

**CITY AND COUNTY OF SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
ONE SOUTH VAN NESS AVE, 7<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94103**

**MODIFICATION NO. 4 TO  
AGREEMENT BETWEEN SIEMENS INDUSTRY, INC.  
AND  
THE CITY AND COUNTY OF SAN FRANCISCO FOR  
PROCUREMENT OF NEW LIGHT RAIL VEHICLES (LRV4)  
(SFMTA No. 2013-19)**

This Modification No. 4 to Agreement is made and entered into this 17<sup>th</sup> day of July, 2017, by and between Siemens Industry, Inc. (Contractor), and the City and County of San Francisco, a municipal corporation (City), acting by and through its Municipal Transportation Agency (SFMTA).

**RECITALS**

- A.** On September 30, 2014, the City entered into an agreement with Contractor (Agreement) to provide 175 light rail vehicles (LRVs), together with associated equipment and spare parts, as well as Options for additional LRVs and parts.
- B.** On March 31, 2015, the City approved Modification No. 1 to the Agreement, to exercise Option 1 in accordance with Section 64.1 of the Agreement for 40 additional LRVs to be delivered after the Phase 1 delivery of 24 vehicles, and to exercise Options for additional spare parts and equipment, in accordance with Sections 64.2, 64.3 and 64.4 of the Agreement.
- C.** On October 30, 2015, the City approved Modification No. 2 to the Agreement, to update the list of approved major suppliers listed in Section 29, clarify the purpose of Item 1.1 (Allowance) in Exhibit 2 of Volume I, and specify the payment structure for changes to the LRVs paid under Item 1.1.
- D.** On August 16, 2016, the City approved Modification No. 3 to the Agreement, to update the list of approved major suppliers; modify radio/CAD/AVL systems on the Vehicles, including related price and payment schedules; provide extra time for delivery of the vehicles and other project submittals; add a new parent guarantee; and make miscellaneous changes to the Technical Specifications.

- E. The SFMTA now wishes to modify the Agreement to procure four additional LRVs to be delivered after the 24<sup>th</sup> production LRV, which Vehicles shall be part of the production fleet, conform to all requirements of the Technical Specifications, and all prior design approvals and Buy America audits will include these four Vehicles.

Now, therefore, the parties agree that the Agreement shall be amended as follows:

1. *The Definitions section is amended to modify the term "Base Order" and to add a new definition for "Phase W" to read as follows:*

\* \* \*

**Base Order:** Work referenced as Items 1-6 in Exhibit 1A.

\* \* \*

**Phase W:** Work related to the acquisition of four Vehicles to supplement the existing fleet.

2. *Section 15.2.1 (General) is modified in its entirety to read as follows:*

**15.2.1. General.** The following provisions set forth financial guarantees that must be met by Contractor. Contractor may choose to meet the requirements of this Section 15.2 by obtaining either the required bonds or an irrevocable letter of credit ("Letter of Credit") in an equivalent amount, or a combination of the two types of instruments. In addition, for each subsequent Vehicle delivery phase described below, Contractor may elect to change how the obligations are met by furnishing a bond to cover an obligation previously covered by a Letter of Credit or vice-versa, subject to approval of the SFMTA and the City's Risk Manager. The Contractor may provide a Parent Company Guarantee in lieu of bonds or other security required under this Agreement, subject to the approval of the SFMTA and the City's Risk Manager. The form of the Parent Company Guarantee is provided in Exhibits 6, 6.1, 6.2 (modified on August 26, 2016 as Exhibit 6.3), and 6.4. The City has accepted the Parent Company Guarantees as substitution for the required bonds or other security.

3. *Section 15.2.2 (Security) is modified by adding a new subsection (d) to read as follows:*

**(d) Phase W (4 Vehicles)** Contractor shall furnish to the City a performance bond or Letter of Credit in the amount of 25% of the total price for Phase W within 20 Days of Contractor's receipt of a notice of award from City to modify the Contract for Phase W. The amount of the performance bond may be reduced (or the City may authorize a reduction in the amount of the Letter of Credit) from 25 percent to five percent of the original amount upon Acceptance or Conditional Acceptance of the last Phase W Vehicle. The City will release the performance bond, or authorize the release of the Letter of Credit, upon the

expiration of the warranty period of the last Phase W Vehicle. Alternatively, the City may release the performance bond, or authorize the release of the Letter of Credit, upon Acceptance or Conditional Acceptance of the last Phase W Vehicle provided that Contractor has furnished the City with a warranty bond or Letter of Credit in accordance with the requirements of Section 15.2.4.

4. *Section 15.2.3 (Labor and Material Bond) is modified by adding after subsection c a new subsection (d) to read as follows :*

**(d) Phase W (4 Vehicles).** Within 20 days of receipt of a notice of award from the City to modify the Contract for delivery of four Phase W Vehicles, the Contractor shall furnish to the City either a separate labor and materials bond or a Letter of Credit in the amount of 25 percent of the total cost for Phase W, to guarantee performance of all Contract obligations with respect to Phase W. Provisions for releasing or reducing the amount of the bond or Letter of Credit shall apply in the same manner as described above in Section 15.2.2(d). The original bond shall also be retained by the City.

5. *Section 15.2.4 (Warranty Bond) is modified in its entirety to read as follows :*

**15.2.4 Warranty Bond.** Once all Vehicles have been Accepted or Conditionally Accepted for Phase 1, Phase 2, Phase W, or for Option Delivery, Contractor may replace the performance bond for that phase, or request that the City authorize the release of a Letter of Credit provided in lieu of a performance bond by obtaining a warranty or guaranty bond or an additional Letter of Credit in the amount of 10 percent of the Contract amount for that phase or for the Option Vehicles, as appropriate. Where Contractor's performance is secured by a Letter of Credit and Contractor obtains a warranty bond to cover Contractor's warranty obligations for a given phase or the Option Delivery period, Contractor may request that the Letter of Credit be released to reflect that the Contractor's obligations under that delivery phase have otherwise been fulfilled. A bond or Letter of Credit under this paragraph 15.2.4 shall be for the purpose of covering all of Contractor's warranty obligations under the Contract for that phase or for Option delivery, and shall become effective upon release of the performance bond or City's authorization to release the Letter of Credit specified in Subsection 15.2.2 above. At the end of each year of warranty coverage, the Contractor may request a reduction of coverage, which may be approved at the discretion of SFMTA and the City's Risk Manager.

6. *Section 19.1 (Liquidated Damages) is modified in its entirety to read as follows :*

### **19.1 Liquidated Damages**

By entering into this Agreement, the Contractor agrees that in the event the Work, as provided under Section 4, is delayed beyond the scheduled milestones and timelines as provided in the Project Delivery

Schedule in Exhibit 3 of this Agreement, as may be revised by Contract Modifications, City will suffer damages that will be impracticable or extremely difficult to determine; further, Contractor agrees that the amounts listed below for each day of delay beyond scheduled milestones and timelines are not a penalty, but are a reasonable estimate of the loss that City will incur based on the delay, established in light of the circumstances existing at the time this contract was awarded. Except where the delay is the result of an Unavoidable Delay, City may deduct a sum representing the liquidated damages from any money due to Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to deliver to City within the time fixed or such extensions of time permitted in writing by the SFMTA.

<u>Milestone</u>	<u>Amount per Day</u>
Delivery of first 2 Vehicles	\$2000 per Vehicle
Delivery of Vehicles 3 – 260	\$1000 per Vehicle
Delivery of 4 Phase W Vehicles	\$1000 per Vehicle
Completion of training program	\$500
Completion of delivery of Phase 1 spare parts	\$500
Completion of delivery of Phase 2 spare parts	\$500
Conditional Acceptance of manuals (operation, maintenance and parts manuals)	\$500
Delivery of diagnostic test equipment and special tools	\$500
Failure to provide a plan for correction of fleet defects	\$500 per Vehicle
Failure to fully correct fleet defects according to approved plan	\$500 per Vehicle

Liquidated Damages imposed under this Agreement shall be in addition to any other damages which are recoverable by the City specified elsewhere in the Contract. The total amount of liquidated damages shall not exceed 10 percent of the total amount of the Contract.

7. *A new Exhibit 1A.2 (Schedule of Prices-Modification No. 4) is added to the Agreement and is attached to this Modification.*
8. *A new Exhibit 2.2 (Payment Schedule-Modification No. 4) is added to the Agreement and is attached to this Modification.*
9. *Exhibit 3B (Vehicle Delivery Schedule) is replaced with a new Exhibit 3B (Vehicle Delivery Schedule), which is attached to this Modification.*
10. *Exhibit 5 (Warranty Provisions), subsection 1.1.6, is modified in its entirety to read as follows*

#### 1.1.6 Fleet Defects

A fleet defect is defined as cumulative failures of any kind in the same components in the same or similar application where such items are covered by the warranty and such failures occur within the warranty period in at least 10 percent of the Vehicles delivered under the same phase of this Contract. For the purposes of this Section only:

(a) The first phase of this Contract consists of Phase 1 (24 Vehicles), Option 1 (40 Vehicles), and Phase W (4 Vehicles), for a total of 68 Vehicles. For the first phase, the Contractor shall begin root cause failure investigations when the number of failures reach 3.5 percent (3 Vehicles). The full fleet defect criteria will be reached when the failure rate occurs in 10 percent of the Vehicles delivered in this phase (7 Vehicles).

(b) The second phase of this Contract consists of Phase 2 (151 Vehicles) and Option 2 (up to 45 Vehicles, to the extent the Option is exercised), for a total of up to 196 Vehicles. For the second phase, the Contractor shall begin root cause failure investigations when the number of Vehicle failures reach 8.0 percent. The full fleet defect criteria will be reached when the failure rate occurs in 10% of the Vehicles delivered in this phase. The SFMTA shall have final approval of corrections or changes under these conditions.

11. *Exhibit 6 is modified by adding after Exhibit 6.3 a new Exhibit 6.4, which is attached to this Modification.*
12. **Release.** Contractor acknowledges and agrees that the amounts agreed for the work described in Modification Nos. 1-3 and this Modification No. 4 shall be full accord and satisfaction for all past, current and prospective costs incurred in connection with Contractor's performance of all work for all executed Modifications up to and including the work covered under this Modification No. 4, without limitation, including any and all markups and overhead. If this modification involves

the granting of an extension of time, with or without cost, Contractor releases the City from all claims and costs associated with such extension of time. Said costs may include, but are not limited to, costs for labor, materials, equipment, disruption, lost productivity, escalation, delay, extended overhead, administration and extended performance time. Contractor releases the City from all claims for which full accord and satisfaction is made, as set forth above. Notwithstanding the foregoing, this Release does not apply to any work associated with change orders that are currently under discussion between Contractor and the City at the time of this Modification. This paragraph replaces the release paragraphs in Modification Nos. 1, 2, and 3.

13. **Effective Date.** Each of the amendments set forth above shall be effective on and after all parties have signed the Amendment.
14. **Legal Effect.** Except as expressly modified by this Modification No. 4, all other terms and conditions of the Contract remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Modification No. 4 on the date set forth on page 1 above.

**CITY**

**CONTRACTOR**

San Francisco Municipal Transportation Agency



Edward D. Reiskin  
Director of Transportation

San Francisco Municipal Transportation Agency  
Board of Directors

Resolution No. 170620-081

Dated: 7.19.2017

Attest:



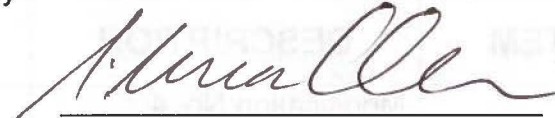
Secretary

Approved as to Form:

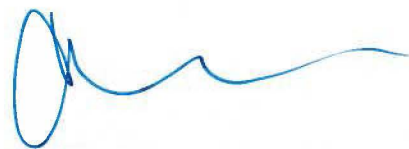
Dennis J. Herrera  
City Attorney



By  
Robin M. Reitzes  
Deputy City Attorney



Michael Cahill  
President  
Mobility Division, Rolling Stock  
Siemens Industry, Inc.  
7464 French Road  
Sacramento, CA 95828



Christopher Halleus  
Vice President, FBA  
Mobility Division, Rolling Stock  
Siemens Industry, Inc.  
7464 French Road  
Sacramento, CA 95828

City vendor number: 50009  
Federal Taxpayer ID No.13-2762488

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**Attachments**

- Exhibit 1A.2 – Schedule of Prices – Modification No. 4 Work
- Exhibit 2.2 – Payment Schedule
- Exhibit 3.B – Vehicle Delivery Schedules
- Exhibit 6.4 - Parent Company Guarantee

**EXHIBIT 1A.2**  
**Schedule of Prices – Modification No. 4 Work**

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>UNIT PRICE</b>	<b>QUANTITY</b>	<b>EXTENDED PRICE</b>
Item 14	Modification No. 4 (Vehicle Price for Phase W)	\$3,968,750	x 4 cars	\$15,875,000
<b>MOD 4 TOTAL Item 14</b>				<b>\$15,875,000</b>



## Exhibit 2.2 PAYMENT SCHEDULE

(All Item references are to Exhibit 1A.2)

### Item 14 - Modification No. 4 (Vehicle Price for Phase W)

Progress payments will be made in accordance with Item 2B of Exhibit 2.

	Milestone	Percent of Bid Item
A	Placement of contracts with the following major subcontractors (Cars 25, 27, 29, and 31).* <ul style="list-style-type: none"> <li>• Propulsion</li> <li>• Friction Brake</li> <li>• Air Comfort</li> <li>• Door Operators &amp; Controls</li> <li>• Carbody</li> <li>• Train Control</li> <li>• Coupler</li> <li>• Communication</li> </ul>	2%
B	Delivery of complete set of subsystems to site of installation.	20%/Vehicle
C	Vehicle structure complete and ready for shipment to final assembly site	20%/Vehicle
D	SFMTA Acceptance for shipment of Vehicle from final assembly site to SFMTA property	25%/Vehicle
E	Conditional Acceptance of Vehicle by SFMTA	30%/Vehicle
F	Completion and Approval of all Contract requirements for Phase W (Retention)	3%
<b>Total for Item 14</b>		<b>100%</b>

\*Payment will be made only to the extent that deposits have been paid to suppliers and up to the amount of the deposits or 2%, whichever is the lesser value; in addition, Contractor must provide security for payments under Section 7.3 of the Agreement.

**EXHIBIT 3  
PROJECT AND VEHICLE DELIVERY SCHEDULES**

**B. Vehicle Delivery Schedule**

<b>Item</b>	<b>Vehicle Delivery Date</b>	<b>Completion of Acceptance Testing</b>
Notice To Proceed	9/30/2014	
Delivery of 1st Vehicle (Phase 1) to SFMTA (LRV 2001)	1/13/2017	8/15/2017
LRV 2002	2/28/2017	9/21/2017
LRV 2003	5/2/2017	9/28/2017
LRV 2004	8/17/2017	10/27/2017
LRV 2005	8/31/2017	11/3/2017
LRV 2006	9/15/2017	11/13/2017
LRV 2007	10/3/2017	11/30/2017
LRV 2008	10/13/2017	12/12/2017
LRV 2009	10/27/2017	12/27/2017
LRV 2010	11/7/2017	1/5/2018
LRV 2011	11/16/2017	1/22/2018
LRV 2012	12/4/2017	1/31/2018
LRV 2013	12/13/2017	2/9/2018
LRV 2014	12/22/2017	2/27/2018
LRV 2015	1/10/2018	3/7/2018
LRV 2016	1/19/2018	3/16/2018
LRV 2017	1/30/2018	3/27/2018
LRV 2018	2/8/2018	4/5/2018
LRV 2019	2/20/2018	4/13/2018
LRV 2020	2/27/2018	4/23/2018
LRV 2021	3/6/2018	4/30/2018
LRV 2022	3/13/2018	5/7/2018
LRV 2023	3/20/2018	5/14/2018
LRV 2024	3/27/2018	5/21/2018
LRV 2025 (Delivery of 1 <sup>st</sup> Phase W Vehicle to SFMTA)	4/3/2018	5/28/2018
LRV 2026 (Delivery of 1st Option 1 Vehicle to SFMTA)	4/10/2018	6/4/2018
LRV 2027 (Delivery of 2 <sup>nd</sup> Phase W Vehicle to SFMTA)	4/17/2018	6/11/2018
LRV 2028	4/24/2018	6/18/2018
LRV 2029 (Delivery of 3 <sup>rd</sup> Phase W Vehicle to SFMTA)	5/1/2018	6/25/2018
LRV 2030	5/8/2018	7/2/2018
LRV 2031 (Delivery of 4 <sup>th</sup> Phase W Vehicle to SFMTA)	5/15/2018	7/9/2018
LRV 2032	5/22/2018	7/16/2018
LRV 2033	6/5/2018	7/30/2018
LRV 2034	6/19/2018	8/13/2018
LRV 2035	7/3/2018	8/27/2018

Item	Vehicle Delivery Date	Completion of Acceptance Testing
LRV 2036	7/17/2018	9/10/2018
LRV 2037	7/31/2018	9/24/2018
LRV 2038	8/14/2018	10/8/2018
LRV 2039	8/28/2018	10/22/2018
LRV 2040	9/11/2018	11/5/2018
LRV 2041	9/25/2018	11/19/2018
LRV 2042	10/9/2018	12/3/2018
LRV 2043	10/23/2018	12/17/2018
LRV 2044	11/6/2018	12/31/2018
LRV 2045	11/20/2018	1/14/2019
LRV 2046	12/4/2018	1/28/2019
LRV 2047	12/18/2018	2/11/2019
LRV 2048	1/1/2019	2/25/2019
LRV 2049	1/15/2019	3/11/2019
LRV 2050	1/29/2019	3/25/2019
LRV 2051	2/12/2019	4/8/2019
LRV 2052	2/26/2019	4/22/2019
LRV 2053	3/12/2019	5/6/2019
LRV 2054	3/26/2019	5/20/2019
LRV 2055	4/9/2019	6/3/2019
LRV 2056	4/23/2019	6/17/2019
LRV 2057	5/7/2019	7/1/2019
LRV 2058	5/21/2019	7/15/2019
LRV 2059	6/4/2019	7/29/2019
LRV 2060	6/18/2019	8/12/2019
LRV 2061	7/2/2019	8/26/2019
LRV 2062	7/16/2019	9/9/2019
LRV 2063	7/30/2019	9/23/2019
LRV 2064	8/13/2019	10/7/2019
LRV 2065	8/27/2019	10/21/2019
LRV 2066	9/10/2019	11/4/2019
LRV 2067	9/24/2019	11/18/2019
LRV 2068	10/8/2019	12/2/2019
Delivery of 1st vehicle (Phase 2) to SFMTA	5/15/2021	TBD
Delivery Rate of Phase 2 Vehicles	1 car / 2 week	
Delivery of 151th vehicle (Phase 2) to SFMTA	2/27/2027	TBD
Delivery of 1st Option 2 Vehicle to SFMTA	TBD	TBD
Delivery Rate of Option 2 Vehicles	TBD	TBD
Delivery of the last Option 2 Vehicle	TBD	TBD



# SIEMENS

(G-556963)

## EXHIBIT 6.4 – PARENT COMPANY GUARANTEE

July 6, 2017

RE: Procurement of New Light Rail Vehicles (LRV4) Contract No. SFMTA-2013-19 between Siemens Industry Inc. ("Obligor") and the City and County of San Francisco ("City"), through its Municipal Transportation Agency ("Beneficiary") dated September 29, 2014 ("Contract").

The Contract requires that Obligor provide a performance bond, labor and materials bond, warranty bond (the "bonds"), letters of credit or other security, as approved by the City's Risk Manager, to secure Obligor's performance, warranty and other obligations under the Contract. Siemens Corporation ("Guarantor"), the parent company of Obligor, offers to provide Beneficiary with the following guarantee in lieu of the bonds or letters of credit required under the Contract for Phase W, as defined in Modification No. 4 of the Contract.

For value received, Guarantor, a corporation duly organized and validly existing under the laws of the state of Delaware, unconditionally guaranties to Beneficiary the prompt and complete payment when due, whether by acceleration or otherwise, of all amounts owing by Obligor under Phase W of the Contract (including any liquidated damages). If at any time Obligor fails, neglects or refuses to timely or fully pay any sum due under Phase W of the Contract, and if within 15 calendar days after the written notice of such failure from the Beneficiary and the expiration of any grace period applicable with respect thereto under the Contract, Obligor has not made such payment in full, then upon receipt of written notice from Beneficiary specifying such default, Guarantor shall promptly make such payment in immediately available funds to the order of the Beneficiary. This guaranty is one of payment and not of collection. If more expeditious and appropriate than a direct payment to SFMTA (and if agreed to by SFMTA and Guarantor), in the event of any default on the part of the Obligor regarding its obligations under Phase W of the Contract, Guarantor agrees to perform all such obligations under the Contract that are necessary to cure the default and complete performance of all such work under the Contract.

Guarantor waives notice of acceptance of this Guarantee and notice of any liability to which it may apply, and waives presentment, demand for payment, protest, and notice of dishonor or non-payment of any kind.

Beneficiary may at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder: (1) agree to any change in the terms of any obligation or liability of the Obligor to Beneficiary under the Contract, (2) grant any waivers to Obligor, (3) take or fail to take any action of any kind in

respect of Phase W of the Contract, or (4) exercise or refrain from exercising any rights against Obligor under the Contract. In addition, Guarantor agrees that its obligations hereunder shall not be impaired in any manner whatsoever by any bankruptcy, extensions, moratoria or other relief granted to Obligor.

Notwithstanding anything contained in this Guarantee to the contrary, Guarantor's liability under this Guarantee shall not exceed Fourteen Million, Six Hundred Five Thousand Dollars (\$14,605,000), which is the sum of Seven Million, Nine Hundred Thirty-Seven Thousand, Five Hundred Dollars (\$7,937,500) US (the "Stated Amount") plus (2) the "Additional Amount" of Six Million, Six Hundred Sixty-Seven Thousand, Five Hundred Dollars (\$6,667,500), which covers providing additional security for progress payments made by the Beneficiary for such Phase W Vehicles (see Section 7.3 of the Contract). For the Phase W Vehicles, the Payment Milestones comprising the Additional Amount are Milestones A, B, and C of Item 14 (Exhibit 2.2 to Modification No. 4). Together, the Stated Amount and the Additional Amount covers all Phase W obligations. Once all Phase W Vehicles have been Accepted (as these terms are defined in the Contract), the Additional Amount may be released from the Guarantee for Phase W. Upon Acceptance or Conditional Acceptance of all Phase W Vehicles, the Stated Amount will be reduced to five percent of the total price for Phase W in accordance with Section 15.2.2(d) of the Contract.

With respect to any claim, action or proceeding against Guarantor in connection with this Guarantee, Guarantor shall be entitled to assert those defenses which Obligor would be able to assert if such claim, action or proceeding were to be asserted or instituted against Obligor based upon the Contract. By its acceptance hereof, reliance hereon, Beneficiary affirms to Guarantor any and all representations, warranties, and covenants made by the Beneficiary to the Obligor under the Contract.

This Guarantee shall continue in full force and effect until Guarantor gives Beneficiary notice of termination of this Guarantee, except that, notwithstanding any such termination, this Guarantee shall continue in full force and effect with respect to all obligations and/or liabilities incurred prior to such termination. Notwithstanding the foregoing, however, this Guarantee shall terminate and cease to be of further effect on the earlier of: (a) July 7, 2023, (b) the Acceptance or Conditional Acceptance of the last Vehicle of Phase W, provided that the Contractor has furnished a separate Parent Company Guarantee or other security for the warranty provisions that meets the requirements of section 15.2.4. of the Contract; (c) end of the agreed warranty period of the Phase W Vehicles; (d) the date of any permitted assignment of Obligor's interest in the Contract; or (e) the date that (i) the Guarantor no longer owns or controls, directly or indirectly, more than 50 percent of the ownership interests of the Obligor, and (ii) the Beneficiary has been provided with a replacement guaranty, letter of credit, or other financial accommodation from a party with a credit rating equal to or better than that of Guarantor as of the date of this Guarantee, which financial accommodation provides Beneficiary with no less protection than that which is contained in this Guarantee (the acceptance of such replacement guarantee being within the sole and reasonable discretion of the Beneficiary). Guarantor shall, as of such date (the "Expiration Date"), have no further obligations or liability under this

Guarantee, whether or not the Guarantee is returned to the Guarantor. To the extent feasible, Beneficiary will return the original of this Guarantee to the Guarantor after the Expiration Date.

Nothing contained herein shall be construed as conferring any rights upon persons or entities other than the Beneficiary.

This Guarantee shall be governed and construed in accordance with the laws of the State of California without giving effect to principles of conflicts of law. Guarantor submits, and by its acceptance hereof Beneficiary hereby submits, to the jurisdiction of the courts of the state of California and to federal courts located within the city of San Francisco. Neither Guarantor nor Beneficiary may assign its rights or delegate its duties without the written consent of the other party. Any amendments to this Guarantee must be in writing. This Guarantee may be executed in counterparts, each of which, when taken together, shall be deemed to be one and the same instrument.

This Guarantee has been duly executed by authorized representatives of the Guarantor as follows:

SIEMENS CORPORATION

By: 

\*Name: Jeffrey Cain

Title: Senior Vice President  
of Siemens Financial Services, Inc.

By: 

\*Name: Robert Dorza

Title: Vice President of Siemens Financial Services, Inc.

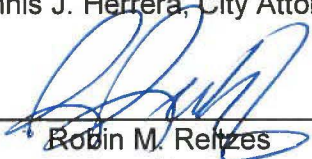
\*[Under Power of Attorney from Siemens Corporation]

Accepted:

Municipal Transportation Agency

By   
Edward D. Reiskin  
Director of Transportation

Approved as to Form:  
Dennis J. Herrera, City Attorney

By   
Robin M. Reitzes  
Deputy City Attorney









**SFMTA**  
Municipal  
Transportation  
Agency

## MEMORANDUM

June 12, 2017

**To:** Ed Reiskin  
Director of Transportation

**Through:** John Haley  
Director of Transit

**From:** Janet Gallegos  
Project Manager

**Subject:** Sole Source Procurement for four additional Light Rail Vehicles

The arena and event center proposed by the Golden State Warriors is under construction on an 11-acre site on Blocks 29-32 within the Mission Bay South Redevelopment Plan Area (Project). Development of the site will significantly increase transportation and other public service needs in the area during events. The developer of the Project, along with stakeholders, produced the Transportation Service Plan (TSP) as part of a strategy to mitigate impacts to residents, medical facilities, and businesses in the area. The TSP includes elements under the jurisdiction of the SFMTA. These include the procurement of four additional light rail vehicles to provide enhanced service during basketball games and other events. These vehicles are in addition to the replacement of the existing fleet and the planned expansions.

These vehicles were not anticipated as part of the current LRV4 Procurement of up to 260 light rail vehicles for both expansion and fleet replacement. This memo requests approval for a sole-source procurement of four additional light rail vehicles through the existing Contract with Siemens. The vehicles will be identical to those currently being delivered as part of the first Phase of 24 expansion vehicles, and will be used interchangeably in order to most effectively serve the entire system.

Since Siemens is the supplier for the LRV4 Procurement, and is the only source for these vehicles, it holds that a Sole Source Procurement is necessary to procure these vehicles. The vehicles will be procured through Contract Modification No. 4 to the existing contract with Siemens.

Approved:   
Edward D. Reiskin, Director of Transportation