

File No. 091285

Committee Item No. 6

Board Item No. 21

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 12/2/09

Board of Supervisors Meeting

Date 12/8/09

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <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                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement <i>(Amendments)</i>       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

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Completed by: Gail Johnson

Date 11/25/09

Completed by: *[Signature]*

Date 12/3/09

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

15

10/1/01

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1 [Amendment to Agreement with Owens Information Systems to Extend the Term.]

2  
3 **Resolution authorizing the Department of Technology to enter into the Eighth**  
4 **Amendment of an agreement with Owens Information Systems to extend the term of**  
5 **the agreement to fifteen years.**

6  
7 WHEREAS, On July 1, 2000, the City and County of San Francisco ("City"), acting  
8 through its Department of Telecommunications and Information Services (now called the  
9 Department of Technology ("DT"), entered into an agreement with Owens Information  
10 Systems, in which Owens Information Systems agreed to provide the City with certain  
11 services including maintaining the Court Management System, providing the City and County  
12 of San Francisco Criminal Justice Departments with Court Management System Reports, and  
13 providing support to the Court Management Policy Committee (the "Agreement"); and,

14 WHEREAS, The initial term of the Agreement was for a period of one year; and

15 WHEREAS, DT and Owens Information Systems have amended the Agreement seven  
16 times, by the First Amendment dated July 1, 2001; the Second Amendment dated February  
17 20, 2002; the Third Amendment dated December 30, 2003; the Fourth Amendment dated  
18 February 22, 2005; the Fifth Amendment dated January 31, 2007; the Sixth Amendment  
19 dated December 1, 2007; and the Seventh Amendment dated May 8, 2009; and,

20 WHEREAS, In the Seventh Amendment DT and Owens Information Systems agreed to  
21 extend the term of the Agreement until December 31, 2009; and

22 WHEREAS, DT has determined that it is in the best interests of the City to extend the  
23 term of the Agreement for an additional five years. Owens Information Systems maintains the  
24 City's legacy Court Management System ("CMS") and consults with a DT project team that is  
25 working to replace CMS. CMS is built on software that is unique to the City. The years of

1 experience Owens Information Systems has with CMS gives them the expertise the City  
2 needs both to maintain CMS and convert to the new system being developed; and

3 WHEREAS, The proposed Eighth Amendment to the Agreement would extend the term  
4 of the Agreement from nine years and six months (through December 31, 2009) to fifteen  
5 years (through June 30, 2015); and

6 WHEREAS, San Francisco Charter section 9.118(b) requires Board of Supervisors  
7 approval of any amendment to a contract that that would extend the term of the contract for  
8 ten or more years; and

9 WHEREAS, The proposed Eighth Amendment is on file with the Clerk of the Board of  
10 Supervisors in File No. DA1285, which is hereby declared to be a part of this resolution  
11 as though fully set forth herein, now, therefore, be it

12 RESOLVED, That the Board of Supervisors approves the Eighth Amendment to the  
13 Agreement with Owens Information Systems.  
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Item 6 - File 09-1285

**Departments:** Department of Technology (DT)

**Item:** Resolution approving the Eighth Amendment to an existing sole-source agreement between Owens Information Systems, Inc. (Owens) and the Department of Technology (DT) for Owens to continue to provide technical computer system support for the City's Court Management System, increasing the not-to-exceed agreement amount by \$2,000,000, from \$6,480,000 to \$8,480,000, and extending the existing term of nine years and six months, expiring on December 31, 2009, by five years and six months to a term of 15 years, expiring on June 30, 2015.

**Background:** The City's Court Management System (CMS), established in 1974, is an integrated court case management system for the City's seven criminal justice departments (Police, Sheriff, Adult Probation, Juvenile Probation, Public Defender, District Attorney and Superior Court). CMS provides an ongoing inventory and index of all court cases and records of the attorneys involved in such court cases.

According to Mr. Walt Calcagno, IT Manager for Public Safety and Criminal Justice Systems at DT, the purpose of CMS is to provide a system for each of the City's seven criminal justice departments to manage and track court cases. Examples of the functions included in the CMS system are (a) tracking of Police bookings and arrests, (b) court case management including maintaining calendars and minutes, tracking outstanding warrants, and recording bail collection data, (c) inmate location and sentence tracking, and (d) District Attorney, Public Defender, and Adult and Juvenile Probation case assignment information.

In 1997, because of difficulties with the CMS system including (a) the inability to quickly

generate reports, (b) the inability to query an individual defendant's case history, and (c) shortages in personnel qualified to support the outdated CMS system, a new Justice Information Tracking System (JUSTIS System) Project was established to replace the existing CMS system. The JUSTIS System Project would allow each of the City's seven criminal justice departments to acquire their own specialized case management system, with the Department of Technology (DT) integrating each specialized case management system to enable information sharing among the City's seven criminal justice departments.

The JUSTIS System Project was originally intended to be completed by 2001 (see Comment No. 1) at an estimated cost of \$15,500,701<sup>1</sup>. According to Mr. Calcagno, the JUSTIS System Project, which was originally estimated to be completed by 2001, is now anticipated to be implemented by March of 2011, or ten years behind schedule.

Mr. Calcagno reports that the total current estimated cost of the JUSTIS System Project is \$21,795,486, which is \$6,294,785, or 40.6 percent, more than the originally estimated project cost of \$15,500,701. Mr. Calcagno further reports that the City has expended \$19,696,895 on the JUSTIS System Project through June 30, 2009.

After full implementation of the JUSTIS System Project, the existing CMS system would be terminated by September of 2011<sup>2</sup> (see Comment No. 3).

Regarding the City's existing Court Management System (CMS), the original agreement, to provide

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<sup>1</sup> Mr. Calcagno advised that since the original conception of the JUSTIS System Project in 1997, the scope of the project has expanded to include departments which were not previously included in the project.

<sup>2</sup> Mr. Calcagno advised that after the JUSTIS System Project is completed, DT would continue to operate CMS system for approximately six months in order to provide sufficient redundancy should there be problems with the newly launched JUSTIS System.

technical computer system support, was awarded by DT on a sole-source basis to Owens on July 1, 2000. The original agreement was for a not-to-exceed amount of \$915,000 and was for a term of one year, expiring on June 30, 2001. According to Mr. Calcagno, as a result of delays in the pending JUSTIS System Project, DT amended the original Owens agreement to provide technical computer system support services seven times to the current not-to-exceed amount of \$6,480,000 and to a term of nine years and six months, expiring on December 31, 2009, as shown in the table below.

**Table: Previously Executed Amendments to the Owens Agreement**

	Amended Not-To-Exceed Amount	Increase in Not-to-Exceed Amount	Amended Term Expiration	Increase in Term
Original Agreement	\$915,000	n/a	June 30, 2001	n/a*
Amendment 1	\$1,372,499	\$457,499	December 31, 2001	6 months
Amendment 2	\$2,950,000	\$1,577,501	December 31, 2003	2 years
Amendment 3	\$3,680,000	\$730,000	December 31, 2004	1 year
Amendment 4	\$5,280,000	\$1,600,000	December 31, 2006	2 years
Amendment 5	\$5,280,000	\$0	November 30, 2007	11 months
Amendment 6	\$6,480,000	\$1,200,000	June 30, 2009	1 year 7 months
Amendment 7	\$6,480,000	\$0	December 31, 2009	6 months

\*Original agreement term was one year.

Neither the original agreement nor the subsequent seven amendments were subject to Board of Supervisors approval because the agreement, and its related amendments, never exceeded the \$10,000,000, or ten year threshold, as stipulated in Charter Section 9.118(b).

**Description:**

The proposed resolution would approve the Eighth Amendment to DT's existing agreement with

**BOARD OF SUPERVISORS**  
**BUDGET ANALYST**

Owens Information Systems, Inc. for continued technical computer system support services for the City's Court Management System (CMS), (a) increasing the not-to-exceed amount by \$2,000,000, from \$6,480,000 to \$8,480,000, and (b) extending the term by 66 months (five years and six months), from a current expiration date of December 31, 2009 to a new expiration date of June 30, 2015.

**Comments:**

1. The Budget Analyst concluded in a Management Audit report of the City's Information Technology Practices, dated October 3, 2007, that the JUSTIS System Project had been significantly delayed primarily due to lack of centralized project management. The two recommendations pertaining to the JUSTIS System Project which were included in the Management Audit report, are as follows:

The first recommendation was that the Director of DT present a status report to the Board of Supervisors on the JUSTIS System Project implementation prior to December 31, 2007. According to Ms. Christine Martin, DT Chief of Staff, although DT requested a hearing to present the status of the JUSTIS System Project prior to December 31, 2007, a hearing was not scheduled. Ms. Martin stated that DT regularly provides JUSTIS System Project updates to the Committee on Information Technology (COIT).

The second recommendation was that the Chair of COIT develop a policy regarding project management for intradepartmental projects, such as the JUSTIS System Project. According to Ms. Martin, on May 15, 2008, COIT adopted a general project management policy which would govern intradepartmental projects, such as the JUSTIS System Project.

2. As previously noted, on July 1, 2000, DT awarded the original agreement to Owens, on a sole-source basis, for Owens to provide computer system support services for the City's existing Court Management System (CMS). Ms. Martin advised that for the original Owens agreement, as well as for the seven subsequent amendments, DT



requested and received a sole-source waiver from the Human Rights Commission. Ms. Martin advised that although DT has not received an HRC waiver regarding the sole-source award of the proposed Eighth Amendment, the waiver application has been submitted and she anticipates receiving approval by the Budget and Finance Committee meeting to be held on December 2, 2009.

According to the attached memorandum from Ms. Martin, such sole-source awards are justified because:

“...the Court Management System (CMS) was developed in-house in 1974, using technology that is now obsolete, very few individuals, let alone vendors, can provide the support and expertise that Owens Information Systems has developed over the years.”

3. As discussed above, Mr. Calcagno estimates that the City's existing CMS system will be terminated by September of 2011, subsequent to the estimated completion date of March of 2011 for the pending JUSTIS System Project.

The Budget Analyst notes, however, the proposed Eighth Amendment would extend the term of the existing Owens agreement to June 30, 2015, or approximately four years and three months subsequent to March of 2011, the date when the JUSTIS System is anticipated to be implemented.

Ms. Martin explains in the attached memorandum that DT is requesting an extended new termination date of June 30, 2015 for the Owens agreement, which is four years and three months after the March of 2011 estimated implementation date of the pending JUSTIS System Project because:

“...given the historical delays in the project, we (DT) consider securing ongoing support for the CMS system (from the only firm capable of providing such support to this obsolete

technology) through June of 2015 to be a cautious approach. Moreover, the contract includes a termination for convenience clause which would allow DT to terminate the contract at any time without incurring further costs.”

According to Ms. Martin and Mr. Calcagno, approval of the proposed Eighth Amendment would ensure that Owens, which, is the only firm qualified to provide support to the City's CMS System, is available to DT should the JUSTIS System Project be delayed beyond the currently estimated implementation date of March of 2011. The Budget Analyst notes that the subject agreement provides only the City with an option to terminate the agreement for convenience.

4. Although a member of the Board of Supervisors serves on COIT, DT has not presented a written status report pertaining to the pending JUSTIS System Project directly to the full Board of Supervisors. Given that the JUSTIS System Project is ten years behind schedule, and given that the current estimated project cost is \$21,795,486, which is \$6,294,785, or 40.6 percent, more than the originally estimated project cost of \$15,500,701, the Budget Analyst recommends that the Board of Supervisors request that the Department of Technology submit a written status report to the Board of Supervisors on the JUSTIS System Project by January 31, 2010.

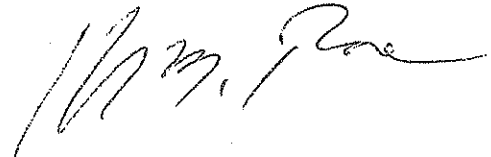
5. The advantage of approving the proposed Eighth Amendment is that the Department of Technology (DT) would have certainty that Owens would be available to support the City's existing CMS if any further delays to the pending JUSTIS System Project occur. However, it should be noted that the amended term of the Owens agreement would extend four years and

three months beyond the anticipated implementation date of the pending JUSTIS System Project.

Therefore, the Budget Analyst considers approval of the proposed resolution to be a policy matter for the Board of Supervisors.

**Recommendations:**

1. In accordance with Comment No. 4 above, given that the JUSTIS System Project is ten years behind schedule, and given that the current estimated project cost is \$21,795,486, which is \$6,294,785, or 40.6 percent, more than the originally estimated project cost of \$15,500,701, the Budget Analyst recommends that the Board of Supervisors request that the Department of Technology submit a written status report to the Board of Supervisors on the JUSTIS System Project by January 31, 2010.
2. In accordance with Comment No. 5 above, approval of the proposed resolution is a policy matter for the Board of Supervisors.



Harvey M. Rose

cc: Supervisor Avalos  
Supervisor Mirkarimi  
Supervisor Chu  
President Chiu  
Supervisor Alioto-Pier  
Supervisor Campos  
Supervisor Daly  
Supervisor Dufty  
Supervisor Elsbernd  
Supervisor Mar  
Supervisor Maxwell  
Clerk of the Board  
Cheryl Adams  
Controller  
Greg Wagner



City & County of San Francisco  
**Department of  
Technology**  
*Powered by Innovation*

One South Van Ness Avenue, 2nd Floor  
San Francisco, CA 94103-0948  
Office: 415-581-4001 • Fax: 415-581-4002

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Date: November 23, 2009  
To: Nathan Cruz, Analyst, Office of the Budget Analyst  
From: Christine Martin, Chief of Staff, Department of Technology  
Re: Owens Information Systems contract amendment

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The Budget Analyst asked a number of questions regarding the Owens contract amendment. Those questions and our responses are as follows:

**1. Why weren't the original Owens contract and the subsequent amendments competitively bid?**

Because the Court Management System (CMS) was developed in-house in 1974, using technology that is now obsolete, very few individuals, let alone vendors, can provide the support and expertise that Owens Information Systems has developed over the years. Therefore, the Department of Technology has requested and received a Human Rights Commission sole-source waiver from a competitive bid-process.

**2. Why does the 8<sup>th</sup> Amendment extend the term beyond the date which CMS is estimated to be terminated?**

The Department of Technology is now seeking a five-year extension to ensure services through the full implementation of JUSTIS in all participating criminal justice departments. Although we estimate that JUSTIS will be completed in March of 2011, given the historical delays in the project, we consider securing ongoing support for the CMS system (from the only firm capable of providing such support to this obsolete technology) through June of 2015 to be a cautious approach. Moreover, the contract includes a termination for convenience clause which would allow DT to terminate the contract at any time without incurring further costs.



City & County of San Francisco  
**Department of  
Technology**  
*Powered by Innovation*

One South Van Ness Avenue, 2nd Floor  
San Francisco, CA 94103-0948  
Office: 415-581-4001 • Fax: 415-581-4002

**Date:** November 9, 2009  
**To:** Joy Lamug, Office of the Clerk of the Board of Supervisors  
**From:** Jolie Gines, DT Contract Administration Services  
**Subject:** Owens Information Systems

RECEIVED  
BOARD OF SUPERVISORS  
2009 NOV -9 PM 2:28  
BY DP

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**MEMORANDUM**

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Enclosed is the Board Resolution and supporting documents, to include the original contract and the amendments, for Owens Information Systems to maintain the Court Management System for the JUSTIS Hub.

Thank you for your attention and please contact me at 415 581 3974 if you have any further questions.



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**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division**

**Eighth Amendment**

THIS AMENDMENT (this "Amendment") is made as of October 6, 2009, in San Francisco, California, by and between **Owens Information Systems** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

**RECITALS**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and increase the contract amount;

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number 4043-04/05 on October 5, 2009;

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

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

**a. Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000 between Contractor and City, as amended by the:

First Amendment	dated July 1, 2001,
Second Amendment	dated February 20, 2002,
Third Amendment	dated December 30, 2003,
Fourth Amendment	dated February 22, 2005,
Fifth Amendment	dated January 31, 2007,
Sixth Amendment	dated December 1, 2007, and
Seventh Amendment	dated May 8, 2009

**b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**a. Section 2.** Section 2 Term of the Agreement of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2009.

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

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to June 30, 2015.

b. **Section 5.** Section 5 Compensation of the Agreement currently reads as follows:

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed six million four hundred eighty thousand dollars (\$6,480,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.

2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$125
William Roth	Senior Programmer Analyst	\$125
Elizabeth Crossman	Senior Programmer	\$ 95
Paula Itaya	CMS Coordinator	\$ 50

3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

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

1. **Compensation.** Compensation shall be made in monthly payments on or before the last day of each month for work, as set forth in Section 4 of this Agreement, that the Executive Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed Eight Million Four Hundred Eighty Thousand Dollars (\$8,480,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the Department of Technology as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

2. The following employees of the Contractor will be assigned to the projects described above at the state rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$150
William Roth	Senior Programmer Analyst	\$150

3. The Director of DT, or his designee, has the absolute right to approve or disapprove any proposed changes in the Contractor's project staff. The Director of DT, or his designee, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.



3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective upon approval of this Amendment by the Board of Supervisors, as set forth in Section 5.

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

5. **Board of Supervisors Approval.** The City shall cause this Amendment to be submitted to the Board of Supervisors for approval. Notwithstanding anything herein to the contrary, Contractor understands and agrees that no officer or employee of the City has authority to commit the City to this Amendment unless and until the City Board of Supervisors shall have duly enacted a resolution approving this Amendment, and such resolution has further been approved by the City's Mayor. The Board of Supervisors and Mayor may approve or reject this Amendment in their sole discretion. Therefore, any obligations of the City or Contractor hereunder are contingent upon such approvals, and this Amendment shall not be effective unless and until such approvals are obtained in accordance with the San Francisco Charter.

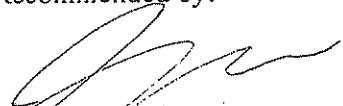
IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Owens Information Systems

  
\_\_\_\_\_  
Chris A. Vein  
CIO/Executive Director  
City and County of San Francisco  
Department of Technology

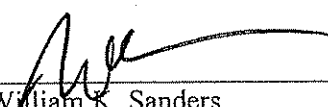
\_\_\_\_\_  
Bill Roth  
President  
11460 Upper Meadow Drive  
Gold River, CA 95670

City vendor number: 13983

Approved as to Form:

Dennis J. Herrera  
City Attorney

By:

  
\_\_\_\_\_  
William K. Sanders  
Deputy City Attorney

Approved:

\_\_\_\_\_  
Naomi Kelly  
Director of the Office of Contract Administration,  
and Purchaser



**CIVIL SERVICE COMMISSION**  
**CITY AND COUNTY OF SAN FRANCISCO**

GAVIN NEWSOM  
MAYOR

**MINUTES**  
Regular Meeting  
October 5, 2009

MORGAN R. GORRONO  
PRESIDENT

E. DENNIS NORMANDY  
VICE PRESIDENT

JOY Y. BOATWRIGHT  
COMMISSIONER

DONALD A. CASPER  
COMMISSIONER

MARY Y. JUNG  
COMMISSIONER

ANITA SANCHEZ  
EXECUTIVE OFFICER

2:00 p.m.  
ROOM 400, CITY HALL  
1 Dr. Carlton B. Goodlett Place

**CALL TO ORDER**

2:10 p.m.

**ROLL CALL**

President Morgan R. Gorrone	Present
Vice President E. Dennis Normandy	Not Present (Notified absence)
Commissioner Joy Y. Boatwright	Present
Commissioner Donald A. Casper	Present
Commissioner Mary Y. Jung	Present (Arrived at 2:15 p.m. and left at 7:30 p.m. Missed Item #s 1 – 5a and 12 – 16)

President Morgan R. Gorrone presided.

**PUBLIC COMMENT ON MATTERS APPEARING ON THE AGENDA**

Kim Waldron, IFPTE Local 21 stated that she was present to speak on Item #7, appeal by IFPTE Local 21 of Classification Action #20, FY 08-09.

Steven Frunk stated that he was present to speak on Item #9, appeal by Brian Garrett.

**APPROVAL OF MINUTES**

Special Meeting of September 11, 2009

Action: Approve. (Vote of 3 to 0)

Regular Meeting of September 21, 2009

Action: Approve. (Vote of 3 to 0)

0316-09-8

Review of request for approval of proposed personal services contracts.  
(Item No. 5)

PSC#	Department	Amount	Type of Service	Type of Approval	Duration
4040-09/10	Municipal Transportation Agency (SFMTA)	\$3,954,858	Will provide SFMTA software updates, non-custom software upgrades that Contractor provides to other customers, equipment repair and maintenance, System Support Services necessary to maintain the operations of the base AVLS.	Regular	07/31/11
4041-09/10	Municipal Transportation Agency (SFMTA)	\$175,000	Will provide mandatory conflict resolution training workshops for employees in relevant classifications in the Agency's Security & Enforcement Division (SED).	Regular	10/04/12
4042-09/10	Public Health	\$400,000	Will provide access to a web based computer training (CBT) application, allowing Public Health staff to meet training requirements mandated by the Joint Commission on the Accreditation of Health Care Organizations and other regulatory agencies.	Regular	08/31/12
4043-09/10 <i>Over to 10/19/09</i>	Public Utilities Commission	\$5,000,000	Will provide specialized and technical engineering services related to the design and construction of recycled water treatment systems such as microfiltration, reverse osmosis, ultraviolet disinfection; expertise in water quality assessments.	Regular	01/31/15
4044-09/10	Public Utilities Commission	\$4,500,000	Will provide preparation of geotechnical performance criteria, field investigation including exploratory soil borings, laboratory test of soil samples, recommendations for soil hazard mitigation and foundation designs criteria for various utility projects on an as-needed basis.	Regular	12/01/15
4045-09/10	Public Utilities Commission	\$1,000,000	Will provide engineering design services and geotechnical support for three pipes crossing the Serra Fault and possible areas of liquefaction.	Regular	02/01/13
4046-09/10	City Administrator	\$150,000	Will provide the framework for \$28 billion in proposed citywide capital infrastructure investments over the next decade.	Regular	11/01/11
4047-09/10	Arts Commission	\$760,000	Will provide multiple contracts for design, fabrication, transportation and installation of public artwork for eight to ten Recreation and Parks Facilities in conjunction with the 2008 Clear & Safe Neighborhood Park Bond Program.	Regular	12/31/14
4048-09/10	Arts Commission	\$115,500	Will design, fabricate, transport and install free-standing sculptural elements for the streetscape improvements along Church Street from Market Street to Duboce Avenue to Fillmore Street.	Regular	12/31/12
4049-09/10	Treasurer and Tax Collector's Office	\$120,000	Will perform supplemental collection services on delinquent accounts referred by various city departments; also perform credit reporting, skip-tracing, notice issuance and negotiation of payments plans.	Regular	11/01/13
4113-05/06	Public Utilities Commission	Increase Amount \$320,000 New Amount \$770,000	Will provide coordination & work plan preparation; environmental document scoping; environmental background and field studies; alternative analysis; preparation of draft environmental documents; public review of documents; & response to public comments.	Modification	06/04/11
4050-09/10 <i>Withdrawn</i>	Public Utilities Commission	Increase Amount \$25,000 New Amount \$75,000	Will provide outside auditors to independently review and evaluate the use of revenue bond proceeds.	Modification	07/15/10

4026-06/07	Human Resources	Increase Amount \$185,000 New Amount \$485,000	Will provide an integrated system that will accept applications and process applicants through the City's hiring/referral process through the internet. Modification includes 2-yr. extension for maintenance and hosting services, and additional functional enhancements.	Modification	01/31/12
4085-06/07	Public Works	Increase Amount \$1,200,000 New Amount \$2,000,000	Will provide a turnkey management solution for the medical equipment, library millwork and furniture for the program, which is not procured through bond funds.	Modification	01/31/12
4043-04/05	Department of Technology	Increase Amount \$2,000,000 New Amount \$4,800,000	Will maintain current Court Management System (which includes CABLE technology); adapt Court Mgmt System to new Trial Courts organization; participate in development of JUSTIS project, which replaces the legacy CABLE and Court Mgmt systems.	Modification	06/30/15

**Speakers:**

Thomas Kennedy, Municipal Transportation Agency spoke on PSC #4040-09/10.  
 Joy Houlihan, Municipal Transportation Agency, Joe Brenner, IFPTE Local 21 and Steve Pitocchi, SEIU Local 1021 spoke on PSC #4041-09/10.  
 Jacquie Hale, Frederick Ryan and Sandra Peterson, Department of Public Health spoke on PSC #4042-09/10.  
 Susan Yee, Public Utilities Commission spoke on PSC #4045-09/10.  
 Joan Lubamersky and Adam Van de Water, City Administrator and Joe Brenner, IFPTE Local 21 spoke on PSC #4046-09/10.  
 Shelley Thompson, Department of Human Resources spoke on PSC #4026-06/07.  
 Walter Calcagno, Department of Technology spoke on PSC #4043-04/05.

**Action:**

- (1) Withdraw PSC #4050-09/10 at the request of the Public Utilities Commission. (Vote of 3 to 0)
- (2) Postpone PSC #4043-09/10 to the meeting of October 19, 2009 at the request of the Public Utilities Commission. (Vote of 3 to 0)
- (3) Approve request for PSC #4041-09/10 on the condition that: 1) there be knowledge transfer between the trainers and the employees trained, especially with respect to managerial employees; 2) that there be skills training in conflict resolution; 3) the Municipal Transportation Agency meet with IFPTE Local 21 to discuss and plan for all issues related to knowledge transfer and conflict resolution skills training; and, 4) report and update the Commission in one year on how the program is working. Notify the offices of the Controller and the Office of Contract Administration. (Vote of 4 to 0)

0263-09-2 **Appeal by IFPTE Local 21 of Classification Action #20, FY 08-09 Related to Amending the Job Specifications of the 6230 and 6231 Street Inspector Classifications. (Item No. 7)**

September 21, 2009: Postpone to the meeting of October 5, 2009 at the request of IFPTE Local 21. The Commission stipulated this will be the last continuance granted.

**Speakers:** Steve Ponder, Department of Human Resources  
Barbara Moy, Department of Public Works  
Kim Waldron, IFPTE Local 21  
Jason Rohwer, IFPTE Local 21  
Vitus Leung, City Administrator's Office  
Carlos Ferreira, 6230 Street Inspector

**Action:** Continue to the meeting of October 19, 2009. The Commission requested that the Department of Human Resources and Department of Public Works meet with IFPTE Local 21 to discuss issues of training and the duties to be assigned to the Street Inspectors classifications. (Vote of 4 to 0)

0332-08-6 **Appeal by Edward Campos of the Human Resources Director's finding of insufficient evidence to support his discrimination, harassment and retaliation complaints. (Item No. 8)**

August 3, 2009: Postpone to the meeting of September 21, 2009 at the request of Edward Campos.

September 21, 2009: Postpone to the meeting of October 5, 2009 at the request of Edward Campos. The Commission stipulated this will be the last continuance granted.

**Speakers:** Janie White, Department of Human Resources  
Virginia Harmon, Municipal Transportation Agency  
Maria Cordero, Municipal Transportation Agency  
Edward Campos, Appellant

**Action:** Adopt the report. Sustain the decision of the Human Resources Director; deny the appeal of Edward Campos. (Vote of 4 to 0)

**Note:** It was noted by the Commission that Mr. Campos walked out of the hearing room while the Commissioners were deliberating on his appeal.

**REQUEST TO SPEAK ON ANY MATTER WITHIN THE JURISDICTION OF THE CIVIL SERVICE COMMISSION (Item No. 14)**


Ted Yamasaki, Department of Human Resources provided a brief update on the Citywide Layoffs and Procedures. The Executive Officer was directed to place the matter on the Agenda for October 19, 2009.

**COMMISSIONERS' ANNOUNCEMENTS/REQUESTS (Item No. 15)**

- 1) President Gorrano requested the Executive Officer to arrange a meeting with the City Attorney to discuss legal services for the Commission for Fiscal Year 2009-10.
- 2) President Gorrano requested that the comments made by Commissioner Casper on the Edward Campos matter be transcribed and provided to Mr. Campos as he was not present to hear the reasons for the denial of his appeal when he walked out of the hearing room.


**ADJOURNMENT (Item No 16)**

7:49 p.m.

**From:** Elizabeth Fitzgerald/ADMSVC/SFGOV   
**To:** Jolie Gines/DTIS/SFGOV@SFGOV

---

**Date:** Wednesday, June 10, 2009 08:59AM  
**Subject:** Re: Fw: Owens Information Systems Certificate of Insurance

History:  This message has been replied to and forwarded.

---

This is your approval to move forward with the contract, renewal endorsements will be provided by the broker once the policy renews on 7/1/09.

---

Elizabeth Fitzgerald  
Risk Analyst  
Risk Management Division  
25 Van Ness Avenue, Ste. 750  
San Francisco, CA 94102  
Tel. 415-554-2303  
Fax 415-554-2357  
Email: elizabeth.fitzgerald@sfgov.org

Jolie Gines---06/09/2009 04:19:02 PM---Elizabeth, Thank you! The contract will be extended, but need the Risk Management's approval prior

**From:** Jolie Gines/DTIS/SFGOV  
**To:** Elizabeth Fitzgerald/ADMSVC/SFGOV@SFGOV  
**Date:** 06/09/2009 04:19 PM  
**Subject:** Re: Fw: Owens Information Systems Certificate of Insurance

---

Elizabeth,

Thank you! The contract will be extended, but need the Risk Management's approval prior to submitting the documents for execution.

Jolie Gines  
City and County of San Francisco  
Department of Technology-Contracts Administration  
One South Van Ness, Second Floor  
San Francisco, CA 94103

415 581 3974  
415 581 3970 FAX

-----Elizabeth Fitzgerald/ADMSVC/SFGOV wrote: -----

To: Jolie Gines/DTIS/SFGOV@SFGOV  
From: Elizabeth Fitzgerald/ADMSVC/SFGOV  
Date: 06/09/2009 04:05PM

**CERTIFICATE OF INSURANCE**

This certifies that

- STATE FARM FIRE AND CASUALTY COMPANY, Bloomington, Illinois
- STATE FARM GENERAL INSURANCE COMPANY, Bloomington, Illinois
- STATE FARM FIRE AND CASUALTY COMPANY, Scarborough, Ontario
- STATE FARM FLORIDA INSURANCE COMPANY, Winter Haven, Florida
- STATE FARM LLOYDS, Dallas, Texas

insures the following policyholder for the coverages indicated below:

Name of policyholder OWENS INFORMATION SYSTEMS  
 Address of policyholder 11460 UPPER MEADOWS DR GOLD RIVER, CA 95670-7709  
 Location of operations 850 BRYANT, SAN FRANCISCO, CA 94103  
 Description of operations INFORMATION SYSTEMS

The policies listed below have been issued to the policyholder for the policy periods shown. The insurance described in these policies is subject to all the terms exclusions, and conditions of those policies. The limits of liability shown may have been reduced by any paid claims.

POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
		Effective Date	Expiration Date	
97-44-3388-6 This insurance includes:	Comprehensive Business Liability <input type="checkbox"/> Products - Completed Operations <input type="checkbox"/> Contractual Liability <input type="checkbox"/> Underground Hazard Coverage <input type="checkbox"/> Personal Injury <input type="checkbox"/> Advertising Injury <input type="checkbox"/> Explosion Hazard Coverage <input type="checkbox"/> Collapse Hazard Coverage <input checked="" type="checkbox"/> BUSINESS PROPERTY \$35,200 <input type="checkbox"/>	7/1/2009	7/1/2010	BODILY INJURY AND PROPERTY DAMAGE  Each Occurrence \$ 1,000,000 General Aggregate \$ 2,000,000 Products - Completed Operations Aggregate \$ 2,000,000
	EXCESS LIABILITY <input type="checkbox"/> Umbrella <input type="checkbox"/> Other			BODILY INJURY AND PROPERTY DAMAGE (Combined Single Limit) Each Occurrence \$ Aggregate \$
97-BB-B065-5	Workers' Compensation and Employers Liability	7/1/2009	7/1/2010	Part 1 STATUTORY Part 2 BODILY INJURY Each Accident \$ 1,000,000 Disease Each Employee \$ 1,000,000 Disease - Policy Limit \$ 1,000,000
POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
		Effective Date	Expiration Date	

THE CERTIFICATE OF INSURANCE IS NOT A CONTRACT OF INSURANCE AND NEITHER AFFIRMATIVELY NOR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE APPROVED BY ANY POLICY DESCRIBED HEREIN.

If any of the described policies are canceled before its expiration date, State Farm will try to mail a written notice to the certificate holder 30 days before cancellation. If however, we fail to mail such notice, no obligation or liability will be imposed on State Farm or its agents or representatives.

Name and Address of Certificate Holder

JOLIE GINES  
 CITY AND COUNTY OF SAN FRANCISCO  
 DEPARTMENT OF TECHNOLOGY-CONTRACTS ADMINISTRATION  
 ONE SOUTH VAN NESS, SECOND FLOOR  
 SAN FRANCISCO, CA 94103

Signature of Authorized Representative \_\_\_\_\_  
 Agent \_\_\_\_\_ 5/21/09  
 Title \_\_\_\_\_ Date \_\_\_\_\_

Agent's Code Stamp

AFO Code 163



SECTION II ADDITIONAL INSURED ENDORSEMENT

Policy No.: 97-44-3388-6

**Named Insured:**  
OWENS INFORMATION SYSTEMS  
11460 UPPER MEADOW DR  
GOLD RIVER CA 95670-7709



**Additional Insured (include address):**  
CITY & COUNTY OF SAN FRANCISCO  
DEPARTMENT OF TECHNOLOGY-  
CONTRACTS ADMIN  
1 S VAN NESS AVE FL 2  
SAN FRANCISCO CA 94103-1275

**WHO IS AN INSURED**, under SECTION II DESIGNATION OF INSURED, is amended to include as an insured the Additional Insured shown above, but only to the extent that liability is imposed on that Additional Insured solely because of **your work** performed for that Additional Insured shown above.

Any insurance provided to the Additional Insured shall only apply with respect to a claim made or suit brought for damages for which you are provided coverage.

The Primary Insurance coverage below applies only when there is an "X" in the box.

- Primary Insurance.** The insurance provided to the Additional Insured shown above shall be primary insurance. Any insurance carried by the Additional Insured shall be noncontributory with respect to coverage provided to you.

All other provisions of the policy apply.

Policy Number  
97-44-3388-6

DECLARATIONS PAGE

COVERAGE SUMMARY

OCT 9 2009



STATE FARM GENERAL INSURANCE COMPANY  
6400 STATE FARM DR, ROHNERT PARK CA 94926-0001  
A STOCK COMPANY WITH HOME OFFICES IN BLOOMINGTON, ILLINOIS

Agent Copy  
Named Insured and Mailing Address  
02-2689-F163 T  
OWENS INFORMATION SYSTEMS  
11460 UPPER MEADOW DR  
GOLD RIVER CA 95670-7709

BUSINESS POLICY - SPECIAL FORM 3

Cov A - Inflation Coverage Index: N/A  
Cov B - Consumer Price Index: 220.0

**AUTOMATIC RENEWAL** - If the POLICY PERIOD is shown as 12 MONTHS, this policy will be renewed automatically subject to the premiums, rules and forms in effect for each succeeding policy period. If this policy is terminated, we will give you and the Mortgagee/Lienholder written notice in compliance with the policy provisions or as required by law.

**Policy Period:** 12 Months The policy period begins and ends at 12:01 am standard time at the premises location.  
**Effective Date:** JUL 1 2009  
**Expiration Date:** JUL 1 2010

Named Insured: Corporation	Requested By: Policyholder
<b>Location of Covered Premises:</b> 850 BRYANT SAN FRANCISCO CA 94103-4603	

Coverages & Property	Limits of Insurance	Occupancy: Service
Section I		
A Buildings	Excluded	
B Business Personal Property	\$ 35,200	
C Loss of Income - 12 Months	\$ Actual Loss	
Section II		<b>Deductibles - Section I</b>
L Business Liability	\$ 1,000,000	\$ 250 Basic
M Medical Payments	\$ 5,000	
Products-Completed Operations (PCO) Aggregate	\$ 2,000,000	
General Aggregate (Other Than PCO)	\$ 2,000,000	
		In case of loss under this policy, the deductible will be applied to each occurrence and will be deducted from the amount of the loss. Other deductibles may apply - refer to policy.

<b>Forms, Options, and Endorsements</b>		Policy Premium \$ 1,328.00
Special Form 3	FP-6143	
Policy Endorsement	FE-6506.2	Discounts Applied:
Dist Mat Violat Statues Excl	FE-6655	Renewal Year
Amendatory Endorsement	FE-6205	Years in Business
Tree Debris Removal	FE-6451	Claim Record
Policy Endorsement-Business	FE-6610	
Registered Domestic Partnership	FE-5383	

Continued on Reverse Side of Page

OTHER LIMITS AND EXCLUSIONS MAY APPLY - REFER TO YOUR POLICY

Prepared  
OCT 09 2009  
FP-8030.2C A7AW  
06/1993  
Your policy consists of this page, any endorsements and the policy form. PLEASE KEEP THESE TOGETHER.

Countersigned 10/30/09  
By *Mike Kelly* Agent  
MIKE KELTY INS AGCY INC  
(650) 593-1400

(o1f2172b)



**BUSINESS POLICY - SPECIAL FORM 3**

**Forms, Options, and Endorsements**

Policy Endorsement	FE-6656
Glass Deductible - Section I	FE-6538.1
Inc Cost and Demolition Cov	FE-6587
Policy Endorsement-Business	FE-6464
Terrorism Insurance Cov Notice	FE-6999.1
Amendatory Collapse	FE-6551
Building Coverage for Tenants	FE-6859
Testing/Consulting E&O Excl	FE-6510
Section II Additional Insured	FE-6609
Data Processing Prog Exclusion	FE-6313

**IMPORTANT NOTICE:**

California law requires us to provide you with information for filing complaints with the State Insurance Department regarding the coverage and service provided under this policy.

Complaints should be filed only after you and State Farm or your agent or other company representative have failed to reach a satisfactory agreement on a problem.

Please forward such complaints to: California Department of Insurance  
Consumer Services Division  
300 South Spring Street  
Los Angeles, CA 90013

Or call toll free: 1-800-927-HELP

Prepared  
OCT 09 2009

**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division**

**Seventh Amendment**

THIS AMENDMENT (this "Amendment") is made as of May 15, 2009, in San Francisco, California, by and between Owens Information Systems ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

**RECITALS**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and update standard contractual clauses;

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

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

**a. Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000 between Contractor and City, as amended by the:

First Amendment	dated July 1, 2001,
Second Amendment	dated February 20, 2002,
Third Amendment	dated December 30, 2003,
Fourth Amendment	dated February 22, 2005,
Fifth Amendment	dated January 31, 2007, and
Sixth Amendment	dated December 1, 2007

**b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**a. Section 2.** Section 2 Term of the Agreement of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to June 30, 2009.

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

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2009.

b. **First Source Hiring Program.** Section 58 is hereby replaced in its entirety to read as follows:

**58. 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.

**2c. Insurance.** Section 15 is hereby replaced in its entirety to read as follows:

#### **15, Insurance**

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

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

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

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

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. Regarding Workers' Compensation, Contractor hereby agrees to waive 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 the City address in the "Notices to the Parties" section.

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.

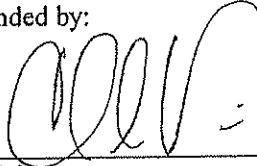
3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after June 30, 2009.

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

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

**CITY**

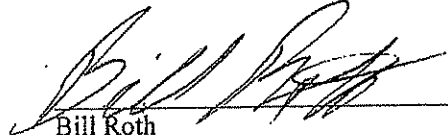
Recommended by:



Chris A. Vein  
CIO, City and County of San Francisco  
Executive Director, Department of Technology

**CONTRACTOR**

Owens Information Systems



Bill Roth  
President  
11460 Upper Meadow Drive  
Gold River, CA 95670

City vendor number: 13983

Approved as to Form:

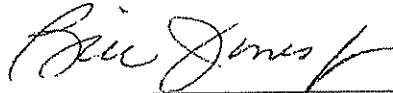
Dennis J. Herrera  
City Attorney

By:



Margarita Gutierrez  
Deputy City Attorney

Approved:



Naomi Kelly  
Director of the Office of Contract Administration,  
and Purchaser

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF TECHNOLOGY



Chris A. Vein  
CIO, City and County of San Francisco  
Executive Director, DT

Christine Martin  
Chief of Staff

Telephone: (415) 581-4001

Telephone: (415) 581-4097

Date: May 5, 2009  
To: Mary Ng, DHR Personal Services Contract Analyst  
From: Christine Martin, CPA *CM*  
Subject: PSC #4043-04/05 Court Management System Request for Term Extension

MEMORANDUM

DT requests an extension of the term of the contract for the Court Management System, which was approved for services from ~~July 1, 2000~~ to June 30, 2009. DTIS requests the term to be extended to December 31, 2009. *January 1, 2005*

The approved amount of the contract for \$2,800,000 will not be modified.

Your attention in obtaining an approval of the extension is greatly appreciated. Please contact Jolie Gines at 415 581 3974 if you require additional information or if you have any further questions.

cc: Walt Calcagno

Approval Date: May 8, 2009

By: *Mary M. Callahan*  
for Micki Callahan, Human Resources Director

*Request to extend PSC duration to 12/31/2009 for PSC #4043-04/05 is approved.*

One South Van Ness Avenue, Second Floor • San Francisco, CA 94103  
Office: (415) 581-4000 • Facsimile: (415) 581-3970

0815-5-1160

**From:** Elizabeth Fitzgerald/ADMSVC/SFGOV  
**To:** Jolie Gines/DTIS/SFGOV@SFGOV

---

**Date:** Wednesday, June 10, 2009 08:59AM  
**Subject:** Re: Fw: Owens Information Systems Certificate of Insurance

History: This message has been replied to.

---

This is your approval to move forward with the contract, renewal endorsements will be provided by the broker once the policy renews on 7/1/09.

---

Elizabeth Fitzgerald  
Risk Analyst  
Risk Management Division  
25 Van Ness Avenue, Ste. 750  
San Francisco, CA 94102  
Tel. 415-554-2303  
Fax 415-554-2357  
Email: elizabeth.fitzgerald@sfgov.org

Jolie Gines---06/09/2009 04:19:02 PM---Elizabeth, Thank you! The contract will be extended, but need the Risk Management's approval prior

**From:** Jolie Gines/DTIS/SFGOV  
**To:** Elizabeth Fitzgerald/ADMSVC/SFGOV@SFGOV  
**Date:** 06/09/2009 04:19 PM  
**Subject:** Re: Fw: Owens Information Systems Certificate of Insurance

---

Elizabeth,

Thank you! The contract will be extended, but need the Risk Management's approval prior to submitting the documents for execution.

Jolie Gines  
City and County of San Francisco  
Department of Technology-Contracts Administration  
One South Van Ness, Second Floor  
San Francisco, CA 94103

415 581 3974  
415 581 3970 FAX

-----Elizabeth Fitzgerald/ADMSVC/SFGOV wrote: -----

**To:** Jolie Gines/DTIS/SFGOV@SFGOV  
**From:** Elizabeth Fitzgerald/ADMSVC/SFGOV  
**Date:** 06/09/2009 04:05PM

Subject: Fw: Owens Information Systems Certificate of Insurance

Hi Jolie,

The attached certificate is acceptable. I spoke with Casey Stack at State Farm this morning, they are in the process of renewing the Owens' policy, they will forward the proper endorsements once the renewal process has been finalized. In the meantime if you need to hire the services of this company go ahead with the work pending receipt of the endorsements.

Let me know if you have any questions.

---

Elizabeth Fitzgerald  
Risk Analyst  
Risk Management Division  
25 Van Ness Avenue, Ste. 750  
San Francisco, CA 94102  
Tel. 415-554-2303  
Fax 415-554-2357  
Email: elizabeth.fitzgerald@sfgov.org

----- Forwarded by Elizabeth Fitzgerald/ADMSVC/SFGOV on 06/09/2009 04:03 PM -----

From: "Casey Stack" <casey.stack.ls57@statefarm.com>  
To: "Elizabeth Fitzgerald" <Elizabeth.Fitzgerald@sfgov.org>  
Cc: "Jolie Gines" <Jolie.Gines@sfgov.org>  
Date: 06/09/2009 03:13 PM  
Subject: RE: FW: Owens Information Systems Certificate of Insurance

---

Hello,

Here's the next renewal cert.

Thank you,

Casey Stack  
650-593-1400  
www.mikekelty.com

-----Original Message-----

From: Elizabeth Fitzgerald [mailto:[Elizabeth.Fitzgerald@sfgov.org](mailto:Elizabeth.Fitzgerald@sfgov.org)] ]  
Sent: Tuesday, June 09, 2009 3:02 PM  
To: Casey Stack  
Subject: RE: FW: Owens Information Systems Certificate of Insurance

Casey,

Let's revise the cert and list the renewal policy dates otherwise you will have to

**CERTIFICATE OF INSURANCE**

This certifies that  STATE FARM FIRE AND CASUALTY COMPANY, Bloomington, Illinois  
 STATE FARM GENERAL INSURANCE COMPANY, Bloomington, Illinois  
 STATE FARM FIRE AND CASUALTY COMPANY, Scarborough, Ontario  
 STATE FARM FLORIDA INSURANCE COMPANY, Winter Haven, Florida  
 STATE FARM LLOYDS, Dallas, Texas

insures the following policyholder for the coverages indicated below:

Name of policyholder OWENS INFORMATION SYSTEMS  
 Address of policyholder 11460 UPPER MEADOWS DR GOLD RIVER, CA 95670-7709  
 Location of operations 850 BRYANT, SAN FRANCISCO, CA 94103  
 Description of operations INFORMATION SYSTEMS

The policies listed below have been issued to the policyholder for the policy periods shown. The insurance described in these policies is subject to all the terms exclusions, and conditions of those policies. The limits of liability shown may have been reduced by any paid claims.

POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
		Effective Date	Expiration Date	
97-44-3388-6 This insurance includes:	Comprehensive Business Liability <input type="checkbox"/> Products - Completed Operations <input checked="" type="checkbox"/> Contractual Liability <input type="checkbox"/> Underground Hazard Coverage <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Advertising Injury <input type="checkbox"/> Explosion Hazard Coverage <input type="checkbox"/> Collapse Hazard Coverage <input checked="" type="checkbox"/> BUSINESS PROPERTY \$35,200 <input type="checkbox"/>	7/1/2009	7/1/2010	BODILY INJURY AND PROPERTY DAMAGE  Each Occurrence \$ 1,000,000 General Aggregate \$ 2,000,000 Products - Completed Operations Aggregate \$ 2,000,000
	EXCESS LIABILITY <input type="checkbox"/> Umbrella <input type="checkbox"/> Other			BODILY INJURY AND PROPERTY DAMAGE (Combined Single Limit) Each Occurrence \$ Aggregate \$
97-BB-B065-5	Workers' Compensation and Employers Liability	7/1/2008	7/1/2009	Part 1 STATUTORY Part 2 BODILY INJURY Each Accident \$ 1,000,000 Disease Each Employee \$ 1,000,000 Disease - Policy Limit \$ 1,000,000
POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
		Effective Date	Expiration Date	

THE CERTIFICATE OF INSURANCE IS NOT A CONTRACT OF INSURANCE AND NEITHER AFFIRMATIVELY NOR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE APPROVED BY ANY POLICY DESCRIBED HEREIN.

AGENT INFORMATION:  
 MIKE KELTY INSURANCE AGENCY, INC.  
 1075 OLD COUNTY RD., STE. A  
 BELMONT, CA 94002

If any of the described policies are canceled before its expiration date, State Farm will try to mail a written notice to the certificate holder 30 days before cancellation. If however, we fail to mail such notice, no obligation or liability will be imposed on State Farm or its agents or representatives.

Name and Address of Certificate Holder

JOLIE GINES  
 CITY AND COUNTY OF SAN FRANCISCO  
 DEPARTMENT OF TECHNOLOGY-CONTRACTS ADMINISTRATION  
 ONE SOUTH VAN NESS, SECOND FLOOR  
 SAN FRANCISCO, CA 94103

*Mike Kelty*  
 Signature of Authorized Representative  
 Agent 6/5/09  
 Title Date

Agent's Code Stamp

AFO Code 163

City and County of San Francisco  
Office of Contract Administration  
Purchasing Division

**Sixth Amendment**

THIS AMENDMENT (this "Amendment") is made as of **December 1<sup>st</sup>, 2007**, in San Francisco, California, by and between **Owens Information Systems** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number 4043-04/05 on October 15, 2007;

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

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

**a. Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000 between Contractor and City, as amended by the:

First Amendment	dated July 2001,
Second Amendment	dated February 20, 2002,
Third Amendment	dated December 30, 2003,
Fourth Amendment	dated February 22, 2005, and
Fifth Amendment	dated January 31, 2007

**b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**a. Section 2.** Section 2, "Term of the Agreement" of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to November 30, 2007."

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

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to June 30, 2009.

**b. Section 5.** Section 5, "Compensation" of the Agreement currently reads as follows:

Compensation shall be made within thirty days of the date that the DTIS Executive Director or designee, in his or her sole discretion, approves the Contractor's invoice for work performed in accordance with Section 4 above. In no event shall the amount of this Agreement exceed three million six hundred eighty dollars (\$3,680,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

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

Compensation shall be made within thirty days of the date that the DTIS Executive Director or designee, in his or her sole discretion, approves the Contractor's invoice for work performed in accordance with Section 4 above. In no event shall the amount of this Agreement exceed Six Million Four Hundred Eighty Thousand Dollars (\$6,480,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

c. **Appendix B.** Appendix B (Calculation of Charges) currently reads as follows:

#### **Appendix B**

#### **Calculation of Charges**

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed five million two hundred eighty thousand dollars (\$5,280,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens Senior Programmer Analyst \$110



William Roth Senior Programmer Analyst \$110

Elizabeth Crossman Senior Programmer \$95

Paula Itaya CMS Coordinator \$50

3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

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

### Appendix B

#### Calculation of Charges

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed Six Million Four Hundred Eighty Thousand Dollars (\$6,480,000). This amount is for certification purposes only. This Agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service requests made by the City.
2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$125
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William Roth	Senior Programmer Analyst	\$125
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Elizabeth Crossman	Senior Programmer	\$ 95
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Paula Itaya	CMS Coordinator	\$ 50
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3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractor's project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

d. **Requiring Minimum Compensation for Covered Employees.** Section 51 is hereby replaced in its entirety to read as follows:

#### 51. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at

www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

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

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

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

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

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

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

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

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but

Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

e. **First Source Hiring Program.** Section 58 is hereby replaced in its entirety to read as follows:

**58. First Source Hiring Program**

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

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

**b. First Source Hiring Agreement**

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

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

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

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

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

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

(6) Set the term of the requirements.

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

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

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

**c. Hiring Decisions**

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

**d. Exceptions**

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

**e. Liquidated Damages**

Contractor agrees:

- (1) To be liable to the City for liquidated damages as provided in this section;
- (2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;
- (3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

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

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

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

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

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

**f. Subcontracts**

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

**f. Limitations on Contributions.** Section 53 is hereby replaced in its entirety as follows:

**53. Limitations on Contributions**

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

**g. Protection of Private Information.** Section 57 is hereby replaced in its entirety, as follows:

**57. Protection of Private Information**

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

**h. Food Service Waste Reduction Requirements.** Section 60 is hereby added to the Agreement, as follows:

**60. Food Service Waste Reduction Requirements**

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

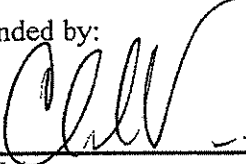
**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after December 1, 2007.

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

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

**CITY**

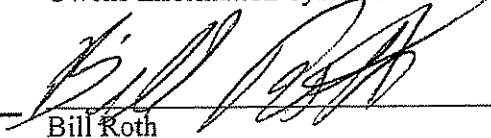
Recommended by:



Chris A. Vein  
Chief Information Officer and Executive Director  
Department of Telecommunications and  
Information Services

**CONTRACTOR**

Owens Information Systems



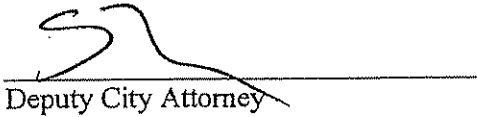
Bill Roth  
President

City vendor number: 13983

Approved as to Form:

Dennis J. Herrera  
City Attorney

By:

  
Deputy City Attorney

Approved:



Naomi Kelly  
Director of the Office of Contract Administration,  
and Purchaser



CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF CONTRACT ADMINISTRATION  
PURCHASING DIVISION

**FIFTH AMENDMENT**

THIS AMENDMENT (this "Amendment") is made as of **January 31, 2007**, in San Francisco, California, by and between **Owens Information Systems** ("Contractor"), and the **City and County of San Francisco**, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

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

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

a. **Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000 between Contractor and City, as amended by the First Amendment dated July 2, 2001, Second Amendment dated February 20, 2002, Third Amendment dated December 30, 2003, and Fourth Amendment dated February 22, 2005.

b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

a. **Section 2.** Section 2, "Term of the Agreement" of the Agreement currently reads as follows:

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2006."

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

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to November 30, 2007."

b. **Appendix B.** Appendix B (Calculation of Charges) currently reads as follows:

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed five million two hundred eighty thousand dollars (\$5,280,000). This amount is for certification purposes only. This agreement does not guarantee any

amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.

2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$95
Jack Owens	Senior Programmer Analyst	\$95
William Roth	Senior Programmer Analyst	\$95
Elizabeth Crossman	Senior Programmer	\$82
Paula Itaya	CMS Coordinator	\$45

3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

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

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed five million two hundred eighty thousand dollars (\$5,280,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.

2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$110
William Roth	Senior Programmer Analyst	\$110
Elizabeth Crossman	Senior Programmer	\$95
Paula Itaya	CMS Coordinator	\$50

3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

c. **First Source Hiring Program.** Section 58 is hereby added to the Agreement, as follows:

**58. 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.

(1) Contractor will comply with First Source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the exclusive opportunity to initially provide Qualified Economically Disadvantaged Individuals for consideration for employment for Entry Level Positions. The duration of the First Source interviewing requirement shall be ten (10) days, unless business necessity requires a shorter period of time;

(2) Contractor will comply with requirements for providing timely, appropriate 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;

(3) Contractor agrees to use good faith efforts to comply with the First Source hiring requirements. A Contractor may establish its good faith efforts by filling: 1) its first available Entry Level Position with a job applicant referred through the First Source Program; and, 2) fifty percent (50%) of its subsequent available Entry Level Positions with job applicants referred through the San Francisco Workforce Development System. Failure to meet this target, while not imputing bad faith, may result in a review of the Contractor's employment records.

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

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.

c. **Graffiti Removal.** Section 59 is hereby added to the Agreement, as follows:

**59. Graffiti Removal**

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

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

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

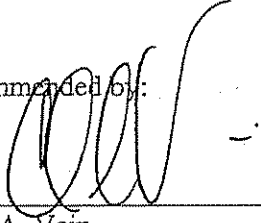
3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after December 31, 2006.

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

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

**CITY**

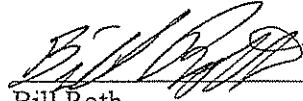
Recommended by:



\_\_\_\_\_  
Chris A. Vein  
Executive Director  
Department of Telecommunications  
and Information Services

**CONTRACTOR**

Owens Information Systems  
(13983)



\_\_\_\_\_  
Bill Roth  
President

Approved as to Form:

Dennis J. Herrera  
City Attorney

By  \_\_\_\_\_  
Deputy City Attorney

Approved:



\_\_\_\_\_  
Naomi Kelly  
Director of Office of Contract Administration/  
Purchaser

**Appendix A**  
**Description of Services**

**1. Description of Services**

Services include CABLE applications support, maintenance and management for the Superior Court, Adult Probation, Juvenile Probation, Sheriff, Police, District Attorney and Public Defender departments.

- a. The Contractor agrees to perform the following tasks within the timeframes specified below, and to deliver the product or products specified at the completion of each task.
- b. In those cases where a reassignment is requested by an individual employee of the Contractor for personal reasons, the Contractor shall use its best efforts to furnish the City with at least fifteen days' advance written notice. In the event of termination of employment by an individual employee of the Contractor for any reason, the Contractor will endeavor to provide the City with as much advance notice as is reasonably possible. If the City requests, the Contractor will endeavor to replace reassigned or terminated employees within fifteen days.

**Task 1**

Time: Ongoing task during the term of contract.

Task Description: Maintain the Court Management System which included production support, problem resolution and system enhancements. Provide 24 hour on call support, when required.

Deliverables: System availability and completed service requests.

**Task 2**

Time: Ongoing task during the term of contract.

Task Description: Assist programming staff to perform analysis and programming modifications.

Deliverables: Attend meetings and provide descriptions of requested modifications.

**Task 3**

Time: Ongoing task during the term of contract.

Task Description: Provide City and County Criminal Justice Departments with Court Management System related reports.

Deliverables: Computer generated Court Management reports.

#### **Task 4**

Time: Ongoing task during the term of contract.

Task Description: Provide Coordination Support to the Court Management System Operations Committee. This includes coordination of meetings, agendas, service requests, preparation of minutes, and other projects as assigned by the Committee.

Deliverables: Monthly Minutes, Status Reports, Work Progress Reports.

#### **Task 5**

Time: Ongoing task during the term of contract.

Task Description: Participate fully in the CMS replacement project (JUSTIS) performing professional activities throughout the life cycle of the project.

Deliverables: As determined and agreed to according to the project plan.

## **2. Acceptance Criteria and Monthly Reporting**

For Tasks 1, 2 and 5 in section 1 above, when the Contractor develops new software or modifies existing software, the following four acceptance criteria will apply:

- a. Programs written or modified must be well documented with contractor's initials, the date the program was modified or written, and functionality modified or written into the source code. Any new program development or modification to an existing program must be fully tested by the City to the City's satisfaction.
- b. Test scripts and documentation must to be produced for any major enhancement to an application. Routine programming changes must be tested through the standard CABLE testing procedures that have been put into place.
- c. Programs must be run through regression tests prior to their implementation into production.
- d. DTIS Change Request Forms must be submitted through the DTIS Change Management process whenever a new version of a program will be implemented in production.

Contractor will provide the following monthly reports:

- Status reports provided to the DTIS Project Manager and the Court Management Systems Operations Committee.
- Time reporting provided to the DTIS Project Manager.

Tasks and deliverables will not be considered complete until the approval of the DTIS manager and the appropriate Criminal Justice Community personnel is obtained.

### **3. Reports**

Contractor shall submit written reports as requested by DTIS. Format for the content of such reports shall be determined by the DTIS. The timely submission of all reports is a necessary and material term and condition of this Agreement.

The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

### **4. Department Liaison**

In performing the services provided for in this Appendix, Contractor's liaison with DTIS will be the Technical Solutions Manager for Criminal Justice and Public Safety, Walt Calcagno.



**Appendix B  
Calculation of Charges**

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed five million two hundred eighty thousand dollars (\$5,280,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
  
2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$110
William Roth	Senior Programmer Analyst	\$110
Elizabeth Crossman	Senior Programmer	\$ 95
Paula Itaya	CMS Coordinator	\$50
  
3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractor's project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

City and County of San Francisco  
OFFICE OF CONTRACT ADMINISTRATION  
PURCHASING DIVISION  
**FOURTH AMENDMENT**

THIS AMENDMENT (this "Amendment") is made as of February 22, 2005, in San Francisco, California, by and between **Owens Information Systems** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein;

WHEREAS, approval for this Amendment was obtained from a Civil Services Commission Notice of Action for Contract Number 4043-04/05 on December 20, 2004;

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

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

**a. Agreement.** The term "Agreement" shall mean the:

Agreement	July 1, 2000 between Contractor and City, as amended by:
First Amendment	July 2, 2001, and
Second Amendment	February 20, 2002, and
Third Amendment	December 30, 2003.

**b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**a. Section 2, "Term of the Agreement."** Section 2 of the Agreement currently reads as follows:

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2004."

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

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2006."

- b. **Section 5, "Compensation."** Section 5 of the Agreement currently reads as follows:

Compensation shall be made within thirty days of the date that the DTIS Executive Director or designee, in his or her sole discretion, approves the Contractor's invoice for work performed in accordance with Section 4 above. In no event shall the amount of this Agreement exceed three million six hundred eighty dollars (\$3,680,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

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

Compensation shall be made within thirty days of the date that the DTIS Executive Director or designee, in his or her sole discretion, approves the Contractor's invoice for work performed in accordance with Section 4 above. In no event shall the amount of this Agreement exceed five million two hundred eighty thousand dollars (\$5,280,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

- c. **Section 53, "Limitations on Contributions."** Section 53 of the Agreement currently reads as follows:

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

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

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations of the contract until the later of either (1) the termination of negotiations for such contract or (2) three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

d. **Section 23, "Conflict of Interest."** Section 23 of the Agreement currently reads as follows:

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

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

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

e. **Section 56, "Prohibition on Political Activity with City Funds."** Section 56 is hereby added to the Agreement to read as follows:

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

f. **Section 57, "Nondisclosure of Private Information."** Section 57 is hereby added to the Agreement to read as follows:

As of March 5, 2005, Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private

Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

- (a) Neither Contractor nor any of its Subcontractors shall disclose Private Information obtained in the performance of this Agreement to any other Subcontractor, person, or other entity, unless one of the following is true:
  - (i) The disclosure is authorized by this Agreement;
  - (ii) The Contractor received advance written approval from the Contracting Department to disclose the information; or
  - (iii) The disclosure is required by law or judicial order.
- (b) Any disclosure or use of Private Information authorized by this Agreement shall be in accordance with any conditions or restrictions stated in this Agreement. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.
- (c) Any failure of Contractor to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, debar Contractor, or bring a false claim action against Contractor.

g. **Appendix A, "Services to be Provided by Contractor."** The 12-30-03 version of Appendix A appears as the first three pages after this Amendment's signature page. It is replaced in its entirety by the 2-22-05 version, which appears as the fourth through sixth pages after this Amendment's signature page.

h. **Appendix B, "Calculation of Charges."** The 12-30-03 version of Appendix B appears as the seventh page after this Amendment's signature page. It is replaced in its entirety by the 2-22-05 version, which appears as the eighth page after this Amendment's signature page.

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

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

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

**CITY**

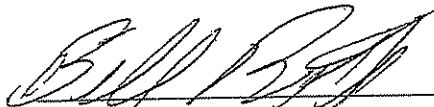
Recommended by:



\_\_\_\_\_  
Lewis W. Loeven III  
Executive Director  
Department of Telecommunications  
and Information Services

**CONTRACTOR**

**Owens Information Systems**



\_\_\_\_\_  
Bill Roth  
President

Approved as to Form:

Dennis J. Herrera  
City Attorney

By  \_\_\_\_\_  
Deputy City Attorney

Approved:



\_\_\_\_\_  
Naomi Little  
Director of Office of Contract Administration/  
Purchaser

**Appendix A  
Description of Services**

**1. Description of Services**

Services include CABLE applications support, maintenance and management for the Superior Court, Adult Probation, Juvenile Probation, Sheriff, Police, District Attorney and Public Defender departments.

- a. The Contractor agrees to perform the following tasks within the timeframes specified below, and to deliver the product or products specified at the completion of each task:
- b. In those cases where a reassignment is requested by an individual employee of the Contractor for personal reasons, the Contractor shall use its best efforts to furnish the City with at least fifteen days' advance written notice. In the event of termination of employment by an individual employee of the Contractor for any reason, the Contractor will endeavor to provide the City with as much advance notice as is reasonably possible. If the City requests, the Contractor will endeavor to replace reassigned or terminated employees within fifteen days.

**Task 1**

Time: Ongoing task during the term of contract.

Task Description: Maintain the Court Management System which included production support, problem resolution and system enhancements. Provide 24 hour on call support, when required.

Deliverables: System availability and completed service requests.

**Task 2**

Time: Ongoing task during the term of contract.

Task Description: Assist programming staff to perform analysis and programming modifications.

Deliverables: Attend meetings and provide descriptions of requested modifications.

**Task 3**

Time: Ongoing task during the term of contract.

Task Description: Provide City and County Criminal Justice Departments with Court Management System related reports.

Deliverables: Computer generated Court Management reports.

#### Task 4

Time: Ongoing task during the term of contract.

Task Description: Provide Coordination Support to the Court Management System Operations Committee. This includes coordination of meetings, agendas, service requests, preparation of minutes, and other projects as assigned by the Committee.

Deliverables: Monthly Minutes, Status Reports, Work Progress Reports.

#### Task 5

Time: Ongoing task during the term of contract.

Task Description: Participate fully in the CMS replacement project (JUSTIS) performing professional activities throughout the life cycle of the project.

Deliverables: As determined and agreed to according to the project plan.

## 2. Acceptance Criteria and Monthly Reporting

For Tasks 1, 2 and 5 in section 1 above, when the Contractor develops new software or modifies existing software, the following four acceptance criteria will apply:

- a. Programs written or modified must be well documented with contractor's initials, the date the program was modified or written, and functionality modified or written into the source code. Any new program development or modification to an existing program must be fully tested by the City to the City's satisfaction.
- b. Test scripts and documentation must to be produced for any major enhancement to an application. Routine programming changes must be tested through the standard CABLE testing procedures that have been put into place.
- c. Programs must be run through regression tests prior to their implementation into production.
- d. DTIS Change Request Forms must be submitted through the DTIS Change Management process whenever a new version of a program will be implemented in production.

Contractor will provide the following monthly reports:

- Status reports provided to the DTIS Project Manager and the Court Management Systems Operations Committee.
- Time reporting provided to the DTIS Project Manager.

Tasks and deliverables will not be considered complete until the approval of the DTIS manager and the appropriate Criminal Justice Community personnel is obtained.



**3. Reports**

Contractor shall submit written reports as requested by DTIS. Format for the content of such reports shall be determined by the DTIS. The timely submission of all reports is a necessary and material term and condition of this Agreement.

The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

**4. Department Liaison**

In performing the services provided for in this Appendix, Contractor's liaison with DTIS will be the Technical Solutions Manager for Criminal Justice and Public Safety, Walt Calcagno.

**Appendix B  
Calculation of Charges**

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed five million two hundred eighty thousand dollars (\$5,280,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.

2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$95
Jack Owens	Senior Programmer Analyst	\$95
William Roth	Senior Programmer Analyst	\$95
Elizabeth Crossman	Senior Programmer	\$82
Paula Itaya	CMS Coordinator	\$45

3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

**CITY AND COUNTY OF SAN FRANCISCO**  
OFFICE OF CONTRACT ADMINISTRATION  
PURCHASING DIVISION

**THIRD AMENDMENT**

THIS AMENDMENT ("Amendment") is made as of December 30, 2003, in San Francisco, California, by and between Owens Information Systems ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein;

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

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

a. **Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000, between Contractor and City, as amended by the First Amendment dated July 1, 2001, and the Second Amendment, dated February 20, 2002.

b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

a. **Section 2, "Term of the Agreement."** Section 2 of the Agreement currently reads as follows:

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2003."

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

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2004."

b. **Section 5, "Compensation."** Section 5 of the Agreement currently reads as follows:

Compensation shall be made in monthly payments on or before the 25th day of each month for work, as set forth in Section 4 of this Agreement, that the Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed two million nine hundred

fifty thousand (\$2,950,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

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

Compensation shall be made within thirty days of the date that the DTIS Executive Director or designee, in his or her sole discretion, approves the Contractor's invoice for work performed in accordance with Section 4 above. In no event shall the amount of this Agreement exceed three million six hundred eighty dollars (\$3,680,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

- c. **Section 23, "Conflict of Interest."** Section 23 of the Agreement currently reads as follows:

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of §15.103 and Appendix C 8.105 of City's Charter and §87100 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

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

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

- d. **Section 53, "Notification of Limitation on Contributions."** Section 53 of the Agreement currently reads as follows:

This paragraph applies if this Amendment is in excess of \$50,000 and is for: (1) personal services; or (2) the selling or furnishing of any material, supplies or equipment; or (3) any combination of personal services and the selling or furnishing of any material, supplies or equipment. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 3.700 *et seq.*, and San Francisco Ethics Commission Regulations 3.710(a)-1-3.730-1, prohibit the public officials who approved this Amendment from receiving: (1) gifts, honoraria, emoluments or pecuniary benefits of a value in excess of \$50; (2) any employment for compensation; or (3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are "public benefit recipients" of the contract. Public benefit recipients of the contract are: (1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the contract; (2) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time this Amendment is executed; or (3) an individual who is a trustee, director, partner or officer of the contracting party at the time this Amendment is executed.

Contractor understands that any public official who approved this Amendment may not accept campaign contributions, gifts, or future employment from Contractor except as provided under the Conduct Code. Contractor agrees to notify any other individuals or entities that may be deemed "public benefit recipients" under the Conduct Code because of this Amendment. Upon request, Contractor agrees to furnish, before this Amendment is entered into, such information as any public official approving this Amendment may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City agrees to provide, before this Amendment is entered into, Contractor with a list of public officials who, under the Conduct Code, will approve this Amendment. Failure of any public official who approved this Amendment to abide by the Conduct Code shall not constitute a breach by either the City or Contractor of this contract. Notwithstanding anything to the contrary in this contract, neither party shall have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph.

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

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

e. **Preservative-treated Wood Containing Arsenic.** Section 54 is hereby added to the agreement, as follows:

**54. Preservative-treated Wood Containing Arsenic**

As of July 1, 2003, Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of Environment under Section 1304 of the Environment 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.

- f. **Services Provided by Attorneys.** Section 55 is hereby added to the Agreement, as follows:

**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.

- g. **Appendix A, “Description of Services,” and Appendix B, “Calculation of Charges.”**

The 2-20-02 versions of Appendices A and B appear as the first through fourth pages after this Amendment’s signature page. They are replaced in their entirety by the 12-30-03 versions, which appear as the fifth through eighth pages after this Amendment’s signature page.

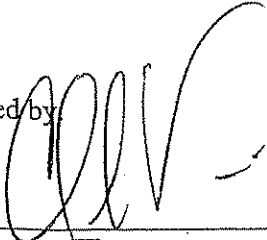
3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after December 30, 2003.

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

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

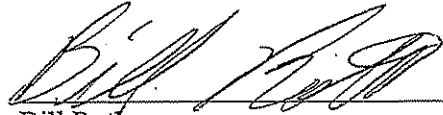
CITY

Recommended by:



\_\_\_\_\_  
Lewis W. Loeven III  
Executive Director  
Department of Telecommunications  
and Information Services

Owens Information Systems

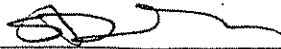


\_\_\_\_\_  
Bill Roth  
President

Approved as to Form:

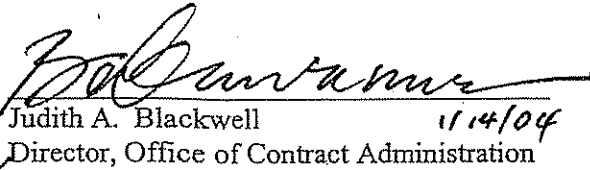
Dennis J. Herrera  
City Attorney

By



\_\_\_\_\_  
Deputy City Attorney

Approved:



\_\_\_\_\_  
Judith A. Blackwell 11/14/04  
Director, Office of Contract Administration

**Appendix A**  
**Description of Services**

**1. Description of Services**

Services include CABLE applications support, maintenance and management for the Superior Court, Adult Probation, Juvenile Probation, Sheriff, Police, District Attorney and Public Defender departments.

- a. The Contractor agrees to perform the following tasks within the timeframes specified below, and to deliver the product or products specified at the completion of each task.
- b. In those cases where a reassignment is requested by an individual employee of the Contractor for personal reasons, the Contractor shall use its best efforts to furnish the City with at least fifteen days' advance written notice. In the event of termination of employment by an individual employee of the Contractor for any reason, the Contractor will endeavor to provide the City with as much advance notice as is reasonably possible. If the City requests, the Contractor will endeavor to replace reassigned or terminated employees within fifteen days.

**Task 1**

Time: Ongoing task during the term of contract.

Task Description: Maintain the Court Management System which included production support, problem resolution and system enhancements. Provide 24 hour on call support, when required.

Deliverables: System availability and completed service requests.

**Task 2**

Time: Ongoing task during the term of contract.

Task Description: Assist programming staff to perform analysis and programming modifications.

Deliverables: Attend meetings and provide descriptions of requested modifications.

**Task 3**

Time: Ongoing task during the term of contract.

Task Description: Provide City and County Criminal Justice Departments with Court Management System related reports.

Deliverables: Computer generated Court Management reports.



#### Task 4

Time: Ongoing task during the term of contract.

Task Description: Provide Coordination Support to the Court Management System Operations Committee. This includes coordination of meetings, agendas, service requests, preparation of minutes, and other projects as assigned by the Committee.

Deliverables: Monthly Minutes, Status Reports, Work Progress Reports.

#### Task 5

Time: Ongoing task during the term of contract.

Task Description: Participate fully in the CMS replacement project (JUSTIS) performing professional activities throughout the life cycle of the project.

Deliverables: As determined and agreed to according to the project plan.

## 2. Acceptance Criteria and Monthly Reporting

For Tasks 1, 2 and 5 in section 1 above, when the Contractor develops new software or modifies existing software, the following four acceptance criteria will apply:

- a. Programs written or modified must be well documented with contractor's initials, the date the program was modified or written, and functionality modified or written into the source code. Any new program development or modification to an existing program must be fully tested.
- b. Test scripts and documentation must to be produced for any major enhancement to an application. Routine programming changes must be tested through the standard CABLE testing procedures that have been put into place.
- c. Programs must be run through regression tests prior to their implementation into production.
- d. DTIS Change Request Forms must be submitted through the DTIS Change Management process whenever a new version of a program will be implemented in production.

Contractor will provide the following monthly reports:

- Status reports provided to the DTIS Project Manager and the Court Management Systems Operations Committee.
- Time reporting provided to the DTIS Project Manager.

Tasks and deliverables will not be considered complete until the approval of the DTIS manager and the appropriate Criminal Justice Community personnel is obtained.

**3. Reports**

Contractor shall submit written reports as requested by DTIS. Format for the content of such reports shall be determined by the DTIS. The timely submission of all reports is a necessary and material term and condition of this Agreement.

The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

**4. Department Liaison**

In performing the services provided for in this Appendix, Contractor's liaison with DTIS will be the Technical Solutions Manager for Criminal Justice and Public Safety, Walt Calcagno.

**Appendix B  
Calculation of Charges**

1. The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed three million six hundred eighty thousand dollars (\$3,680,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
  
2. The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

Patrick L. Owens	Senior Programmer Analyst	\$95
Jack Owens	Senior Programmer Analyst	\$95
William Roth	Senior Programmer Analyst	\$95
Elizabeth Crossman	Senior Programmer	\$82
Paula Itaya	CMS Coordinator	\$45
  
3. The Director of DTIS has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of DTIS, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.

HRC FORM 10  
CONTRACT AMENDMENT, MODIFICATION OR SUPPLEMENTAL CHANGE ORDERS

Submit this form, along with the required supporting documentation, when processing the first contract amendment, modification, supplement or change order that cumulatively increases the original contract amount by more than 20%, and then for all subsequent requests. (This provision applies only to contracts originally valued at \$25,000 or more).

Name of Project: Owens Information Systems  
Original Contract Amount: \$ 915,000  
Contract Amount as Modified to Date: 2,950,000  
Amount of current Modification Request: 730,000 (third amendment; total \$3,680,000 as amended)

REQUIRED ATTACHMENTS:

- 1. Revised HRC Form 2A, reflecting the new overall contract amounts for the prime consultant, joint venture partners and subconsultants.

Not applicable. The contract does not involve JV partners or subconsultants.

- 2. A list of all prior contract amendments, modifications, supplements and/or change orders leading up to this modification, including those leading up to the amendment which increased the original contract amount by more than 20%.

First amendment: July 1, 2001 increased contract amount from \$915,000 to \$1,372,499 and extended performance through 12-31-01.

Second amendment March 7, 2002 increased contract amount to \$2,950,000 and extended performance through 12-31-03.

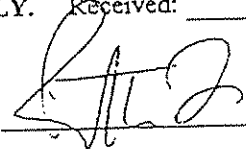
- 3. A list of the consultants and subconsultants working on this amendment, modification, supplement or change order with the contract dollars for each individual firm.

Not applicable. The contractor does all of the work under the contract.

- 4. A brief description of the work to be performed under this amendment, modification, supplement or change order.

In support of the Trial Courts, Adult Probation, Juvenile Probation, Sheriff, Police, District Attorney and Public Defender departments, contractor will continue its duties in the original contract's scope of work: maintain Court Management System (CMS), with 24-hour on-call support; assist with system analysis and modifications; produce CMS reports; provide support to Court Management Policy Committee; perform technical project management and system development of the Adult Probation Women's Treatment Network project; support the CMS replacement project.

Contractor Owner/Authorized Representative: Patrick Owens  
Phone: (650) 345-2469  
Date: December 17, 2003

FOR HRC USE ONLY. Received: \_\_\_\_\_  
APPROVED:   
HRC Representative: \_\_\_\_\_ Date: 12/18/03

**CITY AND COUNTY OF SAN FRANCISCO**  
OFFICE OF CONTRACT ADMINISTRATION

**SECOND AMENDMENT**

THIS AMENDMENT ("Amendment") is made as of February 20, 2002, in San Francisco, California, by and between **Owens Information Systems** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration,

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein,

NOW, THEREFORE, City and Contractor agree as follows:

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

(a) **Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000 between Contractor and City, as modified by the First Amendment, dated July 1, 2001.

(b) **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

(a) **Section 2, "Term of the Agreement."** Section 2 of the Agreement currently reads as follows:

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2001."

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

"Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2003."

(b) **Section 5, "Compensation."** Section 5 of the Agreement currently reads as follows:

"Compensation shall be made in monthly payments on or before the 25th day of each month for work, as set forth in Section 4 of this Agreement, that the Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed one million three hundred seventy two thousand four hundred ninety nine dollars, (\$1,372,499). The breakdown of costs associated with this Agreement appears in

Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

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

"Compensation shall be made in monthly payments on or before the 25th day of each month for work, as set forth in Section 4 of this Agreement, that the Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed two million nine hundred fifty thousand dollars (\$2,950,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

(c) **Appendix A, Paragraph 1.** In Appendix A, a new sentence is being added in Paragraph 1, "Description of Services," before item 1(a), as follows:

"Services to be provided by Contractor to City include CABLE applications support, maintenance and management for the Trial Courts, Adult Probation, Juvenile Probation, Sheriff, Police, District Attorney and Public Defender departments."

(d) **Appendix A, new paragraph 2, "Acceptance Criteria and other Duties."** In Appendix A, "Description of Services," a new paragraph 2, "Acceptance Criteria and Monthly Reporting," is being added. Current paragraphs 2, "Reports," and 3, "Department Liaison," are being renumbered as 3, "Reports," and 4, "Department Liaison." The new paragraph 2 reads as follows:

## **"2. Acceptance Criteria and Monthly Reporting.**

"For Tasks 1, 2 and 6 in section 1 above, when the Contractor develops new software or modifies existing software, the following four acceptance criteria will apply:

1. Programs written or modified must be well documented with contractor's initials, the date the program was modified or written, and functionality modified or written into the source code. Any new program development or modification to an existing program must be fully tested.

2. Test scripts and documentation must to be produced for any major enhancement to an application. Routine programming changes must be tested through the standard CABLE testing procedures that have been put into place.
3. Programs must be run through regression tests prior to their implementation into production.
4. Change Control forms must be submitted through the DTIS Change Management process whenever a new version of a program will be implemented in production.

“Contractor will provide the following monthly reports:

- Status reports provided to the DTIS Project Manager and the Court Management Committee.
- Time reporting provided to the DTIS Project Manager.

“Tasks and deliverables will not be considered complete until the approval of the DTIS manager and the appropriate Court Management Committee personnel is obtained.”

(e) **Appendix B, Calculation of Charges.** Appendix B, “Calculation of Charges,” currently reads as follows:

“PAYMENT

- “a) The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate(s) as specified in the schedule below. The Contractor’s employee(s) assigned to the project(s) shall be paid only for hours worked. The total fee paid under this agreement shall not exceed one million three hundred seventy-two thousand four hundred ninety-nine eight hundred thousand dollars (\$1,372,499). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
- “b) The following employee(s) of the Contractor will be assigned to the project(s) described above at the stated rate(s) per-hour.

<u>Patrick L. Owens</u> Name	<u>Project Manager</u> Title	<u>\$95.00</u> Hourly Rate
<u>William Roth</u> Name	<u>Senior Programmer Analyst</u> Title	<u>\$95.00</u> Hourly Rate
<u>Elizabeth Crossman</u> Name	<u>Senior Programmer</u> Title	<u>\$82.00</u> Hourly Rate
<u>Paula Itaya</u> Name	<u>CMS Coordinator</u> Title	<u>\$45.00</u> Hourly Rate

“c) The Director of the Department of Telecommunications & Information Services has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of the Department of Telecommunications & Information Services, in each instance will be provided with a resume of the proposed substitution(s) and given an opportunity to interview the person.”

Such section is hereby revised in its entirety as follows:

**“Payment**

“(a) The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rates as specified in the schedule below. The Contractor’s employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed two million nine hundred fifty thousand dollars (\$2,950,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.

“(b) The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

<u>Patrick L. Owens</u> Name	<u>Project Manager</u> Title	<u>\$95.00</u> Hourly Rate
<u>William Roth</u> Name	<u>Senior Programmer Analyst</u> Title	<u>\$95.00</u> Hourly Rate
<u>Elizabeth Crossman</u> Name	<u>Senior Programmer</u> Title	<u>\$82.00</u> Hourly Rate
<u>Paula Itaya</u> Name	<u>CMS Coordinator</u> Title	<u>\$45.00</u> Hourly Rate

“(c) The Director of the Department of Telecommunications & Information Services has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of the Department of Telecommunications & Information Services, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person.”

(f) **Notification of Limitations on Contributions.** Section 53 is hereby added to the Agreement, as follows:

**“53. Notification of Limitations on Contributions**

“This paragraph applies if this Amendment is in excess of \$50,000 and is for: (1) personal services; or (2) the selling or furnishing of any material, supplies or equipment; or (3) any combination of personal services and the selling or furnishing of any material, supplies or equipment. San Francisco Campaign and Governmental Conduct Code (the “Conduct Code”) Section 3.700 *et. seq.*, and San Francisco Ethics Commission Regulations 3.710(a)-1 – 3.730-1, prohibit the public officials who approved this Amendment from receiving: (1) gifts, honoraria, emoluments or pecuniary benefits of a



value in excess of \$50; (2) any employment for compensation; or (3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are "public benefit recipients" of the contract. Public benefit recipients of the contract are: (1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the contract; (2) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time this Amendment is executed; or (3) an individual who is a trustee, director, partner or officer of the contracting party at the time this Amendment is executed.

"Contractor understands that any public official who approved this Amendment may not accept campaign contributions, gifts, or future employment from Contractor except as provided under the Conduct Code. Contractor agrees to notify any other individuals or entities that may be deemed "public benefit recipients" under the Conduct Code because of this Amendment. Upon request, Contractor agrees to furnish, before this Amendment is entered into, such information as any public official approving this Amendment may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City agrees to provide, before this Amendment is entered into, Contractor with a list of public officials who, under the Conduct Code, will approve this Amendment. Failure of any public official who approved this Amendment to abide by the Conduct Code shall not constitute a breach by either the City or Contractor of this contract. Notwithstanding anything to the contrary in this contract, neither party shall have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph."

(f) **Section 41, "Prohibiting City Business with Burma."** Section 41 of the Agreement is hereby deleted in its entirety.

**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after January 1, 2002.

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

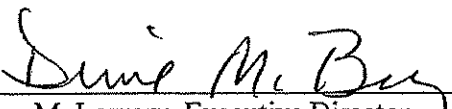
IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

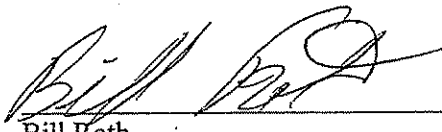
**CITY**

**CONTRACTOR**

Recommended by:

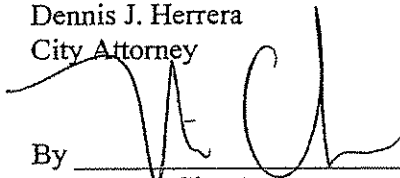
**Owens Information Systems**

  
\_\_\_\_\_  
Liza M. Lowery, Executive Director  
Department of Telecommunications and  
Information Services


  
\_\_\_\_\_  
Bill Roth  
President

Approved as to Form: \_\_\_\_\_

Dennis J. Herrera  
City Attorney

  
By \_\_\_\_\_  
Deputy City Attorney

Approved:

  
\_\_\_\_\_  
Judith A. Blackwell 3/14/02  
Director, Office of Contract Administration

## Appendix A

### Description of Services

SERVICE ORDER NUMBER: 1 TYPE OF ORDER: Time and  
Materials  
DATE OF ORDER: July 1, 2001 AMOUNT: \$800,000  
PROJECT NUMBER(S): 888SIR, 888COR, 111NWK  
TERM OF SERVICE ORDER: July 1, 2001 - June 30, 2002

#### 1. Description of Services

“Services to be provided by Contractor to City include CABLE applications support, maintenance and management for the Trial Courts, Adult Probation, Juvenile Probation, Sheriff, Police, District Attorney and Public Defender departments.”

- a. The Contractor agrees to perform the following tasks within the timeframes specified below, and to deliver the product or products specified at the completion of each task.
- b. In those cases where a reassignment is requested by an individual employee of the Contractor for personal reasons, the Contractor shall use its best efforts to furnish the City with at least fifteen (15) days advance written notice. In the event of termination of employment by an individual employee of the Contractor for any reason, the Contractor will endeavor to provide the City with as much advance notice as is reasonably possible. If the City requests, the Contractor will endeavor to replace reassigned or terminated employees within fifteen (15) days.

#### TASK #ONE

Time: Ongoing task during the term of contract.

Task Description: Maintain the Court Management System which included production support, problem resolution and system enhancements. Provide 24 hour on call support, when required.

Deliverables: System availability and completed service requests.

#### TASK #TWO

Time: Ongoing task during the term of contract.

Task Description: Assist programming staff to perform analysis and programming modifications.

Deliverables: Attend meetings and provide descriptions of requested modifications.

#### TASK #THREE

Time: Ongoing task during the term of contract.

Task Description: Provide City and County Criminal Justice Departments with Court Management System related reports.

Deliverables: Computer generated Court Management reports.

TASK #FOUR

Time: Ongoing task during the term of contract.

Task Description: Provide Coordination Support to the Court Management Policy Committee. This includes coordination of meetings, agendas, service requests, preparation of minutes, and other projects as assigned by the Committee.

Deliverables: Month Minutes, Status Reports, Work Progress Reports.

TASK #FIVE

Time: Ongoing task during the term of contract.

Task Description: Carryout technical project management and system development of the Adult Probation Women's Treatment Network project.

Deliverables: Fully tested and implemented production programs.

TASK #SIX

Time: Ongoing task during the term of contract.

Task Description: Participate fully in the CMS replacement project (JUSTIS) performing professional activities throughout the life cycle of the project.

Deliverables: As determined and agreed to according to the project plan.

**2. Acceptance Criteria and Monthly Reporting.**

For Tasks 1, 2 and 6 in section 1 above, when the Contractor develops new software or modifies existing software, the following four acceptance criteria will apply:

1. Programs written or modified must be well documented with contractor's initials, the date the program was modified or written, and functionality modified or written into the source code. Any new program development or modification to an existing program must be fully tested.
2. Test scripts and documentation must to be produced for any major enhancement to an application. Routine programming changes must be tested through the standard CABLE testing procedures that have been put into place.
3. Programs must be run through regression tests prior to their implementation into production.

4. Change Control forms must be submitted through the DTIS Change Management process whenever a new version of a program will be implemented in production.

Contractor will provide the following monthly reports:

- Status reports provided to the DTIS Project Manager and the Court Management Committee.
- Time reporting provided to the DTIS Project Manager.

Tasks and deliverables will not be considered complete until the approval of the DTIS manager and the appropriate Court Management Committee personnel is obtained.

### **3. Reports**

Contractor shall submit written reports as requested by the Department of Telecommunications & Information Services. Format for the content of such reports shall be determined by the Department of Telecommunications & Information Services. The timely submission of all reports is a necessary and material term and condition of this Agreement.

The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

### **4. Department Liaison**

In performing the services provided for in this Appendix, Contractor's liaison with the Department of Telecommunications & Information Services will be Ron Hass.

## Appendix B

### Calculation of Charges

#### Payment

- (a) The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rates as specified in the schedule below. The Contractor's employees assigned to the projects shall be paid only for hours worked. The total fee paid under this agreement shall not exceed two million nine hundred fifty thousand dollars (\$2,950,000). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
- (b) The following employees of the Contractor will be assigned to the projects described above at the stated rates per hour.

<u>Patrick L. Owens</u> Name	<u>Project Manager</u> Title	<u>\$95.00</u> Hourly Rate
<u>William Roth</u> Name	<u>Senior Programmer Analyst</u> Title	<u>\$95.00</u> Hourly Rate
<u>Elizabeth Crossman</u> Name	<u>Senior Programmer</u> Title	<u>\$82.00</u> Hourly Rate
<u>Paula Itaya</u> Name	<u>CMS Coordinator</u> Title	<u>\$45.00</u> Hourly Rate

- (c) The Director of the Department of Telecommunications & Information Services has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of the Department of Telecommunications & Information Services, in each instance will be provided with a resume of the proposed substitutions and given an opportunity to interview the person."

**CITY AND COUNTY OF SAN FRANCISCO**  
PURCHASING DEPARTMENT

**FIRST AMENDMENT**

THIS AMENDMENT (this "Amendment") is made as of July 1, 2001, in San Francisco, California, by and between Owens Information Systems, Inc. ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of Purchasing,

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein;

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

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

(a) **Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2000 between Contractor and City.

(b) **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

(a) **Section 2 – Term of the Agreement.** Section 2 of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to June 30, 2001.

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

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to December 31, 2001.

(b) **Section 5 – Compensation.** Section 5 of the Agreement currently reads as follows:

Compensation shall be made in monthly payments on or before the 25<sup>th</sup> day of each month for work, as set forth in Section 4 of this Agreement, that the Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed nine hundred fifteen thousand dollars, (\$915,000.00). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

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

Compensation shall be made in monthly payments on or before the 25<sup>th</sup> day of each month for work, as set forth in Section 4 of this Agreement, that the Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed one million three hundred seventy two thousand four hundred ninety nine dollars, (\$1,372,499.00). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

(c) **Appendix B – Calculation of Charges.** Appendix B currently reads as follows:

**PAYMENT**

- a) The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate(s) as specified in the schedule below. The Contractor's employee(s) assigned to the project(s) shall be paid only for hours worked. The total fee paid under this agreement shall not exceed nine hundred fifteen thousand dollars (\$915,000.00). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
- b) The following employee(s) of the Contractor will be assigned to the project(s) described above at the stated rate(s) per-hour.

Patrick L. Owens	Project Manager	\$90.00
Name	Title	Hourly Rate
William Roth	Senior Programmer Analyst	\$90.00
Name	Title	Hourly Rate
Elizabeth Crossman	Senior Programmer	\$75.00
Name	Title	Hourly Rate
Paula Itaya	CMS Coordinator	\$45.00
Name	Title	Hourly Rate



- c) The Director of the Department of Telecommunications & Information Services has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of the Department of Telecommunications & Information Services, in each instance will be provided with a resume of the proposed substitution(s) and given an opportunity to interview the person.

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

**PAYMENT**

- a) The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate(s) as specified in the schedule below. The Contractor's employee(s) assigned to the project(s) shall be paid only for hours worked. The total fee paid under this agreement shall not exceed one million three hundred seventy two thousand four hundred ninety-nine dollars (\$1,372,499.00). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
- b) The following employee(s) of the Contractor will be assigned to the project(s) described above at the stated rate(s) per-hour.

Patrick L. Owens	Project Manager	\$95.00
Name	Title	Hourly Rate
William Roth	Senior Programmer Analyst	\$95.00
Name	Title	Hourly Rate
Elizabeth Crossman	Senior Programmer	\$82.00
Name	Title	Hourly Rate
Paula Itaya	CMS Coordinator	\$45.00
Name	Title	Hourly Rate

- c) The Director of the Department of Telecommunications & Information Services has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of the Department of Telecommunications & Information Services, in each instance will be provided with a resume of the proposed substitution(s) and given an opportunity to interview the person.

**(d) Requiring Minimum Compensation for Employees.** Section 51 is hereby added to the Agreement, as follows:

**51. Requiring Minimum Compensation for Covered Employees**

Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.ci.sf.ca.us/MCO](http://www.ci.sf.ca.us/MCO). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, Contractor agrees to all of the following:

- (a) For each hour worked by a Covered Employee during a Pay Period on work funded under the City contract during the term of this Agreement, Contractor shall provide to the Covered Employee no less than the Minimum Compensation, which includes a minimum hourly wage and compensated and uncompensated time off consistent with the requirements of the MCO. For the hourly gross

compensation portion of the MCO, the Contractor shall pay \$9.00 an hour through December 31, 2001. On January 1, 2002, Contractor shall increase the hourly gross compensation to \$10.00 an hour; provided, however, that if Contractor is a Nonprofit Corporation or a public entity, it shall be required to pay the increased amount only if the City makes the finding required by Section 12P.3(a)(ii) of the San Francisco Administrative Code. If Contractor is required to increase the gross hourly compensation to \$10.00 an hour, it shall provide the 2.5% annual increase required by the MCO for each of the next three years.

(b) Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to Contractor's compliance or anticipated compliance with the requirements of the MCO, for opposing any practice proscribed by the MCO, for participating in proceedings related to the MCO, or for seeking to assert or enforce any rights under the MCO by any lawful means.

(c) Contractor understands and agrees that the failure to comply with the requirements of the MCO shall constitute a material breach by Contractor of the terms of this Agreement. The City, acting through the Contracting Department, shall determine whether such a breach has occurred.

(d) 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, acting through the Contracting Department, shall have the right to pursue the following rights or remedies and any rights or remedies available under applicable law:

- (1) The right to charge Contractor an amount equal to the difference between the Minimum Compensation and any compensation actually provided to a Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law;
- (2) The right to set off all or any portion of the amount described in Subsection (d)(1) of this Section against amounts due to Contractor under this Agreement;
- (3) The right to terminate this Agreement in whole or in part;
- (4) In the event of a breach by Contractor of the covenant referred to in Subsection (b) of this Section, the right to seek reinstatement of the employee or to obtain other appropriate equitable relief; and
- (5) The right to bar Contractor from entering into future contracts with the City for three years.

Each of the rights provided in this Subsection (d) shall be exercisable individually or in combination with any other rights or remedies available to the City. Any amounts realized by the City pursuant to this subsection shall be paid to the Covered Employee who failed to receive the required Minimum Compensation.

(e) 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.

(f) Contractor shall keep itself informed of the current requirements of the MCO, including increases to the hourly gross compensation due Covered Employees under the MCO, and shall provide prompt written notice to all Covered Employees of any increases in compensation, as well as any written

communications received by the Contractor from the City, which communications are marked to indicate that they are to be distributed to Covered Employees.

(g) Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the MCO, including reports on subcontractors.

(h) The Contractor shall provide the City with access to pertinent records after receiving a written request from the City to do so and being provided at least five business days to respond.

(i) The City may conduct random audits of Contractor. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten days of the written notice; and (iv) limited to one audit of Contractor every two years for the duration of this Agreement. Nothing in this Agreement is intended to preclude the City from investigating any report of an alleged violation of the MCO.

(j) 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. A subcontract means an agreement between the Contractor and a third party which requires the third party to perform all or a portion of the services covered by this Agreement. Contractor shall notify the Department of Administrative Services when it enters into such a subcontract and shall certify to the Department of Administrative Services that it has notified the subcontractor of the obligations under the MCO and has imposed the requirements of the MCO on the subcontractor through the provisions of the subcontract. 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.

(k) Each Covered Employee is a third-party beneficiary with respect to the requirements of subsections (a) and (b) of this Section, and may pursue the following remedies in the event of a breach by Contractor of subsections (a) and (b), but only after the Covered Employee has provided the notice, participated in the administrative review hearing, and waited the 21-day period required by the MCO. Contractor understands and agrees that if the Covered Employee prevails in such action, the Covered Employee may be awarded: (1) an amount equal to the difference between the Minimum Compensation and any compensation actually provided to the Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law; (2) in the event of a breach by Contractor of subsections (a) or (b), the right to seek reinstatement or to obtain other appropriate equitable relief; and (3) in the event that the Covered Employee is the prevailing party in any legal action or proceeding against Contractor arising from this Agreement, the right to obtain all costs and expenses, including reasonable attorney's fees and disbursements, incurred by the Covered Employee. Contractor also understands that the MCO provides that if Contractor prevails in any such action, Contractor may be awarded costs and expenses, including reasonable attorney's fees and disbursements, from the Covered Employee if the court determines that the Covered Employee's action was frivolous, vexatious or otherwise an act of bad faith.

(l) 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 (\$50,000 for nonprofits), 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 (\$50,000 for nonprofits) in the fiscal year.

(m) **Effect of MCO on Agreement.** As of the date of this amendment, the Agreement is subject to MCO. Contractor is not required to provide MCO benefits retroactively to the start date of the Agreement.

(n) **Effect of MCO on other contracts between Contractor and City.** As of the date of this Amendment, all contracts now in force between Contractor and City are subject to MCO, unless an exemption (except for dollar amount) or waiver applied to the contract. For example, if a contract was signed before the effective date of the MCO, it does not become subject to MCO by virtue of this amendment. However, if a contract was signed after the effective date of MCO and was exempt because the cumulative dollar amount of all contracts between Contractor and the City department was below \$25,000 (or \$50,000 for a non-profit Contractor), then it becomes subject to MCO by virtue of this Amendment.

(e) **Requiring Health Benefits for Employees.** Section 52 is hereby added to the Agreement, as follows:

**52. Requiring Health Benefits for Covered Employees**

Unless exempt, 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 herein by reference and made a part of this agreement as though fully set forth. The text of the HCAO is available on the web at [www.ci.sf.ca.us/HCAO](http://www.ci.sf.ca.us/HCAO). 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(d) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5(f)(1-5). 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 Purchasing Department when it enters into such a Subcontract and shall certify to the Purchasing Department 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 compliance or anticipated compliance 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.

(i) Contractor shall keep itself informed of the current requirements of the HCAO.

(j) 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.

(k) 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 five business days to respond.

(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.

3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after July 1, 2001.

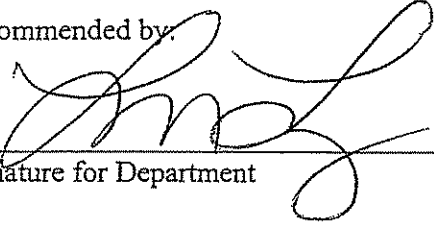
4. **Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

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

**CITY**

**CONTRACTOR**

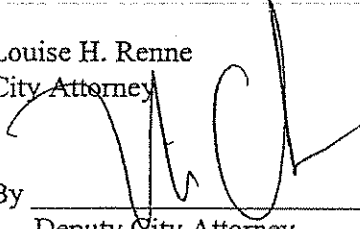
Recommended by:

  
\_\_\_\_\_  
Signature for Department


Liza M. Lowery  
Printed Name

Executive Director, DTIS  
Title and Department

Approved as to Form:


Louise H. Renne  
City Attorney  
  
By \_\_\_\_\_  
Deputy City Attorney

Approved:

  
\_\_\_\_\_  
Judith A. Blackwell  
Director, Office of Contract Administration

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

Owens Information Systems, Inc.

By   
\_\_\_\_\_  
Title President

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

Agreement between the City and County of San Francisco and

**Owens Information Systems, Inc.**

This Agreement is made this 1<sup>st</sup> day of July, 2000, in the City and County of San Francisco, State of California, by and between: **Owens Information Systems, Inc., 728 Nina Lane, Foster City, CA 94404**, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of Purchasing or the Director's designated agent, hereinafter referred to as "Purchasing."

**Recitals**

WHEREAS, the Department of Telecommunications and Information Services ("Department") wishes to contract for professional services; and,

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

WHEREAS, approval for said Agreement was obtained from a Civil Service Commission Notice of Action for Contract Number 4191-99/00 on June 5, 2000;

Now, THEREFORE, the parties agree as follows:

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

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

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

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

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

**2. Term of the Agreement**

Subject to Section 1, the term of this Agreement shall be from July 1, 2000 to June 30, 2001.

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

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

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

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

### 5. **Compensation**

Compensation shall be made in monthly payments on or before the 25<sup>th</sup> day of each month for work, as set forth in Section 4 of this Agreement, that the Director, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **nine hundred fifteen thousand dollars, (\$915,000.00)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

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

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

### 6. **Guaranteed Maximum Costs**

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

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

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

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

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

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

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



## 8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §6.57, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

## 9. Disallowance – Left blank by agreement of the parties.

## 10. Taxes

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

b. If this Agreement entitles Contractor to the possession, occupancy or use of City real property for private gain, then the following provisions apply:

- (1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that this Agreement may create a possessory interest subject to property taxation and Contractor, and any permitted successor or assign, may be subject to the payment of such taxes.
- (2) Contractor, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or other extension of this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Contractor shall report any assignment or other transfer of any interest in this Agreement or any renewal or extension thereof to the County Assessor within sixty days after such assignment, transfer, renewal or extension.
- (3) 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 under applicable law with respect to possessory interests.

## 11. Payment Does Not Imply Acceptance of Work

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

## 12. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of

personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

### 13. Responsibility for Equipment

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

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

a. 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 is liable for the acts and omissions of itself, its employees and its agents. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and 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.

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

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

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

### 15. Insurance

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

- (1) Workers' Compensation, with Employers' Liability Limits not less than \$1,000,000 each accident; and
- (2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- (3) In consideration of deletion of the requirement for Automobile Liability Insurance Contractor warrants that Contractor will not operate or cause to be operated any vehicle in performance of services under this contract.

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

- (1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
- (2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall provide thirty (30) days' advance written notice to City of cancellation mailed to the following address:

**Shawn Allison, Contract Administrator  
Department of Telecommunications and Information Services  
875 Stevenson Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103**

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

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

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

g. Before commencing any operations under this Agreement, Contractor must furnish to City certificates of insurance, in form and with insurers satisfactory to City, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon City request.

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

## 16. Indemnification

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, 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, resulting directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, the use of Contractor's facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent,

which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

**17. Incidental and Consequential Damages**

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

**18. Liability of City**

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

**19. Liquidated Damages – Left blank by agreement of the parties.**

**20. Default; Remedies**

- a. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:
- (1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 42 or 49.
  - (2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten (10) days after written notice thereof from City to Contractor.
  - (3) Contractor (A) is generally not paying its debts as they become due, (B) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (C) makes an assignment for the benefit of its creditors, (D) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (E) takes action for the purpose of any of the foregoing.
  - (4) A court or government authority enters an order (A) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (B) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (C) ordering the dissolution, winding-up or liquidation of Contractor.

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all

or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

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

## 21. Termination for Convenience

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

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

- (1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.
- (2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- (3) Terminating all existing orders and subcontracts.
- (4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- (5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- (6) Completing performance of any services or work which City designates to be completed prior to the date of termination specified by City.
- (7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

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

- (1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of ten percent (10%) of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.
- (2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5 percent (5%) of such cost.

- (3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.
- (4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City and any other appropriate credits to City against the cost of the services or other work.

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

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

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

## 22. Rights and Duties Upon Termination or Expiration

a. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 8, 9, 10, 11, 13, 14, 16, 17, 18, 24, 25, 26, 27, 28, 30, 43, 45 through 48, and 50.

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

## 23. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of §15.103 and Appendix C 8.105 of City's Charter and §87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

## 24. Proprietary or Confidential Information of City

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

**25. Notices to the Parties**

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

To City: Shawn Allison, Contract Administrator  
Department of Telecommunications & Information Services  
875 Stevenson Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103  
Shawn\_Allison@ci.sf.ca.us  
(415) 554-4730

To Contractor: Owens Information Systems, Inc.  
728 Nina Lane,  
Foster City, CA 94404  
Fax: (415) 553-9870

Any notice of default must be sent by registered mail.

**26. Ownership of Results**

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

**27. Works for Hire**

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

**28. Audit and Inspection of Records**

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

**29. Subcontracting**

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in

the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

### 30. Assignment

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

### 31. Year 2000 Warranty

With respect to its ability to perform its obligations under this Agreement, Contractor represents and warrants that it will:

- a. not permit a Year 2000 problem to computer systems or equipment owned, operated, licensed, leased, or controlled by it, or its affiliates or subsidiaries, to interfere with its ability to perform this contract;
- b. use commercially reasonable efforts to share information and otherwise fully cooperate with City to minimize the impact of any Year 2000 problem on its ability to perform;
- c. promptly notify City in writing of any facts or circumstances that give it reasonable basis to expect that a Year 2000 problem may adversely affect its ability to perform; and
- d. include in any existing or future contracts with its own subcontractors which are needed to fulfill its obligations under this Agreement, language substantially similar to the language of this Section to legally bind such subcontractors in the same manner as Contractor is bound to City herein, and to cause such subcontractors to include substantially similar languages in contracts with any subcontractors.

A "Year 2000 problem" for the purposes of this Section means a date handling problem arising out of or relating to the Year 2000 date change that would make software, a computer system, or a piece of equipment incapable of correctly processing, providing interfacing, exchanging, and/or receiving accurate date-related data for the dates within and between the twentieth and twenty-first centuries and all other centuries.

### 32. EIC Forms

- a. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.
- b. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty (30) days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.
- c. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.
- d. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 120 of the San Francisco Administrative Code.



### **33. Minority/Women/Local Business Utilization; Liquidated Damages**

#### **a. Compliance**

Contractor understands and agrees to comply fully with all provisions of Chapter 12D.A ("Minority/Women/ Local Business Utilization Ordinance--IV") of the San Francisco Administrative Code and agrees to include this paragraph in all subcontracts made in fulfillment of the Contractor's obligations under this Agreement. Said provisions are incorporated herein by reference and made a part of this Agreement as though fully set forth. Contractor's willful failure to comply with Chapter 12D.A is a material breach of contract.

#### **b. Enforcement**

If Contractor willfully fails to comply with any of the provisions of Chapter 12D.A, the rules and regulations implementing Chapter 12D.A, or the provisions of this Agreement pertaining to MBE or WBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or ten percent (10%) of the total amount of this Agreement, or one thousand dollars (\$1,000), whichever is greatest. The Director of the City's Human Rights Commission (HRC) may also impose other sanctions against Contractor authorized in Chapter 12D.A, 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 MBE or WBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to §12D.A.16C.

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 Chapter 12D.A for a period of three years following termination of this contract.

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

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

In the performance of this Agreement, Contractor agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Contractor, in any of Contractor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

#### **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 S.F. 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 S.F. 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 S.F. 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) of the S.F. Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

**35. MacBride Principles—Northern Ireland**

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

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

Pursuant to S.F. Administrative Code §12I.5(b), the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

**37. Drug-Free Workplace Policy**

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

**38. Resource Conservation; Liquidated Damages**

Chapter 21A of the S.F. Administrative Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 21A will be deemed a material breach of contract.

In the event Contractor fails to comply in good faith with any of the provisions of Chapter 21A, Contractor will be liable for liquidated damages in an amount equal to Contractor's net profit under this Agreement, or five percent (5%) of the total contract amount, whichever is greater. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be offset against any monies due to Contractor from any contract with City.

### 39. Compliance with Americans with Disabilities Act

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

### 40. Sunshine Ordinance

In accordance with S.F. Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person'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.

### 41. Public Access to Meetings and Records

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

### ~~42. Prohibiting City Business with Burma~~

~~By its execution of this Agreement, Contractor attests that it is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in S.F. Administrative Code §12J.2(G). The City may terminate this Agreement for default if Contractor violates the terms of §12J.2(G).~~

~~Chapter 12J of the S.F. Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Contractor to comply with any of its requirements shall be deemed a material breach of contract. If Contractor fails to comply in good faith with any of the provisions of Chapter 12J of the S.F. Administrative Code, Contractor shall be liable for liquidated damages for each violation in an amount equal to Contractor's net profit under the contract, or 10% of the total amount of the contract, or \$1,000, whichever is greatest. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any moneys due to the Contractor from any City contract.~~

### 43. Non-Waiver of Rights

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

**44. Modification of Agreement**

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

**45. Administrative Remedy for Agreement Interpretation**

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

**46. Agreement Made in California; Venue**

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

**47. Construction**

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

**48. Entire Agreement**

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 44.

**49. Compliance with Laws**

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

**50. Severability**

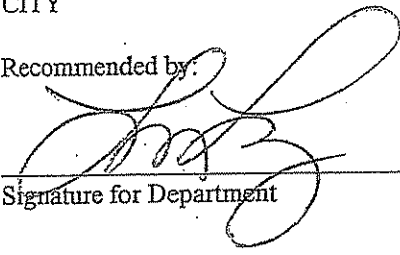
Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision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

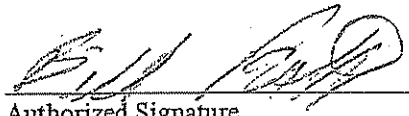
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

  
\_\_\_\_\_  
Signature for Department

  
\_\_\_\_\_  
Authorized Signature

Liza M. Lowery  
\_\_\_\_\_  
Printed Name

Bill Roth  
\_\_\_\_\_  
Printed Name

Executive Director, DTIS  
\_\_\_\_\_  
Title and Department

President  
\_\_\_\_\_  
Title

Approved as to Form:

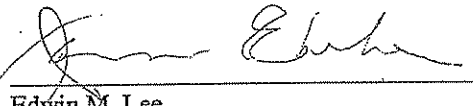
Louise H. Renne  
City Attorney

Owens Information Systems, Inc.  
\_\_\_\_\_  
Company Name

By   
\_\_\_\_\_  
Deputy City Attorney

728 Nina Lane  
\_\_\_\_\_  
Address

Approved:

  
\_\_\_\_\_  
Edwin M. Lee  
Director of Purchasing

Foster City, CA 94404  
\_\_\_\_\_  
City, State, ZIP

(650) 345-2469  
\_\_\_\_\_  
Phone Number

94-2796944  
\_\_\_\_\_  
Federal Employer ID Number

Appendix A

Description of Services

SERVICE ORDER NUMBER: 1 TYPE OF ORDER: Time and Materials  
DATE OF ORDER: July 1, 2000 AMOUNT: \$915,000.00  
PROJECT NUMBER(s): 888SIR, 888COR, 11INWK  
TERM OF SERVICE ORDER: July 1, 2000 - June 30, 2001

1. Description of Services

- a) The Contractor agrees to perform the following tasks within the timeframes specified below, and to deliver the product or products specified at the completion of each task.
- b) In those cases where a reassignment is requested by an individual employee of the Contractor for personal reasons, the Contractor shall use its best efforts to furnish the City with at least fifteen (15) days advance written notice. In the event of termination of employment by an individual employee of the Contractor for any reason, the Contractor will endeavor to provide the City with as much advance notice as is reasonably possible. If the City requests, the Contractor will endeavor to replace reassigned or terminated employees within fifteen (15) days.

TASK #ONE

Time: Ongoing task during the term of contract.

Task Description: Maintain the Court Management System which included production support, problem resolution and system enhancements. Provide 24 hour on call support, when required.

Deliverables: System availability and completed service requests.

TASK #TWO

Time: Ongoing task during the term of contract.

Task Description: Assist programming staff to perform analysis and programming modifications.

Deliverables: Attend meetings and provide descriptions of requested modifications.

TASK #THREE

Time: Ongoing task during the term of contract.

Task Description: Provide City and County Criminal Justice Departments with Court Management System related reports.

Deliverables: Computer generated Court Management reports.

TASK #FOUR

Time: Ongoing task during the term of contract.

Task Description: Provide Coordination Support to the Court Management Policy Committee. This includes coordination of meetings, agendas, service requests, preparation of minutes, and other projects as assigned by the Committee.

Deliverables: Month Minutes, Status Reports, Work Progress Reports.

#### TASK #FIVE

Time: Ongoing task during the term of contract.

Task Description: Carryout technical project management and system development of the Adult Probation Women's Treatment Network project.

Deliverables: Fully tested and implemented production programs.

#### TASK #SIX

Time: Ongoing task during the term of contract.

Task Description: Participate fully in the CMS replacement project (JUSTIS) performing professional activities throughout the life cycle of the project.

Deliverables: As determined and agreed to according to the project plan.

## 2. Reports

Contractor shall submit written reports as requested by the **Department of Telecommunications & Information Services**. Format for the content of such reports shall be determined by the **Department of Telecommunications & Information Services**. The timely submission of all reports is a necessary and material term and condition of this Agreement.

The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

## 3. Department Liaison

In performing the services provided for in this Appendix, Contractor's liaison with the **Department of Telecommunications & Information Services** will be **Ron Hass**.

Appendix B

Calculation of Charges

PAYMENT

- a) The City will pay the Contractor in full compensation for all services rendered under the provisions of this Service Order on a time and materials basis at an hourly rate(s) as specified in the schedule below. The Contractors employee(s) assigned to the project(s) shall be paid only for hours worked. The total fee paid under this agreement shall not exceed nine hundred fifteen thousand dollars (\$915,000.00). This amount is for certification purposes only. This agreement does not guarantee any amount of City business. Contractor shall be paid on a time and materials basis in accordance with specified tasks in Appendix A plus specific service request made by the City.
- b) The following employee(s) of the Contractor will be assigned to the project(s) described above at the stated rate(s) per-hour.

<u>Patrick L. Owens</u>	<u>Project Manager</u>	<u>\$90.00</u>
Name	Title	Hourly Rate
<u>William Roth</u>	<u>Senior Programmer Analyst</u>	<u>\$90.00</u>
Name	Title	Hourly Rate
<u>Elizabeth Crossman</u>	<u>Senior Programmer</u>	<u>\$75.00</u>
Name	Title	Hourly Rate
<u>Paula Itaya</u>	<u>CMS Coordinator</u>	<u>\$45.00</u>
Name	Title	Hourly Rate

- c) The Director of the Department of Telecommunications & Information Services has the absolute right to approve or disapprove any proposed changes in the Contractors project staff. The Director of the Department of Telecommunications & Information Services, in each instance will be provided with a resume of the proposed substitution(s) and given an opportunity to interview the person.