



1 [Emergency Work - Designing, Repairing, and Upgrading Security Systems for County Jail  
2 Nos. 1 and 2 - Not to Exceed \$2,967,000]

3 **Resolution approving emergency public work by San Francisco Public Works under**  
4 **Administrative Code, Section 6.60, to design, repair, and upgrade the central control**  
5 **intercom and attendant security systems at the Sheriff's Department's County Jail**  
6 **Nos. 1 and 2, both located at 425-7 Street, with an amount not to exceed \$2,967,000.**

7  
8 WHEREAS, On January 22, 2016, the San Francisco Sheriff's Department (Sheriff)  
9 requested a declaration of emergency to address the failure of the security systems and the  
10 control panels in the county jail known as County Jail Nos. 1 and 2, both located at 425-  
11 7 Street; and

12 WHEREAS, The letter is on file with the Clerk of the Board of Supervisors in File  
13 No. 160298, which is hereby declared to be a part of this resolution as if set forth fully herein;  
14 and

15 WHEREAS, The old central security system still has significant vulnerabilities which  
16 affect the ability of the Sheriff to ensure the safe ingress and egress of inmates; and

17 WHEREAS, The estimate of the cost to design, repair, and upgrade the central control  
18 intercom and related security systems is currently at \$2,967,000, and may be less or more  
19 depending on how the project progresses; and

20 WHEREAS, Administrative Code, Section 6.60 authorizes department heads  
21 responsible for public work to award an emergency contract, exempt from the competitive  
22 bidding process, in the event of an actual emergency which includes the "breakdown or  
23 imminent breakdown of any plant, equipment, structure, street or public work necessitating  
24 immediate emergency repair or reconditioning to safeguard the lives or property of the  
25

1 citizens; or the property of the City and County; or to maintain the public health or welfare;”  
2 and

3 WHEREAS, On January 22, 2016, San Francisco Public Works (Public Works)  
4 declared an emergency for the design, repair and upgrade of the central security system as a  
5 continuation of the work completed under the emergency declared by Public Works on  
6 November 21, 2014, and approved by the San Francisco Board of Supervisors on October 20,  
7 2015 ; and

8 WHEREAS, On January 25, 2016, Public Works notified the Mayor, the Controller and  
9 the Clerk of the Board of Supervisors of the emergency as required by Administrative Code,  
10 Section 6.60(d); and

11 WHEREAS, Public Works must seek approval of the Board of Supervisors within sixty  
12 days of the declaration if the estimated cost of the emergency work is in excess of \$250,000;  
13 and

14 WHEREAS, The Controller has certified that funds are available for this emergency  
15 work; now, therefore, be it

16 RESOLVED, That the Board of Supervisors approves the emergency work under  
17 Administrative Code, Section 6.60 to design, repair and upgrade the central security system at  
18 County Jails #1 and #2 with a combined contract amount not to exceed \$2,967,000; and, be it

19 FURTHER RESOLVED, That actions taken to date by Public Works to address such  
20 emergency work and resolve the emergency condition are hereby ratified.

<p><b>Item 6</b> <b>File 16-0298</b></p>	<p><b>Department:</b> Sheriff's Department Public Works</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objective</b></p>	
<ul style="list-style-type: none"> <li>The proposed resolution would approve further emergency work by Public Works, in accordance with Administrative Code Section 6.60 for improvements to the central control and pod control stations and associated security system in County Jails #1 and #2 for an amount not-to-exceed \$2,967,000. Under the proposed emergency work, Public Works has entered into a new contract with Alta Consulting and is finalizing a contract with Sierra Detention Systems to improve the security system in County Jails #1 and #2.</li> </ul>	
<p style="text-align: center;"><b>Key Points</b></p>	
<ul style="list-style-type: none"> <li>The Board of Supervisors approved the declaration of emergency in October 2015 (File 15-0832) to repair the security system in County Jails #1 and #1, which had short-circuited. The Director of Public Works declared a continued emergency on January 25, 2016. While the original emergency declaration was to make immediate repairs to keep the security system operational, under the proposed emergency declaration Public Works entered into a new contract with Alta Consulting and is finalizing a contract with Sierra Detention Systems without undergoing a competitive process to complete improvements to the security system. According to the Director of Public Works, "it is not appropriate to go out to bid on the project because of the sensitive nature of the information and because the newly-installed camera system is proprietary in nature".</li> </ul>	
<p style="text-align: center;"><b>Fiscal Impact</b></p>	
<ul style="list-style-type: none"> <li>Total estimated expenditures for the County Jails #1 and #2 security system are \$3,916,047. This amount includes \$949,047 previously spent for the original emergency work, completed in August 2015, and an estimated \$2,967,000 for new work under the proposed resolution. General Fund monies of \$2,967,000 were previously appropriated by the Board of Supervisors.</li> </ul>	
<p style="text-align: center;"><b>Policy Consideration</b></p>	
<ul style="list-style-type: none"> <li>The long-term improvements to be made to the County Jails #1 and #2 security system should have been part of a capital planning process, thus allowing for planned improvements to the security system, including competitive selection of contractors. While the Sheriff's Department requested funds in prior years for this work, these funds were re-allocated to higher priority projects. Alta Consulting will prepare a security system master plan will be the basis of a replacement plan to modernize security systems in Sheriff's Department facilities over the next two to three fiscal years, thus avoiding future declarations of emergency due to system failures.</li> </ul>	
<p style="text-align: center;"><b>Recommendation</b></p>	
<ul style="list-style-type: none"> <li>Approve the proposed resolution.</li> </ul>	

**MANDATE STATEMENT**

Administrative Code Section 6.60 provides that City contracts entered into for emergency work may be executed in the most expeditious manner. However, emergency contracts in the amount of \$250,000 or more are subject to Board of Supervisors approval. Section 6.60(d) also states that if the emergency does not permit approvals of the emergency determination before work is commenced on the contracts entered into, such approvals shall be obtained as soon as possible, with the proposed resolution approving the emergency determination submitted to the Board of Supervisors within 60 days of the department head's emergency declaration.

**BACKGROUND**

The Sheriff's Department operates County Jails #1 and #2 at 425 7<sup>th</sup> Street. County Jail #1 provides prisoner processing services and can hold up to 298 inmates in the various stages of booking, intake, holding and release. County Jail #2 can hold up to 392 inmates, including two units for women, two units for men, one re-entry unit for State prisoners and others, an acute medical and psychiatric pod as well as a medical and dental clinic.

The main security systems control board at Jails #1 and #2 short-circuited in August 2014, which caused a failure of the main intercom system, lost camera views, and froze the security camera views in their last setting. As a result, intercom communications and camera views to observe inmate movements and control door responses were disabled in Jails #1 and #2. The Director of Public Works declared an emergency in November 2014 to allow the immediate repair of the electronic security systems at County Jails #1 and #2. Between August 2014, when the main security systems short-circuited, and November 2014, when the emergency was declared, Sheriff's Department staff used work-arounds to keep the system operational and comply with State corrections standards.

The Department of Public Works (Public Works) entered into three emergency contracts in December 2014 with three contractors, which had been identified by the Sheriff's Department as having previous direct experience with similar security systems and/or work on similar projects with the Sheriff's Department. Alta Consulting Services, Inc. (Alta Consulting) was selected to provide system design and planning based on their prior experience with such security systems with both the Sheriff's Department and the San Francisco Municipal Transportation Agency. Sierra Detention Systems was selected to repair the security systems because they are a nationally recognized vendor for installing detention facility security systems. Siemens Industry, Inc. (Siemens) was selected because they were the existing maintenance contractor for the Jails #1 and #2 security system and therefore familiar with the Jail's existing security system requirements.

Under the three emergency contracts, (a) Alta Consulting provided security system planning and design criteria services; (b) Sierra Detention Systems provided engineering solutions to the design criteria, and construction services to repair Jail #1 and #2's central control intercom and electronic security systems; and (c) Siemens provided support services to both the Alta Consulting and Sierra Detention Systems, including technical field assessments.

The emergency work was completed in August 2015. The Board of Supervisors approved the declaration of emergency in October 2015 (File 15-0832)

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve further emergency work by Public Works, in accordance with Administrative Code Section 6.60 for improvements to the central control and pod control stations and associated security system in County Jails #1 and #2 for an amount not-to-exceed \$2,967,000. Under the proposed emergency work, Public Works has entered into a new contract with Alta Consulting and is finalizing a contract with Sierra Detention Systems to improve the security system in County Jails #1 and #2.

### Declaration of Emergency

The Director of Public Works notified the Mayor, Clerk of the Board of Supervisors, and the Controller of the declaration of a continued emergency on January 25, 2016. While the original emergency declaration by the Director of Public Works in November 2014 was to make immediate repairs to keep the security system in County Jails #1 and #2 operational, under the proposed emergency declaration Public Works entered into a new contract with Alta Consulting and is finalizing a contract with Sierra Detention Systems without undergoing a competitive process to complete improvements to the security system. According to the January 25, 2016 letter from the Director of Public Works, "it is not appropriate to go out to bid on the project because of the sensitive nature of the information and because the newly-installed camera system is proprietary in nature".

### Security Systems in County Jails #1 and #2

According to Mr. Dan Santizo, Sheriff's Department Facilities Manager, the security system in County Jails #1 and #2 was installed between 1989 and 1995, and consists of system architecture and various components that are no longer supported. Therefore, the entire security system needs to be upgraded, including the following components:

- door controls,
- camera system and camera recording system,
- various alarm systems,
- nurse call system, and
- lighting and utility controls.

The original emergency work to repair the security system in County Jails #1 and #2, which was completed in August 2015, consisted of:

- a new fiber-optic infrastructure to support future system improvements,
- replacement of the intercom control system,
- initial work on the camera system to convert analog signals to digital signals,
- installation of a basic camera recording system to begin to meet current code requirements, and
- a full deputy control system and duress alarm system in the medical/psychiatric pod.

Continued emergency work to improve the security system in County Jails #1 and #2, which will be performed under the proposed resolution, consists of:

- completion of upgrades to the camera system,
- further upgrades to the camera recording system to meet current code requirements,
- replacement of the duress alarm system in all areas of County Jails #1 and #2,
- improvements to the nurse call system and integration of the system into the security system,
- integration of the low voltage control system including the lighting controls into the security system, and
- replacement of the hard-wired central facility control stations, as well as the deputy stations located in housing area with the installation of modern control stations.

**FISCAL IMPACT**

Total estimated expenditures for the County Jails #1 and #2 security system are \$3,916,047, as shown in Table 1 below. This amount includes \$949,047 previously spent for the original emergency work, completed in August 2015, and an estimated \$2,967,000 for new work under the proposed resolution.

**Table 1: Estimated Expenditures for County Jails #1 and #2 Security Systems**

Prior Expenditures under Original Emergency Declaration	\$949,047
<u>New Expenditures under Proposed Emergency Declaration</u>	
Alta Consulting Contract	\$228,276
Sierra Detention Systems Contract (estimated)	2,398,835
Contingency (10% of construction)	239,889
Public Works	100,000
Total New Expenditures (subject of this request)	\$2,967,000
<b>Total Prior and New Expenditures</b>	<b>\$3,916,047</b>

**Security System Contracts**

Alta Consulting

Under the original contract between Public Works and Alta Consulting to perform the initial emergency work that was completed in 2015, the Sheriff’s Department requested Alta Consulting to evaluate options to repair, the security system in County Jails #1 and #2. Alta Consulting developed the design criteria for the initial emergency work to the security system, which were intended to be compatible with future security system improvements.

Under the new contract between Public Works and Alta Consulting, Alta Consulting will provide design criteria, design review, construction oversight and master planning, for a total contract amount of \$228,276. According to Mr. Santizo, Alta Consulting has completed the design

criteria for the security system improvements to be performed under the proposed resolution. The design criteria are the basis for the system improvements by Sierra Detention Systems. Alta will peer review proposals for system improvement and provide field inspections and testing of system installations.

#### Sierra Detention Systems

The contract between Public Works and Sierra Detention Systems to replace and improve the security system in County Jails #1 and #2 has not been finalized. The contract amount is estimated to be \$2,398,835 to complete upgrades to the cameras and camera recording system that were begun during the initial emergency work, replace the duress alarm system, improve the nurse call system, integrate lighting controls into the security system, and install modern control stations. As noted above, improvements to the security system will be based on design criteria established, reviewed and monitored by Alta Consulting.

#### **Security System Project Funds**

The Board of Supervisors previously authorized emergency work to the security system in County Jails #1 and #2 for an amount not-to-exceed \$1,116,047 (File 15-0832). The Sheriff's Department used FY 2014-15 General Fund maintenance and capital project funds, previously appropriated by the Board of Supervisors, to pay for the emergency work. Of the \$1,116,047 in authorized expenditures, the Sheriff's Department spent \$949,047 in FY 2014-15 and carried forward \$167,000 in unspent funds to FY 2015-16.

In addition, the Board of Supervisors appropriated \$1,400,000 in General Fund monies in the Sheriff's Department's FY 2015-16 budget and \$1,400,000 in General Fund monies in the Sheriff's Department's FY 2016-17 budget, totaling \$2,800,000, to pay for County Jails #1 and #2 security system upgrades. FY 2015-16 and FY 2016-17 appropriations of \$2,800,000 and carry forward funds of \$167,000 equal \$2,967,000, consistent with the proposed resolution which authorizes approval of emergency work in an amount not-to-exceed \$2,967,000.

#### **POLICY CONSIDERATION**

Although the emergency work to replace the County Jails #1 and #2 security system under the proposed resolution are long-term improvements rather than immediate emergency work, the Sheriff's Department considers the work to be performed to be a continuation of the initial emergency work that was completed in 2015 because the initial emergency work (1) laid the foundation for the long-term improvements, and (2) installed systems proprietary to Sierra Detention Systems, which cannot be re-engineered by other vendors.

The long-term improvements to be made to the County Jails #1 and #2 security system should have been part of a capital planning process, thus allowing for planned improvements to the security system, including competitive selection of contractors. According to Mr. Santizo, the Sheriff's Department's FY 2012-13 budget included funds to pay for the initial costs to replace camera and security systems in the Sheriff's Hall of Justice facilities. However, these funds were re-allocated to other Sheriff's Department projects, including planning for the replacement of County Jails #3 and #4, which took precedence over the replacement of the County Jails #1 and #2 security system.



The new contract between Public Works and Alta Consulting includes funds for security system master planning. According to Mr. Santizo, the security system master plan will be the basis of a replacement plan to modernize security systems in Sheriff's Department facilities over the next two to three fiscal years, thus avoiding future declarations of emergency due to system failures.

**RECOMMENDATION**

Approve the proposed resolution.

**City and County of San Francisco  
San Francisco Public Works  
1155 Market Street, 4<sup>th</sup> Floor  
San Francisco, California 94103**

**Agreement between the City and County of San Francisco and**

Alta Consulting Services, Inc.  
2107 North 1<sup>st</sup> Street, Suite 470  
San Jose, CA 95131

This Agreement is made this 14th day of March, 2016, in the City and County of San Francisco, State of California, by and between Alta Consulting Services, Inc., hereinafter referred to as "Contractor" and City.

**Recitals**

WHEREAS, **San Francisco Public Works** ("Department") wishes to provide security system planning services for the rebuilding of the security systems at San Francisco County Jails #1 and #2; and

WHEREAS, an Order of Emergency Contract Award #184,518 was issued on January 22, 2016, and City selected Contractor as the qualified party to perform the work; and,

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

Now, THEREFORE, the parties agree as follows:

**Article 1 Definitions**

The following definitions apply to this Agreement:

1.1 "Agreement" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements which are specifically incorporated into this Agreement by reference as provided herein.

1.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through its Director of San Francisco Public Works, hereinafter referred to as "Public Works".

1.3 "CMD" means the Contract Monitoring Division of the City.

1.4 "Contractor" or "Consultant" means Alta Consulting Services, Inc.

1.5 "Deliverables" means Contractor's work product resulting from the Services that are provided by Contractor to City during the course of Contractor's performance of the

Agreement, including without limitation, the work product described in the "Scope of Services" attached as Appendix A.

1.6 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.7 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, that impose specific duties and obligations upon Contractor.

1.8 "Party" and "Parties" mean the City and Contractor either collectively or individually.

1.9 "Services" means the work performed by Contractor under this Agreement as specifically described in the "Scope of Services" attached as Appendix A, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

## **Article 2 Term of the Agreement**

2.1 The term of this Agreement shall be 525 days from the date of the Order of Emergency Contract Award.

## **Article 3 Financial Matters**

3.1 **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.**

3.2 **Guaranteed Maximum Costs.** The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified

maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

### 3.3 Compensation.

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Public Works, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed \$228,276.00 (TWO HUNDRED TWENTY-EIGHT THOUSAND TWO HUNDRED SEVENTY-SIX DOLLARS). The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments except as set forth in Administrative Code Section 6.22(j).

3.3.2 **Payment Limited to Satisfactory Services.** Contractor is not entitled to any payments from City until Public Works approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services 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 at no cost to the City.

3.3.3 **Withhold Payments.** If Contractor fails to provide Services in accordance with Contractor's obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City's withholding of payments as provided herein.

3.3.4 **Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City to Contractor at the address specified in Section 11.1, "Notices to the Parties," or in such alternate manner as the Parties have mutually agreed upon in writing.

3.3.5 **Reserved. (LBE Payment and Utilization Tracking System)**

3.3.6 **Getting paid for goods and/or services from the City.**

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

(b) The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

**3.4 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 Services. 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 fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

**3.5 Submitting False Claims; Remedies.** Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. A contractor, subcontractor, supplier, consultant or subconsultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, supplier, consultant or subconsultant: (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.

## Article 4 Services and Resources

4.1 **Services Contractor Agrees to Perform.** Contractor agrees to perform the Services provided for in Appendix A, "Scope of Services." Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.1.1 **Standard of Care for Design Professionals.** Contractor acknowledges and agrees that Contractor shall perform its services under this Agreement in accordance with the professional standard of care applicable to professionals providing similar services for projects of similar type, size and complexity in the San Francisco Bay Area.

4.2 **Qualified Personnel.** Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.3 **Subcontracting.** Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void. City's execution of this Agreement constitutes its approval of the subcontractors listed in Appendix B.

4.4 **Independent Contractor; Payment of Employment Taxes and Other Expenses.**

4.4.1 **Independent Contractor.** For the purposes of this Article 4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not

limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

**4.4.2 Payment of Employment Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

**4.5 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 Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

4.6 **Warranty.** Contractor warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

## **Article 5 Insurance and Indemnity**

### **5.1 Insurance.**

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

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

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

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

(d) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with the Services.

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

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

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

5.1.3 All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.4 Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this



Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

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

5.1.6 Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

5.1.7 The Workers' Compensation policy(ies) 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.

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

**5.2 Indemnification For Design Professionals.** To the fullest extent permitted by law, Contractor shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Contractor or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of the Contractor, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities").

**5.2.1 Limitations.** No insurance policy covering the Contractor's performance under this Agreement shall operate to limit the Contractor's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Contractor assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the contractors of any Indemnitee.

**5.2.2 Copyright Infringement.** Contractor shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles, work or deliverables supplied in the performance of Services. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

## **Article 6 Liability of the Parties**

**6.1 Liability of City.** CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," 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

**6.2 Liability for Use of Equipment.** City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

**6.3 Liability for 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.

## **Article 7 Payment of Taxes**

**7.1** Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor agrees to promptly provide information requested by the City to verify Contractor's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

**7.2** Contractor acknowledges that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

7.2.1 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.

7.2.2 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

7.2.3 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

7.2.4 Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

## **Article 8 Termination and Default**

### **8.1 Termination for Convenience**

8.1.1 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.

8.1.2 Upon receipt of the notice of termination, 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:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) 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.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.

(f) 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.

8.1.3 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:

(a) The reasonable cost to Contractor, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for Services. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(d) 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.

8.1.4 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 Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under 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 Section 8.1.3.

8.1.5 In arriving at the amount due to Contractor under this Section, City may deduct: (i) all payments previously made by City for Services covered by Contractor's final

invoice; (ii) any claim which City may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

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

**8.2 Termination for Default; Remedies.**

8.2.1 Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

(a) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

3.5	Submitting False Claims.	10.4	Nondisclosure of Private, Proprietary or Confidential Information
4.5	Assignment	10.10	Alcohol and Drug-Free Workplace
Article 5	Insurance and Indemnity	10.13	Working with Minors
Article 7	Payment of Taxes	11.10	Compliance with Laws

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(c) Contractor (i) is generally not paying its debts as they become due; (ii) 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; (iii) makes an assignment for the benefit of its creditors; (iv) 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 (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) 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, (ii) 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 (iii) ordering the dissolution, winding-up or liquidation of Contractor.

8.2.2 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, where applicable, 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: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.2.3 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. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

8.3 **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.

**8.4 Rights and Duties upon Termination or Expiration.**

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
3.3.7(a)	Grant Funded Contracts - Disallowance	9.2	Works for Hire
3.4	Audit and Inspection of Records	10.4	Nondisclosure of Private, Proprietary or Confidential Information
3.5	Submitting False Claims	11.6	Dispute Resolution Procedure
Article 5	Insurance and Indemnity	11.7	Agreement Made in California; Venue
6.1	Liability of City	11.8	Construction
6.3	Liability for Incidental and Consequential Damages	11.9	Entire Agreement
Article 7	Payment of Taxes	11.10	Compliance with Laws

8.1.6	Payment Obligation	.11.11	Severability
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8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall 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.

### **Article 9 Rights In Deliverables**

9.1 **Ownership of Results.** Any interest of Contractor or its subcontractors, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

9.2 **Works for Hire.** If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, 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 shall be the property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

### **Article 10 Additional Requirements Incorporated by Reference**

10.1 **Laws Incorporated by Reference.** The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at [www.sfgov.org](http://www.sfgov.org) under "Government."

10.2 **Conflict of Interest.** By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter;

Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

**10.3 Prohibition on Use of Public Funds for Political Activity.** In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

**10.4 Nondisclosure of Private, Proprietary or Confidential Information.**

10.4.1 If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

10.4.2 In the performance of Services, Contractor may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Contractor, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

**10.5 Reserved. (Nondiscrimination Requirements)**

**10.5.1 Reserved. (Non Discrimination in Contracts)**

**10.5.2 Reserved. (Nondiscrimination in the Provision of Employee Benefits)**

**10.6 Reserved. (Local Business Enterprise and Non-Discrimination in Contracting Ordinance.)**

**10.7 Reserved. (Minimum Compensation Ordinance)**

**10.8 Reserved. (Health Care Accountability Ordinance)**

**10.9 Reserved. (First Source Hiring Program)**

**10.10 Alcohol and Drug-Free Workplace.** City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering,



purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

**10.11 Limitations on Contributions.** By executing 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 the board of a state agency 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. 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. Contractor must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

**10.12 Reserved. (Slavery Era Disclosure)**

**10.13 Reserved. (Working with Minors)**

**10.14 Consideration of Criminal History in Hiring and Employment Decisions**

**10.14.1** Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of Contractor's obligations under Chapter 12T is set forth in this Section. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

**10.14.2** The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing

work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

10.15 **Reserved. (Public Access to Nonprofit Records and Meetings)**

10.16 **Reserved. (Food Service Waste Reduction Requirements)**

10.17 **Reserved. (Sugar-Sweetened Beverage Prohibition)**

### **Article 11 General Provisions**

11.1 **Notices to the Parties.** Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: San Francisco Public Works  
Contract Administration Division  
1155 Market Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

To Contractor: Alta Consulting Services, Inc.  
2107 North 1<sup>st</sup> Street, Suite 470  
San Jose, CA 95131  
Cyrus M. Humphreys III, PE

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 **Compliance with Americans with Disabilities Act.** Contractor shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 **Reserved. (Payment Card Industry ("PCI") Requirements)**

11.4 **Sunshine Ordinance.** Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

11.5 **Modification of this Agreement.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to

Parties,” regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement.

11.5.1 **Contract Modifications (Mods)** will be processed and approved electronically utilizing the Microsoft SharePoint© software. Participating contractors and consultants agree to execute Mods electronically after, 1) executing a Confidentiality Agreement provided by the City on behalf of its company, 2) having all authorized company representatives that will execute Mods complete training on using this electronic approval system (training to be provided by the City at no expense to contractors and consultants), and 3) submitting a completed executed User Access Setup form for each company representative using the electronic Modification approval system. Contractors and consultants shall also agree to immediately notify the City of any changes to authorized users of this Mod approval system.

**11.6 Reserved. (Dispute Resolution Procedure)**

11.7 **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.

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

11.9 **Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, “Modification of this Agreement.”

11.10 **Compliance with Laws.** Contractor shall keep itself fully informed of the City’s Charter, codes, ordinances and duly adopted rules 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.

11.11 **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.

11.12 **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

**Article 12 MacBride And Signature**

12.1 **MacBride Principles -Northern Ireland.** The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

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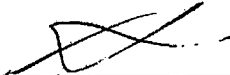
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

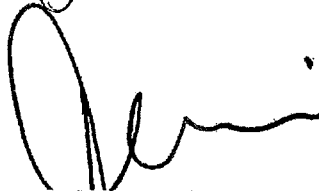
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**CONTRACTOR**

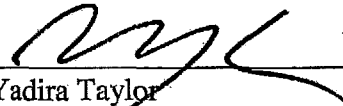
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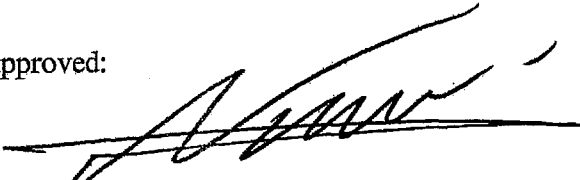
  
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Amy Lam, Contract Manager

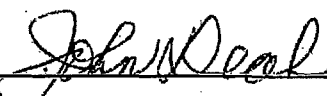
  
\_\_\_\_\_  
John Thomas, Division Manager

  
\_\_\_\_\_  
Fuad Sweiss,  
City Engineer and Deputy Director

Approved as to Form:  
Dennis J. Herrera  
City Attorney

By:   
\_\_\_\_\_  
Yadira Taylor  
Deputy City Attorney

Approved:  
  
\_\_\_\_\_  
Mohammed Nuru, Director of Public Works

  
\_\_\_\_\_  
Signature

Name: John Deal  
Title: President  
Alta Consulting Services, Inc.  
2107 North 1<sup>st</sup> Street, Suite 470  
San Jose, CA 95131  
  
City vendor number: 68089  
Federal Employer Number: 94-1722138

**Appendices**

- A: Scope of Services
- B: Calculation of Charges

APPENDIX A  
SCOPE OF SERVICES

**[PAGES 21 – 26 REDACTED FOR SECURITY REASONS]**

**Appendix B  
Calculation of Charges**

The following rates shall apply for all other services, and remain in effect throughout the term of the Agreement:

<u>Phase</u>	<u>Est. Hours</u>	<u>Est. Fee</u>
Master Planning	240	\$ 46,115
Design Criteria	230	\$ 41,780
Design Review	243	\$ 46,050
Construction	538	\$ 94,331
Project Total		\$228,276





## SECTION 00 52 00

## AGREEMENT FORM

THIS AGREEMENT made for the convenience of the parties this 2nd day of May 20 16 by and between Sierra Detention Systems located at 1177 S. 4<sup>th</sup> Ave. Brighton, CO 80601 ("CONTRACTOR"), and the City and County of San Francisco, State of California (the "CITY"), acting through the Director (the "DIRECTOR") of the Department of Public Works, under and by virtue of the Charter and Administrative Code of the City and County of San Francisco.

WHEREAS, the DIRECTOR awarded this AGREEMENT to CONTRACTOR on the 2nd<sup>h</sup> day of May, 2016, under AWARD OF EMERGENCY CONSTRUCTION CONTRACT ORDER NO. 184,518, as more fully appears in the formal record of the DIRECTOR:

**SFSD County Jails Security Electronics Upgrades Sierra Detention  
(San Francisco Public Works Contract No. 2808J)**

NOW, THEREFORE, CONTRACTOR, in consideration of the mutual covenants set forth in this AGREEMENT, promises and agrees to provide all services to construct the Project in accordance with the requirements of the Contract Documents, to perform the Work in good and workmanlike manner to the satisfaction of the DIRECTOR, to prosecute the Work with diligence from day to day to Final Completion, to furnish all construction work, labor and materials to be used in the execution and completion of the Work in accordance with the Contract Documents, and to otherwise fulfill all of CONTRACTOR's obligations under the Contract Documents, as and when required under the Contract Documents to the satisfaction of the DIRECTOR.

CONTRACTOR's execution of this AGREEMENT signifies its acceptance of the Contract Time and Contract Sum as being sufficient for completion of the Work, as well as acceptance of the other terms and conditions of the Contract Documents.

**ARTICLE 1 - WORK**

- 1.01 Contract Documents. CONTRACTOR shall Provide all Work according to the Contract Documents, which are incorporated into and made a part of this AGREEMENT by this reference, and all labor and materials used in providing the Work shall comply with the Contract Documents. The Contract Documents, which comprise the entire agreement between CONTRACTOR and the CITY concerning the Provision of the Work.
- 1.02 Contractor's General Responsibilities. CONTRACTOR shall provide a fully functional, complete and operational Project constructed in accordance with the Contract Documents, including but not limited to, all investigations, analyses, surveys, engineering, procurement, materials, labor, workmanship, construction and erection, commissioning, equipment, shipping, subcontractors, material suppliers, permits, insurance, bonds, fees, taxes, duties, documentation, spare parts, materials for initial operation, security, disposal, startup, testing, training, warranties, guarantees, and all incidentals.
- 1.03 Compliance with Laws.
- A. CONTRACTOR shall keep itself fully informed of and comply with the Charter, ordinances and regulations of the CITY and other local agencies having jurisdiction over the Work, and all federal and state laws and regulations in any manner affecting the Contract Documents, the performance of the Work, or those persons engaged therein.
- B. All construction and materials provided under the Contract Documents shall be in full

accordance with the latest laws and requirements, or the same as may be amended, updated or supplemented from time to time, of the Code specified in the Contract Documents, Americans with Disability Act Accessibility Guidelines, CAL-OSHA, the State Division of Industrial Safety of the Department of Industrial Relations, the Division of the State Architect – Access Compliance, the Public Utilities Commission of the State of California, the State Fire Marshal, the National Fire Protection Association, the San Francisco Department of Public Health, state and federal laws and regulations, and of other bodies or officials having jurisdiction or authority over same, and they shall be observed and complied with by CONTRACTOR and any and all persons, firms and corporations employed by or under it.

- C. Authorized persons may at any time enter upon any part of the Work to ascertain whether such laws, ordinances, regulations or orders are being complied with.
- D. No additional costs will be paid or extensions of time granted as a result of such compliance.

## **ARTICLE 2 - CONTRACT TIME**

2.01 Completion Dates. The Work shall done by June 30, 2017.

2.02 Liquidated Damages. N/A.

## **ARTICLE 3 – CONTRACT SUM**

3.01 Contract Sum.

- A. CONTRACTOR and the CITY agree that, upon performance and fulfillment of the mutual covenants set forth herein, the CITY will, in the manner provided by law and as set forth in the Contract Documents, pay or cause to be paid to CONTRACTOR the following price(s), as indicated in the Estimate/Proposal dated [April , 2016], attached hereto as part of the Scope of Work of the Agreement, Attachment "A":

Total awarded contract amount which is a lump sum payment for specified portions of the work: \$2,300,000.00.

The price(s) and amount set forth above shall be adjusted during performance or upon final completion of the Work in accordance with the Contract Documents.

- B. CONTRACTOR understands and agrees that the CONTRACTOR shall be solely responsible for providing all resources that may be necessary to provide the Work, and that the CITY shall have no obligation whatsoever to finance any part of such costs except with respect to those amounts which become due under the terms and conditions of the Contract Documents.

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

## **ARTICLE 4 – LABOR REQUIREMENTS**

4.01 Applicable Laws and Agreements. Compensation and working conditions for labor performed or services rendered under this AGREEMENT shall be in accordance with the Contract Documents, the San Francisco Charter, and applicable sections of the San Francisco Administrative Code,

including section 6.22(E).

4.02 Prevailing Wages. The latest Wage Rates for Private Employment on Public Contracts in the City and County of San Francisco, as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations, and, when federal funds are involved, the current General Wage Determination Decisions, as determined by the U.S. Secretary of Labor, as same may be changed during the term of this AGREEMENT, shall be included in this AGREEMENT and are hereby incorporated by this reference. CONTRACTOR agrees that any person performing labor in the provision of the Work shall be paid not less than the highest general prevailing rate of wages as so determined. If federal funds are involved, where the minimum rate of pay for any classification differs among State, City and Federal wage rate determinations, the highest of the three rates of pay shall prevail. CONTRACTOR shall include, in any contract or subcontract relating to the Work, a requirement that all persons performing labor under such contract or subcontract shall be paid not less than the highest prevailing rate of wages for the labor so performed. CONTRACTOR shall require any contractor to provide, and shall deliver to CITY every month during any construction period, certified payroll reports with respect to all persons performing labor in the Provision of the Work.

A. Copies of the latest prevailing wage rates are on file at the Department of Public Works, City and County of San Francisco, Project Controls and Services Manager, 1680 Mission Street, 4th Floor, San Francisco, CA, 94103.

4.03 Penalties. CONTRACTOR shall forfeit to the CITY back wages due plus fifty dollars (\$50.00) for:

- A. Each laborer, workman, or mechanic employed in the provision of the Work, for each calendar day or portion thereof during which such laborer, workman, or mechanic is not paid the highest general prevailing rate of wage for the work performed; or
- B. Each laborer, mechanic or artisan employed in the provision of the Work, for each calendar day or portion thereof during which such laborer, mechanic or artisan is compelled or permitted to work for a longer period than five days (Monday-Friday) per calendar week of eight hours each, and not compensated in accordance with the prevailing overtime standard and rate.

#### ARTICLE 5 – INDEMNITY

5.01 To the fullest extent permitted by law, and consistent with California Civil Code section 2782, the CONTRACTOR shall assume the defense of, indemnify and hold harmless the CITY, its boards and commissions, other parties designated in the insurance requirements of this AGREEMENT, attached hereto as Attachment "B", and all of their officers, agents, members, employees, authorized representatives, or any other persons deemed necessary by any of them acting within the scope of the duties entrusted to them, from all claims, suits, damages, actions, losses and liabilities of every kind, nature and description, including but not limited to attorney's fees, directly or indirectly arising out of, connected with or resulting from the performance or nonperformance of the Work. The liability of CONTRACTOR shall not be limited to the amount of insurance coverages required under the insurance requirements of this AGREEMENT, attached hereto as Attachment "B". This indemnification shall not be valid in the instance where the loss is caused by the sole negligence or intentional tort of any person indemnified herein.

#### ARTICLE 6 – RIGHTS AND REMEDIES

6.01 General. The provisions of the Contract Documents shall not limit the duties, obligations, rights and remedies otherwise imposed or available by law or in equity. No action or failure to act shall in any way abridge the rights and obligations of the Parties to the Contract Documents, or condone a breach thereunder, unless expressly agreed to by the Parties in writing. All remedies provided in the Contract Documents shall be taken and construed as cumulative; that is, in

addition to each and every other remedy herein provided, the CITY shall have any and all equitable and legal remedies that it would in any case have.

- 6.02 No Waiver. No waiver of any breach of any provision of the Contract Documents shall be held to be a waiver of any other or subsequent breach. The only waiver by the CITY shall be a waiver in writing that explicitly states the item or right being waived.
- 6.03 CITY's Remedies for False Claims and Other Violations. The Contractor or any Subcontractor or Supplier who violates any provision of Chapter 6 of the Administrative Code or who submits a false claim to the CITY may be subject to monetary penalties under Administrative Code Chapter 6, Article V. The Contractor or any Subcontractor or Supplier who engages in wilful misconduct compromising its good faith dealings with the City or other public entities may be declared nonresponsible and debarred under Administrative Code Chapter 28.
- A. CONTRACTOR shall include in each subcontract and purchase order for Work a clause incorporating the provisions of this Paragraph 6.03.

#### **ARTICLE 7 – RESOLUTION OF CONFLICTING TERMS**

- 7.01 The Contract Documents and any other agreements between the Parties relating to the Project are intended to be read together and integrated as a whole, and shall be construed and interpreted in a manner so as to avoid any conflicts to the extent possible. Supplementary provisions in the Contract Documents shall not be deemed to be in conflict. It is expressly agreed by and between CONTRACTOR and the CITY that should there be any conflict between the terms of this AGREEMENT and the Bid of CONTRACTOR, then this AGREEMENT shall control and nothing herein shall be considered as an acceptance of any terms of the Bid which conflict with this AGREEMENT.

#### **ARTICLE 8 – GOVERNING LAW AND VENUE**

- 8.01 Governing Law. The Contract Documents shall be interpreted in accordance with the laws of the State of California and the provisions of the CITY's Charter and Administrative Code, including but not limited to Chapter 6 of the San Francisco Administrative Code, which is incorporated by this reference as if set forth herein in full.
- 8.02 Venue. All Claims, counter-claims, disputes and other matters in question between the CITY and CONTRACTOR arising out of or relating to this AGREEMENT or its breach will be decided by a court of competent jurisdiction within the State of California.

#### **ARTICLE 9 – DISPUTE REVIEW BOARD**

- 9.01 Not applicable.

#### **ARTICLE 10 – NOTICES TO PARTIES**

- 10.01 Unless otherwise indicated in the Contract Documents, 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: Amy Lam  
 San Francisco Public Works  
 30 Van Ness Avenue, 5<sup>th</sup> Floor  
 San Francisco, CA 94102  
 (415) 558-4541  
[Amy.Lam@sfdpw.org](mailto:Amy.Lam@sfdpw.org)

To CONTRACTOR: Sierra Detention Systems  
1177 S. 4<sup>th</sup> Avenue  
Brighton, CO 80601  
(303) 278-6879  
[dbooker@sierradetentionsystems.com](mailto:dbooker@sierradetentionsystems.com)

- 10.02 From time to time, the parties may designate new address information by notice in writing, delivered to the other Party.
- 10.03 The delivery to CONTRACTOR at the legal address listed above, as it may be amended upon written notice, or the depositing in any post office or post office box regularly maintained by the United States Postal Service in a postage paid wrapper directed to CONTRACTOR at such address, of any drawing, notice, letter or other communication shall be deemed legal and sufficient service thereof upon CONTRACTOR.

**ARTICLE 11 – PROPRIETARY OR CONFIDENTIAL INFORMATION OF CITY**

- 11.01 CONTRACTOR understands and agrees that, in the performance of the Work 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 or care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

**ARTICLE 12 – TERMINATION**

- 12.01 This AGREEMENT and the other Contract Documents shall terminate when all obligations required to be performed by CONTRACTOR and the CITY have been fulfilled, unless sooner terminated.

IN WITNESS WHEREOF, the CONTRACTOR and the CITY have hereunto set their hands and seals, and have executed this AGREEMENT in duplicate, the day and year first above written.

CONTRACTOR:

By my signature hereunder, as CONTRACTOR, I certify that I have read and understand the section captioned MacBride Principles – Northern Ireland including in Section 00 73 73, the CITY's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles (section 00 73 73 Statutory Requirements attached hereto as Attachment C).

I further certify that I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

\_\_\_\_\_  
Sierra Detention Systems

Principal: \_\_\_\_\_

\_\_\_\_\_  
Title

CITY:

Recommended

Approved as to form:  
DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Amy Lam, Project Manager

By: \_\_\_\_\_  
Yadira Taylor, Deputy City Attorney

By: \_\_\_\_\_  
John Thomas, Division Manager

By: \_\_\_\_\_  
Fuad Sweiss, City Engineer and Deputy Director

Approved:

By: \_\_\_\_\_  
Mohammed Nuru, Director of Public Works

Attachments:

- A: Scope of Work
- B: Insurance Requirements
- C: Statutory Requirements

END OF SECTION

# **ATTACHMENT A**

## **Scope of Work**

**2808J – SFSD County Jails Security Electronics Upgrades Sierra Detention**

**[Redacted for Security Reasons]**

# ATTACHMENT B

## SECTION 00 73 16

### INSURANCE REQUIREMENTS

#### 1.1 SUMMARY

This Document includes the applicable insurance requirements.

#### 1.2 CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor shall maintain in full force and effect, for the period covered by the Contract, the following liability insurance with the following minimum specified coverages or coverages as required by laws and regulations, whichever is greater:
1. Worker's Compensation in statutory amount, including Employers' Liability coverage with limits not less than \$1,000,000.00 each accident, injury, or illness. The Worker's 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.
  2. Commercial General Liability insurance with limits not less than \$1,000,000.00 each occurrence, and \$2,000,000 general aggregate, combined single limit for bodily injury and property damage, including coverage for Contractual Liability, independent contractors, Explosion, Collapse, and Underground (XCU), Personal Injury, Broadform Property Damage, and completed operations.
  3. Commercial Automobile Liability insurance with limits not less than \$1,000,000.00 each occurrence combined single limit for bodily injury and property damage, including owned, hired or non-owned vehicles, as applicable.

#### 1.3 ADDITIONAL COVERAGES

- A. Professional Liability Insurance: In the event that Contractor employs professional engineering or land surveyor services for performing field engineering or preparing design calculations, plans and specifications, Contractor shall require the retained engineers and land surveyors to carry professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under this Contract.
- B. Environmental Pollution Liability: In the event that hazardous / contaminated material is discovered during the course of the work, and the Contractor or its subcontractors is required to perform abatement or disposal of such materials, then the Contractor, or its sub-contractor, who perform abatement of hazardous or contaminated materials removal shall maintain in force, throughout the term of this Contract, Contractor's Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions insurance applicable to the work being performed with limits not less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year, including coverages for on-site or off-site third party claims for bodily injury and property damage. This coverage shall also be endorsed to include Non-Owned Disposal Site coverage.

#### 1.4 INSURANCE FOR OTHERS

- A. For general liability, environmental pollution liability and automobile liability insurance, Contractor shall include as additional insured, the City, its board members and commissions, and all authorized agents and representatives, and members, directors, officers, trustees,



agents and employees of any of them.

- B. Other parties to be protected by Contractor's liability insurance shall be as follows:
1. City's consultants and/or subconsultants: None.
  2. Non-City Agencies: None.

#### 1.5 FORMS OF POLICIES AND OTHER INSURANCE REQUIREMENTS

- A. Before commencement of the Work of this Contract, or in an emergency, as soon thereafter as possible, certificates of insurance and policy endorsements in form and with insurers acceptable to the City, evidencing all required insurance and with proper endorsements from Contractor's insurance carrier identifying as additional insureds the parties indicated under Article "Insurance for Others" above, shall be furnished to the City, with complete copies of policies to be furnished to the City promptly upon request. Contractor will be allowed a maximum of 10 working days, after the emergency work is commenced, in which to deliver appropriate bond and insurance certificates and endorsements.
- B. Approval of the insurance by the City shall not relieve or decrease the extent to which Contractor or subcontractor of any tier may be held responsible for payment of any and all damages resulting from its operations. Contractor shall be responsible for all losses not covered by the policy, excluding damage caused by earthquake and flood consistent with section 7105 of the California Public Contract Code in excess of 5 percent of the Contract Sum, including the deductibles. All policies of insurance and certificates shall be satisfactory to the City.
- C. The Contractor and its subcontractors shall comply with the provisions of California Labor Code section 3700. Prior to commencing the performance of work, the Contractor and all of its subcontractors shall submit to the awarding department a certificate of insurance against liability for workers compensation or proof of self-insurance in accordance with the provisions of the California Labor Code.
- D. Liability insurance, with an allowable exception for professional liability insurance, shall be on an occurrence basis, and said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the declaration, and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limits of liability.
- E. Except for professional liability insurance, should any of the required insurance be provided under a form of coverage that includes an annual general aggregate limit or provides that claims investigation or legal defense costs be included in such annual general aggregate limit, such general annual aggregate limit shall be two times the occurrence limits stipulated. City reserves the right to increase any insurance requirement as needed and as appropriate.
- F. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Contract, and without lapse, for a period 4 years beyond the Contract Final Completion date, to the effect that, should occurrences during the Contract term give rise to claims made after expiration of the Contract, such claims shall be covered by such claims-made policies.
- G. Each such policy shall be endorsed to provide 30 days advance written notice to the City of reduction or non-renewal of coverages or cancellation of coverages for any reason. All notices shall be made to:

Manager, Contract Administration Division  
City and County of San Francisco

1155 Market Street, 4th Floor  
San Francisco, CA 94103.

- H. Contractor, upon notification of receipt by the City of any such notice, shall file with the City a certificate of the required new or renewed policy at least 10 days before the effective date of such cancellation, change or expiration, with a complete copy of the new or renewed policy.
- J. If, at any time during the life of this Contract, Contractor fails to maintain any item of the required insurance in full force and effect, all Work of this Contract may, at City's sole option, be discontinued immediately, and all Contract payments due or that become due will be withheld, until notice is received by the City as provided in the immediately preceding Subparagraph "G" that such insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the City.
- K. Any failure to maintain any item of the required insurance may, at City's sole option, be sufficient cause for termination for default of this Contract.

1.6 QUALIFICATIONS

- A. Insurance companies shall be legally authorized to engage in the business of furnishing insurance in the State of California. All insurance companies shall have a current A.M. Best Rating not less than "A - VIII" and shall be satisfactory to the City.

END OF SECTION

# ATTACHMENT C

## SECTION 00 73 73

### STATUTORY REQUIREMENTS

#### 1.1 GENERAL

- A. All requirements in this Section are incidental work, unless specified otherwise.
- B. Contractor shall be solely responsible and fully liable for any and all failures to comply with the requirements specified herein, and shall unconditionally and fully indemnify the City for any damages resulting therefrom. If Contractor fails to comply with the requirements specified herein, or fails to promptly take all required remedial actions to the City's satisfaction, the City may withhold progress payments to Contractor until satisfactory compliance has been accomplished and/or may assess statutory liquidated damages or penalties, as applicable.
- C. The full text of the City Requirements provided below are incorporated by reference in the Contract Documents, and are available at [http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco\\_ca](http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca)

#### 1.2 CONFLICT OF INTEREST

- A. By executing the Agreement (Section 00 52 00), Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; or Section 87100 *et seq.* or Section 1090 *et seq.* of the California Government Code of the State of California, and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Contract. All requirements in this Section are incidental work, unless specified otherwise.

#### 1.3 NONDISCRIMINATION REQUIREMENTS

- A. **Incorporation of Administrative Code Chapters 12B and 12C.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated herein by this reference. Contractor shall comply with any and all of the provisions that apply to this Agreement under such Chapters, and be bound by the remedies provided in such Chapters. Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions.
- B. **Nondiscrimination in the Provision of Employee 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 employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code §12B.2.
- C. **Title VI Requirements.** During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (1) **Compliance with Regulations:** The Contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
- (4) **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City and County of San Francisco ("City") or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the City, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such Contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a) withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
  - (b) cancellation, termination or suspension of the Contract, in whole or in part.
- (6) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City to enter into such litigation to protect the interests of the City, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### 1.4 REQUIRING MINIMUM COMPENSATION FOR COVERED EMPLOYEES

- A. Contractor shall pay covered employees no less than the minimum compensation required by San Francisco's Minimum Compensation Ordinance (MCO), and shall otherwise comply with the MCO as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P). The provisions of Chapter 12P, including but not limited to the penalties for noncompliance provided therein, are incorporated herein by this reference, and made part of this Agreement as though fully set forth herein.

#### 1.5 REQUIRING HEALTH BENEFITS FOR COVERED EMPLOYEES

- A. Contractor shall choose and perform one of the Health Care Accountability options set forth in Section 12Q.3 of the Health Care Accountability Ordinance (HCAO), and shall otherwise comply with the HCAO as set forth in San Francisco Administrative Code Chapter 12Q. The provisions of Chapter 12Q, including but not limited to the penalties for noncompliance provided therein, are incorporated herein by this reference, and made part of this Agreement as though fully set forth herein.

#### 1.6 MACBRIDE PRINCIPLES - NORTHERN IRELAND

- A. The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement as though fully set forth. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride.

#### 1.7 PROHIBITION ON USE OF PUBLIC FUNDS FOR POLITICAL ACTIVITY

- A. In performing the Work, Contractor shall comply with San Francisco Administrative Code Chapter 12.G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The provisions of Chapter 12.G, including but not limited to the penalties for noncompliance provided therein are incorporated by reference and made a part of this Agreement as though fully set forth herein.

#### 1.8 LIMITATIONS ON CONTRIBUTIONS

- A. By executing the Agreement (Section 00 52 00), 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 the board of a state agency 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. 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. Contractor must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

## 1.9 NONDISCLOSURE OF PRIVATE, PROPRIETARY OR CONFIDENTIAL INFORMATION

- A. If the Contract Documents require City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor shall use such information only in accordance with the restrictions stated in this Agreement and as necessary in performing the Services. The provisions of Chapter 12M, including but not limited to the penalties for noncompliance provided therein, are incorporated herein by this reference, and made part of this Agreement as though fully set forth herein.
- B. In the performance of Work, Contractor may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Contractor, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

## 1.10 UNFAIR BUSINESS PRACTICES CLAIMS; ASSIGNMENT TO AWARDING BODY

- A. Under Public Contract Code section 7103.5, Contractor and its Subcontractors shall conform to the following requirements:
  - 1. In entering into the Agreement or subcontract to supply goods, services, or materials under this Agreement, Contractor or its Subcontractors offer and agree to assign the City all rights, title, and interest in and to all causes of action they may have under section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (chapter 2, commencing with section 16700, of part 2 of division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the Agreement or subcontract.
  - 2. The assignment shall be made and become effective at the time the City tenders Final Payment to Contractor, without further acknowledgement by the Parties.
  - 3. Contractor shall include the provisions of this Article in its subcontracts and purchase agreements to supply goods, services, or materials pursuant to the Agreement.

## 1.11 TROPICAL HARDWOOD AND VIRGIN REDWOOD PRODUCTS BAN

- A. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Contractor shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products. The City urges Contractor not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood wood product.

## 1.12 PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC

- A. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

**1.13 FOOD SERVICE WASTE REDUCTION REQUIREMENTS**

- A. Contractor shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein.

**1.14 LOCAL BUSINESS ENTERPRISE AND NON-DISCRIMINATION IN CONTRACTING REQUIREMENTS**

***[Left Blank Pursuant to 6.60(E).]***

**1.15 SUNSHINE ORDINANCE**

- A. Contractor acknowledges that the Contract Documents and all records related to their formation, Contractor's performance of Work, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

**1.16 SUBMITTING FALSE CLAIMS; REMEDIES**

- A. Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. A contractor, subcontractor, supplier, consultant or sub consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, supplier, consultant or subconsultant: (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. CLEAN CONSTRUCTION
- A. Contractor agrees to comply fully with and be bound by the Clean Construction requirements set forth in Section 6.25 of the San Francisco Administrative Code. The provisions of Section 6.25 are incorporated herein by reference and made a part of this Agreement as though fully set forth.
- B. Contractor may seek waivers from the Clean Construction requirements as set forth in Section 6.25(b)(3) of the Administrative Code.
- C. By entering into the Agreement, Contractor and City agree that if Contractor uses off-road equipment and/or off-road engines in violation of the Clean Construction requirements set forth in Section 6.25, the City will suffer actual damages that will be impractical or extremely difficult to determine. Accordingly, Contractor and the City agree that Contractor shall pay the City the amount of \$100.00 per day per each piece of off-road equipment and each off-road engine used to complete Work on the Project in violation of the Clean Construction requirements. Such amount shall not be considered a penalty, but rather agreed monetary

damages sustained by City because of Contractor's failure to comply with the Clean Construction requirements.

#### 1.18 CONSIDERATION OF CRIMINAL HISTORY IN HIRING AND EMPLOYMENT DECISIONS

- A. Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at [www.sfgov.org/olse/fco](http://www.sfgov.org/olse/fco). A partial listing of some of Contractor's obligations under Chapter 12T is set forth in this Section. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Paragraph. Capitalized terms used in this Paragraph and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.
- B. The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, and shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement.
- C. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, 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.
- D. Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.
- E. Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subparagraph D, above. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.
- F. Contractor or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Contractor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
- G. Contractor and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Contractor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language



spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

- H. Contractor understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

END OF SECTION



Edwin M. Lee  
Mayor

Mohammed Nuru  
Director

San Francisco Public Works  
1 Dr. Carlton B. Goodlett Pl.  
Room 348  
San Francisco, CA 94102  
tel 415-554-6920

[sfpublicworks.org](http://sfpublicworks.org)  
[facebook.com/sfpublicworks](https://facebook.com/sfpublicworks)  
[twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

March 25, 2016

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Rm 244  
San Francisco, CA 94102-4689

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2016 MAR 25 PM 4:04  
BY AK

Dear Ms. Calvillo:

Attached please find an original and two copies of a proposed resolution for Board of Supervisors' approval, which ratifies the declaration of emergency and subsequent actions taken by San Francisco Public Works to design, repair and upgrade the security systems for County Jail Numbers 1 and 2. The old central security system at County Jail Numbers 1 and 2 has significant vulnerabilities which affect the ability of the Sheriff to ensure the safe ingress and egress of inmates. Public Works at the request of the San Francisco Sherriff, declared an emergency under Administrative Code Section 6.60 to safeguard the lives and property of the citizens of San Francisco and to maintain the public health and welfare.

The following is a list of the three sets of the accompanying documents:

- January 22, 2016, letter from San Francisco Sherriff, Vicki Hennessey to San Francisco Public Works Director Mohammed Nuru;
- January 22, 2016, San Francisco Public Works' emergency order signed by Director Nuru as the Mayor's designee; and
- January 25, 2016, notification of emergency letter to the Clerk of the Board, the Mayor and the Controller.

Pursuant to San Francisco Administrative Code Section 6.60, because the emergency work exceeds \$250,000, and the work did permit that the required approvals be obtained prior to the commencement of said work, San Francisco Public Works is seeking approval of this resolution by the Board of Supervisors.

The following person may be contacted regarding this matter:

Stacey Camillo, Division Manager, Contract Administration at (415) 554-4886.

Thank you for your consideration.

Best regards,

A handwritten signature in cursive script, appearing to read "Mohammed Nuru".

Mohammed Nuru

Attachments





**OFFICE OF THE SHERIFF  
CITY AND COUNTY OF SAN FRANCISCO**

1 DR. CARLTON B. GOODLETT PLACE  
ROOM 456, CITY HALL  
SAN FRANCISCO, CALIFORNIA 94102



**VICKI L. HENNESSY  
SHERIFF**

January 22, 2016  
Reference: 2016-014

Mohammed Nuru  
Director of Public Works  
City Hall, Room 348  
San Francisco, CA 94102

Dear Mr. Nuru:

Last year we declared an emergency to address the failure of the security systems and the control panels in the county jail known as County Jails #1 and #2.

The Department of Public Works (DPW) order 18313 and DPW Phase I Project 2603j addressed only the most urgent repairs. The initial phase was planned and completed. The sheriff's department continues to experience a compromised security system. General public knowledge of the specific extent of the security shortfalls along with the planning process should be considered "confidential" for security reasons. Although the facility can now generally "see and talk", many of the basic security functions of the facility are still not complete.

Industry standards for detention-grade security systems are proprietary custom engineered products. Sierra Detention Systems engineered, tested, and installed the new system based on engineering performance criteria by Alta Consulting Services (ACSI). The department cannot operate multiple "Proprietary Systems" and the system cannot practically be re-engineered by other vendors.

In general, Phase I provided a dedicated fiber-optic backbone throughout the facility; a new facility-wide intercom system; a new C-Pod security system; a new camera call-up system; and a starter camera recording system. Phase II repairs are funded this fiscal year and the final Phase III is slated for funding next fiscal year.

The projects will endeavor to replace the rest of the old security system: acquire a sheriff's department Facilities Security Electronics Master Plan from ACSI. ACSI will provide specific design criteria for each replaced system. The project will replace the duress alarm system and the most critical Central Control operation, as well as five more deputy stations (Pods A, B, D, E, & F); expand on the network capabilities;

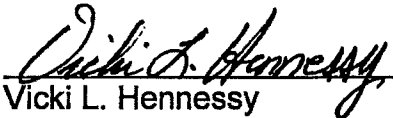
add the facility low voltage security features to the system; provide a new door control system; and provide a new facility-wide camera system.

This is an emergency for the Sheriff's Department and I request a formal declaration of emergency in order to enter into a contract in the most expeditious manner to complete the repairs of the security systems at County Jails #1 and #2.

The contractor who began the repair project is Sierra Detention Systems, 1177 S. 4<sup>th</sup> Avenue, Brighton, CO 80601 and the professional services provider is Alta Consulting Services Inc., 2107 N. 1<sup>st</sup> Street, San Jose, CA 95131.

I am available to speak with you if you require additional information relative to this critical project. Please do not hesitate to contact me at (415) 554-7225.

Respectfully,

  
Vicki L. Hennessey  
Sheriff

cc: Undersheriff C. Koehler, Chief Deputy M. Freeman, Chief Deputy K. Gorwood, Daniel Santizo, Naomi Kelly, City Administrator, Jaci Fong, Director and Purchaser, Stacey Camillo, Contract Administration, DPW



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

GENERAL - DIRECTOR'S OFFICE  
City Hall, Room 348  
1 Dr. Carlton B. Goodlett Place, S.F., CA 94102  
(415) 554-6920 [www.sfdpw.org](http://www.sfdpw.org)



## DPW Order No: 184518

### EMERGENCY DECLARED AND CONTRACTS TO BE AWARDED

Public Works declared an emergency on November 21, 2014, at the request of the Sheriff due to electrical failures of the security and electronic systems for County Jails #1 and #2 at 425 7th Street. The repairs made last year restored basic security functions, however, the system is still compromised. The Sheriff has again asked for a declaration of emergency to replace the rest of the old security system and acquire a Facilities Security Electronics Master Plan. Without this plan and its implementation, the San Francisco Sheriff's Department runs the risk of not being able to make coordinated audio and visual jail door responses. Seeking an open bidding process for this continued work would expose security shortfalls to the general public and thus necessitates this declaration of emergency. The Director of San Francisco Public Works, acting as the Mayor's designee, and pursuant to Section 6.60 of the San Francisco Administrative Code hereby declares an emergency as a result of this situation which jeopardizes the health, safety and property of the citizens of the City & County of San Francisco.

In order to move forward with the project it is necessary to continue with the original design firm, Alta Consulting Services, Inc., to finalize the design of the Facilities Security Electronics Master Plan and monitor construction services as well as continue with construction firm, Sierra Detention Systems, to complete the entire security system repairs at County Jails #1 and #2. The system installed last year is proprietary in nature and so Sierra Detention Systems is the requisite vendor since the newly install system cannot be re-engineered and the Sheriff cannot operate multiple proprietary systems. Therefore, under the Emergency provisions of Section 6.60 of the San Francisco Administrative Code:

**Alta Consulting Services, Inc.**  
2107 North 1st Street  
San Jose, CA 95131

**Sierra Detention Systems**  
1177 S. 4th Avenue  
Brighton, CO 80601

are hereby awarded emergency contracts to provide the necessary design and to repair and upgrade security systems at San Francisco County Jails #1 and #2 at a cost which will exceed



\$250,000.00, and which shall be solidified within 60 days of this emergency declaration as required by Section 6.60(d) of the San Francisco Administrative Code.

Contractors and Consultant shall indemnify and hold harmless the City & County of San Francisco, its officers, agents and employees and furnish certificates of insurance protecting themselves, any sub-contractors and the City & County of San Francisco and its officers, agents and employees against claims arising out of work performed pursuant to this order with the City & County of San Francisco, its officers, agents and employees named as additional insureds. Contractors and Consultant shall deliver certified copies of the certificates of insurance within three working days of this order with the following limits:

Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage;

Business Automobile Liability Insurance with not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage;

Workers' Compensation, with Employers' Liability limits not less than \$1,000,000 each accident; and

Professional Liability Insurance for Alta Consulting Services, Inc. with not less than \$1,000,000 each claim.

Funds are available:

Index Code: \_\_\_\_\_, FT/F/SF: \_\_\_\_\_, P/PD: \_\_\_\_\_, SUBOBJ \_\_\_\_\_.

**DISTRIBUTION:**

Edwin M. Lee, Mayor

Angela Calvillo, Clerk of the Board of Supervisors

Ben Rosenfield, Controller

Alta Consulting Services, Inc.

Sierra Detention Systems

Public Works/Building Design and Construction: Edgar Lopez, Julia Laue

Public Works/Infrastructure Design and Construction: Fuad Sweiss, John Thomas, Amy Lam

San Francisco Sheriff's Department: Chief Vicki L. Hennessy, Dan Santizo

Public Works/Public Affairs: Mindy Linetzky

Business Services: Julia Dawson, Kevin Lacsina

1/22/2016

1/22/2016

**X** Mohammed Nuru

Nuru, Mohammed

Mayor's Designee

Signed by: Nuru, Mohammed

**X** Edgar Lopez

Lopez, Edgar

Acting Department Head

Signed by: Lopez, Edgar







January 25, 2016

Mayor Edwin M. Lee  
City and County of San Francisco  
City Hall, Rm. 200

Edwin M. Lee  
Mayor

Mohammed Nuru  
Director

San Francisco Public Works  
1 Dr. Carlton B. Goodlett Pl.  
Room 348  
San Francisco, CA 94102  
tel 415-554-6920

[sfpublicworks.org](http://sfpublicworks.org)  
[facebook.com/sfpublicworks](https://facebook.com/sfpublicworks)  
[twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)  
[twitter.com/mrcleansf](https://twitter.com/mrcleansf)

The Honorable Board of Supervisors  
City and County of San Francisco  
City Hall, Rm. 244  
Attention: Ms. Angela Calvillo, Clerk of the Board

Mr. Ben Rosenfield, Controller  
City and County of San Francisco  
City Hall, Rm. 316

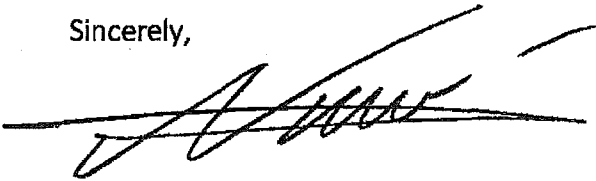
Subject: Rebuilding of the County Jails #1 & #2 Security Systems  
Emergency Contracts  
Declaration of Emergency

Dear Mayor Lee, Members of the Board and Mr. Rosenfield:

Pursuant to Section 6.60(b) of the San Francisco Administrative Code, you are hereby notified that in my capacity as the appropriate Department Head, I have declared an emergency to issue contracts to rebuild the security systems at County Jails #1 and #2. Public Works' internal order is attached for your reference as well as the January 22, 2016, letter from Sheriff Vicki L. Hennessy requesting this action to immediately address the "compromised" security systems and control panel at both jails. As you may recall, I originally declared an emergency at the request of the Sheriff on November 21, 2014, and retained the services of a design firm, Alta Consulting Services, Inc. and the security system vendor Sierra Detention Systems to make repairs to keep the system running. Public Works will issue contracts for the continuing work to both firms again under this current declaration for the rebuilding of the entire system. It is not appropriate to go out to bid on the project because of the sensitive nature of the information and because the newly-installed system is proprietary in nature.

The cost for the repairs will exceed \$250,000.00 and the requisite resolution before the Board of Supervisors will be filed within 60 days of this emergency declaration as required by Section 6.60(d) of the San Francisco Administrative Code.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mohammed Nuru', written over a horizontal line.

Mohammed Nuru  
Director of Public Works

Enclosures: Letter from Vicki L. Hennessy, Sheriff  
Public Works Order entitled, Emergency Declared and Contracts to be Awarded

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

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: Sierra Detention Systems	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. [See attached.]</i>	
Contractor address: Sierra Detention Systems 1177 S. 4 <sup>th</sup> Avenue Brighton, CO 80601	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: \$2,300,000
Describe the nature of the contract that was approved:  Public Works has executed a contract for approximately \$2,300,000 with Sierra Detention Systems for construction services to replace the security system and implement a Facilities Security Electronics Master Plan at County Jails Number One and Two.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors  
Print Name of Board

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

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: ( 415 ) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

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

\_\_\_\_\_  
Date Signed

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

\_\_\_\_\_  
Date Signed

**FORM SFEC-126:**  
**NOTIFICATION OF CONTRACT APPROVAL**  
(S.F. Campaign and Governmental Conduct Code § 1.126)  
**[Page 2 - Additional Information]**

*Please list the names of:*

*(1) members of the contractor's board of directors:*

W. Russell Pilcher  
Betty Pilcher  
Meredith Berman  
A. Steve Allison

*(2) the contractor's chief executive officer, chief financial officer and chief operating officer:*

W. Russell Pilcher, CEO  
Jarrett Keller, CFO  
David S. Peterson, President

*(3) any person who has an ownership of 20 percent or more in the contractor:*

W. Russell Pilcher  
Betty Pilcher

*(4) any subcontractor listed in the bid or contract:*

N/A

*(5) any political committee sponsored or controlled by the contractor:*

N/A

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

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: Alta Consulting Services	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. [See attached.]</i>	
Contractor address: Alta Consulting Services 2107 N. First Street, Ste 470 San Jose, CA 95131	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: \$228,276
Describe the nature of the contract that was approved:  Public Works has executed a contract with Alta Consulting Service for \$228,276 to provide security system planning services for the rebuilding of the security systems at San Francisco County Jails Number One and Two.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors

Print Name of Board

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

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: ( 415 ) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

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

\_\_\_\_\_  
Date Signed

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

\_\_\_\_\_  
Date Signed

**FORM SFEC-126:**  
**NOTIFICATION OF CONTRACT APPROVAL**  
(S.F. Campaign and Governmental Conduct Code § 1.126)  
**[Page 2 - Additional Information]**

*Please list the names of:*

(1) *members of the contractor's board of directors:*

John Deal, CEO, CFO and COO

Cyrus M. Humphreys III, Senior Vice President of Engineering Services

S. Sue Larsen

(2) *the contractor's chief executive officer, chief financial officer and chief operating officer:*

John Deal, CEO, CFO and COO

(3) *any person who has an ownership of 20 percent or more in the contractor:*

John Deal, CEO, CFO and COO

Cyrus M. Humphreys III, Senior Vice President of Engineering Services

(4) *any subcontractor listed in the bid or contract:*

N/A

(5) *any political committee sponsored or controlled by the contractor:*

N/A