

City and County of San Francisco
Airport Commission
P.O. Box 8097
San Francisco, California 94128

Modification No. 4

This Modification is made this 18th day of January 2022, in the City and County of San Francisco, State of California, by and between **South San Francisco Scavenger Co., Inc.** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Airport Commission, (the “Commission”).

RECITALS

- A. City and Contractor have entered into the Agreement for the San Francisco International Airport (the “Airport” or “SFO”) (as defined below); and
- B. The Commission is authorized to enter into all contracts which relate to matters under its jurisdiction; and
- C. On June 1, 2016, by Resolution No. 16-0168, the Commission awarded this Agreement to the Contractor for a five-year term, in the amount of \$8,817,488; and
- D. On November 5, 2019, by Resolution No. 19-0276, the Commission approved Modification No. 1 to the Agreement to increase the contract amount by \$982,512 for a new total not-to-exceed amount of \$9,800,000. Modification No. 1 also updated standard contractual clauses; and
- E. On July 1, 2020, due to the impacts of the COVID-19 pandemic on the City and the Airport, the Airport Director requested that all service contractors reduce unit cost prices under their contracts and Contractor agreed to such a reduction in Modification No. 2. Modification No. 2 also updated standard contractual clauses; and
- F. On June 15, 2021, by Resolution No. 21-0142, the Commission approved Modification No. 3 to the Agreement to exercise the one (1) year option to extend the Agreement for services through June 30, 2022, with no increase to the total not-to-exceed contract amount; and
- G. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to increase the contract amount; and
- H. On January 18, 2022, by Resolution No. 22-0004, the Commission approved this Modification to the Agreement to increase the contract amount by \$900,000 for a new total contract not-to-exceed amount of \$10,700,000; and
- I. On _____, by Resolution No. _____, the Board of Supervisors approved this Agreement under San Francisco Charter Section 9.118; and
- J. Approval for this Agreement was obtained when the Civil Service Commission approved PSC No. 49939-15/16 on March 7, 2016; and

K. The Contractor represents and warrants that it is qualified to perform the services required by City under this Agreement;

NOW, THEREFORE, Contractor and City agree as follows:

1. **Article 1. Definitions, Section 1.1 Agreement** is hereby deleted in its entirety and replaced as follows:

1.1 “Agreement” or “Contract Document” means the document dated July 1, 2016, Modification No. 1 dated November 5, 2019, Modification No. 2 dated July 1, 2020, and Modification No. 3 dated June 15, 2021, including all attached appendices, and all applicable city ordinances and “Mandatory City Requirements” which are specifically incorporated by reference into the Agreement.

2. **Article 1. Definitions, Section 1.10 “City Data”** is hereby deleted in its entirety and replaced as follows:

1.10 “City Data” means that data as described in Article 15 of this Agreement which includes, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of the City in connection with this Agreement. City Data includes, without limitation, Confidential Information.

3. **Article 3. Financial Matters, 3.3. Section 3.3.1 Payment** is hereby amended to increase the total not-to-exceed compensation payable by Nine Hundred Thousand Dollars (**\$900,000**) for a new total not-to-exceed contract amount of Ten Million Seven Hundred Thousand Dollars (**\$10,700,000**).

4. **Article 8. Termination and Default, 8.4 Rights and Duties upon Termination or Expiration, Section 8.4.1** is hereby amended to add “Section 8.2.2 Exercise of Default Remedies” to the table in Section 8.4.1 that sets forth the provisions of the Agreement that shall survive termination or expiration of the Agreement.

5. **Article 15. Data and Security** is hereby deleted in its entirety and replaced with New **Article 15 Data and Security** to read as follows:

Article 15. Data and Security

15.1 Nondisclosure of City Data, Private or Confidential Information.

15.1.1 **Protection of Private Information.** If this Agreement requires City to disclose “Private Information” to Contractor within the meaning of Administrative Code Chapter 12M (“Chapter 12M”), Contractor and subcontractor shall use such information only consistent with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

15.1.2 **Confidential Information.** In the performance of Services, Contractor may have access to, or collect on City’s behalf, City Data and /or Confidential Information, the disclosure of which to third parties may damage City. If City discloses City Data or Confidential Information to Contractor, or Contractor collects such information on City’s behalf, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own confidential information.

15.2 **Payment Card Industry (“PCI”) Requirements.** - Not applicable.

15.3 **Business Associate Agreement.** – Not applicable.

15.4 **Ownership of City Data.** The Parties agree that as between them, all rights, including all intellectual property rights, in and to the City Data and any derivative works of the City Data is the exclusive property of the City.

15.5 **Management of City Data and Confidential Information**


15.5.1 **Use of City Data and Confidential Information.** Contractor agrees to hold City Data received from, or collected on behalf of, the City, in strictest confidence. Contractor shall not use or disclose City Data except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City Data outside the United States is subject to prior written authorization by the City. Access to City Data must be strictly controlled and limited to Contractor’s staff assigned to this project on a need-to-know basis only. Contractor is provided a limited non-exclusive license to use the City Data solely for performing its obligations under the Agreement and not for Contractor’s own purposes or later use. Nothing in this Agreement shall be construed to confer any license or right to the City Data or Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data by Contractor, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase “unauthorized use” means the data mining or processing of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

15.5.2 **Disposition of Confidential Information.** Upon request of City or termination or expiration of this Agreement, and under any document retention period required by this Agreement, Contractor shall promptly, but in no event later than thirty (30) calendar days, return all data given to or collected by Contractor on City’s behalf, which includes all original media. Once Contractor has received written confirmation from City that City’s Data has been successfully transferred to City, Contractor shall within ten (10) business days clear or purge all City Data from its servers, any hosted environment Contractor has used in performance of this Agreement, including its subcontractors environment(s), work stations that were used to process the data or for production of the data, and any other work files stored by Contractor in whatever medium. Contractor shall provide City with written certification that such purge occurred within five (5) business days of the purge. Secure disposal shall be accomplished by “clearing,” “purging” or “physical destruction,” consistent with National Institute of Standards and Technology Special Publication 800-88 or most current industry standard.

6. **Effective Date.** Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.

7. **Legal Effect.** Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Modification as of the date first referenced above.

| CITY | CONTRACTOR |
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| AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO | |
| By: _____ Ivar C. Satero, Airport Director |  Authorized Signature |
| Attest: | _____ Printed Name _____ President Title |
| By: _____ Kantrice Olgetree, Secretary Airport Commission | _____ South San Francisco Scavenger Co., Inc. Company Name |
| Resolution No: <u>22-0004</u> _____ | _____ 0000010706 City Supplier ID |
| Adopted on: <u>January 18, 2022</u> _____ | _____ 500 East Jaime Court Address |
| Approved as to Form: David Chiu City Attorney | _____ South San Francisco, CA 94080 City, State, ZIP _____ 650-589-4020 Ext. 103 Telephone Number |
| By: _____ Nicholas T. Niiro Deputy City Attorney | _____ 95-2855906 Federal Employer ID Number |