contract with Bridgestone Tire Operations, LLC, to increase the not-to-exceed amount by \$1,800,000, from \$9,950,000 to \$11,750,000, in order for SFMTA to continue to lease tires from Bridgestone for SFMTA busses for the period from April 1, 2014 through September 30, 2014.

Bridgestone will continue to provide services agreed to in their existing contract with SFMTA until the contract expires on September 30, 2014. OCA issued a competitive request for bids for a new tire and tire services vendor in April 2014, and expects to select a vendor and enter into a new contract to become effective October 1, 2014.

FISCAL IMPACT

Under the proposed sixth modification to the Bridgestone contract, the not-to-exceed contract amount would increase by \$1,800,000, from \$9,950,000 to \$11,750,000 to provide sufficient spending authority through September 30, 2014.

SFMTA's estimate of the additional needed not-to-exceed amount of \$1,800,000 for the remaining six months of the current contract is based on historical expenditures plus expected cost increases from service changes and possible acquisition of a new bus model. SFMTA estimates monthly expenditures of \$276,374 or a total of \$1,658,244 for six months, plus a contingency of 8.5 percent of expenditures or \$141,756.

According to SFMTA, funding for this contract comes from the FY 2013-14 and FY 2014-15 SFMTA operating budget, subject to appropriation approval of the Board of Supervisors.

RECOMMENDATION

Approve the proposed resolution.




Edwin M. Lee
Mayor

Jaci Fong
Director and Purchaser
Purchasing

April 7, 2014

To: Angela Calvillo
Clerk of the Board

From:  Jaci Fong
Purchaser and Director

Subject: Resolution approving an increase in the dollar amount for the Tire Lease and Associated Services contract with Bridgestone Americas Tire Operations, LLC

The Office of Contract Administration is submitting the enclosed resolution that would authorize the Sixth Amendment to the City's contract with Bridgestone Americas Tire Operations, LLC, for the rental of bus tires and associated services, to increase the contract's dollar limit from \$9,950,000 to \$11,750,000. The proposed increase is based on our estimates of the volume of business the City would do with this vendor between now and the end of the term of the contract on September 30, 2014.

If you have any questions, please contact Galen Leung at 415-701-2465. Thank you for your consideration.

galen.leung@sfmta.com

Enclosures



Edwin M. Lee
Mayor

Jaci Fong
Director and Purchaser
Purchasing

April 7, 2014

To: Angela Calvillo
Clerk of the Board

From:  Jaci Fong
Purchaser and Director

Subject: Resolution approving an increase in the dollar amount for the Tire Lease and Associated Services contract with Bridgestone Americas Tire Operations, LLC

The Office of Contract Administration is submitting the enclosed resolution that would authorize the Sixth Amendment to the City's contract with Bridgestone Americas Tire Operations, LLC, for the rental of bus tires and associated services, to increase the contract's dollar limit from \$9,950,000 to \$11,750,000. The proposed increase is based on our estimates of the volume of business the City would do with this vendor between now and the end of the term of the contract on September 30, 2014.

If you have any questions, please contact Galen Leung at 415-701-2465. Thank you for your consideration.

Enclosures

City and County of San Francisco
 Office of Contract Administration, Purchasing Department
 City Hall, Room 430
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4685



Contract Modification 6

Tire Lease and Associated Services

Bridgestone Americas Tire Operations, LLC
 535 Marriott Drive
 Nashville, TN 37214
 Attn: Janet M. Bragg
 Email: braggjanet@bfusa.com

Date: April 11, 2014
 Buyer's Name: Pamela Olivier
 Term Contract: 71205
 City Blanket No. BPSF00003534
 Type: Indefinite quantity
 Not-to-exceed amount: \$11,750,000

The history of this contract and its modifications is as follows:

Modification	Start date	End date	Amount	Other Changes
Original Contract	04-01-09	03-31-14	\$5,000,000	
1	04-01-10	03-31-14	No Change	Price changes for 2 nd year
2	04-01-11	03-31-14	\$8,500,000	1) Price changes for 3 rd year 2) Updates contract terms and conditions
3	04-01-12	03-31-14	\$8,500,000	1) Price changes for 4 th year 2) Updates contract terms and conditions
4	12-10-12	03-31-14	\$9,500,000	Updates contract terms and conditions
5	04-01-14	09-30-14	\$9,950,000	Updates contract terms and conditions
6	04-01-14	09-30-14	\$11,750,000	

This Contract Modification 6 changes the contract as follows:

- Increases the not-to-exceed amount by \$1,800,000 from \$9,950,000 to \$11,750,000.

All other terms and conditions remain the same.

Approved by the City:

 Jaci Fong, Director of OCA and Purchaser

 Date

Approved by Contractor:

 Signature

 Date

Name and Title:

City and County of San Francisco
 Office of Contract Administration, Purchasing Department
 City Hall, Room 430
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4685



Contract Modification 5

Tire Lease and Associated Services

Bridgestone Americas Tire Operations, LLC 1200 Firestone Parkway Akron, Ohio 44317 Attn: Janet M. Bragg Email: braggjanet@bfusa.com	Date: March 31, 2014 Buyer's Name: Pamela Olivier Term Contract: 71205 City Blanket No. BPSF00003534 Type: Indefinite quantity Not-to-exceed amount: \$9,950,000
--	---

The history of this contract and its modifications is as follows:

Modification	Start date	End date	Amount	Other Changes
Original Contract	04-01-09	03-31-14	\$5,000,000	
1	04-01-10	03-31-14	No Change	Price changes for 2 nd year
2	04-01-11	03-31-14	\$8,500,000	1) Price changes for 3 rd year 2) Updates contract terms and conditions
3	04-01-12	03-31-14	\$8,500,000	1) Price changes for 4 th year 2) Updates contract terms and conditions
4	12-10-12	03-31-14	\$9,500,000	Updates contract terms and conditions
5	04-01-14	09-30-14	\$9,950,000	Updates contract terms and conditions

By mutual agreement, this Contract Modification 5 changes the contract as follows:

- Extends the contract term by six (6) months from April 1, 2014 through September 30, 2014.
- Increases the not-to-exceed amount by \$450,000 from \$9,500,000 to \$9,950,000.
- General Condition 58, Graffiti Removal, is deleted in its entirety.
- Special Condition 63, Performance Bond, is deleted from the Contract requirements, effective April 1, 2014.
- The City reserves the right to terminate the contract any time after July 1, 2014 with a thirty (30) day written Notice of Termination.

All other terms and conditions remain the same.

Approved by the City:

[Signature]

[Signature]
 Jaci Fong, Director of OCA and Purchaser

4/4/2014
 Date

Approved by Contractor:

 Signature

 Date

Name and Title: _____

Sign and return one original. The second original is for your files.

City and County of San Francisco
 Office of Contract Administration, Purchasing Department
 City Hall, Room 430
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4685



Contract Modification 4

Tire Lease and Associated Service

Bridgestone Americas Tire Operations, LLC
 1200 Firestone Parkway
 Akron, Ohio 44317
 Attn: Janet M. Bragg
 Email: braggjanet@bfusa.com

Date: November 30, 2012
 Buyer's Name: Pamela Olivier
 Term Contract: 71205
 City Blanket No. BPSF00003534
 Type: Indefinite quantity
 NTE Amount: \$9,500,000

The history of this contract and its modifications is as follows:

Modification	Start date	End date	Amount	Other changes
Original Contract	04/01/09	03/31/14	\$5,000,000	
Modification # 1	04/01/10	03/31/14	No Change	Price changes for 2 nd year
Modification # 2	04/01/11	03/31/14	\$8,500,000	Price changes for 3 rd year
Modification # 3	04/01/12	03/31/14	\$8,500,000	Price changes for 4 th year
Modification # 4	12/10/12	03/31/14	\$9,500,000	See below

This modification 4 changes the contract as follows:

- Increases the NTE amount from \$8,500,000 to \$9,500,000.
- Update terms and conditions (See Attachment A)

All other terms and conditions remain the same.

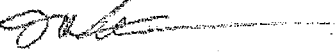
Approved by the City:

NO - G


 Jati Pong, Director and Purchaser, OCA

12/4/2012
 Date

Approved by Contractor:


 Signature

12-21-2012
 Date

Name and Title:

D. Warren Dickson / Manager MILFORD SA-18

Getting paid for goods and/or services from the City:

1. Beginning January 2012, all City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through Paymode-X, the City's third party service that provides Automated Clearing House (ACH) payments.
2. Electronic payments are processed every business day and are safe and secure.
3. To sign up for electronic payments, visit www.sfgov.org/ach.
4. The following information is required to sign up:
 - a. The enroller must be their company's authorized financial representative.
 - b. The company's legal name, main telephone number and all physical and remittance addresses used by the company
 - c. The company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor)
 - d. The company's bank account information, including routing and account numbers

If you have questions, please email: ACH.Support@sfgov.org

City and County of San Francisco
 Office of Contract Administration
 Purchasing Department
 City Hall, Room 430
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4685



Contract Modification 3

Tire Lease and Associated Services

Bridgestone America Tire
 Janet M. Bragg
 1200 Firestone Parkway
 Akron, OH 44317-0001
 E-mail: braggjanet@bfusa.com

Date: March 28, 2012
 Buyer Name: Paul Hootman
 Term contract: 71205
 City Blanket No. BPSF0003534
 Type: Indefinite quantity
 Not-to-exceed amount: \$8,500,000.00

The history of this contract and its modifications is as follows:

Modification	Start date	End date	Amount	Other changes
Original contract	04/01/09	03/31/14	\$5,000,000	
Modification #1	04/01/10	03/31/14	No Change	Price changes for 2 nd year
Modification #2	04/01/11	03/31/14	\$8,500,000	Price changes for 3 rd year
Modification #3	04/01/12	03/31/14	\$8,500,000	Price changes for 4 th year

This modification #3 changes the contract as follows:

- 4th year pricing per Special Condition No. 69, Price Adjustment, is added:

Prices for 4th year of Term Contract 71205; Tire Lease & associated Services, are added as new items per Special Condition No. 69, Price Adjustment, as follows (below). Items 1-4 are prices for 1st year of the contract, items 5-8 are prices for the 2nd year of contract, items 9-12 are prices for the 3rd year of contract.

Item	Tire size	Est. miles	Year 3 unit cost per mile rate	Adj %	New unit cost per mile rate	Total estimated cost per year
13	12R225	84,696,438	\$.008074/mile	15.5%	\$.009325/mile	\$789,794.28
14	315/80R	38,879,326	\$.008074/mile	15.5%	\$.009325/mile	\$362,549.71
15	305/70R	21,650,184	\$.007155/mile	15.5%	\$.008264/mile	\$178,917.12
16	Monthly service charge		\$67,351.83/mo.	3.20%	\$69,507.09/mo.	\$834,085.08
Total est. cost for 4th year						\$2,165,346.19

- Update Bid and Contract Conditions for Electronic Payment

- Beginning January 2012, all City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through Paymode-X, the City's third party service that provides Automated Clearing House (ACH) payments.
- Electronic payments are processed every business day and are safe and secure.
- To sign up for electronic payments, visit www.sfgov.org/ach.


4. The following information is required to sign up:

- a. The enroller must be their company's authorized financial representative.
- b. The company's legal name, main telephone number and all physical and remittance addresses used by the company
- c. The company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor)
- d. The company's bank account information, including routing and account numbers


If you have questions about Electronic Payment, please email: ACH.Support@sfgov.org

All other terms and conditions remain the same.

Approved by the City:


Jaci Pong, Director and Purchaser, OCA
Date 4/12/2012

Approved by Contractor:


Signature
Date 4/12/12

Name and title:


Harriet Dickson, Manager

City and County of San Francisco
 Office of Contract Administration
 Purchasing Department
 City Hall, Room 430
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4685

2011 MAY 3 PM 12 15



Contract Modification 2

Tire Lease and Associated Services

Bridgestone America Tire
 Janet M. Bragg
 1200 Firestone Parkway
 Akron, OH 44317-0001
 E-mail: braggjanet@bfusa.com

Date: March 31, 2011
 Buyer Name: Paul Hootman
 Term contract: 71205
 City Blanket No. BPSF 00003534
 Type: Indefinite quantity
 Not-to-exceed amount: \$8,500,000

The history of this contract and its modifications is as follows:

<u>Modification</u>	<u>Start Date</u>	<u>End Date</u>	<u>Amount</u>	<u>Other Changes</u>
Original contract	04-01-09	03-31-14	\$5,000,000	
Modification #1	04-01-10	03-31-14	No Change	Price changes for 2 nd year
Modification #2	04-01-11	03-31-14	\$8,500,000	Price changes for 3 rd year Update contract conditions

This Modification #2 changes the contract as follows:

1. It increases the not-to-exceed amount from \$5,000,000 to \$8,500,000.
2. 3rd year pricing per Special Condition No. 69, Price Adjustment, is added (see Attachment).
3. Delete and replace the following Contract Conditions with language in Attachment.
 - No. 22, Submitting False Claims; Monetary Penalties
 - No. 48, First Source Hiring Program
 - No. 49, Minimum Compensation Ordinance
 - No. 86, Insurance.

All other terms and conditions remain the same.

Approved by the City: _____ Jaci Hong, Acting Director of OCA	_____ Date	4/11/11
Approved by Contractor: _____ Signature	_____ Date	4/27/2011
Name and title	<u>Doyle Bradford, Vice President - Sales</u>	

Prices for 3rd year of Term Contract 71205, Tire Lease & Associated Services, are added as new items per Special Condition No. 69, Price Adjustment, as follows (below). Items 1-4 are prices for the 1st year of the contract, and items 5-8 are prices for the 2nd year of the contract.

<u>Item</u>	<u>Tire size</u>	<u>Est. miles</u>	<u>Year 2 unit cost per mile rate</u>	<u>adj %</u>	<u>New unit cost per mile rate</u>	<u>Total estimated cost per year</u>
9	12R225	76,527,384	\$.007379/mile	9.42	\$.008074/mile	\$617,882.10
10	315 80R225	39,456,600	\$.007379/mile	9.42	\$.008074/mile	\$318,572.59
11	305 70R225	21,228,912	\$.006539/mile	9.42	\$.007155/mile	\$151,892.87
12	Monthly service charge		\$66,526.90/mo.	1.24%	\$67,351.83/mo.	<u>\$808,222.00</u>
Total est. cost for 3rd year						\$1,896,569.55

Replacement Clauses:

22. 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 the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. 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

48. 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 may be 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

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.

49. Minimum Compensation Ordinance ("MCO")

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 Sections 12P.5 and 12P.5.1 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.

86. Insurance. Prior to award, the successful bidder or bidders will be required to furnish evidence of insurance as follows:

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, \$2,000,000 aggregate for bodily injury, property damage, contractual liability, personal injury, products and completed operations.

(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.

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

(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. Contractor hereby agrees to waive Workers' Compensation subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to:

Director, Office of Contract Administration
Purchasing Division
City and County of San Francisco
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

e. 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.

f. 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.

g. 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.

h. 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.

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

The remainder of this page has been intentionally left blank.

APR-19-2010 MON 08:57 AM BFNT Mileage Sales Dept
 Apr. 16. 2010 2:42PM

FAX NO. 3303796637

No. 9:09 P. 2

P. 01

City and County of San Francisco
 Office of Contract Administration
 Purchasing Department
 City Hall, Room 430
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4685



Contract Modification 1

[Tire Lease and Associated Services]

Bridgestone Americas Tire Operations
 Janet Bragg
 1200 Firestone Parkway
 Akron, OH 44317
 E-mail: BraggJanet@bfusa.com

Date
 Buyer Name:
 Term contract:
 City Blanket No.
 Type:
 Not-to-exceed amount:

04-13-2010
 Paul Hootman
 71205
 BPSF00003534
 Indefinite quantity
 \$5,000,000.00

The history of this contract and its modifications is as follows:

<u>Modification</u>	<u>Start Date</u>	<u>End Date</u>	<u>Amount</u>
Original contract	04-01-09	03-31-14	\$5,000,000.00
Modification 1	04-01-10	03-31-14	\$5,000,000.00

This modification 1 changes the contract as follows:

It modifies the pricing as follows:

Second year pricing:

<u>Item</u>	<u>Tire Size</u>	<u>Est. Miles</u>	<u>Original Unit Cost/ Per Mile Rate</u>	<u>adj %</u>	<u>New Unit Cost/ Per Mile Rate</u>	<u>Total Estimated Cost Per year</u>
5.	12R225	81,962,016	\$.007817/mile	-5.6	\$.007379/mile	\$604,797.72
6.	315 80R225	43,812,576	\$.007817/mile	-5.6	\$.007379/mile	\$323,293.00
7.	30S 70R225	17,790,912	\$.006927/mile	-5.6	\$.006539/mile	\$116,334.77
8.	Monthly service charge		\$65,158.57/mo.	2.1%	\$66,526.90/mo.	\$798,322.80
Total est. cost for second year						\$1,842,748.29

All other terms and conditions remain the same.

Approved by the City:

Be
4/15/10

Naomi Kelly, Director of OCA and Purchaser

4-15-10
Date

Approved by Contractor:

Signature

April 19, 2010
Date

Name and title

Kurt Danielson, Vice President - Sales & Marketing

Sign and return one original. The duplicate original is for your files.

P-280 (11/20-09)

City and County of San Francisco
Office of Contract Administration
Purchasing
1 Dr. Carlton B. Goodlett Place, Room 430
San Francisco, CA 94102-4685



CONTRACT AWARD

Indefinite Quantity

Bridgestone Americas Tire Operations, LLC
Attn: Seth F. Walters
1200 Firestone Parkway
Akron, OH 44317-0001

Date: April 6, 2009

Contract Proposal No.: 71205

Type: Indefinite Quantity

Not-To-Exceed Amount: \$9,200,000

The City and County of San Francisco does hereby accept your offer to furnish the articles indicated below. Such Articles are to be delivered in the manner and the form and at the times and prices set forth in the above numbered Contract Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

For furnishing and delivering **Tire Lease & Associated Services – Muni Coach & Trolley.**

For the term **April 1, 2009 through March 31, 2014.**

Items: All
Payment Terms: Net 30

The Contract Award incorporates the attached Bid Addendum No. 1 and the following Bid and Contract Conditions. (See Attachment "A").

- 14. Guaranteed Maximum Costs
- 15. Taxes

The following Special Conditions has been modified. (See Attachment "A").

- 74. Scope of Services To Be Performed

Acknowledge receipt and acceptance of this Contract Award in the space below. Return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco; CA, 94102-4685. DUPLICATE COPY IS FOR YOUR FILES.

Bruce Jones 4-7-09
As the duly appointed Purchaser Date
of the City and County of San Francisco

RECEIVED
PURCHASING DEPARTMENT
06 APR 14 PM 3:02

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor Bridgestone Americas Tire Operations LLC

By Seth F. Walters, Gen MGR
Signature Title

Print Name SETH F. WALTERS

Date 4/13/09

The following Bid and Contract Conditions have been modified to read as follows:

14. 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. The maximum guaranteed cost of this agreement shall be nine million two hundred thousand dollars (\$9,200,000). This amount can only be changed by a written agreement of amendment executed by both parties.
- B. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the contract is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.
- C. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.
- D. 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.

15. TAXES

- A. On each tire delivered, the parties will each pay any sales or use tax and/or any new tire fee that is required by California law.
- B. Contractor recognizes and understands that this Contract may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Contract 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 Contract 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 Contract. 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.

74. SCOPE OF SERVICES TO BE PERFORMED, A. (iii)

- (iii) Lessor shall furnish labor to balance front tires; the City will furnish equipment and materials for balancing. Lessor shall mount a reasonable number of tires as determined and directed by Muni on spare rims or wheels in order that a sufficient reserve of mounted spare tires shall be available at all times. Lessor shall inspect toe-in alignment and advise SFMTA of defective mechanical condition in writing when replacing or rotating front tires. If the City has not responded within fifteen (15) calendar days after written notification of the Lessor's claims of mechanical problems the Lessor may request an adjustment for unacceptable wear.



Gavin Newsom
Mayor

Naomi Kelly
Director/Purchaser
Purchasing

November 7, 2008

BID ADDENDUM NO. 1

Contract Proposal No. 71205

TIRE LEASE and SERVICES

Original Due Date: November 14, 2008 at 2:00 p.m.

TO: ALL BIDDERS

Please note the following changes to the subject contract proposal before submitting your offer. A signed and dated copy of this Bid Addendum must accompany your bid.

The request for quote is here with modified to read as follows

The required Bid Bond is to read \$25,000.00 where ever referenced in the request.

Awarded if made is aggregate, to one vendor for the life of the contract

Page 3, clause 8 amended to read, "This contract may be assigned only with the written approval of both parties."

~~Page 6, clause 15 The City will pay California Sales and Use Tax for tires delivered based on effective rates. Do not include tax in bid rate.~~ *See contract award for modified language. no*

~~Page 7, clause 15 The City will pay CA New Tire Fee for each tire delivered. Do not include in bid rate.~~ *See contract award for modified language. no*

Page 39, clause 74 amended to read, "Lessor shall visually inspect alignment of bus and advise SFMTA of defective mechanical condition in writing when replacing or rotating tires."

Page 41, clause 74 amended to reflect staffing to be bid at a minimum of 13 employees plus one working supervisor, fewer staff is unacceptable.

Page 42, clause 74 is amended to include Road Call Service person's first responsibility is to respond to road calls however may be used in addition as Lessor sees most beneficial. Yard Superintendent as used in clause 74 is a SFMTA employee. Penalty for failure to respond to road call within time limit will be reviewed on a case by case basis at the request of the Lessor. If failure to respond is not within the control of Lessor, the penalty will be waived. Disputed penalty will not be deducted from invoice without notification of Lessor. Failure to find vehicle at location given by SFMTA is considered out of the control of the Lessor and not valid for penalty.

Page 42, clause 74 amended to include group branded as acceptable.

Page 43, clause 78 amended to read, "The remaining mileage for original and retread tires shall be determined by multiplying the number of useable 32nds of an inch of available rubber remaining on each tire by the Lessor's applicable cost per 32nd however shall not exceed 50% of the value of the tire unless lessor can

supply an auditable accounting of the tire's mileage.

Page 44, clause 78 amended as follows:

Lessor to provide a contract firm, fixed cost per 32nd for their respective tire based on actual tire tread.

Contractor's Tire Data and Cost per 32nd

Tire size	Original tire 32nds of tread (minus 4/32nds)	Original tire cost/32nds	Retread tire 32nds of tread (minus 2/32nds)	Retread tire cost/32nds
12R x 22.5				
315/80R x 22.5				
305/70R x 22.5				

Page 45, clause 83 amended to read thirty (30) calendar days.

Amended to read "If the tires are usable on other coaches operated by City, Lessor shall place tires in City's reserve. For tire not usable...."

Page 47 clause 84 amended as follows:

Replace tire milage rating with lessor completed chart.

Contractor's Tire Mileage performance for this bid

Tire size	original	recapped
12R x 22.5		
315/80R x 22.5		
305/70R x 22.5		

Page 47, clause 85 amend to omit "Lessor shall individually identify each tire so that Lessor can keep proper history records."

Page 47, clause 86 amend to omit "The complete mileage history of each tire on each bus in Lessee's fleet"

Page 47, clause 86 amend to insert, "any changes to insurance requirements must be approved by City's risk manager."

Page 48, clause 86 amend to insert, " any changes to insurance requirements must be approved by City's risk manager."

Page 50, clause 91 amend to read " without any extra charges, orders for any service defined under the Contract, as requested by City."

Page 51 clause added before clause 93 to read as follows:

The City will not transfer, sublet, or lend the tires furnished by Contractor, or permit the tires to be used by anyone other than the City, without the prior written consent of the Contractor. If leasted vehicles are supplied with the Contractor's tires, monthly mileage will be reported for billing. Proir to returning any leasted vehicles, the Contractor's tires will be removed and returned to spare stock. Should the City terminate or otherwise lose possession of any of the least vehicles equipped with Contractor's tires, the City shall pay for each tire (including spares) in accordance with the Contract."

Page 39 clause 74 amend to read , "if the City has not responded within 15 calendar days after written notification of mechanical problems causing excessive ware due to lack of maintenance the Lessor may request an adjustment for unacceptable ware."

If you have already submitted a sealed bid, you are required to submit your bid amendment(s) before the bid due date in order to comply with the change(s) indicated above. You must submit your bid amendment(s) together with this Change Notice signed and dated in a separate sealed envelope stating the contract proposal number and due date.

Any bid amendments received after the bid due date will not be considered.

All other terms and conditions remain the same.

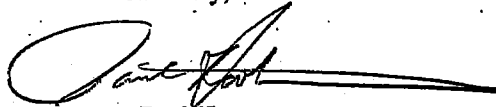
Acknowledgment of receipt

Signature

Date

Print Name and Company Name

Sincerely,



s/Paul Hootman
Senior Purchaser (415) 701-4706

City and County of San Francisco
Office of Contract Administration
Purchasing
1 Dr. Carlton B. Goodlett Place, Room 430
San Francisco, CA 94102-4685



CONTRACT AWARD

Indefinite Quantity

Bridgestone Americas Tire Operations, LLC
Attn: Seth F. Walters
1200 Firestone Parkway
Akron, OH 44317-0001

Date: April 6, 2009

Contract Proposal No.: 71205

Type: Indefinite Quantity

Not-To-Exceed Amount: \$9,200,000

The City and County of San Francisco does hereby accept your offer to furnish the articles indicated below. Such Articles are to be delivered in the manner and the form and at the times and prices set forth in the above numbered Contract Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

For furnishing and delivering **Tire Lease & Associated Services – Muni Coach & Trolley.**

For the term **April 1, 2009 through March 31, 2014.**

Items: All
Payment Terms: Net 30

The Contract Award incorporates the attached Bid Addendum No. 1 and the following Bid and Contract Conditions. (See Attachment "A").

- 14. Guaranteed Maximum Costs
- 15. Taxes

The following Special Conditions has been modified. (See Attachment "A").

- 74. Scope of Services To Be Performed

RECEIVED
PURCHASING DEPARTMENT
06 APR 14 PM 3:02

Acknowledge receipt and acceptance of this Contract Award in the space below. Return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco; CA, 94102-4685. DUPLICATE COPY IS FOR YOUR FILES.

Bruce Jones

4-7-09

As the duly appointed Purchaser
of the City and County of San Francisco

Date

afw

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor Bridgestone Americas Tire Operations LLC

By Seth F. Walters, Gen MGR
Signature Title

Print Name SETH F. WALTERS

Date 4/13/09

The following Bid and Contract Conditions have been modified to read as follows:

14. 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. The maximum guaranteed cost of this agreement shall be nine million two hundred thousand dollars (\$9,200,000). This amount can only be changed by a written agreement of amendment executed by both parties.
- B. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the contract is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.
- C. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.
- D. 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.

15. TAXES

- A. On each tire delivered, the parties will each pay any sales or use tax and/or any new tire fee that is required by California law.
- B. Contractor recognizes and understands that this Contract may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Contract 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 Contract 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 Contract. 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.

74. SCOPE OF SERVICES TO BE PERFORMED, A. (iii)

- (iii) Lessor shall furnish labor to balance front tires; the City will furnish equipment and materials for balancing. Lessor shall mount a reasonable number of tires as determined and directed by Muni on spare rims or wheels in order that a sufficient reserve of mounted spare tires shall be available at all times. Lessor shall inspect toe-in alignment and advise SFMTA of defective mechanical condition in writing when replacing or rotating front tires. If the City has not responded within fifteen (15) calendar days after written notification of the Lessor's claims of mechanical problems the Lessor may request an adjustment for unacceptable wear.



Gavin Newsom
Mayor

Naomi Kelly
Director/Purchaser
Purchasing

November 7, 2008

BID ADDENDUM NO. 1

Contract Proposal No. 71205

TIRE LEASE and SERVICES

Original Due Date: November 14, 2008 at 2:00 p.m..

TO: ALL BIDDERS

Please note the following changes to the subject contract proposal before submitting your offer. A signed and dated copy of this Bid Addendum must accompany your bid.

The request for quote is here with modified to read as follows

The required Bid Bond is to read \$25,000.00 where ever referenced in the request.

Awarded if made is aggregate, to one vendor for the life of the contract

Page 3, clause 8 amended to read, "This contract may be assigned only with the written approval of both parties."

~~Page 6, clause 15 The City will pay California Sales and Use Tax for tires delivered based on effective rates. Do not include tax in bid rate~~ *See contract award for modified language. m*

~~Page 7, clause 15 The City will pay CA New Tire Fee for each tire delivered. Do not include in bid rate.~~ *See contract award for modified language. m*

Page 39, clause 74 amended to read, "Lessor shall visually inspect alignment of bus and advise SFMTA of defective mechanical condition in writing when replacing or rotating tires."

Page 41, clause 74 amended to reflect staffing to be bid at a minimum of 13 employees plus one working supervisor, fewer staff is unacceptable.

Page 42, clause 74 is amended to include Road Call Service person's first responsibility is to respond to road calls however may be used in addition as Lessor sees most beneficial. Yard Superintendent as used in clause 74 is a SFMTA employee. Penalty for failure to respond to road call within time limit will be reviewed on a case by case basis at the request of the Lessor. If failure to respond is not within the control of Lessor, the penalty will be waived. Disputed penalty will not be deducted from invoice without notification of Lessor. Failure to find vehicle at location given by SFMTA is considered out of the control of the Lessor and not valid for penalty.

Page 42, clause 74 amended to include group branded as acceptable.

Page 43, clause 78 amended to read," The remaining mileage for original and retread tires shall be determined by multiplying the number of useable 32nds of an inch of available rubber remaining on each tire by the Lessor's applicable cost per 32nd however shall not exceed 50% of the value of the tire unless lessor can

supply an auditable accounting of the tire's mileage.

Page 44, clause 78 amended as follows:

Lessor to provide a contract firm, fixed cost per 32nd for their respective tire based on actual tire tread.

Contractor's Tire Data and Cost per 32nd

Tire size	Original tire 32nds of tread (minus 4/32nds)	Original tire cost/32nds	Retread tire 32nds of tread (minus 2/32nds)	Retread tire cost/32nds
12R x 22.5				
315/80R x 22.5				
305/70R x 22.5				

Page 45, clause 83 amended to read thirty (30) calendar days.

Amended to read "If the tires are usable on other coaches operated by City, Lessor shall place tires in City's reserve. For tire not usable...."

Page 47 clause 84 amended as follows:-

Replace tire milage rating with lessor completed chart.

Contractor's Tire Mileage performance for this bid

Tire size	original	recapped
12R x 22.5		
315/80R x 22.5		
305/70R x 22.5		

Page 47, clause 85 amend to omit "Lessor shall individually identify each tire so that Lessor can keep proper history records."

Page 47, clause 86 amend to omit "The complete mileage history of each tire on each bus in Lessee's fleet"

Page 47, clause 86 amend to insert, "any changes to insurance requirements must be approved by City's risk manager."

Page 48, clause 86 amend to insert, " any changes to insurance requirements must be approved by City's risk manager."

Page 50, clause 91 amend to read " without any extra charges, orders for any service defined under the Contract, as requested by City."

Page 51 clause added before clause 93 to read as follows:

The City will not transfer, sublet, or lend the tires furnished by Contractor, or permit the tires to be used by anyone other than the City, without the prior written consent of the Contractor. If leasted vehicles are supplied with the Contractor's tires, monthly mileage will be reported for billing. Proir to returning any leasted vehicles, the Contractor's tires will be removed and returned to spare stock. Should the City terminate or otherwise lose possession of any of the least vehicles equipped with Contractor's tires, the City shall pay for each tire (including spares) in accordance with the Contract."

Page 39 clause 74 amend to read , "if the City has not responded within 15 calendar days after written notification of mechanical problems causing excessive ware due to lack of maintenance the Lessor may request an adjustment for unacceptable ware."

If you have already submitted a sealed bid, you are required to submit your bid amendment(s) before the bid due date in order to comply with the change(s) indicated above. You must submit your bid amendment(s) together with this Change Notice signed and dated in a separate sealed envelope stating the contract proposal number and due date.

Any bid amendments received after the bid due date will not be considered.

All other terms and conditions remain the same.

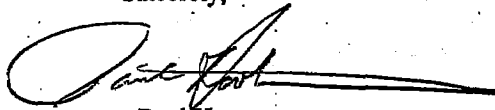
Acknowledgment of receipt

Signature

Date

Print Name and Company Name

Sincerely,



s/Paul Hootman
Senior Purchaser (415) 701-4706

A W A R D

Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

COMPANY INFORMATION

Name of Company: Bridgestone Americas Tire Operations, LLC

Address: 1200 Firestone Parkway

City, State, Zip: Akron, OH 44317

Contact: Seth Walters

Telephone Number: 1-800-342-6453
(330) 379-4578

Fax Number: (330) 306-9483

24-Hour Emergency Telephone Number: (530) 306-9483

Email: WaltersSeth@bfusa.com

Payment Terms: Net 30

Federal Tax I.D. Number: 34-0220440

Vendor Number: 03734

CBPO Number: BPSF00003534

**WAR
NING**

Do not use any term contracts to purchase goods and/or services when using Federal, State or Special Funds. Term contracts may contain provisions that conflict with Federal or State provisions.

City departments must contact their assigned City Attorney for applicable provisions, procedures and relevant fund requirements.

A W A R D

Tire Lease and Associated Services -- Muni Coach and Trolley
 For the Term April 1, 2009 through March 31, 2014

AWARD SHEET (PRICE LIST)

FIRST YEAR PRICES

<u>Item</u>	<u>Tire Size</u>	<u>Est. miles/ Month</u>	<u>Rate</u>		<u>Annual Cost For 1st Year</u>
1.	12R X 22.5 H.....	9,040,000	\$ <u>.007817</u> per mile	X 12 =	\$ <u>847,988.16</u>
2.	315/80R X 22.5 J.....	1,184,000	\$ <u>.007817</u> per mile	X 12 =	\$ <u>111,063.94</u>
3.	305/70R X 22.5 H.....	1,184,000	\$ <u>.006927</u> per mile	X 12 =	\$ <u>98,418.82</u>
4.	TIRE SERVICE		\$ <u>65,158.57</u> per month	X 12 =	\$ <u>781,902.84</u>
<u>TOTAL (Items 1-4) 1st YEAR LEASE & SERVICE</u>					\$ <u>1,839,373.76</u>

Bidder shall indicate the Brand of Tires that will be furnished:

<u>ITEM</u>	<u>TIRE SIZE</u>	<u>MANUFACTURER/BRAND</u>
1.	12R X 22.5 H	<u>Firestone CTR</u>
2.	315/80R X 22.5 J	<u>Firestone CTR</u>
3.	305/70R X 22.5 H	<u>Firestone CTR</u>

A W A R D

Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

TERMS RELATED TO BIDDING

1. WHEN BIDS ARE DUE; BID OPENING PROCEDURES

Bids must be delivered before time set for bid opening. Bids will be opened by Purchasing at the hour and place stated in the advertisement in the presence of bidders who attend, and bid prices will be read upon request as time permits. Bidders may inspect the bids after award.

2. ARTICLES FURNISHED

Articles and services must comply with applicable laws, ordinances and other legal requirements, including (among others) the Cal-OSHA regulations in Title 8 of the Code of Regulations and, for electrical products, Sections 110.2 and 110.3 (B) of the S.F. Electrical Code. In addition, if an electrical item has not been tested by a lab approved by City's Department of Building Inspection (DBI) or Department of Public Works (DPW), Contractor shall notify the requesting department before delivery by writing the department at the "Deliver to" address on the front of the Purchase Order. Approved testing labs are posted on Purchasing's website at <http://www.sfgov.org/oca/>. When a non-tested item is delivered, the department will request approval from DPW. If the department is unable to obtain approval, City reserves the right to cancel the transaction and return the item to Contractor, at no charge to City.

3. BIDDING ON SEPARATE SERVICES AND IN THE AGGREGATE

Bidders may bid separately for any service unless otherwise provided. Bidders may make an offer on one, some or all services, unless otherwise provided.

4. PRICES

Prices quoted must be fixed except as otherwise specified in this document. Any bid requiring receipt of order in less than 30 calendar days will be unacceptable unless otherwise specified herein.

5. AWARDS; REJECTION OF BIDS

Purchasing may make awards on one, some or all services in a bid. Purchasing reserves the right to reject any and all bids.

6. CASH DISCOUNTS; TERMS OF PAYMENT

Cash discount (discount for prompt payment) will be taken into consideration in determining the low bid as long as the discount period is at least 30 calendar days. However, cash discounts are encouraged and must meet the following conditions:

A W A R D

Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

- A. The discount period will start upon date of completion of all services on any Purchase Order or other authorization certified by Controller, or upon date of receipt of properly prepared invoices covering such services, whichever is later.
- B. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the City's check.

The discount will be deducted from the invoice amount in accordance with the provisions of 6a and 6b above, unless the bid states the discount is not available. No additional charge shall accrue against City in the event that City does not make payment within any time specified by bidder.

7. SUNSHINE ORDINANCE

In accordance with Sec. 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, responses to RFPs 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's 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.

TERMS RELATED TO THE CONTRACT

8. CONTRACT INTERPRETATION: CHOICE OF LAW/VENUE; ASSIGNMENT

Should any questions arise as to the meaning and intent of the contract, the matter shall be referred to Purchasing, who shall decide the true meaning and intent of the contract. This contract shall be deemed to be made in, and shall be construed in accordance with the laws of the State of California; the venue for all claims arising out of this contract shall be in San Francisco. This contract may be assigned only with the written approval of Purchasing.

9. HOLD HARMLESS AND 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 Contract, 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 Contract, 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,

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorney's 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 Contract.

10. FAILURE TO DELIVER

If Contractor fails to deliver an article or service of the quality, in the manner or within the time called for by this Contract, such article or service may be bought from any source by Purchasing and if a greater price than the contract price be paid, the excess price will be charged to and collected from Contractor or sureties on its bond if bond has been required.

11. BUDGET AND FISCAL PROVISIONS

This Contract is subject to the budget and fiscal provisions of City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and 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 Contract 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 Contract 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 Contract 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 Contract.

12. DEFAULT; REMEDIES

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 Contract or to seek specific performance of all or any part of this Contract. 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

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

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 Contract or any other contract 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 Contract or any other contract.

All remedies provided for in this Contract 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.

13. TERMINATION FOR CONVENIENCE

The performance of work under this Lease may be terminated by the City in accordance with this clause in whole, or from time in part, whenever the Purchaser shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Lessor of a notice of termination specifying the extent to which performance of work under the Lease is terminated, and the date upon which such termination becomes effective.

After receipt of a termination, and except as otherwise directed by the Purchaser, the Lessor shall: stop work under the Lease on the date and to the extent specified in the notice of termination; place no further orders or subLeases for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Lease as is not terminated; terminate all orders and subLeases to the extent that they related to the performance of the work terminated by the notice of termination; assign to the City in manner, at the times, and to the extent directed by the Purchaser, all of the right title, and interest of the Lessor under orders and subLeases so terminated, in which case City shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subLeases; settle all outstanding liabilities and all claims arising out of such termination of orders and subLeases, with approval or ratification of the Purchaser, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause, transfer title to City and deliver in the manner, at the times, and to the extent, if any, directed by the Purchaser the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the Lease had been completed, would have been required to be furnished to the City; use its best efforts to sell, in the manner, at the times, to the extent, and the price(s) directed or authorized by the Purchaser, any property of the types, referred above, provided, however, that the lessor shall not be required to extend credit to any Purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the Purchaser, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by City to the Lessor under this Lease or shall otherwise be credited to the price or cost of the work covered by this Lease or paid in such other manner as the purchaser may direct; complete performance of such part of the work as shall not have been terminated by the notice of termination; and take such action as may be necessary, or as

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

the Purchaser may direct, for the protection or preservation of the property related to this Lease which is in the possession of the Lessor and in which City has or may acquire an interest.

14. 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 City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the contract is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.
- C. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.
- D. 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.

15. TAXES

- A. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Contract, or the services delivered pursuant hereto, shall be the obligation of Contractor.
- B. Contractor recognizes and understands that this Contract may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Contract 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;

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For the Term April 1, 2009 through March 31, 2014

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- (2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Contract 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 Contract. 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.

16. USE OF CITY OPINION

Contractor shall not quote, paraphrase, or otherwise refer to or use any opinion of City, its officers or agents, regarding Contractor or Contractor's performance under this Contract without prior written permission of Purchasing.

17. 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.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

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 Purchasing) 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.

A W A R D

Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

BID AND CONTRACT CONDITIONS

18. 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.

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2. **Subcontracting Goals.** The LBE subcontracting participation goal for this contract is 5 %. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in the HRC Progress Payment Form and the HRC Payment Affidavit. Failure to provide the HRC Progress Payment Form and the HRC Payment Affidavit with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until the HRC Payment Form and the HRC Subcontractor Payment Affidavit are provided by Contractor.

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

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

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

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

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

Contractor further agrees, within ten working days following receipt of payment from the City, to file the HRC Payment Affidavit with the Controller, under

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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.

19. 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.

20. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN

Pursuant to § 804(b) of the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the Environment Code is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, Contractor shall not provide any items to the City in performance of this Contract which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of Contractor to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

21. RESOURCE CONSERVATION

Contractor agrees to comply fully with the provisions of Chapter 5 of the San Francisco Environment Code ("Resource Conservation"), as amended from time to time. Said provisions are incorporated herein by reference.

22. SUBMITTING FALSE CLAIMS; MONETARY PENALTIES

Any contractor, subcontractor or consultant who commits any of the following acts shall be liable to the City for three times the amount of damages which the City sustains because of the act of that contractor, subcontractor or consultant. A contractor, subcontractor or consultant who commits any of the following acts shall also be liable to the City for the costs, including attorney's 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) 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

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conceal, avoid, or decrease an obligation to pay or transmit money or property to the City. (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.

23. LIABILITY OF CITY

CITY'S PAYMENT OBLIGATIONS UNDER THIS CONTRACT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR UNDER THIS CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, 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 CONTRACT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS CONTRACT.

24. 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 Contract.

25. 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 Contract 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 Contract 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 Contract.

26. 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 Contract, 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.

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27. BID PROTESTS

Bid protests for purchases of Services in excess of \$50,000 shall be submitted and responded to in accordance with Regulation 21.3(i) of the San Francisco Administrative Code, Chapter 21.

28. FOOD SERVICE WASTE REDUCTION REQUIREMENTS

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.

End Bid and Contract Conditions

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These terms and conditions supplement the City's Bid and Contract Conditions. In the event of a conflict between these conditions and the preceding Bid and Contract Conditions, these conditions shall take precedence.

29. CONTRACT TERM

The contract period shall be for sixty (60) months. The initial term of this contract is the period from award execution date, or the above stated term date, whichever is earlier, through the last day of the month of a sixty (60) consecutive month period.

30. CONTRACT EXTENSION

This contract may be extended, all or in part, for a period or periods up to one year by mutual agreement in writing. The maximum contract period shall not be more than 9 years.

31. TOLL-FREE TELEPHONE NUMBER

A contractor located outside of the City and County of San Francisco is encouraged to provide free telephone services for placing orders. This requirement can be met by providing a toll-free telephone number or accepting collect calls. The free service may be a consideration in evaluating this bid.

32. LBE ORDINANCE

To qualify for a bid discount under the provisions of Administrative Code Chapter 14B, an LBE must be certified by the Human Rights Commission by the Bid Due date.

The certification application is available from HRC (415) 252-2500, and on the web at:

www.sfgov.org/site/sfhumanrights_index.asp

Click on LBE, 14B Ordinance, Attachments & Forms.

Click on appropriate LBE Certification Application.

33. CLAIM FOR PREFERENCE

To claim preference under the LBE Ordinance, See Bid Questionnaire attached.

34. BID PREFERENCE FOR BROKERAGE SERVICES

Pursuant to Section 14B.7 of the Administrative Code, a bid preference will only be awarded to an LBE, or an LBE joint venture where the LBE's participation in the joint venture exceeds 35 percent, directly responsible for providing materials, equipment, supplies or services to City as required by the Bid solicitation. An LBE will be deemed to be directly responsible for providing

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the required commodity or service only if it regularly does business as a manufacturer, or authorized manufacturer's representative, dealer or distributor, stocking distributor, franchisee, licensee, service provider, or has another direct agency relationship with the manufacturer or provider of the solicited commodity or service, and has been so certified by HRC.

An LBE will be considered to be "regularly doing business", as that term is used in the foregoing paragraph, if in the normal course of business, it stocks, warehouses or distributes commodities to businesses or entities other than public entities having a local business preference program. Such a determination will be subject to audit by HRC.

No preference will be given to an LBE engaging in brokerage, referral or temporary employment services not meeting this definition, unless those services are required and specifically requested by the department.

35. CHAPTER 14B REQUIREMENTS

A Subcontracting goals

The LBE subcontracting goal for this project is 5% of the total value of the services to be procured.

Each firm responding to this solicitation shall demonstrate in its response that it has used good-faith outreach to select LBE subcontractors as set forth in S.F. Administrative Code §§14B.8 and 14B.9, and shall identify the particular LBE subcontractors solicited and selected to be used in performing the contract. For each LBE identified as a subcontractor, the response must specify the value of the participation as a percentage of the total value of the 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 bid. LBEs identified as subcontractors must be certified with the San Francisco Human Rights Commission at the time the bid is submitted, and must be contacted by the bidder (prime contractor) prior to listing them as subcontractors in the bid. Any bid that does not meet the requirements of this paragraph will be non-responsive.

In addition to demonstrating that it will achieve the level of subcontracting participation required by the contract, a bidder 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.

Bids which fail to comply with the material requirements of S.F. Administrative Code §§14B.8 and 14B.9, HRC Attachment 3 and this solicitation 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. Subcontracting goals can only be met with HRC-certified LBEs located in San Francisco.

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GENERAL CONDITIONS (Continued)

B. LBE Participation

The City strongly encourages bids from qualified LBEs. Pursuant to Chapter 14B, the following rating discount will be in effect for the award of this project for any bidders who are certified by HRC as a LBE, or joint ventures where the joint venture partners are in the same discipline and have the specific levels of participation as identified below. Certification applications may be obtained by calling HRC at (415) 252-2500. The rating discount applies at each phase of the selection process. The application of the rating discount is as follows:

- (1) A 10% discount to an LBE; or a joint venture between or among LBEs; or
- (2) A 5% discount to a joint venture with LBE participation that equals or exceeds 35%, but is under 40%; or
- (3) A 7.5% discount to a joint venture with LBE participation that equals or exceeds 40%; or
- (4) A 10% discount to a certified non-profit entity.

If applying for a rating discount as a joint venture: The LBE must be an active partner in the joint venture and perform work, manage the job and take financial risks in proportion to the required level of participation stated in the bid, and must be responsible for a clearly defined portion of the work to be performed and share in the ownership, control, management responsibilities, risks, and profits of the joint venture. The portion of the LBE joint venture's work shall be set forth in detail separately from the work to be performed by the non-LBE joint venture partner. The LBE joint venture's portion of the contract must be assigned a commercially useful function.

C. HRC Forms to be Submitted with Proposal

- (1) All proposals submitted must include the following Human Rights Commission (HRC) Forms contained in the HRC Attachment 3:

Form 2A HRC Contract Participation form
Form 2B HRC "Good Faith" Outreach Requirements form
Form 3 HRC Non-discrimination Affidavit
Form 5 HRC Employment form

The following form may be required, depending on the circumstances:

Form 4 Joint Venture Participation Schedule

If these forms are not returned with the proposal, the proposal may be determined to be non-responsive and may be rejected.

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GENERAL CONDITIONS (Continued)

Submit HRC 12B-101 Form only if the Prime Contractor is not already in compliance with Equal Benefits Requirements. This form is available on the HRC website at:

http://www.sfgov.org/site/sfhumanrights_index.asp?id=4584

(2) Please submit two copies of the above forms with your bid. The forms should be submitted in separate, sealed envelopes addressed to:

Cynthia Goldstien , Contract Compliance Officer
Human Rights Commission
25 Van Ness Ave
San Francisco, CA 94102
Re: Contract Proposal 71205

AND

Paul Hootman
Office of Contract Administration – Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685
Re: Contract Proposal 71205

If you have any questions concerning the HRC Forms, you may call Cynthia Goldstein, Human Rights Commission Contract Compliance Officer at: (415)252-2515

36. 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.

37. CONFLICT OF INTEREST

Through its execution of this Contract, 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 any said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Contract.

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GENERAL CONDITIONS (Continued)

38. 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 in any way affect the right of the party to enforce such provisions thereafter.

39. CONTRACTOR'S DEFAULT

If Contractor fails to fulfill its obligations under this Contract, whether or not said obligations are specified in this section, Purchasing reserves the right to: (a) terminate this contract at no cost to City; (b) take action in accordance with Section 12 or (c) exercise any other legal or equitable remedy.

40. BANKRUPTCY

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

41. INCIDENTAL AND CONSEQUENTIAL DAMAGES

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

42. REPORTS BY CONTRACTOR

MULTI-YEAR TERM CONTRACT

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 City 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 City which are not part of this Contract.

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GENERAL CONDITIONS (Continued)

Contractor shall send the reports to:

Paul Hootman, Senior Purchaser
Re: Term Contract No. 71205
City and County of San Francisco
Office of Contract Administration -- Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

43. NOTICE TO PARTIES

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage paid and registered as follows:

Director of Purchasing
City and County of San Francisco
Office of Contract Administration -- Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

with a copy to:

Trinh Nguyen
San Francisco Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, CA 94103

44. SUBCONTRACTING

Contractor is prohibited from subcontracting services under this Contract unless such subcontracting is agreed to in writing by Purchasing. No party on the basis of this Contract shall in any way contract on behalf of or in the name of the other party of this Contract, and violation of this provision shall confer no rights on any party and any action taken shall be void.

45. 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

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GENERAL CONDITIONS (Continued)

other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

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

b. Payment of Taxes and Other Expenses.

Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

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

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

46. SEVERABILITY

Should the application of any provision of this Contract 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 Contract 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.

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GENERAL CONDITIONS (Continued)

47. EMERGENCY – PRIORITY 1 SERVICE

In case of an emergency that affects the San Francisco Bay Area, Contractor will give the City and County of San Francisco Priority 1 service. Contractor will make every good faith effort in attempting to provide emergency services. Contractor shall provide a 24-hour emergency telephone number of a company representative who is able to receive and act on requests for emergency services. In addition, Contractor shall charge fair and competitive prices for services ordered during an emergency and not covered under the awarded contract.

48. 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

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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.

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GENERAL CONDITIONS (Continued)

- (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;

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

GENERAL CONDITIONS (Continued)

- (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.

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GENERAL CONDITIONS (Continued)

49. MINIMUM COMPENSATION ORDINANCE ("MCO")

- 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:

http://www.sfgov.org/site/olse_index.asp?id=27459

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. The required wage is posted on the Web at:

http://www.sfgov.org/site/olse_index.asp?id=27459

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

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GENERAL CONDITIONS (Continued)

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.

50. 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.

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GENERAL CONDITIONS (Continued)

- 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.

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GENERAL CONDITIONS (Continued)

- 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.

51. 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 the Earned Income Credit (EIC) Form to each Eligible Employee at each of the following times:
 - (1) within 30 days following the date on which the applicable Contract or Contract Modification becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in question);
 - (2) promptly after any Eligible Employee is hired by Contractor; and
 - (3) annually between January 1 and January 31 of each calendar year during the term of the Contract.
- b. Failure to comply with the foregoing requirement shall constitute a material breach by Contractor of the terms of the Contract.
- c. If within 30 days after the Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under the terms of the Contract or under applicable law.

52. 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

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GENERAL CONDITIONS (Continued)

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.

53. 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 Contract. 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 contract, 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.

54. PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Contract 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 Administrative 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.

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GENERAL CONDITIONS (Continued)

55. 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.

56. CONTRACT PRODUCT / SERVICE QUALITY REPORT

Departments may complete and return to Purchasing these reports at any time during the life of the contract. The purpose of the report is to monitor contractor performance and determine supplier successes or shortcomings. Each report will be sent to the awarded supplier/contractor. They will have an opportunity to respond to the information provided by the department. Quality reports that go unresolved to the satisfaction of the Purchaser may be used as a basis for commencement of partial or complete contract default proceedings.

57. NONDISCLOSURE 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

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GENERAL CONDITIONS (Continued)

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 Contract shall constitute a default of this Contract.

59. MODIFICATION OF CONTRACT

This Contract 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 Contract.

End General Conditions

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SPECIAL CONDITIONS (Continued)

SPECIAL BIDDING PROVISIONS

60. BIDDER'S QUALIFICATIONS

- A. The City may make such investigation, as it deems necessary, prior to the award of this contract, to determine the conditions under which work is to be performed. The Purchaser may take into consideration, but not be limited to, the following factors, in determining whether the Bidder is responsible:
- (1) Bidder's experience
 - (2) Location
 - (3) Adequacy of plant facilities
 - (4) Sufficient personnel and equipment to properly perform all services called for under the contract.
- B. In order to receive consideration, bidder must have sufficient knowledge and experience in the services covered by the contract. Bidders must have a minimum of five years experience in providing services required under the proposed Contract. Bidder must submit with its bid a minimum of three references of customers requiring a similar volume of such services.
- C. The prospective Contractor must be able to demonstrate to the Purchaser's and SFMTA's satisfaction its capabilities, including evidence that it possesses adequate facilities, equipment, personnel, and financial resources to fully comply with the requirements of the contract, prior to award and at any time during the contract term or any extension thereof.
- D. City reserves the right to reject any bid in the event the information submitted by Bidder fails to be responsive to this Contract Proposal.
- F. Contractor shall be responsible for producing the usage reports required under General Condition 42 of this document. Failure to provide the required reports may result in application of the Contractor's Default clause of this Contract.
- G. City reserves the right to reject any bid on which the information submitted by Bidder fails to satisfy City and/or Bidder is unable to supply the information and documentation within the period of time requested.
- H. City reserves the right to terminate this contract if information requested from and submitted by Contractor fails to satisfy City and/or Contractor is unable to provide the information and/or documentation within the period requested.
- I. Contractor shall be independent and, as such, the hiring, training, equipping, supervising, directing and discharging of their employees shall be the responsibility of the Contractor. The payment of Federal, State, and local taxes and overtime wages shall also be the responsibility of Contractor.

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Tire Lease and Associated Services -- Muni Coach and Trolley
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SPECIAL CONDITIONS (Continued)

61. BID SURETY

Each bid must be accompanied by a bid bond, or money order, or a certified or cashier's check **(PERSONAL OR COMPANY CHECKS WILL NOT BE ACCEPTED)** in the amount of **Twenty-Five Thousand Dollars (\$25,000)**, payable to the City and County of San Francisco, to guarantee the filing of the Performance Bond and Insurance Certificates. Bid securities of all bidders will be returned promptly after the proper execution of the Performance Bond and Insurance Certificates by the successful bidder.

62. FIDELITY BOND

Contractor shall maintain throughout the term of this contract, at no expense to City, a blanket fidelity bond or a Blanket Crime Policy (Employee Dishonesty Coverage) covering all officers and employees in an amount of not less than \$50,000 with any deductible not to exceed \$5,000 and including City as additional obligee or loss payee as its interest may appear.

63. PERFORMANCE BOND

The successful bidder will be required to furnish a performance bond on the form furnished by City, in a sum of not less than 20% of the annual amount of the contract to guarantee the faithful performance of this contract.

The bond must be approved as to sufficiency and qualifications of the surety by the Controller.

The bond must be renewed annually for multi-year contracts

64. PRE-BID CONFERENCE

A Pre-bid Conference will be held as follows:

Location: One South Van Ness
Third Floor Mission Conference Room
Room 3075

Date and Time: October 30, 2008, 10:00 A.M.

Although not mandatory, attendance is strongly urged for all prospective bidders on this contract.

NOTE: Please bring a copy of this contract proposal to the Pre-bid Conference.

Bidders should submit questions concerning this Contract Proposal by email or FAX at least 72 hours prior to the date and time of the Pre-bid Conference and directed to:

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SPECIAL CONDITIONS (Continued)

Paul Hootman, Senior Purchaser
City and County of San Francisco
Office of Contract Administration – Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685
Phone: (415) 701-4706
Fax: (415) 701-4729
Email: paul.hootman@sfmta.com

Please reference **Contract Proposal No. 71205**.

The Pre-bid Conference will begin at the time specified, and company representatives are urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Failure to attend the Pre-bid Conference shall not excuse the successful bidder from any obligations of the contract. Any change or addition to the requirements contained in this Contract Proposal as a result of the Pre-bid Conference will be executed by written **Bid Addendum**.

65. BID SUBMITTAL INSTRUCTIONS

Bids **must** be received at the Office of Contract Administration – Purchasing, City Hall, Room 430, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102, by the time and date indicated on Page 1 of the Contract Proposal. **Bids transmitted by FAX or any type of electronic mail will not be accepted.**

Bidders are to return the required documents, which include:

- A. Page 1 of the Contract Proposal completed and signed
- B. Bid Sheet(s) for items being bid
- C. **All** questionnaires and forms, completed and signed (See “Standard Bid Forms, P-225” attached to this Contract Proposal.)
- D. Bid Security, if required (See Special Condition 61.)
- E. Bidders shall mail bid in an envelope clearly marked with the bid number and due date in the lower left corner.

Bids must be submitted on the enclosed Bid Sheet(s). Prices should be clearly written by typewriter or pen and ink.

To receive full consideration, your bid should be unqualified and unconditional.

For more information, call:

Paul Hootman
Senior Purchaser
Phone: (415) 701-4706
Fax : (415) 701-4729
Email : paul.hootman@sfmta.com

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SPECIAL CONDITIONS (Continued)

66. QUESTIONS, PROTESTS

Any questions or objections concerning the requirements in this contract proposal must be submitted, in writing, and received by the Office of Contract Administration – Purchasing no less than five working days prior to the bid opening date and time. Bidders who fail to do so will waive all further rights to protest, based on these specifications and conditions.

67. FAILURE TO EXECUTE CONTRACT

- A. Within ten (10) business days of the receipt of a notice of award, the bidder to whom the contract is awarded shall deliver the specified insurance certificates, performance bond and fidelity bond to the City.
- B. If the bidder fails or refuses to furnish the required insurance, performance bond and fidelity bond within ten (10) business days after receiving notice from Purchasing to do so, Purchasing may, at its option, determine that this bidder has abandoned its bid. Thereupon the tentative award of said contract to this bidder shall be cancelled and the City shall notify the bidder's surety and collect on the bidder's bond (or the check accompanying its bid shall be deposited with the Treasurer of the City and county of San Francisco for collection) and the proceeds thereof shall be retained by the city as partial liquidated damages for failure of such bidder to properly file the bond or insurance herein required or to execute the contract. The foregoing in no way limits the damages which are recoverable by the City whether or not defined elsewhere in the contract documents.
- C. After award, all proposal guarantees, except those that may have been forfeited, will be returned to the respective bidders whose proposals they accompanied.

68. PRICES

- A. Bid prices are to be firm for the first year (12 month) duration of the contract thereafter subject to an annual adjustment as supported by market conditions and supported by documentation from vendor.
- B. Only the bid prices that appear on City's Contract Proposal Bid Sheets will be considered. No other pages with prices or attached price lists and/or catalog prices will be considered.
- C. Bid price to include all costs chargeable to City. Contractor will assume all costs including personnel salaries, transportation and any other expense for the training of his/her employees. No charges to City are to be made for training. All costs to City shall be included in prices entered on Bid Sheets. No overtime will be paid unless same has been approved in advance by SF MTA
- D. Prices shall include delivery and storage.
- E. Bidders shall bid the rate per mile per tire size on each of the listed sizes of tires.

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SPECIAL CONDITIONS (Continued)

- F. Monthly Tire Service Rate for all services performed by Lessor as outlined in Special Condition clause 74, Services to be performed by Lessor.

69. PRICE ADJUSTMENT

A. Tire Cost Adjustment

This is a sixty (60) month contract. Prices shall be firm as offered for the first twelve (12) months of the contract.

The base index shall be the most current first-published data at the time of bid due date. Prices may be increased on or any time after the 12 month commencement date of the contract provided Contractor gives City a minimum of thirty (30) days advance written notice.

Contractor must provide with their written request for price increase complete and accurate documentation to substantiate any price increase. Documentation shall include, but not limited to, all applicable product indices and other direct costs to substantiate Contractor's request for price increase.

The City will reject any request for price adjustments received without appropriate documentation and any documentation not provided in a timely manner.

The parties will establish new pricing based on the percent change in the applicable indices and then pricing listed on the vendor's Bid Sheet(Price List)

Prices may be increased or decreased based on the market index. The price adjustment clause shall apply during the contract term and any contract extension issued thereafter.

Contractor must provide City with any price decreases for the duration of the contract and any contract extension issued thereafter. There is no limit on price decreases during the contract term and any contract extension issued thereafter.

The calculation described in this section will not change for the life of the agreement to include any and all extensions.

B. Tire Services

Tire Service charges may be adjusted annually if supported by the U.S. Bureau of labor Statics Labor price index.

70. BID EVALUATION

To determine the apparent low bidder, bid price will be evaluated and computed into one single total (aggregate) for the 1st year total of the contract.

Evaluated bid price will be based on the total cost of Items 1 through 4.

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SPECIAL CONDITIONS (Continued)

The low aggregate bidder for the five year period, will be determined by multiplying each bidder's Rates Per mile per tire size by the projected annual mileage shown below and adding the Monthly Service Rate and multiplying by the 12 months for each of the five years of the contract and then totaling the five years to determine a total aggregate cost.

Example

Item 1.	(12R22.5H)	108,480,000 miles	(rate per mile)	X	= <u>monthly cost</u>
Item 2.	(315/80R22J)	14,208,000 miles	(rate per mile)	X	= <u>monthly cost</u>
Item 3.	(305/70R x 22.5H)	14,208,000 miles	(rate per mile)	X	= <u>monthly cost</u>
Item 4.	Tire service per month				= <u>monthly cost</u>
					Total cost per month.

Except as otherwise noted on Bid Sheets, bid prices will be evaluated for each service based on the estimated quantity multiplied by the bid price per specified unit and less any applicable LBE preference (see General Conditions 33 through 35).

Purchasing will attempt to evaluate this contract proposal within thirty (30) calendar days after receipt of bid(s). If Purchasing requires additional evaluation time, all bidders will be notified in writing of the new expected award date.

71. AWARD

This Award will be made in the aggregate, items 1 through 4 to the lowest responsive and responsible bidder. The Purchaser reserves the right to make "no award" on any item from the aggregation when, in his/her opinion, the City will benefit by no award of such item.

If only one responsible and responsive bid is received, the Purchaser may conduct a price or cost analysis, or both, of the bid to assess whether the prices offered by the Bidder are fair and reasonable. For a price analysis, the prices for procurements with similar specifications and similar quantities of tires will be compared to the prices received from the single proposer. Where differences exist, a detailed analysis will be conducted to determine the factors that might cause the difference such as escalation and technical performance requirements.

A cost analysis may be conducted if it is impossible to obtain a valid price analysis. During a cost analysis, the individual cost elements used by the bidder to generate the prices shown in the Bid Sheet will be examined. Each cost element will be evaluated for profit and reasonable estimates of labor and material. Subcontractor costs may also be examined in the same manner.

The Purchaser is not obligated to accept a single bid. If a price or cost analysis is required, the date of contract award may be extended by ninety (90) days.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

72. FEDERAL DRUG AND ALCOHOL TESTING REQUIREMENTS

The Federal Transit Administration (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. See 49 CFR Parts 40 and 655 for applicable requirements.

Any contractor receiving the award of this contract will have to either (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 on SFMTA premises may (3) participate in SFMTA's program. **As a condition of receiving an award of this contract, Contractor shall notify the SFMTA in writing which of the three options it elects.** If the Contractor elects options (1) or (2), the SFMTA is required to monitor the Contractor's compliance with federal requirements. Contractor must cooperate fully with the SFMTA or its consultants in such monitoring efforts, provide any requested documents or information, and comply with any corrective action that SFMTA requires of Contractor. If the Contractor elects option 3, there will be fees charged by SFMTA for various required services.

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

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

SPECIAL CONTRACT PROVISIONS

73. PURPOSE

This Contract is to provide to the City the lease of tires for use on coaches or trolleys operated by the San Francisco Municipal Railway (Muni).

74. SCOPE OF SERVICES TO BE PERFORMED

A. General Services. In addition to furnishing lease tires, Lessor shall provide the following services to the City at its own expense:

- (i) Lessor shall mount and demount tires on and from rims, balance mounted tires, change wheels or rims to and from coaches, and keep all mounted tires inflated to their proper pressures.
- (ii) Lessor shall furnish at all five (5) locations all tools and equipment necessary to perform said operations, including but not limited to the following items: pneumatic impact wrenches, sockets, hoses for impact tools, hoses to air tires, tire gauges, bead busters, tubeless tire mounting machine, jacks and hand tools necessary to perform tire maintenance.
- (iii) Lessor shall furnish labor to balance front tires; the City will furnish equipment and materials for balancing. Lessor shall mount a reasonable number of tires as determined and directed by Muni on spare rims or wheels in order that a sufficient reserve of mounted spare tires shall be available at all times. **Lessor shall inspect and set toe-in alignment when replacing or rotating front tires.**
- (iv) Lessor shall recap all rear tires that become worn to a point where further use would violate the applicable rules and regulations of the U.S. Department of Transportation, California State Public Utilities Commission, and California Highway Patrol, as well as all other applicable government laws, rules and regulations. Such recapping shall not cause undue interruptions to service or to be a hazard to the safety of occupants of said coaches. **Recapped tires shall be permitted on the rear wheels only.** All front tires shall be new.
- (v) Lessor shall inspect all tires at least once each month to ensure that the tread depth in all tires in operation shall conform to all applicable provisions of law. Where a tire is found to have tread depths that are not in conformity with the above provisions, Lessor shall notify the City of the fact and City shall make such coach(s) available to the Lessor so that the wheels containing those tires can be changed.
- (vi) Lessor shall inform the City in a timely manner of misalignment or other mechanical problems likely to cause premature tire wear, as such problems are discovered by Lessor, and shall record such conditions including date, coach number and mileage.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

- (vii) Lessor shall maintain a sufficient supply of tires as required to guarantee continuity of service at all times. In the event of a manufacturing delay in tires due to a strike, the Lessor shall, to the degree possible, prior to the effective day of the strike, ship additional spare tires to maintain the City during the manufacturing delay. In any event, it is the Lessor's responsibility to assure an adequate supply of tires at all times.
- (viii) Lessor shall maintain and replenish usable mounted spares of the appropriate tire sizes and tread depths. The City will provide adequate space in each of its five (5) facilities for mounted tires. The City agrees to provide a suitable place in an enclosed building for the storage of spare tires including spares to be used by the Lessor's road service crews. Security and control of the stored tires shall be a joint responsibility of the City and the Lessor, and the risk of loss shall be shared equally between the parties. In lieu of this joint responsibility for the risk of loss, the Lessor may offer an alternative proposal if reasonable, and in the best interest of the City, will be accepted by the City in lieu of joint responsibility. The Lessor shall maintain adequate security for all tires, supplies and equipment under its custody and control (i.e., in a secured area locked by Lessor).
- (ix) Contractor shall be responsible for the handling of all City-furnished documents and materials in a safe manner, including loss or damage incurred during transport, handling or delivery.

B. Condition of Tires

- (i) All tires furnished or returned by the Lessor to the City for use shall be of safe and useable condition. **In the event of dispute regarding fitness for continued use, the City's determination shall be final.**
- (ii) For those coaches for which radial tires are proposed, the Lessor shall not have to perform heat tests on the tire axles and wheels prior to bidding to ensure that the radial tires will withstand the service conditions of the coaches. Tires proposed to be added to this contract may require testing as deemed necessary by the City.
- (iii) Tires to be run on the front wheels shall be only of original tread and groove, and shall be removed when tread depth reaches 4/32" minimum at any point in the tread configuration. Tires to be run on other than front wheels may be of original, recapped or regrooved tread, and shall be removed when tread depth reaches 2/32" minimum at any point in the tread configuration.

D. Location of Services; Shifts; Personnel

- (i) All of Lessor's services shall be performed on the City's premises at the following five (5) locations ("the Shops"), per the schedule listed below. The Shops may be relocated within the City during the term of the contract. Lessor shall be given adequate notice of any move.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

WOODS Shop, 22nd & Indiana Streets
peak coach demand 167
Brenda Mitchell, (415) 695-7132
Seven days per week
2 shifts per day

KIRKLAND Shop, Bay & Powell Streets
peak coach demand 137
Oscar Porras, (415) 274-0210
Six days per week
1 shift per day

FLYNN Center, 15th & Harrison Streets
peak coach demand 109 articulated coaches
Pete Joson, (415) 554-9359
Six days per week
1 shift per day

POTRERO Shop, Mariposa & York Streets
peak coach demand 134
Ruben Sy, (415) 554-8283
Six days per week
1 shift per day

PRESIDIO Shop, Presidio & Sutter Streets
peak coach demand 127
Richard Ryan, (415) 923-6158
Six days per week
1 shift per day

- (ii) Muni shall be responsible for driving buses from the parking areas to the tire areas. Lessor's personnel will move and handle buses in the Muni bus yard area as necessary to furnish proper tire service. Muni is not obligated to move coaches within bus yards for the Lessor to service.
- (iii) Prior to award of Lease, Lessor shall submit to the City a list of its service personnel and their shifts. PA shift is defined as a span of eight (8) consecutive hours during which a facility is manned by at least one person. All single-shift facilities shall have an early morning start time. Two-shift locations shall have both morning and afternoon shifts.
- (iv) In addition to the necessary number of tire service persons, Lessor shall provide the following personnel:

Manager of Tire Service Operations - authorized representative of Lessor, either on site or located in San Francisco Bay Area and available on call.

Five (5) Shop Foremen - authorized representatives of Lessor in charge of service operations and stationed at each of the five Shops.

- (v) Contractor shall be responsible for providing technical support and assistance to SFMTA. As part of this requirement, Contractor must provide, by phone, personnel with in-depth technical knowledge of the services Contractor is providing under this contract, to answer questions and offer any assistance required by SFMTA personnel, during SFMTA business hours. (8:00 a.m. – 5:00 p.m.)

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

C. Road Call Services.

- (i) **Personnel.** Lessor shall provide an **on-site service person** to respond to road calls. Lessor shall provide one **on site** road call service person seven (7) days per week, twenty four (24) hours per day, who shall respond promptly to road calls involving tire problems and shall arrive at the scene of the road call within ninety (90) minutes of notification ("Required Arrival Time"). The road call service person shall notify Muni Central Control (clause 71, section D) immediately upon arrival at the scene of the road call. The on-site road call service person shall be based at the Woods Shop, 22nd & Indiana Street, San Francisco. Road call service shall be preformed at no additional charge to the City, however, calls to be preformed in a Muni yard will be made by a yard superintendent.
- (ii) **Liquidated Damages; Failure to Provide Timely Road Call Service.** Lessor shall provide back-up road call service equipment as necessary in order to comply with the requirements of paragraph (i) above. Lessor acknowledges that its failure to perform as described in paragraph 1 will cause the City to incur inconveniences and costs not contemplated under this Lease, which inconveniences and costs shall constitute damages to the City, and that the exact amount of such damages will be extremely difficult or impractical to fix. The City and Lessor agree that the damages described below represent a fair and reasonable estimate of the costs that the City shall incur by reason of Lessor's failure to perform, and are fair compensation to the City for its losses. Failure by the City to impose liquidated damages for specified violations shall not be a waiver of the right to enforce this Section, nor shall it constitute a waiver of any other right of the City under this Lease. For purposes of this Section, written notice by the City of a violation shall constitute enforcement even though the City may not assess liquidated damages at the time of such initial written notice of violation.

For each fifteen (15) minutes after the Required Arrival Time that Lessor fails to arrive on scene for road service, Lessor shall be assessed \$50.00 . Lessor agrees that any such liquidated damages assessed may be deducted from payments made to Lessor under this Lease.

E. Tires Belonging to Bridgestone/Firestone.

Upon commencement of this Contract, Lessor shall, if directed by City, purchase all tires involved in the City's previous coach tire lease agreement (with Bridgestone/Firestone) from the lessor under that agreement by paying any mileage remaining on the tires at the lease rate then in effect.

As the tires in the possession of the City at the commencement of the contract are rendered permanently unfit for use and are replaced, and thereafter throughout the Contract term, the Lessor shall furnish and continuously maintain in inventory all tires, including enough mounted spares to ensure that tires are available at all times for the City's use. All tires furnished by the Lessor shall be individually and uniquely branded prior to delivery.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

75. LESSOR'S TITLE TO TIRES

Title to the tires and any and all additions, repairs, replacements or modifications thereof shall be held in the name of Lessor, and the City shall have no right, title or interest in the Tires or any additions, repairs, replacements or modifications to the tires except as expressly set forth in this Lease.

76. CITY'S RIGHT TO USE OTHER TIRES AND SERVICES

City reserves the right to Lease or purchase similar or different special mileage commercial tires from other suppliers.

77. ASSIGNMENT

Notwithstanding any other provision in this Lease, in no event shall all or any portion of this Lease be assigned without prior written approval of the City, including the Purchaser and the SFMTA. Furthermore, in no event shall Lessor effect a public offering or private placement of certificates of participation, municipal securities or other debt instrument representing fractionalized interests in this Lease. To the extent any portion of a Lease payment constitute interest, the City makes no representation as to the exclusion of such interest from gross income. Furthermore, the City will execute or deliver Internal Revenue Service form 8038G in connection with this Lease.

No transfer or assignment of this Lease, or interest hereunder, by either party hereto shall release the other party from its obligations hereunder.

78. LOSS & ABUSE OF TIRES

Only Lessor's tires that have been rendered unfit for service due to the sole negligence of the City or tires purchased by the City shall be reimbursed in accordance with this section of the Lease. The City shall pay for any of Lessor's tires that has been damaged beyond repair by accident or fire, lost, stolen or that has been disposed of by the City on the basis of unused mileage remaining based on tread depth. The remaining mileage shall be determined by subtracting the remaining tread depth from the original tread depth and then multiplying that difference as a percentage of the stated expected tire lifespan mileage according to the formula listed below. When such a tire is unavailable for examination to perform the above measurements and calculations, reimbursement shall not exceed 50% of the value of an unused tire of the same size, unless vendor can supply an auditable accounting of the tire's accurate mileage just prior to the loss.

The above is to explain how the remaining life/mileage of the tire will be determined so a calculated value can be determined. If half the useable tread is left before being damaged then the tire value will reflect a value of half the estimated mileage of the tire times the rate per mile.

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Tire Lease and Associated Services -- Muni Coach and Trolley
 For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

FIXED TIRE RATE COST PER 1/32" TREAD DEPTH				
TIRE SIZE	NEW TIRE COST PER 1/32"	REMAINING 1/32"***	RETREAD TIRE COST PER 1/32"	REMAINING 1/32"***
12R22.5	Rate X 1,285 miles*	Rate X 1,285 miles	Rate X 642 miles*	Rate X 642 miles*
315/80R22.5	Rate X 1,285 miles*	Rate X 1,285 miles	Rate X 642 miles*	Rate X 642 miles*
305/70R22.5	Rate X 1,428 miles*	Rate X 1,428 miles	Rate X 714 miles*	Rate X 714 miles*

- * Assumes tire is retired when tread depth is 4/32" or less, 28/32" of useable tread.
- ** Remaining tread does not include unusable last 4/32" of tread

Example: Original tire is 50% worn or 20/32nds remaining, is \$8.55 per 32"
 (4/32" unusable tread and 16/32" usable tread)
 16/32" remaining x \$8.55 X 32 = \$136.80

Cost for "normal damaged or abused" tires shall be included in the rate per tire mile. The term "normal damage or abuse" is defined to be total or partial destruction of a tire by means other than normal use or wear, such as flats, irregular wear, damage for brake heat, curbing, road hazards, and misalignment.

79. DISPOSITION OF TIRES AT TERMINATION OF CONTRACT (BUY-OUT/RUN-OUT)

Upon termination of this Agreement for any reason, the SFMTA, in its sole discretion, may elect to either Buy out or Run out the remaining tread life for all original tread and retread tires on buses in the SFMTA's fleet in process of repair or retreading, in transit or in stock, that have been assigned to the SFMTA's fleet at least thirty (30) calendar days prior to contract expiration.

In the event the SFMTA elects a Buy-out, payment for original and retreaded tires shall be on the basis of the unused mileage remaining on such tires multiplied by the applicable billing rate per tire in effect at the time of contract expiration. Title to such tires shall be transferred to the City or its new tire contractor when paid in full. The City or its new tire contractor will acquire each used tire as is, and Lessor makes no warranties as to the condition or fitness for continued use of such tires.

In the event the SFMTA elects a Run-out, the Run-out period will not exceed thirty-six (36) months. During the Run-out period, the SFMTA will, to the extent practical, continuously use such tires on its highest mileage runs until they are rendered unfit for service. The rental rate shall be rate(s) in effect immediately preceding the expiration date. No additional tires, service, supplies or equipment are to be furnished by the Lessor during such extension, unless requested by the SFMTA and agreed to by the Lessor. At the expiration of said period, the SFMTA shall pay for any remaining original tread and retread tires in the manner described above. During the Run-out period, tires will remain the property of the Lessor and be disposed of by the Lessor. The new supplier will maintain the mileage records for the existing tires consistent with the methods used by the Lessor.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

80. ACCIDENTS

City shall immediately notify Lessor of any accident that may have arisen out of a malfunction or defect of the Tires, including in such report the date, time, place and nature of the accident, the damage caused to property, the names and addresses of persons injured and witnesses, and such other information as may be pertinent to Lessor's investigation of such accident.

81. EQUIPPING OF NEW COACHES -- PURCHASE AND/OR LEASE

In the event the City orders or purchases new coaches during the term of this Lease, the City reserves the right to purchase outright or Lease from the Lessor all tires required for the new coaches. If such tires are leased, the City will pay the rate for the tires installed on the new equipment on the basis set forth in the Bid Sheet (Price List). If purchased, the Lessor agrees to provide monthly service rates in accordance with the rate schedule in section the Bid Sheet (Price List). A negotiated separate rate shall apply to any new make/model vehicle or one requiring a tire with a size other than as specified under this Lease, placed in operation by the City during the term of the Lease. In the event City Leases or purchases a different type of tire than is provided for under this Lease, the cost of such additional Lease or purchase shall not exceed five (5%) percent over the then current tire rate for a similar size tire.

Upon receiving notice from the City, Lessor shall, within 30 days, make arrangements with the coach manufacturer at its factory, for the timely delivery of tires for said coaches to coach manufacturer's North American Facility, or to any overseas facility with the City paying for all reasonable charges in excess of normal freight charges to any destination in North America, prior to their shipment to City.

82. TIRES FOR NEW COACHES

Upon request of the City, the Lessor shall deliver to the manufacturer of any new coaches which the City may purchase, tires of the type furnished under this Lease. The tires shall, upon delivery to the manufacturer of the coaches, become subject to the terms and conditions of this Lease. The City intends to purchase new coaches during the five year term of this Lease, but vehicle models and delivery schedules are unknown at this time.

If new coaches are to be driven from the manufacturer to the City for delivery, the Lessor shall receive payment for such use at the same rates specified by this Lease.

83. REMOVAL OF COACHES FROM SERVICE

If, during the term of this Lease, City disposes of or removes any coach from service, City shall give Lessor at least ten (10) business days written notice of such removal or disposal. Lessor shall remove the tires on said coaches to be disposed of by City. If the tire sizes are usable on other coaches operated by City, Lessor shall either remount same or place same in City's reserve, as directed by City. For tire sizes not usable by City's coaches, City shall purchase and Lessor shall

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Tire Lease and Associated Services -- Muni Coach and Trolley
 For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

sell same on the basis set forth in section 78. With the exception that the period for which the average mileage is determined shall be the last twelve (12) month period prior to such disposition.

84. THE CITY'S COACH FLEET

The composition of MUNI's fleet as of March 3, 2008, is approximately as follows:

QUANTITY	DESCRIPTION	TIRES Per COACH
3	1975 Flyer 800 Trolley Coach 315/80R22.5J	6
5	1969 AMG/GMC 5305 Diesel Coach 12R x 22.5H	6
3	1988-9 New Flyer D40 Diesel Coach 12R x 22.5H	6
10	1990 Orion Diesel Coach 12R x 22.5H	6
45	Gillig Diesel Coach 12R x 22.5H	6
440	2000 Neoplan Coach 12R x 22.5H	6-10
300	ETI/Skoda Coaches 315/80R22.5J	6
45	NABI Diesel coaches 12R x 22.5H	6
<u>90</u>	Orion VII Model 07.501 DHEB 305/70R x 22.5H	6
941		

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

TIRE MILEAGE RATING FOR THIS BID

	Original Tread	Recapped
1. Tire (315/80R x 22.5 J)	36,000 miles	18,000 miles
2. Tire (12R x 22.5 H)	36,000 miles	18,000 miles
3. Tire (305/70R 22.5H)	40,000 miles	20,000 miles

85. TIRE MILEAGE RECORDS.

Lessor shall maintain an inventory of all tires, showing location (Coach Number), date installed and/or removed and other pertinent data or any approved tire tracking system. Lessor shall individually identify each tire so that Lessor can keep proper tire history records.

Lessor shall have available and provide on request detailed monthly reports for the SFMTA, which shall include the following:

- The completed mileage history of **each tire** on **each bus** in Lessee's fleet.
- The average tire mileage for each specific size of tire in Lessee's fleet.
- A detailed summary report of all damaged or destroyed tires, to include the specific bus numbers and the date on which the damage occurred.

Failure to provide the required reports constitutes a material breach of the Contract, which may result in application of the Contractor's Default clause.

86. INSURANCE

Prior to award, the successful bidder or bidders will be required to furnish evidence of insurance as follows:

- A. Contractor will self-insure or procure and maintain in force, during the full term of the contract, insurance in the following amounts and coverage:
 - 1. Workers' Compensation, with Employers' Liability limits not less than \$1,000,000 each accident.
 - 2. Comprehensive General Liability Insurance with limits not less than \$5,000,000 each occurrence Combined Single Limit Bodily Injury and Property Damage, including Contractual Liability, Independent Contractor, Broadform Property Damage, Personal Injury, Products and Completed Operations.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

3. Comprehensive Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.
- B. Comprehensive General Liability and Comprehensive Automobile Liability Insurance policies shall be endorsed to 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 Insured, with respect to any claims arising out of this contract and that insurance applies separately to each insured against whom claim is made or suit is brought.
- C. ALL POLICIES SHALL BE ENDORSED TO PROVIDE: Thirty (30) days advance written notice to City of cancellation, non-renewal or reduction in coverage, mailed to the following address:
- DIRECTOR OF PURCHASING
City and County of San Francisco
Purchasing Department, City Hall, Rm. 430
1 Dr. Carlton Goodlett PL
San Francisco, California 94102-4685
- D. Before commencement of the term of this contract, certificates of insurance, in form and with insurers acceptable to the City, evidencing all required insurance, shall be furnished to the City, and shall provide access to view complete copies upon request.
- E. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this contract and without lapse, for a period of three years beyond the contract expiration, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the contract, such claims shall be covered by such claims-made policies.
- F. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit and 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 limits specified above.
- G. Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of such lapse of insurance.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

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

87. DISPOSAL/RECYCLE OF TIRES

- A. The contractor is expected to dispose/recycle all unserviceable tire casings. The contractor will bear the expense for disposal/recycling of all non-retreadable tires, including the SFMTA OWNED unserviceable casings. The estimated number of tires scrapped annually is 3,802.
- B. As the owner of the leased tires, the contractor shall dispose/recycle the non-retreadable tire casings in compliance the State of California's Tire Program. The contractor shall be identified as the generator and use their own Tire Program Identification (TPID) numbers on the California Uniform Waste and Used Tire Manifests. A separate TPID number is required for each SFMTA location. Any questions call the California Integrated Waste Manifest Management Board (CIWMB) Waste Tire Hauler Program at 1-866-896-0600.
- C. The SFMTA will be the designated generator and will provide California Uniform and Used Tire Manifests with corresponding SFMTA TPID numbers for each different location to the contractor for tire disposal/recycling of SFMTA OWNED unserviceable casings to be shipped off site. The contractor shall submit with their bid the name(s) of the disposal/recycle facility(ies). If the SFMTA finds that the facility (ies) do/does not meet with district approval (Environmental Engineer), the SFMTA will require an alternate facility to be provided.
- D. Management of unserviceable tire casings shall be made in accordance with the State of California Tire Program as set forth in Chapter 6 of Title 14 of the California Code of Regulations. For the purpose of compliance with these regulations, the contractor shall:
1. Obtain a separate Tire Program Identification (TPID) Number for each SFMTA location from which tires are shipped for disposal.
 2. Be the designated generator of the used tires for non-SFMTA-owned tires.
 3. Maintain copies of the California Uniform Waste and Used Tire Manifest at each on-site location for a period of three (3) years from the manifest shipment dates.
 4. Ensure that used tire manifests are properly filled out and signed by a contractor representative for each used tire shipment.

88. AWARDED SERVICES

- a. If, during the term of the contract, a contract service is determined to be unacceptable for a particular department, and such is documented by Purchasing, it is understood and agreed that the service will be canceled and removed from the contract without penalty to City. City's sole obligation to Contractor is payment for services performed prior to the cancellation date.

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Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

City shall give Contractor ten days notice prior to any cancellation. City will contract for the required service from any source and in the manner as determined by Purchasing.

- b. Contractor must notify Purchasing by certified mail, 30 days in advance of any changes in the services required in the Contract. Any changes made without the approval of Purchasing will constitute a default and result in City invoking General Condition 12.

89. ADDITIONAL SERVICES

- a. All additional services added to the contract shall be approved through issuance of a contract modification, executed and signed by Purchasing and Contractor.
- b. The contract term for any additional services added to the contract after the initial award shall be the remaining term of the existing contract and any extension thereof.
- c. Aggregated cost of all services added to the contract during the contract term shall not exceed 20% of the total estimated value (cost) of the original contract.
- d. All requests to add additional services to the contract must be submitted by City departments in writing to the Office of Contract Administration -- Purchasing (Purchasing). All requests must include complete scope of work, estimated quantities for the remainder of the contract period and a price quotation provided by Contractor, for each service.
- e. In the event the aggregated cost of the contract increases by more than 20% of the total estimated value of the original contract, or the increase totals more than \$50,000, the amount over 20%, or \$50,000, shall be bid in accordance with Standard Purchasing Procedures. The resulting bid award shall be added to the contract through a contract modification (same Contractor) or the issuance of a new contract (new Contractor) and include Contractor's name and information, complete item description, delivery information and pricing information.

90. ORDERING

Items to be furnished under this contract shall be ordered by the issuance of a City Blanket Purchase Order Release during the effective period of the contract.

91. BILLING

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 SFMTA, in its sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. All invoices must show the Contract Number, Citywide Blanket Purchase Order Number, contract item number, complete description of services performed, contract payment terms and contract price. On services covered by this contract, City will honor no minimum service order charges. Contractor must accept and process, without any extra charges, orders for any service as requested by City.

A W A R D

Tire Lease and Associated Services -- Muni Coach and Trolley
For the Term April 1, 2009 through March 31, 2014

SPECIAL CONDITIONS (Continued)

Failure to submit invoices with all the required information, or invoices that contain inaccurate information will not be processed for payment. All discount periods will begin only when City receives a properly completed invoice containing all the required information. Note: Invoices must be submitted in triplicate.

The City will incur substantial costs in researching, reviewing and processing invoices that are not submitted on a timely basis. Accordingly, Contractor agrees that the following charges will accrue to invoices received 90 days or more after the services or charges have been incurred: 5% of the unbilled charges per month starting from the date the invoices become 90 days overdue. This service charge for researching and reviewing late billing is calculated monthly or any part of a month.

92. PAYMENT

- A. In accordance with the prices quoted in the successful bid and subject to any applicable discount provisions contained in said bid, the City agrees to pay for all services at said rates. Payment shall be made by the City to Contractor in arrears for services actually performed throughout the term of the contract.
- B. Invoices submitted by the Contractor must be in a form acceptable to the Purchaser and Controller. All amounts paid by the City to the Contractor shall be subject to the audit by the City.

93. ENTIRE AGREEMENT

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

End of Special Conditions

File # 140334

**FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)**

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): San Francisco Board of Supervisors	City elective office(s) held:

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Bridgestone Americas Tire Operations, LLC (BATO)	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
(1) See attached	
(2) See attached	
(3) See attached	
(4) None	
(5) None	
Contractor address: 535 Marriott Drive, Nashville, TN 37214	
Date that contract was approved: April 6, 2009	Amount of contract: \$11,750,000 (6 th Amendment)
Describe the nature of the contract that was approved: Rental of Bus Tires and Provision of Associated Services	
Comments:	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form
- a board on which the City elective officer(s) serves _____

Print Name of Board

- the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer:	Contact telephone number: ()
Address:	E-mail:

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed



Officers of Bridgestone Americas Tire Operations, LLC
535 Marriott Drive, Nashville, TN 37214

Phone: 615-937-1000

Fax: 615-937-3621

Officers of Bridgestone Americas Tire Operations, LLC

Eduardo Minardi	Chairman, Chief Executive Officer and President
Kenneth Allen	Vice President
Gabriel Asbun	Vice President
John Baratta	Vice President
Eduardo Lopez	Chief Project Officer
Kurt Danielson	Vice President
Philip Dobbs	Vice President
Hideo Hara	Chief Technology Officer
Clay Hobbs	Vice President
Ryutaro Ishii	Vice President
Lynn Ryle	Vice President
Michael Kane	Chief Quality Officer
Marshall Kelley	Vice President
Mike Martini	Vice President
John McLaughlin	Vice President
Gordon Knapp	Vice President
Barry Owens	Vice President
Chris Nicastro	Vice President, General Counsel and Secretary
Steve Shelton	Vice President
Eugene Stephens	Treasurer
Patrick Scruggs	Assistant Treasurer
Amanda Mathis	Controller
Jim Crothers	Tax Officer
David Cooper	Tax Officer
David Dumas	Chief Counsel, Litigation
Jon Wood	Chief Counsel, Intellectual Property
Tom Kingsbury	Associate General Counsel, Intellectual Property
Amy Breckenridge	Assistant Secretary
Kerry Cantrell	Assistant Secretary
Ed Chupack	Assistant Secretary
Norma Y. Davis	Assistant Secretary
Mike Wilson	Assistant Secretary
Dan Slattery	Assistant Secretary
Helena Yarbrough	Assistant Secretary

Approved by the Board on December 2, 2013

