

**City and County of San Francisco
Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, California 94103**

**AGREEMENT FOR PROCUREMENT, IMPLEMENTATION AND MAINTENANCE OF
A PARKING ACCESS AND REVENUE CONTROL SYSTEM**

SKIDATA Contract No. SFMTA-2015-36

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**Agreement for Procurement, Implementation and Maintenance of
a Parking Access and Revenue Control System**

Contract No. SFMTA-2015-36

AGREEMENT

The Parties Agree as Follows:

This Agreement for Procurement and Implementation of a Parking Access and Revenue Control System ("PARCS Agreement"), dated for convenience as **April __, 2016**, is made in the City and County of San Francisco, State of California, by and between: SKIDATA, Inc., One Harvard Way, Suite 5, Hillsborough, New Jersey 08844 ("Vendor"), and the City and County of San Francisco, a municipal corporation acting by and through its Municipal Transportation Agency ("City" or "SFMTA").

I. RECITALS

- A. The SFMTA wishes to obtain a Parking Access and Revenue Control System to serve off-street parking facilities owned or managed by the SFMTA.
- B. A Request for Proposals ("RFP") was issued on January 2, 2015, and City selected Vendor as the highest-ranked proposer.
- C. Vendor represents and warrants that it is qualified to perform the services required by City as described in this Agreement.
- D. Approval for this PARCS Agreement was obtained when the Civil Service Commission approved Contract number 4031-13/14 on October 21, 2013.

II. DEFINED TERMS

For purposes of this PARCS Agreement, the terms listed below shall have the meanings provided here. Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this PARCS Agreement or any Included Appendix, it shall have the meaning provided below.

City: The City and County of San Francisco, a municipal corporation operating under a Charter.

Completion Due Date: The last day of the Installation Period, when Vendor shall have completed the installation, testing and implementation of the PARCS, as specified in this PARCS Agreement.

Day(s): A calendar day or consecutive calendar days, unless specifically otherwise stated as to a particular section of this PARCS Agreement, in which case the differing definition shall apply only to that section of the PARCS Agreement.

Equipment: The mechanical and electronic components to be provided by Vendor necessary for the PARCS to function as specified, including but not limited to pay stations, ticketing machines, gate activators and lift mechanisms, fee computers, and all associated equipment.

Effective Date: The date Vendor is directed to commence the Work stated in the Notice to Proceed.

Installation Period: The thirty-month period commencing at Notice to Proceed in which Vendor will install, test and fully implement the PARCS in the Parking Facilities.

Licensed Materials: The Licensed Software and Documentation listed in Appendix D and in the Software License Agreement at section 5.k. that Licensor licenses to the SFMTA under the Software License Agreement.

Licensed Software: The software licensed to the City by separate agreement (the Software License Agreement) necessary for the functioning of the PARCS. The Licensed Software is a component of the PARCS. (See Appendices D and H.)

Maintenance Services: The PARCS equipment and software maintenance services that Vendor shall provide following the expiration of the Warranty Period. (See Appendix I.)

Notice to Proceed (NTP): Written notice from the SFMTA directing Vendor to commence the Work and confirming the amount of funds the City's Controller has certified funds for the Work.

PARCS: The Parking Access and Revenue Control System that Vendor shall provide and implement under this PARCS Agreement, with the functions and features specified herein.

PARCS Agreement: This document, which is a contract between the SFMTA and Vendor, including its Included Appendices (listed in Section 68) and any other document specifically incorporated by reference.

PARCS Infrastructure: Constructed elements, including but not limited to, concrete islands, electrical circuits, communication cabling, fiber optic cabling, and other constructed elements that the City shall provide or cause to be constructed to facilitate the installation and operation of the PARCS.

PARCS Component(s): Any individual or group of equipment that is a part of the PARCS including but not limited to payment stations, ticketing machines, entry and exit

gates, communications equipment, cabling and wiring installed by Vendor, , Licensed Software, cloud servers, and local servers and computers and ancillary equipment described in this PARCS Agreement or that is otherwise necessary for the PARCS to function as specified in the RFP and listed in See Appendix F.

Parking Facility/Facilities: A parking garage (or garages, as applicable) under the control of the SFMTA to which the Vendor will install, test and implement the PARCS. (See Appendix G for a list identifying the Parking Facilities and their locations.)

Project: The work necessary to design the PARCS, design and construct the PARCS Infrastructure, and install, test, and implement the PARCS as required by this PARCS Agreement.

Project Schedule: The agreed schedule set out in Appendix J by which the Vendor shall install, test and implement the PARCS.

Proposal: Vendor's Proposal, dated April 1st, 2015, submitted in response to the Request for Proposals (RFP) the SFMTA issued on January 12, 2015.

RFP: The SFMTA's Request for Proposals to Provide Parking Access and Revenue Control Systems (PARCS), RFP No. #SFMTA-2015-36, dated January 12, 2015 and the following RFP amendments: #1, dated January 27, 2015; #2, dated February 24, 2015; #3, dated March 10, 2015; and #4, dated March 30, 2015.

SFMTA: The San Francisco Municipal Transportation Agency, which is a department of the City.

Software License Agreement: The separate agreement, executed simultaneously with this PARCS Agreement, by the Vendor grants to the City a perpetual, non-exclusive right to use the Licensed Software and periodic updates for internal City purposes. (See Appendix H.)

Specifications (Specified): The description of PARCS and PARCS components function and performance stated in this PARCS Agreement and the RFP.

Warranty Period: The thirty-six month period following the Installation Period (which is 33 months commencing on NTP), during which Vendor shall provide all necessary services and equipment to maintain the PARCS and Licensed Software including updates so that the PARCS operates as specified in this PARCS Agreement. (See Section 22 and Appendix C.)

Work: The procurement, delivery, installation, testing and implementation of the PARCS and PARCS components specified in this PARCS Agreement and the performance of the services required of Vendor by this PARCS Agreement, including ancillary services that are necessary to the Work but may not be fully described herein.

III. PROJECT OVERVIEW

In accordance with the Project Schedule and as more specifically described in the RFP and in Appendix A to this PARCS Agreement, Vendor shall install, implement and test a

PARCS in the Parking Facilities identified in this Agreement that provides the reporting and control functions specified herein. The City shall separately contract for the design, and construction and installation of infrastructure (including but not limited to wiring, cabling, conduits, wire loops and concrete islands) to support the PARCS that Vendor will install in the Parking Facilities. Vendor shall provide review and approve the designs for said infrastructure, and Vendor will inspect and accept the constructed infrastructure prior to installing the PARCS. Following installation, testing and implementation of the PARCS, Vendor shall maintain the PARCS under warranty so that it operates as specified for a period of three years. Following the warranty period, for an additional period of not less than seven years, Vendor shall continue to maintain the PARCS under a Maintenance Agreement in consideration for the SFMTA's payment of an annual maintenance fee.

IV. TERMS AND CONDITIONS

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

This Section 1 controls against any and all other provisions of this PARCS Agreement.

This PARCS 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 PARCS 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 PARCS 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 PARCS 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. Vendor's assumption of risk of possible non-appropriation is part of the consideration for this PARCS Agreement.

2. Term of the Agreement. Subject to Section 1, the term of this PARCS Agreement shall be from the Effective Date and shall continue for a period of sixty-six months, including the Warranty Period, unless earlier terminated or extended.

3. Effective Date of Agreement. This PARCS Agreement shall become effective when the Controller has first certified to the availability of funds and Vendor has been notified in writing and given Notice to Proceed in performing the Work, which date shall be the Effective Date of the Contract. If the City has not provided Notice to Proceed and confirmation of the Controller's certification of funds to Vendor within 90 Days of the San Francisco Board of Supervisors' approval of this PARCS Agreement, Vendor may without liability or penalty terminate this PARCS Agreement.

4. Services Vendor Agrees to Perform. The Vendor agrees to perform the services described in the "Project Overview" section and as more specifically described in in Appendix A, "Services to be Provided by Vendor," and in Appendix I, "PARCS Maintenance"

5. Compensation.

a. Compensation shall be made in monthly payments on or before the last day of each month for Work, as set forth in Section 4 of this PARCS Agreement, that the SFMTA's Director of Transportation, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this PARCS Agreement exceed Nineteen Million Three Hundred Nineteen Thousand Two Hundred Seventy Thousand dollars (\$19,319,270) unless said amount is amended in writing by a properly executed Contract Amendment. The breakdown of costs associated with this PARCS Agreement appears in Appendix B, "Milestone Payment Schedule," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this PARCS Agreement nor shall any payments become due to Vendor until reports, services, or both, required under this PARCS Agreement are received from Vendor and approved by SFMTA as being in accordance with this PARCS Agreement. City may withhold payment to Vendor in any instance in which Vendor has failed or refused to satisfy any material obligation provided for under this PARCS Agreement.

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

c. The Controller is not authorized to pay invoices submitted by Vendor prior to Vendor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Vendor's invoice, the Controller will notify the SFMTA, the Director of CMD and Vendor of the omission. If Vendor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Vendor has ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

6. Guaranteed Maximum Costs.

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

b. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Licensor to perform services or to provide materials, equipment and supplies that would result in Vendor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize additional services, materials, equipment or supplies. The City is not required to reimburse Vendor for services, materials, equipment or supplies that are provided by Vendor which are beyond the scope of the services, materials, equipment

and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.

c. The City and its employees and officers are not authorized to offer or promise to Vendor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Vendor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

d. The City shall provide upon request confirmation as to amount of funds for the Project certified by the City's Controller, which amount the City shall also state in its Notice to Proceed with the Work. Vendor acknowledges that funds for the Project may be received from funding sources on a rolling basis or allocated year-by-year on a fiscal/budget year basis, and therefore may not be available in the full Contract Amount at the outset of the Project or any particular time in the Contract Term. The Vendor is not obligated to perform the Work beyond the value of certified funds.

7. Payment; Invoice Format. Invoices furnished by Vendor under this PARCS Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Vendor shall be subject to audit by City. Payment shall be made by City to Vendor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Taxes.

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

b. Vendor recognizes and understands that this PARCS Agreement may create a “possessory interest” for property tax purposes. Generally, such a possessory interest is not created unless the PARCS Agreement entitles the Vendor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Vendor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Vendor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Vendor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this PARCS 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 PARCS Agreement. Vendor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Vendor, 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., Revenue & Taxation Code Section 64, as amended from time to time). Vendor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Vendor 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.

10. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Vendor, shall in no way lessen the liability of Vendor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this PARCS Agreement may be rejected by City and in such case must be replaced by Vendor without delay. The granting of any payment by City, or the receipt thereof by Vendor, shall not be deemed to be a waiver of the provisions for warranty provided in this PARCS Agreement or the Software Agreement or any other agreement between the City and Vendor for PARCS maintenance and services.

11. Qualified Personnel. Work under this PARCS Agreement shall be performed only by competent personnel under the supervision of and in the employment of Vendor. Vendor will comply with City’s reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City’s request, but Vendor’s personnel shall be supervised by Vendor. Vendor shall commit adequate resources to complete the project within the project schedule specified in this PARCS Agreement.

12. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Vendor, or by any of its employees, even though such equipment be furnished, rented or loaned to Vendor by City. Vendor represents that it will not rent, borrow or otherwise use City-owned equipment.

13. Independent Contractor; Payment of Taxes and Other Expenses.

a. Independent Contractor. Vendor or any agent or employee of Vendor 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 PARCS Agreement. Vendor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Vendor or any agent or employee of Vendor 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. Vendor or any agent or employee of Vendor is liable for the acts and omissions of itself, its employees and its agents. Vendor 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 Vendor's performing services and work, or any agent or employee of Vendor providing same. Nothing in this PARCS Agreement shall be construed as creating an employment or agency relationship between City and Vendor or any agent or employee of Vendor. Any terms in this PARCS Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Vendor'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 Vendor performs work under this PARCS Agreement.

b. Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Vendor is an employee for purposes of collection of any employment taxes, the amounts payable under this PARCS 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 Vendor 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 Vendor for City, upon notification of such fact by City, Vendor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Vendor under this PARCS Agreement (again, offsetting any amounts already paid by Vendor 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 PARCS Agreement, Vendor shall not be considered an employee of City. Notwithstanding the foregoing, Vendor 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 attorney's fees, arising from this section.

14. Insurance.

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

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

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

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

(5) Information and Network Technology Blended Liability Insurance coverage, with limits of \$1,000,000 each occurrence and each loss, and \$2,000,000 general aggregate. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:

(a) Liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, bank or credit card account and PIN access numbers, or other personally identifying information, stored or transmitted in electronic form;

(b) Network security liability arising from the unauthorized access to, use of, or tampering with PARCS Components, computers or computer systems, including hacker attacks; and

(c) Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

(d) In the event Vendor's coverage for Technology Errors and Omissions Liability does not include coverage for claims listed under section (14)(a)(5)(a) Vendor shall maintain in force during the full life of the agreement Cyber and Privacy Insurance that does provide coverage for such claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate

(6) Blanket fidelity bond covering all officers and employees of Vendor performing Work at any City garage or who have access to the PARCS, no less than \$1,000,000. Alternatively, Vendor may fulfill the fidelity bond obligation by

providing a crime policy with coverage no less than One Millions Dollars (\$1,000,000) and any deductible not to exceed Twenty Five Thousand Dollars (\$25,000) for each loss.

b. Commercial General Liability, Commercial Automobile Liability Insurance, and Information and Network Technology Blended Liability Insurance policies must be endorsed to provide:

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

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

c. All policies shall be endorsed to provide thirty (30) days' advance written notice to 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 the Section entitled "Notices to the Parties."

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

e. Should any required insurance lapse during the term of this PARCS 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 PARCS Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this PARCS Agreement effective on the date of such lapse of insurance.

f. Before commencing any Services, Vendor 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 Vendor's liability hereunder.

g. The Workers' Compensation policy or policies shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Vendor, its employees, agents and subcontractors.

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

15. Indemnification.

Vendor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, assessment, penalty, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Vendor or loss of or damage to property, including misappropriation or other loss of monies, arising directly or indirectly from Vendor's performance of this PARCS Agreement, including, but not limited to, Vendor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this PARCS Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Vendor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

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

16. Indemnity for Infringement of Intellectual Property Rights

a. If notified promptly in writing of any judicial action brought against City based on an allegation that City's use of the PARCS or Licensed Software infringes a patent, copyright, or any right of a third party or constitutes misuse or misappropriation of a trade secret or any other right in intellectual property (Infringement), Vendor shall hold City harmless and defend such action at its own expense. Vendor shall pay the costs and damages awarded in any such action or the cost of settling such action, provided that Vendor shall have sole control of the defense of any such action and all negotiations or its settlement or compromise. If notified promptly in writing of any informal claim (other than a judicial action) brought against City based on an allegation that City's use of the PARCS or Licensed Software constitutes Infringement, Vendor will pay the costs associated with resolving such claim and will pay the settlement amount (if any), provided that Vendor shall have sole control of the resolution of any such claim and all negotiations for its settlement.

b. In the event a final injunction is obtained against City's use of any component of the PARCS (including but not limited to the Licensed Software) by reason of infringement or other violation of another's copyright, patent or other recognized intellectual property right ("Infringement"), or in Vendor's opinion City's use of any the PARCS or any PARCS Component is likely to become the subject of Infringement, Vendor may at its option and expense: (1) procure for City the right to continue to use

the infringing PARCS Component for the purposes stated in this PARCS Agreement, (2) replace the infringing PARCS Component with a non-infringing, functionally equivalent substitute, or (3) suitably modify the PARCS or the Licensed Software to make its use non-infringing while retaining functional equivalency to the unmodified version of the PARCS. If none of these options is reasonably available to Vendor, then the applicable Authorization Document or relevant part of such Authorization Document may be terminated at the option of either party hereto and Vendor shall refund to City all amounts paid under this PARCS Agreement or other agreement for the use of the PARCS or the infringing PARCS Component to the extent said PARCS Component and its functions may be severed from the PARCS.

c. Any unauthorized modification or attempted modification of the PARCS or a PARCS Component by City or any failure by City to implement any improvements or updates to the PARCS or a PARCS Component, as supplied by Vendor, shall void this indemnity unless City has obtained prior written authorization from Vendor permitting such modification, attempted modification or failure to implement.

d. Vendor shall have no liability for any claim of Infringement based on City's use or combination of the PARCS with products, data or system that Vendor has not approved. This subsection 16.d. shall not apply to the integration of the PARCS with any product, data or system performed by Vendor under this PARCS Agreement or under any other contract with the SFMTA. Vendor acknowledges that is has superior knowledge to the SFMTA and is in the best position to recognize an integration to the PARCS that infringes upon another party's intellectual property rights or is otherwise restricted or prohibited.

17. Incidental and Consequential Damages. Vendor shall be responsible for incidental and consequential damages resulting in whole or in part from Vendor's acts or omissions. Vendor's liability to the City for incidental and consequential damages shall be limited to five million dollars (\$5,000,000) per incident giving rise to a claim against Vendor by the City. Vendor's liability to third parties is not limited, and Vendor's obligation to indemnify the City for any claim or action brought by a third party is not limited. Nothing in this PARCS Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law. Stolen or diverted Parking Revenues, including embezzled funds, are not subject to the limits stated in this Section 17.

18. Liability of City. City's payment obligations under this PARCS Agreement shall be limited to the payment of the compensation provided for in Section 5 (Compensation) of this PARCS Agreement. Notwithstanding any other provision of this PARCS 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 PARCS Agreement or the services performed in connection with this PARCS Agreement.

19. Delays.

a. Delay Due to Vendor. By entering into this PARCS Agreement, Vendor agrees that in the event the Services, as provided under Section 4 herein, are delayed

beyond the Completion Date of the Installation Period, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Vendor agrees that it shall pay as liquidated damages the amounts stated in the following Schedule of Delay Damages for each day of delay of the Completion Date where that delay is solely and directly attributable to Vendor's acts or omissions. Vendor agrees that assessment of said liquidated damages does not effect a penalty, but is 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 PARCS Agreement was awarded. City may deduct a sum representing the liquidated damages from any money due to Vendor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City due to Vendor's delay. Vendor

Schedule of Liquidated Damages for Delay

<u>Number of Days of Delay</u>	<u>Liquidated Damages for Vendor's Delay per Day</u>
1 to 7	\$500 per Day
8 to 15	\$750 per Day
16 to 30	\$1,000 per Day
31 to 45	\$1,500 per Day
46 to 60	\$2,000 per Day
61	2,200 per Day

b. Delay Not Due to Contactor. In the event that the Completion Due Date is delayed due to any act, omission or delay of the SFMTA with respect to its obligations under this PARCS Agreement; the Warranty Period shall be reduced by a number of Days equal to the number of Days of SFMTA caused delay, unless otherwise agreed by the Parties.

20. Default; Remedies.

a. Each of the following shall constitute an event of default ("Event of Default") by Vendor under this PARCS Agreement:

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

8. Submitting False Claims; 10. Taxes; 15. Insurance; 24. Proprietary or Confidential Information of City; 30. Assignment; 37. Drug-Free Workplace Policy; 53. Compliance with Laws; and 57. Protection of Private Information.

(2) Vendor fails or refuses to perform or observe any other term, covenant or condition contained in this PARCS Agreement, and such default continues for a

period of ten days after the City has provided written notice thereof to Vendor describing the material breach of the PARCS Agreement and Vendor has not cured the breach or proposed a plan acceptable to the City to cure the breach.

(3) Vendor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Vendor or of any substantial part of Vendor's property or (e) takes action for the purpose of any of the foregoing.

(4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Vendor or with respect to any substantial part of Vendor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Vendor.

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

c. City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Vendor any Event of Default; where such Event of Default may cause the City to incur costs or liability to a third party. Vendor 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 Vendor under this PARCS Agreement or any other agreement between City and Vendor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Vendor pursuant to the terms of this PARCS Agreement or any other agreement. This Section 20.c shall not apply where such potential third party costs or liability have been presented to the City as a claim, and the Vendor has accepted tender of that claim to defend and indemnify the City.

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

21. Force Majeure

a. Force Majeure shall mean any act of God or any other cause beyond a Party's control (including, but not limited to, an act of war, terror, riot or civil commotion, strike, lock-out, plant shutdown, material shortage, delay in transportation, earthquake,

severe weather such as hurricane or tornado, flood, or other catastrophe, or delay in performance by its suppliers or subcontractors for any similar cause), that could not have been reasonably foreseen, avoided or mitigated. Neither Party shall by reason of Force Majeure be deemed in default of this PARCS Agreement, entitled to terminate this PARCS Agreement for cause, nor have any claim for damages against the other for its failure to perform or delay in performance under the PARCS Agreement as a result of such Force Majeure. If the performance in whole or part of any obligation under this PARCS Agreement is delayed by reason of any such event of Force Majeure for a period exceeding three months, the Parties shall discuss and review in good faith the desirability and conditions of terminating this PARCS Agreement.

b. The prevented or delayed party shall, as soon as it becomes aware of an event of Force Majeure, immediately inform the other Party of the nature and the beginning and the end of the Force Majeure circumstances preventing the performance of the PARCS Agreement.

22. Warranties.

a. Warranty and Due Care. Vendor shall perform the Work with due care and diligence, in accordance with the terms and conditions of this PARCS Agreement. During the Warranty Period, the Vendor shall provide all necessary services and equipment to maintain the PARCS and Licensed Software, including software updates, so that the PARCS operates as specified in this PARCS Agreement.

b. Warranty Period. Vendor warrants that the Equipment and Software supplied hereunder shall conform to the functions described in this PARCS Agreement and the RFP for a period of 36 months. The Warranty Period shall commence 33 months after the SFMTA issues NTP to Vendor. The parties anticipate that Vendor will complete installation of the PARCS in all Parking Facilities within the 33 month period commencing at NTP (the Installation Period). Delay by the Vendor shall extend the warranty for each day of delay. If the SFMTA suspends the Work within the Installation Period or otherwise delays the installation of the PARCS, the Warranty Period shall not be stayed or extended for that period of delay. The Parking Facilities covered by said warranty will be limited to those in which installation of the PARCS is sufficiently complete, have passed Acceptance Tests, and of which the SFMTA has beneficial use. If Vendor completes the installation of the PARCS prior to the completion date stated in the Project Schedule, the Warranty Period shall commence at the actual completion date.

c. Software Warranty. Vendor does not warrant that the Licensed Software shall be error free. During the Warranty Period and during any period for which the SFMTA has paid for Maintenance Services, Vendor shall, at its own expense, promptly correct or bypass any reproducible malfunction, lack of conformity with functions described in the design documents and technical specifications, and/or anomaly within the Warranty Period and the service periods stated in the Software License Agreement and Maintenance Agreement. Vendor shall warrant the Licensed Software changed pursuant to a warranty correction under the same conditions as above, for a period expiring either simultaneously with the initial Warranty Period, or six (6) months after the SFMTA's acceptance of such corrected Licensed Software.

d. Manufacturer's Warranties. Where SKIDATA's Equipment vendors provide a pass-through warranty, the SFMTA shall be listed as the intended beneficiary on all warranty documents, which shall be provided to the SFMTA as a condition of Final Acceptance.

e. No Implied Warranties.

Vendor disclaims any and all implied warranties, including, but not limited to, and any and all implied warranties that may be applicable under the Uniform Commercial Code or other applicable statutes, including implied warranties arising by usage or custom of trade.

f. Actions That May Void Warranty. Notwithstanding any provision to the contrary, Vendor shall have no obligation to repair or replace any PARCS Component if:

(1) The PARCS Component has been modified, repaired or reworked by any party other than Vendor, without Vendor's prior written consent; or

(2) The defect is the result of:

i. any improper storage, handling or use of the Equipment or Software by City; or

ii. any use of the Equipment or Software by City in conjunction with another equipment or software that is electronically or mechanically incompatible or of an inferior quality; or

iii. modifications by SFMTA to the interface specifications that Vendor does not agree to; or

iv. any damage to the Equipment or Software by power failure, fire, explosion or any act of God or other cause beyond Vendor's control; or

v. installation not performed in accordance with the Vendor's procedures and/or instructions.

The warranties set forth herein shall be non-transferable. The fulfillment of the above obligations shall be in full satisfaction of Vendor's responsibility for correction of defects in the PARCS and PARCS Components and such repair or replacement constitutes the City's sole remedy as to the repair or replacement of defective PARCS Components supplied hereunder.

23. Termination for Cause.

A party may terminate this PARCS Agreement for cause with written notification to the other party upon occurrence of the following events:

a. If the other party shall commit any material breach of its obligations under this PARCS Agreement and fails to take action to remedy such breach within thirty (30) Days from the date of receipt of the notifying party's written notice specifying the nature

of the breach to the breaching party or, in the alternative, fails to provide the non-breaching party with a plan to remedy said breach within a reasonable time, such notice.

b. In case of any action or proceeding against the other party relating to insolvency, bankruptcy, receivership or relief towards creditors, dissolution or winding-up, which are not discharged within thirty (30) Days therefrom.

24. Termination for Convenience.

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

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

(1) Halting the performance of all services and other work under this PARCS Agreement on the date(s) and in the manner specified by City.

(2) Not placing any further orders or subcontracts for materials, services, equipment or other items.

(3) Terminating all existing orders and subcontracts.

(4) At City's direction, assigning to City any or all of Vendor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

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

(6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

(7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this PARCS Agreement which is in the possession of Vendor and in which City has or may acquire an interest.

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

(1) The reasonable cost to Vendor, without profit, for all services and other work City directed Vendor to perform prior to the specified termination date, for

which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Vendor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Vendor may also recover the reasonable cost of preparing the invoice.

(2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Vendor can establish, to the satisfaction of City, that Vendor would have made a profit had all services and other work under this PARCS Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

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

(4) A deduction for the cost of materials to be retained by Vendor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

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

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

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

25. Required Service Obligations; Required Notice Prior to Discontinuing Business.

Vendor agrees that it will provide warranty and maintenance services as set out in this PARCS Agreement and any Maintenance Agreement. Vendor agrees that it will

offer maintenance services, including replacement and spare parts, replacement PARCS components, repair services, and updates to the Licensed Software, for the expected duration (lifetime) of the PARCS, which shall be not less than seven years following expiration of the Warranty Period. Following expiration of the Maintenance Period, should Vendor determine to no longer sell parking access revenue control systems or should Vendor determine that it will no longer support the PARCS provided under this PARCS Agreement or any of the PARCS Components, Vendor shall give the SFMTA not less than 36 months' notice prior to leaving the business, and shall provide to the SFMTA spare parts and replacement PARCS Components sufficient that the SFMTA may maintain and continue to the use the PARCS for the expected lifetime of the PARCS.

26. Rights and Duties upon Termination or Expiration.

a. This Section and the following Sections of this PARCS Agreement shall survive termination or expiration of this PARCS Agreement:

8. Submitting False Claims; 9. Taxes; 10. Payment Does Not Imply Acceptance of Work; 12. Responsibility for Equipment; 13. Independent Vendor; Payment of Taxes and Other Expenses; 14. Insurance; 15. Indemnification; 17. Incidental and Consequential Damages; 18. Liability of City; 28. Proprietary or Confidential Information of City; 30. Ownership of Data and Plans; 31. Licensed Materials; 32. Audit and Inspection of Records; 50. Modification of Agreement; 51. Administrative Remedy in re Contract Interpretation; 52. Agreement Made in California; Venue; 54. Construction of Agreement; 55. Integrated Agreement; 58. Severability; and 59. Protection of Private Information.

b. Subject to the immediately preceding section 8.a., upon termination of this PARCS Agreement prior to expiration of the term specified in Section 2, this PARCS Agreement shall terminate and be of no further force or effect. Vendor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any part of the Work in progress, completed Work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this PARCS Agreement, and any completed or partially completed Work which, if this PARCS Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this PARCS Agreement.

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

28. Proprietary or Confidential Information of City. Vendor understands and agrees that, in the performance of the work or services under this PARCS Agreement or in contemplation thereof, Vendor 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. Vendor agrees that all information disclosed by City to Vendor shall be held in confidence and used only in performance of the PARCS Agreement. Vendor shall exercise the same standard of care to protect such information as a reasonably prudent commercial entity would use to protect its own proprietary data.

29. Notices to the Parties. Unless otherwise indicated elsewhere in this PARCS Agreement, all legal notices between the parties concerning this Agreement, including but not limited to notices of default, demand to cure, or other notices concerning legal issues, may be sent in writing by U.S. mail, or by e-mail, and shall be addressed as follows:

To City: Director of Parking
Sustainable Streets/Parking Division
SFMTA
1 South Van Ness, 8th floor
San Francisco, CA 94103
E-mail: Ted.Graff@sfmta.com

with a copy to: Director of Sustainable Streets
SFMTA
1 South Van Ness, 8th floor
San Francisco, CA 94103
E-mail: tom.maguire@sfmta.com

To Vendor: SKIDATA, Inc.
One Harvard Way, Suite 5
Hillsborough, New Jersey 08844
Fax: 908.243.0660
Attn. Alexander Christl
alexander.christl@skidata.com

with a copy to: Nissenbaum Law Group, LLC
2400 Morris Avenue
Union, New Jersey 07083
Fax: 908.686.8550
Attn: Gary D. Nissenbaum, Esq.
gdn@gdnlaw.com

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

Letters, emails and other communication concerning the design, installation, testing and implementation of the PARCS shall be made directly by and to the SFMTA PARCS Project Manager, the SFMTA's PARCS Consultant and the Vendor's Project Manager at the following addresses, which each party may amend as necessary:

To City: Director of Parking
Sustainable Streets/Parking Division
SFMTA
1 South Van Ness, 8th floor
San Francisco, CA 94103
E-mail: Ted.Graff@sfmta.com

**To PARCS
Consultant:** Mike Robertson, Managing Principal
Walker Parking Consultants
135 Main Street, Suite 1030
San Francisco, CA 94105
E-mail: Mike.Robertson@walkerparking.com

To Vendor: SKIDATA, Inc.
One Harvard Way, Suite 5
Hillsborough, New Jersey 08844
Fax: 908.243.0660
Attn. Aaron Siebert
E-mail: Aaron.Siebert@skidata.com

30. Ownership of Data and Plans.

a. All information or data generated by or stored in the PARCS shall be the property of the City, and Vendor and its Subcontractors shall have no interest whatsoever in said information or data. Said information and data includes but is not limited to the following: records of individual parking and payment transactions, transaction reports, dashboard reports, and reports concerning payments, revenues, facility/ies traffic and occupancy, exceptions and fraud alerts, validations, events, sales, and custom data reports. Upon termination or expiration of this PARCS Agreement, and as a condition of any final payment or other release of funds or acceptance of Work, Vendor shall transmit said data to the SFMTA in an agreed electronic format so that the information and data can be retrieved and efficiently searched and used for data reporting and data comparison.

b. Upon the City's payment to Vendor for any designs, plans, blueprints, as-builts, and configuration diagrams, plans or descriptions ("Plans") created by Vendor for the installation or operation of the PARCS in any Parking Facility, said Plans shall be the property of the City. With the approval of the City, Vendor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

31. Licensed Materials.

a. The user manuals, maintenance documents, and other materials listed in Appendix D ("Licensed Materials" or "PARCS Documentation") provided to the City under this PARCS Agreement shall remain the property of Vendor. Vendor grants to the City a non-exclusive, perpetual, royalty-free license to the Licensed Materials. City

shall use the Licensed Materials only for its own internal use in operating and maintaining the PARCS, accessing and managing data created by or stored in the PARCS, training employees and garage management contractors and their personnel, and other uses related to the management and operation of the PARCS for the purposes of managing off-street parking facilities.

b. The City may make copies of the Licensed Materials to the extent necessary to maintain an archive version, and as required to train its employees in the operation and maintenance of the PARCS, provided always that all copyright, confidentiality or proprietary legends or other markings shall be transposed onto such copies. The Licensed Materials and all copies thereof shall at all times be treated as proprietary and a trade secret of the Vendor and be subject to the provisions of this PARCS Agreement for Confidential Information.

32. Audit and Inspection of Records. Vendor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this PARCS Agreement. Vendor 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 of personnel, PCI DSS compliance, and other data related to all other matters covered by this PARCS Agreement, whether funded in whole or in part under this PARCS Agreement. Vendor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this PARCS 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 PARCS Agreement shall have the same rights conferred upon City by this Section.

33. Subcontracting. Vendor is prohibited from subcontracting this PARCS Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this PARCS Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

34. Assignment. The services to be performed by Vendor are personal in character and neither this PARCS Agreement nor any duties or obligations hereunder may be assigned or delegated by the Vendor unless first approved by City by written instrument executed and approved as required under City law and under the policy of the SFMTA Board of Directors.

35. 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. This section shall not toll requirements or otherwise preserve rights set out by ordinance or statute that may be waived by a party's omission or failure to act, including but not limited to the requirements of the Government Claims Act, California Government Code section 900 et seq.

36. Consideration of Criminal History in Hiring and Employment Decisions.

a. Vendor agrees to comply fully with and be bound by all of the provisions of Chapter 12T “City Vendor/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 PARCS Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at www.sfgov.org/olse/fco. A partial listing of some of Vendor’s obligations under Chapter 12T is set forth in this Section. Vendor 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 PARCS Agreement shall have the meanings assigned to such terms in Chapter 12T.

b. The requirements of Chapter 12T shall only apply to a Vendor’s or Subcontractor’s operations to the extent those operations are in furtherance of the performance of this PARCS Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this PARCS Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and 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.

c. Vendor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Vendor’s failure to comply with the obligations in this subsection shall constitute a material breach of this PARCS Agreement.

d. Vendor 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. Vendor 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 subsection 32(d), above. Vendor 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. Vendor 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 PARCS Agreement, that the Vendor or

Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

g. Vendor 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 Vendor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this PARCS 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. Vendor 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 PARCS Agreement.

37. Local Business Enterprise Utilization; Liquidated Damages.

a. **The LBE Ordinance.** Vendor shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Vendor's obligations or liabilities, or materially diminish Vendor's rights, under this PARCS Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this PARCS Agreement as though fully set forth in this section. Vendor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Vendor's obligations under this PARCS Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this PARCS Agreement, to exercise any of the remedies provided for under this PARCS Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this PARCS Agreement expressly provides that any remedy is exclusive. In addition, Vendor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance and Enforcement

If Vendor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this PARCS Agreement pertaining to LBE participation, Vendor shall be liable for liquidated damages in an amount equal to Vendor's net profit on this PARCS Agreement, or 10% of the total amount of this PARCS Agreement, or \$1,000, whichever is greatest. The Director of the City's Contract Monitoring Division or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against Vendor authorized in the LBE Ordinance, including declaring the Vendor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Vendor's LBE certification. The Director of

CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this PARCS Agreement, Vendor acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Vendor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Vendor on any contract with City.

Vendor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this PARCS Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

The City acknowledges that the LBE Ordinance does not require Vendor to pay a subcontractor for Work not performed, not properly performed or Work for which there is otherwise a good faith dispute between Vendor and its subcontractor. But Vendor shall timely pay its subcontractors for Work for which there is no good faith dispute in accordance with the requirements of the LBE Ordinance and this PARCS Agreement.

38. Nondiscrimination; Penalties.

a. Vendor Shall Not Discriminate. In the performance of this PARCS Agreement, Vendor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts. Vendor shall incorporate by reference in all subcontracts the provisions of sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Vendor's failure to comply with the obligations in this subsection shall constitute a material breach of this PARCS Agreement.

c. Nondiscrimination in Benefits. Vendor does not as of the date of this PARCS Agreement and will not during the term of this PARCS Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has

been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract. As a condition to this PARCS Agreement, Vendor shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

e. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this PARCS Agreement as though fully set forth herein. Vendor shall comply fully with and be bound by all of the provisions that apply to this PARCS Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Vendor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this PARCS Agreement may be assessed against Vendor and/or deducted from any payments due Vendor.

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

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

41. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Vendor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

42. Compliance with Americans with Disabilities Act. Vendor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Vendor shall provide the services specified in this PARCS Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Vendor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this PARCS Agreement and further agrees that any violation

of this prohibition on the part of Vendor, its employees, agents or assigns will constitute a material breach of this PARCS Agreement.

43. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

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

45. Limitations on Contributions. Through execution of this PARCS Agreement, Vendor 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. Vendor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Vendor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Vendor's board of directors; Vendor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Vendor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Vendor. Additionally, Vendor acknowledges that Vendor must inform each of the persons described in the preceding

sentence of the prohibitions contained in Section 1.126. Vendor further agrees to provide to City the names of each person, entity or committee described above.

46. Requiring Minimum Compensation for Covered Employees.

a. Vendor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this PARCS Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Vendor's obligations under the MCO is set forth in this Section. Vendor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

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

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

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

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

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

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

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

i. If Vendor is exempt from the MCO when this PARCS Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Vendor later enters into an agreement or agreements that cause Vendor to exceed that amount in a fiscal year, Vendor shall thereafter be required to comply with the MCO under this PARCS Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Vendor and this department to exceed \$25,000 in the fiscal year.

47. Required Prevailing Wages for Covered Employees.

a. Services to be performed by Vendor under this Agreement may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the San Francisco Administrative Code (collectively, "Covered Services"). The provisions of Section 6.22(e) of the Administrative Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Vendor and its subcontractors.

b. The latest prevailing wage rates for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations (DIR), as such prevailing wage rates may be changed during the term of this Agreement, are hereby incorporated as provisions of this Agreement and the costs of those changes will be paid for by the SFMTA. Copies of the prevailing wage rates as fixed and determined by the Board of Supervisors are available from the City's Office of Labor Standards Enforcement (OLSE), and are also available on the Internet at <http://www.dir.ca.gov/DLSR/PWD> and at <http://www.dir.ca.gov/OPRL/PWD>, and at the Office of Policy, Research and Legislation at (415) 703-4774.

c. Vendor shall pay not less than the applicable prevailing wage rates, as fixed and determined by the Board of Supervisors, to all workers employed by Vendor who perform Covered Services under this Agreement, including such wages as prescribed for overtime and holiday work. Vendor and its subcontractors are advised that the City considers the proper crafts for employees who install equipment under this PARCS Agreement, as determined by each individual employee's actual work: (1) Electrician:

Inside Wireman, (2) Electrician: Cable Splicer, (3) Electrician: Communication & System Installer, or (4) Electrician: Communication & System Technician.

d. As required by Section 6.22(e)(5) of the Administrative Code, Vendor shall insert in every subcontract or other arrangement, which it may make for the performance of Covered Services under this Agreement, a provision that said subcontractor shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.

e. As required by section 1725.5 of the California Labor Code, Vendor and any of its subcontractors who employ persons who perform labor under this Agreement that are Covered Services shall register and pay an annual fee to the California Department of Industrial Relations (DIR). Vendor shall not employ a subcontractor who performs Covered Services under this Agreement who does not maintain a current registration with the DIR.

f. As required by Section 1771.4 of the Labor Code, Vendor shall post job site notices prescribed by the DIR at all job sites where Covered Services are to be performed.

g. Should Vendor, or any subcontractor who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Contract, subcontract or other arrangement for the Covered Services, the general prevailing rate of wages as herein specified, Vendor shall forfeit, and in the case of any subcontractor so failing or neglecting to pay said wage, Vendor and the subcontractor shall jointly and severally forfeit back wages due plus the penalties set forth in Administrative Code Section 6.22 (e) and/or Labor Code Section 1775. The City, when certifying any payment which may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture or forfeitures as so certified.

48. Payroll Reporting.

a. As required by Section 6.22(e)(6) of the San Francisco Administrative Code and Section 1776 of the California Labor Code, Vendor shall keep or cause to be kept complete and accurate payroll records for all trade workers employed by Vendor and any of its subcontractors who perform Covered Services. Such records shall include the name, address and social security number of each worker who provided Covered Services on the project, including apprentices, his or her classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract.

b. The City will not process monthly progress payments which include payment for Covered Services until Vendor and each subcontractor performing Covered Services submits weekly certified payrolls to the City for the applicable time period. (Unless directed by the DIR to do so before then, effective January 2016, Vendor and each subcontractor performing Covered Services must also submit weekly certified payrolls directly to the DIR before the City will process monthly progress payments.) Certified payrolls shall be prepared pursuant to Administrative Code Section 6.22(e)(6) and Labor Code Section 1776 for the period involved for all employees, including those of subcontractors, who performed labor in connection with Covered Services. Vendor and each subcontractor performing Covered Services shall submit certified payrolls to the City (and, when applicable, to the DIR) electronically. Vendor shall submit payrolls to the City via the Project Reporting System ("PRS") selected by the City, an Internet-based system accessible on the World Wide Web through a web browser. (The DIR will specify how to submit certified payrolls to it.) The Vendor and each subcontractor that will perform Covered Services will be assigned a log-on identification and password to access the PRS. Use of the PRS may require Vendor and applicable subcontractors to enter additional data relating to weekly payroll information including, but not limited to, employee identification, labor classification, total hours worked and hours worked on this project, and wage and benefit rates paid. Vendor's payroll and accounting software may be capable of generating a "comma delimited file" that will interface with the PRS software. The City will provide basic training in the use of the PRS at a scheduled training session. Vendor and all Subcontractors that will perform Covered Services must attend the PRS training session. Vendor and applicable subcontractors shall comply with electronic certified payroll requirements (including training) at no additional cost to the City.

c. Covered Services to be performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the State DIR and /or the City's OLSE. Vendor and any subcontractors performing Covered Services will cooperate fully with the DIR and/or the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements, and agrees to take the specific steps and actions as required by Section 6.22(e)(7) of the Administrative Code.

d. In the event that Vendor receives a written notification of noncompliance with section 1776, Vendor shall have 10 days from receipt of such written notice to comply. Should noncompliance still be evident after such 10-day period, Vendor shall forfeit the penalties set forth in Administrative Code section 6.22(e) and (f) and/or Labor Code section 1776. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, the City shall withhold such penalties from any amount(s) due Vendor.

e. Vendor is solely responsible for compliance with section 1776. The City shall not be liable for Vendor's failure to make timely or accurate submittals of certified payrolls.

f. Vendor shall make the payroll records available for inspection of and examination by the City and its authorized representatives and the DIR. at all

reasonable hours at the job site office of Vendor. Vendor shall provide a certified copy of an employee's payroll record to any employee who performs Covered Services or his or her authorized representative upon request.

g. A certified copy of all payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the City, the Division of Apprenticeship Standards, or the Division of Labor Standard Enforcement. The public shall not be provided access to such records at the job site office of Vendor. Vendor shall file a certified copy of the payroll records with the entity that requested such records within 10 days after receipt of a written request. In providing copies of payroll records to any requestor, the City shall redact or obliterate such information as may be required under California Labor Code section 1776(e), as that section may be amended from time to time.

h. Vendor shall inform the City of the location of the payroll records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

49. Requiring Health Benefits for Covered Employees.

Vendor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this PARCS Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this PARCS Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Vendor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Vendor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Vendor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Vendor's failure to comply with the HCAO shall constitute a material breach of this PARCS Agreement. City shall notify Vendor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this PARCS Agreement for violating the HCAO, Vendor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Vendor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Vendor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Vendor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Vendor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Vendor based on the Subcontractor's failure to comply, provided that City has first provided Vendor with notice and an opportunity to obtain a cure of the violation.

e. Vendor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Vendor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Vendor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Vendor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Vendor shall keep itself informed of the current requirements of the HCAO.

i. Vendor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Vendor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Vendor shall allow City to inspect Vendor's job sites and have access to Vendor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Vendor to ascertain its compliance with HCAO. Vendor agrees to cooperate with City when it conducts such audits.

m. If Vendor is exempt from the HCAO when this PARCS Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Vendor later enters into an agreement or agreements that cause Vendor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Vendor and the City to be equal to or greater than \$75,000 in the fiscal year.

50. First Source Hiring Program.

a. Incorporation of Administrative Code Provisions by Reference.

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

b. First Source Hiring.

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

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

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

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the

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

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

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

(6) Set the term of the requirements.

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

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

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

c. Hiring Decisions.

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

d. Exceptions.

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

e. Liquidated Damages.

Vendor agrees:

(1) To be liable to the City for liquidated damages as provided in this section;

(2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

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

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

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

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

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

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

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

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

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

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

52. Modification of Agreement. This PARCS Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in accordance with the adopted policies of the SFMTA concerning delegation and authority to approve contracts. Vendor shall cooperate with the SFMTA to submit to the SFMTA Contract Compliance Office any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this PARCS Agreement by more than 20% (CMD Contract Modification Form).

53. Administrative Remedy in re Contract Interpretation.

a. **Negotiation; Alternative Dispute Resolution.** The parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this PARCS Agreement by negotiation. The status of any dispute or controversy notwithstanding, Vendor shall proceed diligently with the

performance of its obligations under this PARCS Agreement in accordance with the PARCS Agreement and the written directions of the City. If agreed by both parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. Neither party will be entitled to legal fees or costs for matters resolved under this section.

b. Administrative Remedy. Should any question arise as to the meaning and intent of this Agreement Software Agreement, as an administrative remedy, the question shall, prior to any other action or resort to any other legal remedy, be referred to Director of Transportation who shall determine decide the true meaning and intent of this Agreement Software Agreement. Provided that said question is first so presented to the Director of Transportation for his administrative determination, that administrative determination does not waive or otherwise preclude Vendor from pursuing other legal remedy.

c. Government Code Claims. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this PARCS Agreement shall operate to toll, waive or excuse Vendor's compliance with the Government Code Claim requirements set forth in Administrative Code Chapter 10 and Government Code Section 900, et seq.

54. PARCS Agreement Made in California; Venue. The formation, interpretation and performance of this PARCS 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 PARCS Agreement shall be in San Francisco.

55. English Required. All data, documents, descriptions, diagrams, instructions and correspondence shall be in the English language.

56. Construction of Agreement.

a. All paragraph captions or titles are for reference only aids for the ease and convenience of the reader, and they shall not be deemed to modify, limit or define the scope or substance of the provisions they introduce, nor will they be used in construing the intent or effect of such provisions or to otherwise interpret this PARCS Agreement.

b. The section at the beginning of this PARCS Agreement titled "Recitals," and the facts stated therein, and the section titled "Defined Terms," and the meanings of terms defined, are incorporated by reference.

c. Terms defined in the RFP shall be given the meanings stated in the RFP.

d. Whenever the words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood as the direction, requirement, or permission of the SFMTA. The words "sufficient," "necessary," or "proper," and the like, mean sufficient, necessary or proper in the judgment of the SFMTA, unless otherwise indicated by the context.

e. In case of conflict with the RFP or Vendor's Proposal, the provisions of this PARCS Agreement and its Included Appendices shall govern. In case of conflict between the RFP and Vendor's Proposal, the RFP shall govern.

57. Integrated Agreement. This PARCS Agreement and any documents incorporated by reference herein constitute the entire agreement between the Parties. It sets forth all intended rights and obligations and supersedes any and all previous agreements correspondence and understandings between them with respect to the subject matter hereof. In the event of any inconsistency between the provisions of any Appendix and the provisions of this document, the provisions of this document shall prevail. This contract may be modified only as provided in Section 50, "Modification of PARCS Agreement."

58. Compliance with Laws.

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

b. Vendor shall comply with all state and federal laws and regulations concerning the security, maintenance, transmission and publication of credit card and other personal and confidential transaction information, including but not limited to applicable provisions of the federal Fair and Accurate Credit Transactions Act and the Fair Credit Reporting Act, applicable provisions the California Civil Code governing protection of personal information and data security breach notification, and applicable IPC DSS requirements (see Section 63, below),

59. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Vendor, will be paid unless the provider received advance written approval from the City Attorney.

60. Severability. Should the application of any provision of this PARCS 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 PARCS 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.

61. Protection of Private Information. Vendor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Vendor agrees that any failure of Contactor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in

addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Vendor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Vendor.

62. Large Vehicle Driver Safety Training Requirements.

a. Vendor agrees that, before any of its employees and Subcontractors drive large vehicles within the City and County of San Francisco, those employees and Subcontractors will successfully complete either (a) the SFMTA's Large Vehicle Urban Driving Safety training program or (b) a training program that meets the SFMTA's approved standards for large vehicle urban driving safety. The SFMTA's approved standards for large vehicle urban driving safety will be posted and made available for download at www.SFMTA.com/largevehicletrainingstandards. This requirement does not apply to drivers providing delivery services who are not employees or Subcontractors of the Vendor. For purposes of this section, "large vehicle" means any single vehicle or combination of vehicle and trailer with an unladen weight of 10,000 pounds or more, or a van designed to carry 10 or more people.

b. If the SFMTA's training program is not available at the time the Notice to Proceed is issued by the SFMTA, then Vendor, by executing the PARCS Agreement, certifies that its employees and Subcontractors who drive large vehicles within the City and County of San Francisco will successfully complete either (a) the SFMTA's Large Vehicle Urban Driving Safety training program or (b) a training program that meets the SFMTA's approved standards for large vehicle urban driving safety within 90 days after being notified by the SFMTA that the SFMTA's training program is available. The SFMTA will notify Vendor that the SFMTA's training program is available via the following methods: (a) by posting and making it available for download at www.SFMTA.com/largevehicletrainingstandards and (b) via City department contract management personnel.

c. By entering into this PARCS Agreement, Vendor agrees that in the event the Vendor fails to comply with the Large Vehicle Driver Safety Training Requirements, the City will suffer actual damages that will be impractical or extremely difficult to determine; further, Vendor agrees that the sum of up to one thousand dollars (\$1,000) per employee or Subcontractor who is permitted to drive a large vehicle in violation of these requirements is not a penalty, but is a reasonable estimate of the loss that City will incur based on the Vendor's failure to comply with this requirement, established in light of the circumstances existing at the time this contract was awarded. City may deduct a sum representing the liquidated damages from any money due to Vendor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Vendor's failure to comply.

d. Vendor must acknowledge that it has read and understands these requirements by executing the "Acknowledgement of Large Vehicle Driver Safety Training Requirements" included as Appendix E to this PARCS Agreement.

63. PCI Data Security Requirements.

a. The requirements referenced in this Section are established by the PCI Security Standards Council (“PCI SCC”) and may be found at <https://www.pcisecuritystandards.org> , and as the PCI Council may update its requirements and publish them at that website.

b. Capitalized terms in this Section, if not defined in this PARCS Agreement, shall have the meanings provided by PCI SCC. For the term of this PARCS Agreement and any related maintenance or other service agreement between the SFMTA and the City concerning the PARCS, the PARCS Application shall be validated by a Payment Application Qualified Security Assessor (PA-QSA). A Vendor whose application has achieved PA-DSS certification must then be listed on the PCI Council’s list of PA-DSS approved and validated payment applications.

c. Vendor shall ensure that the PARCS meets all applicable requirements of the PCI SCC’s Data Security Standards. Vendor shall provide a letter from its Qualified Security Assessor (QSA) affirming its compliance with PCI DSS requirements and current PCI compliance certificate or proof thereof. Vendor shall provide to the SFMTA proof of PCI compliance for each version of PARCS software that is installed during the term of this PARCS Agreement, including the Warranty Period and any Maintenance Period. Vendor shall be responsible for furnishing City with proof of PCI compliance from a QSA 30 days prior to the expiration of said certificates. In addition, the City may at any time, at its own cost and following reasonable notice, audit Vendor’s compliance with the PCI DSS and other data security requirements stated in the PARCS Agreement, and Vendor shall fully cooperate with such audit. All updates to the Licensed Software shall be PCI DSS certified.

d. Vendor represents that the PARCS does not retain credit card data or other credit card transactional information that would constitute confidential information under PCI DSS requirements. Vendor further represents that the credit card readers in payment stations and imbedded software operating such readers for the PARCS will be supplied by the Gateway provider recommended by Vendor and selected by the SFMTA. Vendor represents that the data connection between said card readers and software and the PARCS does not allow credit card data (including but not limited to the cardholder’s name, credit card number, card expiration date or other magnetic stripe data) to be accessed by the PARCS or a PARCS operator. Vendor shall maintain said credit card readers. The payment processor shall be responsible for electronically monitoring the credit card readers for malfunctions, sniffers, and data security. When Vendor services pay stations, Vendor shall visually inspect the pay stations to discover sniffers and other unauthorized equipment.

e. Gateway providers shall have appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as service providers, as determined by PCI SCC. (See <https://www.pcisecuritystandards.org/index.shtml>). PARCS Components that process or retain data from PIN Debit Cards shall be validated against the PCI SCC’s PIN Transaction Security (PTS) program.

f.

64. SFMTA Responsibilities.

SFMTA shall work in close coordination with Vendor, Designer, Construction Manager and all other stakeholders to help ensure successful installation, implementation and maintenance of the PARCS. To facilitate Vendor's performance of the Work under this PARCS Agreement, the SFMTA shall do the following:

- a. Appoint a Program Manager and Consultant. SFMTA shall appoint a Program Manager, who may be assisted by a consultant (such as a designer or a construction manager) to oversee and coordinate with SKIDATA the preparation of construction and engineering documents necessary to construct or install the infrastructure necessary for installation and implementation of the PARCS. The Program Manager will have authority to make decisions concerning the Project, subject to SFMTA and City contract approval requirements and policies. All information and materials provided to SFMTA by Vendor pursuant to this PARCS Agreement shall be sent to the attention of the Program Manager and Consultant. SFMTA may, by notice in writing to Vendor, substitute the Program Manager or consultant with other persons as its designated representatives from time to time, for specified issues, project or problems.
- b. Contacts. Identify single points of contact for Vendor to communicate to the Designer, the Construction Manager and the SFMTA's contracted Facility Managers, who will have authority to make decisions related to their responsibilities on the Project, in order to maximize efficiency in communications and decision-making among all stakeholders.
- c. Access to Facilities. SFMTA shall provide Vendor with access to and use of all information and Facilities that Vendor determines are necessary for it to perform the Work as required by this PARCS Agreement, including the Transportation Management Center (TMC) for the installation of the PARCS CMS components. SFMTA shall provide access to four or more facilities at all times during the project of which have been prepared for installation and signed off by Vendor in order to avoid delays outside of Vendor's control. SFMTA shall provide meeting rooms at SFMTA, as necessary, for project-coordination meetings.
- d. Vendor Working Space. The SFMTA shall provide at its own expense, for use by the Vendor's personnel, adequate working space at or within a reasonable distance of the PARCS installation at any given facility and as otherwise agreed between the Parties. Such space shall provide suitable working arrangements as necessary for the services to be performed. Vendor shall use said storage space at its own risk; SFMTA shall not be responsible for the safekeeping or loss of Vendor's property.
- e. Service Activities. Any maintenance activity performed by the SFMTA or its contracted Facility Managers shall be in accordance with the relevant procedures prescribed by the Vendor in the Documentation.

- f. Logbook. The SFMTA shall direct its Facility Managers to keep a logbooks, one at each Facility, in which all events relevant to the services shall be kept. This logbook shall be available to all Parties at all times.
- g. Copies of Software and Documentation. SFMTA shall make available to the Vendor as needed a copy of all the Software installed and related Documentation.
- h. Fiber-Optic Connectivity. The City shall provide connections for each Facility to a City-owned, fiber-optic network by which the Facilities will connect to the internet and to the Central Monitoring Station (CMS) at the SFMTA's Transportation Management Center (TMC). The City will maintain the fiber-optic network. Vendor shall not be liable for communication interruptions that result from failure of the City-owned fiber-optic network.
- i. PARCS Infrastructure. The SFMTA shall contract for and otherwise be responsible for the design, drawings, as-builts, and construction of the PARCS Infrastructure. Vendor shall not be liable for delays to the Project or delays to the PARCS installation that are solely caused by delays in delivery of construction work by the City, the Construction Contractor or the Designer. Vendor shall be responsible for its own delays to construction of the PARCS Infrastructure caused by Vendor's failure to timely review, provide comments, and approve designs or its failure to timely inspect, provide comments, and accept the completed construction work.
- ~~j.~~ SFMTA Response. SFMTA shall timely respond to Vendor's inquiries and requests for information.
- ~~k.~~j. SFMTA shall work efficiently with Vendor to identify and document any agreed-upon changes to the PARCS Equipment outlined in Appendix F, software features and changes, and timely draft and process change orders, as warranted.

65. No Third Party Beneficiaries/Application to Individuals. Nothing in this PARCS Agreement, or in the acts or representations of the parties after this Agreement is approved, shall be interpreted to create rights benefiting, or enforceable by, any third party or parties. No such third party beneficiaries are intended to be created by this Agreement, and the parties specifically disclaim any liability to such third parties. Notwithstanding the foregoing, specific warranties as to the Licensed Software and Equipment shall pass from the manufacturer with the product to the City as the ultimate consumer, which may enjoy the benefit of those protections.

66. Cooperative Drafting. This PARCS Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have it reviewed and revised by legal counsel. No party shall be considered the drafter of this PARCS 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 PARCS Agreement.

67. Approval by Signature Counterparts. This PARCS Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and either of the Parties may execute this PARCS Agreement by signing any such counterpart. Delivery may be completed by the Party concerned transmitting to the other Party a facsimile copy of the counterpart signed by such Party. Any Party delivering any executed counterpart of this PARCS Agreement as provided herein shall confirm execution by delivering by courier an original of such executed counterpart to the other Party.

68. Included Appendices. The following documents are incorporated by reference to this PARCS Agreement:

Appendix A: Scope of Work and Services to be Provided

Appendix B: Project & Payment Schedule

Appendix C: Warranties

Appendix D: Licensed Materials

Appendix E: Acknowledgement of Large Vehicle Driver Safety Training Requirements

Appendix F: PARCS Components and Licensed Software


Appendix G: Parking Facilities

Appendix H: Software License Agreement

Appendix I: PARCS Equipment and Software Maintenance

Remainder of this page intentionally left blank.

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

CITY	VENDOR
San Francisco Municipal Transportation Agency	SKIDATA, Inc.
_____ Edward D. Reiskin Director of Transportation	By signing this PARCS Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.
AUTHORIZED BY: MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS	I have read and understood paragraph 35, 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.
Resolution No: _____	
Adopted: _____	_____ Alexander Christl CEO & President
Attest: _____ Roberta Boomer, Secretary SFMTA Board of Directors Clerk of the Board	SKIDATA, Inc. One Harvard Way, Suite 5 Hillsborough, New Jersey 08844 Fax: 908.243.0660 Attn. Alexander Christl alexander.christl@skidata.com
Approved as to Form: Dennis J. Herrera City Attorney	City Vendor Number: _____
By: _____ Robert K. Stone Deputy City Attorney	

Contract No. SFMTA 2015-36

APPENDIX A

VENDOR'S SCOPE OF WORK

A. Scope of Work and Services to be Provided

Vendor shall provide the equipment, software and services as described in this Appendix A, and as more specifically described in the RFP and other part of the PARCS Agreement necessary to install, test and fully implement the PARCS in the Facilities.

B. Definitions.

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Appendix A, it shall have the meaning provided below. Terms defined in the main body of the PARCS Agreement shall have the meaning provided there.

Construction Contractor: Independent building contractor under contract with the City to construct the PARCS Infrastructure.

Consultant: Independent consultant under contract with the SFMTA to perform architectural and building engineering design services to produce the Designs for the construction of the PARCS Infrastructure and to coordinate the activities of the Construction Contractor, the Vendor and the SFMTA concerning the design and construction of PARCS Infrastructure and the installation and testing of the PARCS.

Designs: Architectural and engineering plans and specifications created by the Consultant for the construction and installation of the of PARCS Infrastructure

Facility Manager: The management company under contract with the SFMTA to manage day-to-day operations of the Facility.

C. Time for Completion of the Work

Vendor shall complete installation and implementation of the PARCS equipment at all Facilities listed in Appendix G of this PARCS Agreement within 33 months of NTP. Construction delays that delay Vendor from performing PARCS installation at the first Facility, or proceeding with installation at subsequent Facilities, based on the agreed Project Schedule, shall warrant an extension to Vendor's 33-month schedule for the overall Project. Vendor shall submit written notice to SFMTA if, in its judgment, such a construction delay has occurred. SFMTA shall review and respond to such notices from Vendor within five business days.

SFMTA shall ensure that infrastructure construction work at the Polk Bush Facility is sufficiently completed by October 31, 2016, such that Vendor may commence PARCS installation at that Facility as of November 1, 2016. SFMTA shall ensure that the infrastructure work at the Vallejo Garage, North Beach Garage, and Lombard Garage is sufficiently completed by December 15, 2016, such that Vendor may commence PARCS installation at those Facilities as of December 16, 2015. As of February 1, 2017, the SFMTA shall complete the infrastructure construction work in the remaining Facilities expeditiously, such that Vendor will have access to commence PARCS installation to no fewer than four Facilities at any given time, until the installation of the PARCS in all Facilities is completed. The scheduled order of install, by Facility, is set out in the Project Schedule in Appendix B of this Agreement.

D. Summary of Project Responsibilities

Vendor shall have primary responsibility for the installation, testing and implementation of the PARCS in each Facility. Vendor shall coordinate and cooperate with the SFMTA, the Consultant and the Construction Contractor to assist each in the efficient and timely completion of its respective tasks. As directed by the SFMTA and stated herein, certain tasks necessary for the implementation of the PARCS may be assigned to the Consultant and the Construction Contractor. Vendor shall coordinate and cooperate with the Consultant and the Construction Contractor to assist each in the efficient and timely completion of its respective tasks. The Consultant will have primary responsibility to design and document the PARCS Infrastructure necessary for the installation and operation of the PARCS. The Construction Contractor shall build the PARCS Infrastructure. The Vendor shall review, provide comments, and (when they are complete) approve the plans and specifications for the PARCS Infrastructure that the Consultant creates for each Facility. After the Construction Contractor has completed the construction of the PARCS Infrastructure, the Vendor shall inspect the PARCS Infrastructure, provide corrective comments, and then when the construction work is substantially complete, Vendor shall install the PARCS. Vendor shall coordinate with the Consultant and relevant Facility Manager for each PARCS installation. The SFMTA shall participate in Vendor's testing and implementation of the installed PARCS to confirm that the PARCS meets the specifications and requirements stated in the RFP and this PARCS Agreement.

E. Time for Completion of the Work

Vendor shall complete installation, testing and implementation of the PARCS equipment at all the Facilities within 33 months of NTP, as set out in Appendix B of this of this PARCS Agreement.

F. Work to be Performed by Vendor.

Vendor shall provide all technical and professional services required to deliver, install, test and implement in each Facility a fully operational PARCS that meets the requirements of the RFP and this PARCS Agreement.

1. **PARCS Performance.** The PARCS installed and implemented by Vendor shall meet all specifications and requirements stated in the RFP at Section V – System Elements and Requirements. Vendor may deviate from said specifications and requirements only if the SFMTA specifically authorizes vendor to do so in writing.
2. **Pre-Installation Infrastructure Renovations.**
 - a. The Vendor shall coordinate and work as directed by the SFMTA with the Consultant and the Construction Contractor to support the design and construction of the PARCS Infrastructure. Vendor shall have no contractual relationship with the Consultant or the Construction Contractor.
 - b. Vendor shall provide the specifications and installation support requirements of the PARCS Components to the Consultant that are necessary for design of the PARCS Infrastructure for each Facility. Vendor shall as necessary or as directed by the SFMTA assist the Consultant in its preparation of Designs that the SFMTA will bid out to the Construction Contractor for the construction and installation of the PARCS Infrastructure.
 - c. Vendor shall review and provide comments and corrections to the Designs. When the Designs are complete and acceptable to Vendor, Vendor shall provide written approval of the Designs, using a certification form provided by the SFMTA. Vendor's review shall focus on the constructability and usability of the Designs to confirm that if constructed, the PARCS Infrastructure depicted in the Designs will be sufficient for the installation, implementation, testing and operations of the PARCS.
 - d. Provide timely consultation, as requested by the Consultant and SFMTA, during the bidding and construction of the PARCS Infrastructure, including responding to the Construction Contractor's Requests for Information (RFIs), as required.
 - e. Inspect, provide comments as appropriate, and approve the constructed PARCS Infrastructure when it is substantially completed, in coordination with the Consultant, the Construction Contractor, and the SFMTA. Assist the Consultant and SFMTA in developing punch lists of remaining construction work for the Construction Contractor to complete the construction of the PARCS Infrastructure.

- f. Provide sign-off confirming the completion of all punch-list items, using a certification form to be provided by the SFMTA. Vendor's certification shall confirm that Vendor has inspected the constructed PARCS Infrastructure and that the PARCS Infrastructure is acceptable for the installation of the PARCS.
3. **Installation of PARCS.** Vendor shall install the PARCS as specified in the RFP at Section VIII and in detailed installation plans approved by the SFMTA.
4. **Project Coordination.** Vendor shall provide project coordination and management services, as described in the RFP at Section VIII – Project Coordination of the RFP. Said services include:
 - a. Designate a single, dedicated Project Manager for the 33-month life of the project who will be available at no more than 24-hours notice to meet/confer with SFMTA on any issues related to the project.
 - b. Coordinate and lead a pre-project conference for each Facility, to include representatives of the SFMTA, the Consultant, the Construction Contractor (when appropriate), the Facility Manager and any other relevant entities as the SFMTA may determine.
 - c. Create an agenda and take/distribute meeting minutes of all project meetings.
 - d. Distribute and update a detailed schedule of installation activities for each Facility at each Project progress meeting or as directed by the SFMTA's project manager.
 - e. Coordinate and lead bi-weekly progress meetings to include the SFMTA, Consultant, the Construction Contractor, and the Facility Manager, and other relevant entities, as required.
 - f. Maintain an action-item log for each Facility to be reviewed at each progress meeting and updated/distributed based on meeting discussions.
 - g. Complete all detailed tasks outlined in the RFP, Section X – Final Cleaning Following System Installation.
5. **Implementation of PARCS.** Vendor shall work in coordination with SFMTA, the Consultant, and the Facility Manager to cutover and put into service (implement) the PARCS in each Facility. Vendor shall:
 - a. Consult with SFMTA, Consultant and the Facility Manager on the development of required Standard Operating Procedures (SOP) changes and staff training required at each Facility to implement the new PARCS, including:
 - (1) Maximum level of revenue integrity;

- (2) Minimizing exception-based transactions;
 - (3) Removal of SOPs that require manual intervention by a cashier;
 - (4) New SOPs for new nested areas for motorcycles at the following seven Facilities:
 - i. Golden Gateway Garage
 - ii. Sutter Stockton Garage
 - iii. Union Square Garage
 - iv. Ellis O'Farrell Garage
 - v. St. Mary's Square Garage
 - vi. Fifth and Mission Garage
 - vii. Civic Center Garage
 - (5) New SOPs for validation programs to maximize use of new technology and minimize staff time to process validations;
 - (6) New SOPs for monthly parking, incorporating Automatic Vehicle Identifier (AVI) system where appropriate;
 - (7) New SOPs related to use of in-lane License Plate Recognition (LPR) system;
 - (8) Install the Systems in a PCI-DSS compliant manner at each Facility at time of rollout of new PARCS.
- b. Consult with SFMTA, Consultant, and Facility Manger to develop a Transition Plan detailing how each Facility will operate during the PARCS installation, testing and cutover (i.e. while some lanes are controlled by the new PARCS and some are controlled by the old PARCS).
 - c. In coordination with SFMTA, Consultant and Facility Manger, complete the Facility programming, required to implement the new PARCS to operate as required by the new SOPs.
 - d. Deliver 10 ad-hoc reports maximum as specified in Section V.H.j.xiv of the RFP.
 - e. For each Facility, provide a proposed Acceptance-Testing Plan for SFMTA's review and approval to the test the installed PARCS as required by the RFP at Section XI – System Testing and Acceptance. Obtain SFMTA's written approval of the final plan.
 - f. Execute the approved Acceptance-Testing Plan at each Facility, and obtain SFMTA's written acceptance of the completion of testing at each Facility.
 - g. Provide a proposed Training Plan consistent with both Section XII – Training of the RFP and the Training section of Vendor's proposal dated April 1, 2015. Obtain SFMTA's written approval of the final training plan.
 - h. Execute the approved Training Plan and obtain SFMTA's written acceptance of the completion of training at each Facility.
 - i. Consult with SFMTA, Consultant, SFMTA's contracted parking operators, City's Office of the Treasurer, and City's PCI DSS Consultant (QSA), on a plan for the annual re-certification of PCI-DSS compliance for the PARCS at each Facility.
 - j. Consult with SFMTA and the Consultant to support garage operations and analysis as described in the RFP.

6. **Maintenance of PARCS.** Following installation, Vendor shall maintain the PARCS as provided in the RFP and this PARCS Agreement throughout the Warranty Term and any Maintenance Term. (See Appendix I of this Agreement.)

The remainder of the page has been intentionally left blank.

APPENDIX B

Project & Payment Schedule				
Item	Install Location	Target Completion Date	Payment Description	Payment Amount*
Delivery of Equipment	Central Monitoring Station	5/30/2016	65% equipment cost (partial)	\$404,317
Completion of install, training, commissioning and acceptance testing	Central Monitoring Station	8/31/2016	35% equipment cost (remainder) 100% services cost	\$437,811
Delivery of PARCS equipment	Group 1 Group 2 Group 3	8/31/2016	65% equipment cost (partial)	\$936,790
Completion of install, training, commissioning and acceptance testing	Group 1 (Polk Bush Garage)	12/15/2016	35% equipment cost (remainder) 100% services cost	\$162,143
Completion of install, training, commissioning and acceptance testing	Group 2 (North Beach, Vallejo & Lombard garages)	1/31/2017	35% equipment cost (remainder) 100% services cost	\$480,709
Completion of install, training, commissioning and acceptance testing	Group 3 (Pierce & Portsmouth Square garages)	3/31/2017	35% equipment cost (remainder) 100% services cost	\$371,542
Delivery of PARCS equipment	Group 4 Group 5 Group 6	3/15/2017	65% equipment cost (partial)	\$2,191,296
Completion of install, training, commissioning and acceptance testing	Group 4 (Moscone Center Garage)	6/30/2017	35% equipment cost (remainder) 100% services cost	\$263,854
Completion of install, training, commissioning and acceptance testing	Group 5 (Civic Center, Sutter Stockton & Ellis O'Farrell garages)	10/15/2017	35% equipment cost (remainder) 100% services cost	\$1,321,833
Completion of install, training, commissioning and acceptance testing	Group 6 (Golden Gateway & St. Mary's Square garages)	12/31/2017	35% equipment cost (remainder) 100% services cost	\$787,137
Delivery of PARCS equipment	Group 7 Group 8	12/15/2017	65% equipment cost (partial)	\$1,036,068
Completion of install, training, commissioning and acceptance testing	Group 7 (Japan Center & Japan Center Annex garages)	3/15/2018	35% equipment cost (remainder) 100% services cost	\$457,867
Completion of install, training, commissioning and acceptance testing	Group 8 (Performing Arts & Union Square garages)	5/31/2018	35% equipment cost (remainder) 100% services cost	\$664,029
Delivery of PARCS equipment	Group 9 Group 10	5/15/2018	65% equipment cost (partial)	\$697,845
Completion of install, training, commissioning and acceptance testing	Group 9 (SFGH Garage & Surface Lot)	8/15/2018	35% equipment cost (remainder) 100% services cost	\$395,777
Completion of install, training, commissioning and acceptance testing	Group 10 (16th-Hoff & Mission Bartlett garages)	10/31/2018	35% equipment cost (remainder) 100% services cost	\$359,877
Delivery of PARCS equipment	Group 11	10/15/2018	65% equipment cost (partial)	\$802,113
Completion of install, training, commissioning and acceptance testing	Group 11 (5th-Mission Garage & 7th-Harrison Lot)	1/15/2019	35% equipment cost (remainder) 100% services cost	\$868,561
Warranty, Year 1	All	1/15/2019	100% cost, 1/15/19 - 1/14/20	\$574,526
Warranty, Year 2	All	1/15/2020	100% cost, 1/15/20 - 1/14/21	\$574,526
Warranty, Year 3	All	1/15/2021	100% cost, 1/15/21 - 1/14/22	\$574,526
Extended Warranty/Maintenance, Year 4	All	1/15/2022	100% cost, 1/15/22 - 1/14/23	\$646,806
Extended Warranty/Maintenance, Year 5	All	1/15/2023	100% cost, 1/15/23 - 1/14/24	\$666,210
Extended Warranty/Maintenance, Year 6	All	1/15/2024	100% cost, 1/15/24 - 1/14/25	\$686,196
Extended Warranty/Maintenance, Year 7	All	1/15/2025	100% cost, 1/15/25 - 1/14/26	\$706,782
Extended Warranty/Maintenance, Year 8	All	1/15/2026	100% cost, 1/15/26 - 1/14/27	\$727,986
Extended Warranty/Maintenance, Year 9	All	1/15/2027	100% cost, 1/15/27 - 1/14/28	\$749,825
Extended Warranty/Maintenance, Year 10	All	1/15/2028	100% cost, 1/15/28 - 1/14/29	\$772,320
			Total:	\$19,319,270

*Payment to be made pursuant to Vendor submitting, and SFMTA approving, an invoice that fully documents delivery of the equipment/software and/or 100% completion of the service during the install phase. During the Warranty and Extended Warranty/Maintenance phases, payment will be made at the start of the year for the ensuing 12-month period.

Contract No. SFMTA 2015-36

Appendix C

Pass-Through Equipment Warranties

As a condition of final acceptance of the System, Contractor shall provide the SFMTA documentation of all pass-through Equipment warranties for the following Equipment:

Manufacturer	Type	Duration
Hewlett Packard	Server Warranties	36 Months
Oracle	DWH DB Warranty	36 Months
Dell	Workstation Warranties	36 Months
VMWare VSphere	Virtualization	36 Months
VMWare VCenter	Virtualization	36 Months

Contract No. SFMTA 2015-36

Appendix D

Licensed Materials

Software:

SKIDATA Parking.Logic PARCS Software

Documentation:

1. Training documents (i.e., handbooks, manuals and other printed instructional materials) describing the operation or maintenance of the PARCS;
2. Training films/DVDs and other audio-visual instructional materials describing the operation or maintenance of the PARCS;
3. Published Interfaces Specifications;
4. Product Information sheets
5. Product installation guides
6. Product use guides

Contract No. SFMTA 2015-36

Appendix E

Acknowledgement of Large Vehicle Driver Safety Training Requirements

I acknowledge that I have read and understand Section 62: Large Vehicle Driver Safety Training Requirements.

I agree that, before any of the Vendor's employees or Subcontractors drive large vehicles within the City and County of San Francisco, these employees and Subcontractors will successfully complete either (a) the SFMTA's "Large Vehicle Urban Driving Safety" training program or (b) a training program that meets the SFMTA's approved standards for large vehicle urban driving safety. I understand that this requirement does not apply to drivers providing delivery services who are not employees or Subcontractors of the Vendor. For purposes of this section, I understand that "large vehicle" means any single vehicle or combination of vehicle and trailer with an unladen weight of 10,000 pounds or more, or a van designed to carry 10 or more people.

Signature:

Date:

APPENDIX F

PARCS Components

PARCS Project

Equipment & Software

<u>Qty</u>	<u>Description</u>
51	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS
59	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS
126	Vehicle Loop Detector devices
117	Barrier arm Gates
65	Barrier Motion Alarms for pedestrian safety
54	Pedestrian access control device for after hour access
13	Rolling Grill gate access control to control exterior rolling gates
65	Cash & Credit Card Pay Station with Barcode Scanner & UPS
44	Credit Card Only Pay Station with Barcode Scanner & UPS
37	Cashier Fee Computer
36	Validator(s) for Merchants
31	Office Work Station
116	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access
22	CCTV system with recording device
21	IP Intercom System
22	Parking Access & Revenue Control System (PARCS) Software
7	Motorcycle Nesting Area with LPR, UPS & AVI Readers
5	Pay and Display Stations with UPS
1	Center Monitoring Station Equipment

Total Equipment & Software Cost

\$ 10,995,367

Skidata Services

<u>Qty</u>	<u>Description</u>
1	Bolt, Connect, Program and Train on new PARCS control

Total Service Cost

\$ 1,930,416

Warranty

<u>Qty</u>	<u>Description</u>
3	Yearly Warranty & Maintenance

Total Warranty Cost

\$ 1,437,362

Total Cost =

\$ 14,363,145

APPENDIX F

PARCS Components

Central Monitoring Station

Equipment & Software	
Qty	Description
1	Spare Parts
1	Consumables
3	Office Work Station
1	CCTV system with recording device (Master Station)
1	IP Intercom System (Master Station)
1	Parking Access & Revenue Control System (PARCS) Software (Master Station)
Total Equipment & Software Cost	
	\$ 694,941
Skidata Services	
Qty	Description
1	Bolt, Connect, Program and Train on new PARCS control
Total Service Cost	
	\$ 165,339
Warranty	
Qty	Description
3	Yearly Warranty & Maintenance
Total Warranty Cost	
	\$ 96,683
Total Cost =	
	\$ 956,963

Payment 1 = \$437,813

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$422,467

A) 35% remaining value of Equipment & Software (\$257,128)

B) 100% of Skidata Services (\$165,339)

Warranty = \$96,683

A) Year 1 to be paid in full in first month after installation is complete (\$32,228)

B) Year 2 to be paid in full one year after first year warranty payment(\$32,228)

C) Year 3 to be paid in full after second year of warranty payment (\$32,227)

Payment 1 = \$ 437,813.00

Payment 2 = \$ 422,467.00

Warranty = \$ 96,683.00

Total Cost = \$ 956,963.00

*****See Appendix B for Payment Schedule and Breakdown**

APPENDIX F

PARCS Components

Polk Bush Street Garage

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
3	Vehicle Loop Detector devices		
3	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
1	Pedestrian access control device for after hour access		
1	Rolling Grill gate access control to control exterior rolling gates		
1	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
2	Credit Card Only Pay Station with Barcode Scanner & UPS		
1	Cashier Fee Computer		
0	Validator(s) for Merchants		
1	Office Work Station		
3	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	230,367

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	81,514

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	42,529

Total Cost =

\$ 354,410

Payment 1 = \$149,738

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$162,143

A) 35% remaining value of Equipment & Software (\$80,628)

B) 100% of Skidata Services (\$81,514)

Warranty = \$42,529

A) Year 1 to be paid in full in first month after installation is complete (\$14,176)

B) Year 2 to be paid in full one year after first year warranty payment(\$14,176)

C) Year 3 to be paid in full after second year of warranty payment (\$14,176)

Payment 1 = \$ 149,738.00

Payment 2 = \$ 162,143.00

Warranty = \$ 42,529.00

Total Cost = \$ 354,410.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Vallejo Street

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
2	Vehicle Loop Detector devices		
2	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
2	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
0	Cashier Fee Computer		
1	Validator(s) for Merchants		
1	Office Work Station		
2	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	242,342

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	52,270

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	38,671

Total Cost =

\$ 333,283

Payment 1 = \$157,522

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$137,090

A) 35% remaining value of Equipment & Software (\$84,820)

B) 100% of Skidata Services (\$52,270)

Warranty = \$38,671

A) Year 1 to be paid in full in first month after installation is complete (\$12,890)

B) Year 2 to be paid in full one year after first year warranty payment(\$12,890)

C) Year 3 to be paid in full after second year of warranty payment (\$12,890)

Payment 1 = \$ 157,522.00

Payment 2 = \$ 137,090.00

Warranty = \$ 38,671.00

Total Cost = \$ 333,283.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

North Beach

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
2	Vehicle Loop Detector devices		
2	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
2	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
1	Cashier Fee Computer		
1	Validator(s) for Merchants		
1	Office Work Station		
1	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	253,936

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	52,270

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	39,755

Total Cost =

\$ 345,961

Payment 1 = \$165,058

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$141,148

A) 35% remaining value of Equipment & Software (\$88,878)

B) 100% of Skidata Services (\$52,270)

Warranty = \$39,755

A) Year 1 to be paid in full in first month after installation is complete (\$13,252)

B) Year 2 to be paid in full one year after first year warranty payment(\$13,252)

C) Year 3 to be paid in full after second year of warranty payment (\$13,252)

Payment 1 = \$ 165,058.00

Payment 2 = \$ 141,148.00

Warranty = \$ 39,755.00

Total Cost = \$ 345,961.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Ellis O'Farrell

Equipment & Software

<u>Qty</u>	<u>Description</u>		
4	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
4	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
8	Vehicle Loop Detector devices		
8	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
4	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
3	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
2	Credit Card Only Pay Station with Barcode Scanner & UPS		
1	Cashier Fee Computer		
0	Validator(s) for Merchants		
4	Office Work Station		
8	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers		
Total Equipment & Software Cost		\$	618,597

Skidata Services

<u>Qty</u>	<u>Description</u>		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	119,144

Warranty

<u>Qty</u>	<u>Description</u>		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	74,946

Total Cost =

\$ 812,687

Payment 1 = \$402,088

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$335,653

A) 35% remaining value of Equipment & Software (\$216,509)

B) 100% of Skidata Services (\$119,144)

Warranty = \$74,946

A) Year 1 to be paid in full in first month after installation is complete (\$24,982)

B) Year 2 to be paid in full one year after first year warranty payment(\$24,982)

C) Year 3 to be paid in full after second year of warranty payment (\$24,982)

Payment 1 = \$ 402,088.00

Payment 2 = \$ 335,653.00

Warranty = \$ 74,946.00

Total Cost = \$ 812,687.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Moscone

Equipment & Software

Qty	Description		
3	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
3	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
6	Vehicle Loop Detector devices		
6	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
4	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
2	Credit Card Only Pay Station with Barcode Scanner & UPS		
2	Cashier Fee Computer		
1	Validator(s) for Merchants		
1	Office Work Station		
6	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	439,287

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	79,656

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	57,787

Total Cost =

\$ 576,730

Payment 1 = \$285,537

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$233,406

A) 35% remaining value of Equipment & Software (\$153,750)

B) 100% of Skidata Services (\$79,656)

Warranty = \$57,787

A) Year 1 to be paid in full in first month after installation is complete (\$19,262)

B) Year 2 to be paid in full one year after first year warranty payment(\$19,262)

C) Year 3 to be paid in full after second year of warranty payment (\$19,262)

Payment 1 = \$ 285,537.00

Payment 2 = \$ 233,406.00

Warranty = \$ 57,787.00

Total Cost = \$ 576,730.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

San Francisco General Garage

Equipment & Software

Qty	Description		
3	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
3	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
6	Vehicle Loop Detector devices		
6	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
4	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
3	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
4	Credit Card Only Pay Station with Barcode Scanner & UPS		
3	Cashier Fee Computer		
2	Validator(s) for Merchants		
1	Office Work Station		
6	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	539,294

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	76,994

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	67,601

Total Cost =

\$ 683,889

Payment 1 = \$350,541

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$265,747

A) 35% remaining value of Equipment & Software (\$188,753)

B) 100% of Skidata Services (\$76,994)

Warranty = \$67,601

A) Year 1 to be paid in full in first month after installation is complete (\$22,534)

B) Year 2 to be paid in full one year after first year warranty payment(\$22,534)

C) Year 3 to be paid in full after second year of warranty payment (\$22,534)

Payment 1 = \$ 350,541.00

Payment 2 = \$ 265,747.00

Warranty = \$ 67,601.00

Total Cost = \$ 683,889.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

San Francisco General Garage

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
2	Vehicle Loop Detector devices		
2	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
0	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
1	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
0	Cashier Fee Computer		
3	Validator(s) for Merchants		
1	Office Work Station		
0	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	133,148

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	30,108

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	17,941

Total Cost =

\$ 181,197

Payment 1 = \$86,546

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$76,710

A) 35% remaining value of Equipment & Software (\$188,753)

B) 100% of Skidata Services (\$76,994)

Warranty = \$17,941

A) Year 1 to be paid in full in first month after installation is complete (\$5,980)

B) Year 2 to be paid in full one year after first year warranty payment(\$5,980)

C) Year 3 to be paid in full after second year of warranty payment (\$5,980)

Payment 1 = \$ 86,546.00

Payment 2 = \$ 76,710.00

Warranty = \$ 17,941.00

Total Cost = \$ 181,197.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

16th & Hoff Street

Equipment & Software

Qty	Description
2	Pay and Display Stations with UPS
2	Vehicle Loop Detector devices
3	Pedestrian access control device for after hour access
3	Barrier Motion Alarms for pedestrian safety
2	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access
1	CCTV system with recording device
1	IP Intercom System
1	Parking Access & Revenue Control System (PARCS) Software

Total Equipment & Software Cost

\$ 125,797

Skidata Services

Qty	Description
1	Bolt, Connect, Program and Train on new PARCS control

Total Service Cost

\$ 51,789

Warranty

Qty	Description
3	Yearly Warranty & Maintenance

Total Warranty Cost

\$ 42,392

Total Cost =

\$ 219,978

Payment 1 = \$81,768

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$95,818

- A) 35% remaining value of Equipment & Software (\$44,029)
- B) 100% of Skidata Services (\$51,789)

Warranty = \$42,392

- A) Year 1 to be paid in full in first month after installation is complete (\$14,131)
- B) Year 2 to be paid in full one year after first year warranty payment(\$14,131)
- C) Year 3 to be paid in full after second year of warranty payment (\$14,131)

Payment 1 =	\$ 81,768.00
Payment 2 =	\$ 95,818.00
Warranty =	\$ 42,392.00
Total Cost =	\$ 219,978.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Mission Bartlett

Equipment & Software

Qty	Description		
2	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
2	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
6	Vehicle Loop Detector devices		
6	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
3	Pedestrian access control device for after hour access		
1	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
3	Credit Card Only Pay Station with Barcode Scanner & UPS		
1	Cashier Fee Computer		
3	Validator(s) for Merchants		
1	Office Work Station		
6	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	459,115

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	58,262

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	49,261

Total Cost =

\$ 566,638

Payment 1 = \$298,425

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$218,952

A) 35% remaining value of Equipment & Software (\$160,690)

B) 100% of Skidata Services (\$58,262)

Warranty = \$49,261

A) Year 1 to be paid in full in first month after installation is complete (\$16,421)

B) Year 2 to be paid in full one year after first year warranty payment(\$16,420)

C) Year 3 to be paid in full after second year of warranty payment (\$16,420)

Payment 1 = \$ 298,425.00

Payment 2 = \$ 218,952.00

Warranty = \$ 49,261.00

Total Cost = \$ 566,638.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Lombard Street

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
4	Vehicle Loop Detector devices		
2	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
0	Pedestrian access control device for after hour access		
1	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
2	Credit Card Only Pay Station with Barcode Scanner & UPS		
0	Cashier Fee Computer		
3	Validator(s) for Merchants		
1	Office Work Station		
5	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	278,598

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	50,114

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	42,775

Total Cost =

\$ 371,487

Payment 1 = \$181,089

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$147,623

A) 35% remaining value of Equipment & Software (\$97,509)

B) 100% of Skidata Services (\$50,144)

Warranty = \$42,775

A) Year 1 to be paid in full in first month after installation is complete (\$14,258)

B) Year 2 to be paid in full one year after first year warranty payment(\$15,258)

C) Year 3 to be paid in full after second year of warranty payment (\$15,258)

Payment 1 = \$ 181,089.00

Payment 2 = \$ 147,623.00

Warranty = \$ 42,775.00

Total Cost = \$ 371,487.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

7th & Harrison Street

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner & UPS		
2	Vehicle Loop Detector devices		
2	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
0	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
1	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
1	Cashier Fee Computer		
0	Validator(s) for Merchants		
1	Office Work Station		
0	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	162,556

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	42,918

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	37,207

Total Cost =

\$ 242,681

Payment 1 = \$105,661

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$99,813

A) 35% remaining value of Equipment & Software (\$56,895)

B) 100% of Skidata Services (\$42,918)

Warranty = \$37,207

A) Year 1 to be paid in full in first month after installation is complete (\$12,403)

B) Year 2 to be paid in full one year after first year warranty payment(\$12,402)

C) Year 3 to be paid in full after second year of warranty payment (\$12,402)

Payment 1 = \$ 105,661.00

Payment 2 = \$ 99,813.00

Warranty = \$ 37,207.00

Total Cost = \$ 242,681.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Performing Arts Garage

Equipment & Software

<u>Qty</u>	<u>Description</u>		
2	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
3	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
5	Vehicle Loop Detector devices		
5	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
3	Pedestrian access control device for after hour access		
2	Rolling Grill gate access control to control exterior rolling gates		
4	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
3	Credit Card Only Pay Station with Barcode Scanner & UPS		
2	Cashier Fee Computer		
1	Validator(s) for Merchants		
1	Office Work Station		
6	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	565,416

Skidata Services

<u>Qty</u>	<u>Description</u>		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	90,666

Warranty

<u>Qty</u>	<u>Description</u>		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	66,776

Total Cost =

\$ 722,858

Payment 1 = \$367,520

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$288,562

A) 35% remaining value of Equipment & Software (\$197,896)

B) 100% of Skidata Services (\$90,666)

Warranty = \$66,776

A) Year 1 to be paid in full in first month after installation is complete (\$22,259)

B) Year 2 to be paid in full one year after first year warranty payment(\$22,259)

C) Year 3 to be paid in full after second year of warranty payment (\$22,258)

Payment 1 = \$ 367,520.00

Payment 2 = \$ 288,562.00

Warranty = \$ 66,776.00

Total Cost = \$ 722,858.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Civic Center Garage

Equipment & Software

Qty	Description		
3	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
5	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
8	Vehicle Loop Detector devices		
8	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
5	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
5	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
3	Cashier Fee Computer		
0	Validator(s) for Merchants		
1	Office Work Station		
8	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers		
Total Equipment & Software Cost		\$	735,062

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	111,043

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	79,300

Total Cost =

\$ 925,405

Payment 1 = \$477,790

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$368,315

A) 35% remaining value of Equipment & Software (\$257,272)

B) 100% of Skidata Services (\$111,043)

Warranty = \$79,300

A) Year 1 to be paid in full in first month after installation is complete (\$26,434)

B) Year 2 to be paid in full one year after first year warranty payment(\$26,433)

C) Year 3 to be paid in full after second year of warranty payment (\$26,433)

Payment 1 = \$ 477,790.00

Payment 2 = \$ 368,315.00

Warranty = \$ 79,300.00

Total Cost = \$ 925,405.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Japan Town Garage

Equipment & Software

Qty	Description		
2	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
3	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
5	Vehicle Loop Detector devices		
5	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
2	Pedestrian access control device for after hour access		
3	Rolling Grill gate access control to control exterior rolling gates		
3	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
3	Credit Card Only Pay Station with Barcode Scanner & UPS		
3	Cashier Fee Computer		
0	Validator(s) for Merchants		
1	Office Work Station		
5	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	470,640

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	88,675

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	85,682

Total Cost =

\$ 644,997

Payment 1 = \$305,916

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$253,399

A) 35% remaining value of Equipment & Software (\$164,724)

B) 100% of Skidata Services (\$88,675)

Warranty = \$85,682

A) Year 1 to be paid in full in first month after installation is complete (\$28,561)

B) Year 2 to be paid in full one year after first year warranty payment(\$28,561)

C) Year 3 to be paid in full after second year of warranty payment (\$28,560)

Payment 1 = \$ 305,916.00

Payment 2 = \$ 253,399.00

Warranty = \$ 85,682.00

Total Cost = \$ 644,997.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Japan Town Annex

Equipment & Software

Qty	Description		
1	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
1	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
2	Vehicle Loop Detector devices		
2	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
4	Pedestrian access control device for after hour access		
2	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
1	Cashier Fee Computer		
0	Validator(s) for Merchants		
1	Office Work Station		
2	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
Total Equipment & Software Cost		\$	257,015

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	55,282

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	43,509

Total Cost =

\$ 355,806

Payment 1 = \$167,060

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$145,237

A) 35% remaining value of Equipment & Software (\$89,955)

B) 100% of Skidata Services (\$55,282)

Warranty = \$43,509

A) Year 1 to be paid in full in first month after installation is complete (\$14,503)

B) Year 2 to be paid in full one year after first year warranty payment(\$14,503)

C) Year 3 to be paid in full after second year of warranty payment (\$14,503)

Payment 1 = \$ 167,060.00

Payment 2 = \$ 145,237.00

Warranty = \$ 43,509.00

Total Cost = \$ 355,806.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

St. Mary's Square Garage

Equipment & Software

Qty	Description		
4	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
4	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
8	Vehicle Loop Detector devices		
8	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
6	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
4	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
1	Credit Card Only Pay Station with Barcode Scanner & UPS		
2	Cashier Fee Computer		
0	Validator(s) for Merchants		
2	Office Work Station		
8	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers		
Total Equipment & Software Cost		\$	622,437

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	112,970

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	81,843

Total Cost =

\$ 817,250

Payment 1 = \$404,584

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$330,823

- A) 35% remaining value of Equipment & Software (\$217,853)
- B) 100% of Skidata Services (\$112,970)

Warranty = \$81,843

- A) Year 1 to be paid in full in first month after installation is complete (\$27,281)
- B) Year 2 to be paid in full one year after first year warranty payment(\$27,281)
- C) Year 3 to be paid in full after second year of warranty payment (\$27,281)

Payment 1 = \$ 404,584.00

Payment 2 = \$ 330,823.00

Warranty = \$ 81,843.00

Total Cost = \$ 817,250.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Golden Gateway Garage

Equipment & Software

Qty	Description		
4	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
4	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
8	Vehicle Loop Detector devices		
8	Barrier arm Gates		
3	Barrier Motion Alarms for pedestrian safety		
2	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
4	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
4	Credit Card Only Pay Station with Barcode Scanner & UPS		
0	Cashier Fee Computer		
0	Validator(s) for Merchants		
2	Office Work Station		
8	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers		
Total Equipment & Software Cost		\$	711,293

Skidata Services

Qty	Description		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	110,603

Warranty

Qty	Description		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	81,371

Total Cost =

\$ 903,267

Payment 1 = \$462,340

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$359,556

- A) 35% remaining value of Equipment & Software (\$248,953)
- B) 100% of Skidata Services (\$110,603)

Warranty = \$81,371

- A) Year 1 to be paid in full in first month after installation is complete (\$27,124)
- B) Year 2 to be paid in full one year after first year warranty payment(\$27,124)
- C) Year 3 to be paid in full after second year of warranty payment (\$27,123)

Payment 1 = \$ 462,340.00

Payment 2 = \$ 359,556.00

Warranty = \$ 81,371.00

Total Cost = \$ 903,267.00

*****See Appendix B for Payment Schedule and Breakdown**

APPENDIX F

PARCS Components

5th & Mission Garage

Equipment & Software

<u>Qty</u>	<u>Description</u>
8	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS
9	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS
26	Vehicle Loop Detector devices
17	Barrier arm Gates
3	Barrier Motion Alarms for pedestrian safety
1	Pedestrian access control device for after hour access
0	Rolling Grill gate access control to control exterior rolling gates
11	Cash & Credit Card Pay Station with Barcode Scanner & UPS
1	Credit Card Only Pay Station with Barcode Scanner & UPS
6	Cashier Fee Computer
9	Validator(s) for Merchants
2	Office Work Station
17	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access
1	CCTV system with recording device
1	IP Intercom System
1	Parking Access & Revenue Control System (PARCS) Software
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers

Total Equipment & Software Cost

\$ 1,350,089

Skidata Services

<u>Qty</u>	<u>Description</u>
1	Bolt, Connect, Program and Train on new PARCS control

Total Service Cost

\$ 173,544

Warranty

<u>Qty</u>	<u>Description</u>
3	Yearly Warranty & Maintenance

Total Warranty Cost

\$ 132,180

Total Cost =

\$ 1,655,813

Payment 1 = \$877,558

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$646,075

A) 35% remaining value of Equipment & Software (\$472,531)

B) 100% of Skidata Services (\$173,544)

Warranty = \$132,180

A) Year 1 to be paid in full in first month after installation is complete (\$44,060)

B) Year 2 to be paid in full one year after first year warranty payment(\$44,060)

C) Year 3 to be paid in full after second year of warranty payment (\$44,060)

Payment 1 = \$ 877,558.00

Payment 2 = \$ 646,075.00

Warranty = \$ 132,180.00

Total Cost = \$ 1,655,813.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Sutter Stockton Garage

Equipment & Software

<u>Qty</u>	<u>Description</u>
4	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS
6	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS
10	Vehicle Loop Detector devices
10	Barrier arm Gates
3	Barrier Motion Alarms for pedestrian safety
2	Pedestrian access control device for after hour access
3	Rolling Grill gate access control to control exterior rolling gates
7	Cash & Credit Card Pay Station with Barcode Scanner & UPS
4	Credit Card Only Pay Station with Barcode Scanner & UPS
4	Cashier Fee Computer
9	Validator(s) for Merchants
2	Office Work Station
10	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access
1	CCTV system with recording device
1	IP Intercom System
1	Parking Access & Revenue Control System (PARCS) Software
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers

Total Equipment & Software Cost	\$ 916,648
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Skidata Services

<u>Qty</u>	<u>Description</u>
1	Bolt, Connect, Program and Train on new PARCS control

Total Service Cost	\$ 132,703
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Warranty

<u>Qty</u>	<u>Description</u>
3	Yearly Warranty & Maintenance

Total Warranty Cost	\$ 101,810
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Total Cost =

\$ 1,151,161

Payment 1 = \$595,821

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$453,530

A) 35% remaining value of Equipment & Software (\$320,827)

B) 100% of Skidata Services (\$132,703)

Warranty = \$101,810

A) Year 1 to be paid in full in first month after installation is complete (\$33,937)

B) Year 2 to be paid in full one year after first year warranty payment(\$33,937)

C) Year 3 to be paid in full after second year of warranty payment (\$33,936)

Payment 1 =	\$ 595,821.00
Payment 2 =	\$ 453,530.00
Warranty =	\$ 101,810.00
Total Cost =	\$ 1,151,161.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Portsmouth Square

Equipment & Software

<u>Qty</u>	<u>Description</u>
2	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS
3	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS
5	Vehicle Loop Detector devices
5	Barrier arm Gates
6	Barrier Motion Alarms for pedestrian safety
4	Pedestrian access control device for after hour access
0	Rolling Grill gate access control to control exterior rolling gates
4	Cash & Credit Card Pay Station with Barcode Scanner & UPS
5	Credit Card Only Pay Station with Barcode Scanner & UPS
3	Cashier Fee Computer
0	Validator(s) for Merchants
3	Office Work Station
5	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access
1	CCTV system with recording device
1	IP Intercom System
1	Parking Access & Revenue Control System (PARCS) Software

Total Equipment & Software Cost

\$ 543,808

Skidata Services

<u>Qty</u>	<u>Description</u>
1	Bolt, Connect, Program and Train on new PARCS control

Total Service Cost

\$ 87,492

Warranty

<u>Qty</u>	<u>Description</u>
3	Yearly Warranty & Maintenance

Total Warranty Cost

\$ 78,634

Total Cost =

\$ 709,934

Payment 1 = \$353,475

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$277,825

- A) 35% remaining value of Equipment & Software (\$190,333)
- B) 100% of Skidata Services (\$87,4912)

Warranty = \$78,634

- A) Year 1 to be paid in full in first month after installation is complete (\$26,212)
- B) Year 2 to be paid in full one year after first year warranty payment(\$26,211)
- C) Year 3 to be paid in full after second year of warranty payment (\$26,211)

Payment 1 =	\$	353,475.00
Payment 2 =	\$	277,825.00
Warranty =	\$	78,634.00
Total Cost =	\$	709,934.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Pirece Street

Equipment & Software	
Qty	Description
3	Pay and Display Stations with UPS
1	CCTV system with recording device
1	Parking Access & Revenue Control System (PARCS) Software
Total Equipment & Software Cost	
\$ 73,177	
Skidata Services	
Qty	Description
1	Bolt, Connect, Program and Train on new PARCS control
Total Service Cost	
\$ 19,511	
Warranty	
Qty	Description
3	Yearly Warranty & Maintenance
Total Warranty Cost	
\$ 9,490	
Total Cost =	
\$ 102,178	

Payment 1 = \$47,565

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$45,123

- A) 35% remaining value of Equipment & Software (\$25,612)
- B) 100% of Skidata Services (\$19,511)

Warranty = \$9,490

- A) Year 1 to be paid in full in first month after installation is complete (\$3,164)
- B) Year 2 to be paid in full one year after first year warranty payment(\$3,163)
- C) Year 3 to be paid in full after second year of warranty payment (\$3,163)

Payment 1 =	\$ 47,565.00
Payment 2 =	\$ 45,123.00
Warranty =	\$ 9,490.00
Total Cost =	\$ 102,178.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX F

PARCS Components

Union Square

Equipment & Software

<u>Qty</u>	<u>Description</u>		
3	Entry Station with Touchscreen, Barcode Scanner, LPR & UPS		
3	Exit Station with Credit Card capabilities, Touchscreen, Barcode Scanner, LPR & UPS		
8	Vehicle Loop Detector devices		
8	Barrier arm Gates		
2	Barrier Motion Alarms for pedestrian safety		
2	Pedestrian access control device for after hour access		
0	Rolling Grill gate access control to control exterior rolling gates		
2	Cash & Credit Card Pay Station with Barcode Scanner & UPS		
2	Credit Card Only Pay Station with Barcode Scanner & UPS		
3	Cashier Fee Computer		
3	Validator(s) for Merchants		
3	Office Work Station		
8	Automatic Vehicle Identification (AVI) Readers for Monthly Parking Access		
1	CCTV system with recording device		
1	IP Intercom System		
1	Parking Access & Revenue Control System (PARCS) Software		
1	Motorcycle Nesting Area with LPR, UPS & AVI Readers		
Total Equipment & Software Cost		\$	571,804

Skidata Services

<u>Qty</u>	<u>Description</u>		
1	Bolt, Connect, Program and Train on new PARCS control		
Total Service Cost		\$	87,549

Warranty

<u>Qty</u>	<u>Description</u>		
3	Yearly Warranty & Maintenance		
Total Warranty Cost		\$	69,219

Total Cost =

\$ 728,572

Payment 1 = \$371,673

65% value of the Equipment & Software, to be paid upon delivery and SFMTA inspection

Payment 2 = \$287,680

A) 35% remaining value of Equipment & Software (\$200,131)

B) 100% of Skidata Services (\$87,549)

Warranty = \$69,219

A) Year 1 to be paid in full in first month after installation is complete (\$23,073)

B) Year 2 to be paid in full one year after first year warranty payment(\$23,073)

C) Year 3 to be paid in full after second year of warranty payment (\$23,073)

Payment 1 =	\$	371,673.00
Payment 2 =	\$	287,680.00
Warranty =	\$	69,219.00
Total Cost =	\$	728,572.00

***See Appendix B for Payment Schedule and Breakdown

APPENDIX G

PARKING FACILITIES

Central Monitoring Station - 1455 Market Street
Polk-Bush Garage - 1399 Bush Street
Vallejo Street Garage - 766 Vallejo Street
North Beach Garage - 735 Vallejo Street
Lombard Garage - 2055 Lombard Street
Pierce Street Garage - 3252 Pierce St.
Portsmouth Square Garage - 733 Kearney
Moscone Center Garage - 255 3rd Street
Civic Center Garage - 355 McAllister Street
Sutter Stockton Garage - 444 Stockton Street
Ellis O'Farrell Garage - 123 O'Farrell Street
Golden Gateway Garage - 250 Clay Street
St. Mary's Square Garage - 433 Kearny Street
Japan Center Garage - 1610 Geary Blvd.
Japan Center Annex Garage - 1650 Fillmore Street
Performing Arts Garage - 360 Grove Street
Union Square Garage - 333 Post Street
SF General Hospital Garage- 2500 24th Street
SF General Hospital Lot - 2500 24th Street
16th & Hoff Garage - 42 Hoff Street
Mission Bartlett Garage - 3255 21st Street
Fifth & Mission Garage - 833 Mission Street
7th & Harrison Lot - 415 7th Street

Contract No. SFMTA 2015-36

APPENDIX H

**PARCS SOFTWARE LICENSE
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND SKIDATA, INC.**

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**City and County of San Francisco
Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, California 94103**

Contract No. SFMTA 2015-36

APPENDIX H

**PARCS SOFTWARE LICENSE
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND SKIDATA, INC.**

This PARCS Software License Agreement, dated for convenience as **April __, 2016**, is made in the City and County of San Francisco, State of California, by and between SKIDATA, Inc., One Harvard Way, Suite 5, Hillsborough, New Jersey 08844 (hereinafter referred to as “Skidata” or “Licensor”), and the City and County of San Francisco, a municipal corporation, acting by and through its Municipal Transportation Agency (hereinafter referred to as “City, “SFMTA” or “Licensee”).

RECITALS

WHEREAS, the SFMTA wishes to license certain software from Licensor, which is described in this License Agreement as the Licensed Software; and,

WHEREAS, Licensor represents and warrants that it is qualified and has the legal authority to provide and the Licensed Software and license to the City for the City’s use, as set forth under this Agreement

WHEREAS, this PARCS Software License Agreement (“License Agreement”) has been negotiated and executed in conjunction with Contract No. SFMTA 2015-36, Agreement for Procurement, Implementation and Maintenance of a Parking Access and Revenue Control System (“the PARCS Agreement”), between Licensor and the SFMTA; now therefore

AGREEMENT

Based on the above recited statements, the SFMTA and SKIDATA agree as follows:

1. Definitions. Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

a. Acceptance. Notice from the City to Licensor that the Licensed Software meets the Software Specifications contained in the Documentation. City’s Acceptance of the Licensed Software shall be governed by the procedures set forth in Section 7.

b. Agreement. This document and any attached appendices and exhibits, including any future written and executed amendments.

c. Designated CPU. Any central processing unit or attached processor complex, including its peripheral units, described in the Authorization Document. The Authorization Document may designate more than one CPU.

d. Designated Site. The offices of the SFMTA, located at 1 South Van Ness Avenue, and the facilities specified in the PARCS Agreement at Appendix G, incorporated by reference as though fully set forth herein, or any other facility as the parties may designate from time to time in writing, where the Designated CPU is located.

e. Documentation. The technical publications relating to the use of the Licensed Software, such as reference, installation, administrative and programmer manuals, provided by Licensor to City, including but not limited to the Documentation listed in Section 5.k.

f. Errors, Defects and Malfunctions. Either a deviation between the function of the Software and the documentation furnished by Contractor for the Software, or a failure of the Software which degrades the use of the Software.

g. Effective Date of Software License. The date stated in the NTP Notice as the Effective Date of the Agreement.

h. Fix. Repair or replacement of source, object or executable code in the Software to remedy an Error, Defect or Malfunction.

i. License Fee. The compensation paid by SFMTA to Licensor for the Software License and associated use rights described in this License Agreement. (See Section 16.)

j. Licensed Materials. The Licensed Software and associated Documentation licensed to City by Licensor, as listed in section 5.k. of this License Agreement and any modification or Upgrades or modifications to the program(s) provided under this License Agreement or the Maintenance provisions of the PARCS Agreement. (See PARCS Agreement, Appendix D.)

k. Licensed Software. The proprietary computer software programs, all related materials, Documentation, all corrections, patches or updates thereto, and other written information received by City from Licensor listed in Appendix D to the PARCS Agreement or that is necessary to perform the PARCS Agreement, whether in machine-readable or printed form. (See section 5.k, below.)

l. Maintenance Agreement. Appendix I to the PARCS Agreement, which specifies the terms and conditions for the correction of software Errors, Defects and Malfunctions in the Software, for the provision of Upgrades to the Software, and for the provision of Support Services to end users of the Software.

m. Object Code. Machine readable compiled form of Licensed Software provided by Licensor.

n. PARCS Agreement. The “Agreement for Procurement, Implementation and Maintenance of a Parking Access and Revenue Control System,” Contract No. SFMTA 2015-36 between the SFMTA and SKIDATA, dated April ____, 2016.

o. Patch. Temporary repair or replacement of code in the Software to remedy an Error, Defect or Malfunction. Patches may be made permanent and released in Subsequent Releases of the Software.

p. Priority Category. A priority assigned to an Error, Defect or Malfunction, designating the urgency of correcting an Error, Defect or Malfunction. Assignment of a Priority Category to an Error, Defect or Malfunction is based on City's determination of the severity of the Error, Defect or Malfunction and Contractor's reasonable analysis of the priority of the Error, Defect or Malfunction.

q. Priority Protocol. Based on the Priority Category, rules specifying the turnaround time for correcting Errors, Malfunctions and Defects; escalation procedures, and personnel assignment.

r. Software Maintenance Services. The Software Updates, fixes, patches, work-arounds, email, phone, and on-site support provided by Licensor to the City to meet the warranty and services requirements described in this License Agreement to ensure that the Licensed Software continues to operate in accordance with the Software Specifications. (See PARCS Agreement, Appendix I.)

s. Software Specifications. The functional and operational characteristics of the Licensed Software as described in Licensor's current published product descriptions and technical manuals, the RFP and Licensor's Proposal.

t. Source Code. The human readable compliable form of the Licensed Software to be provided by Licensor.

u. Subsequent Release. A release of the Software for use in a particular operating environment which supersedes the Software. A Subsequent Release is offered and expressly designated by Contractor as a replacement to a specified Software product. A Subsequent Release will be supported by Contractor in accordance with the terms of this Software Maintenance Attachment. Multiple Subsequent Releases may be supported by Contractor at any given time.

v. Support Services The Software support service required under this Maintenance Agreement. Support Services include correcting an Error, Defect or Malfunction; providing telephone and/or online support concerning the installation and use of the Software; training in the installation and use of the Software; on-site consulting and application development services; detection, warning and correction of viruses; and disabled/disabling code.

w. Upgrade Either an enhancement to the Software code to add new features or functions to the system or software programming revisions containing corrections to Errors, Defects and Malfunctions that have been reported by users or discovered by the Contractor.

x. Warranty Period A period commencing with the installation of the Software product during which reported Errors, Defects and Malfunctions for Software products are corrected without charge in accordance with the provisions below.

y. Workaround A change in the procedures followed or end user operation of the software to avoid an Error, Defect or Malfunction without significantly impairing functionality or degrading the use of the Software.

Whenever the words “as directed,” “as required,” “as permitted,” or words of like effect are used, it shall be understood as the direction, requirement, or permission of the SFMTA. The words “sufficient,” “necessary,” or “proper,” and the like, mean sufficient, necessary or proper in the judgment of the SFMTA, unless otherwise indicated by the context.

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

This Section 1 controls against any and all other provisions of this agreement.

This License 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 License 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 License 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 License 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. Licensor’s assumption of risk of possible non-appropriation is part of the consideration for this License Agreement.

3. Term of Software License. The Software License granted under this Agreement shall commence upon the Effective Date, and shall continue in perpetuity unless sooner terminated in accordance with the provisions of this Agreement.

4. Effective Date of the Agreement. This License Agreement shall become effective when the Controller has first certified to the availability of funds and Licensor has been so notified in writing and given Notice to Proceed in performing the Work under the PARCS Agreement, which date shall be the Effective Date of the PARCS Agreement and this License Agreement. If the City has not provided Notice to Proceed and confirmation of the Controller’s certification of funds to Licensor within 90 Days of the San Francisco Board of Supervisors’ approval of the PARCS Agreement, Licensor may without liability or penalty terminate this License Agreement.

5. Relationship to PARCS Agreement. The parties intend that the provisions of this License Agreement shall not conflict with the terms, conditions and requirements of the PARCS Agreement. This License Agreement was procured and negotiated as part of the SFMTA’s procurement of the PARCS that Licensor will provide under the PARCS Agreement but this License Agreement is separate from the PARCS Agreement, and

the parties' respective rights and obligations under this License Agreement are not subject to and are not co-terminus with the PARCS Agreement. The term of the license granted under this License Agreement is perpetual and shall not expire or otherwise be terminated upon the expiration or termination of the PARCS Agreement.

6. License

a. Grant of License. Subject to the terms and conditions of this License Agreement, as of the Effective Date, Licensor grants to City a non-exclusive and non-transferable, perpetual, enterprise license to use the Licensed Software and the Documentation (Licensed Materials) for the management and operation of the PARCS in the City's off-street parking facilities and the SFMTA's management offices. City acknowledges and agrees that the Licensed Software and the Documentation are the proprietary information of Licensor and that this Agreement grants City no title or right of ownership in the Licensed Software or the Documentation beyond the use rights stated in this License Agreement.

b. Restrictions on Use. City is authorized to use the Licensed Software only for City's internal purposes and only on the Designated CPUs (i.e., the servers and back-up servers located at each Facility). City agrees that it will, through its best efforts, not use or permit the Licensed Software to be used in any manner, whether directly or indirectly, that would enable any other person or entity to use the Licensed Software on other than the Designated CPUs or Sites.

c. Use on other than Designated CPU or Site. A back-up or replacement CPU shall be located at each Facility, which shall be configured to seamlessly takeover the operations of the main server should the main server fail to function.

d. Back-up Copies. For the purpose of any bona fide City disaster recovery plan or with respect to the use of computer software in its municipal operations, City may make one copy of the Licensed Software for archival purposes and use such archival copy on a CPU other than the Designated CPU, or at a site other than the Designated Site, so long as such alternative CPU or site is owned or controlled by City. The use of such archival copy shall be limited to (1) the purpose of conducting limited testing of the disaster recovery plan's procedures and effectiveness and (2) during any period subsequent to the occurrence of an actual disaster during which the City cannot operate the Licensed Software on the Designated CPU or at the Designated Site. City agrees to furnish evidence of its disaster recovery plan and procedures upon Licensor's request.

e. Transfer of Products. City may move the Licensed Software and supporting materials to another City site which physically replaces the original installation site upon prior written notice to Licensor.

f. Documentation. Licensor shall provide City with the Licensed Software specified in the Authorization Document, and a minimum of two copies of the Documentation per installation. Licensor grants to City permission to duplicate all printed Documentation for City's internal use.

g. English Required. All data, documents, descriptions, diagrams, instructions and correspondence shall be in the English language.

h. Proprietary Markings. City agrees not to remove or destroy any proprietary markings or proprietary legends placed upon or contained within the Licensed Software or any related materials or Documentation.

i. Authorized Modification. City shall also be permitted to develop integrated applications for use with the Vendor's published standard APIs listed below. The integrated applications developed by the City shall become the property of the City. Vendor's published standard API's are:

- (1) Data Export Interface
- (2) Data Import Interface
- (3) Transaction Interface
- (4) Online Database Access Interface
- (5) Hostcomm Interface
- (6) Transaction Notification Interface
- (7) Direct To Access (DTA)
- (8) Electronic Payment Interface
- (9) BLL Protocol

j. Licensed Materials. Licensor licenses to the SFMTA under the terms and conditions stated in this License Agreement the following License Software and Documentation:

- (10) Training documents (i.e., handbooks, manuals and other printed instructional materials) describing the operation or maintenance of the PARCS;
- (11) Training films/DVDs and other audio-visual instructional materials describing the operation or maintenance of the PARCS;
- (12) Published Interfaces Specifications;
- (13) Product Information sheets
- (14) Product installation guides
- (15) Product use guides

7. Delivery

a. Delivery. Licensor shall deliver one copy of each of the Licensed Software products in computer readable form to the SFMTA within 30 Days of the Effective Date

of this License Agreement. Program storage media (magnetic tapes, disks and the like) and shipping shall be provided at no charge by Licensor.

b. Installation. Licensor shall install, configure and test the Licensed Software in accordance with the Project Schedule (See PARCS Agreement, Appendix J.)

c. Risk of Loss. If any of the Licensed Software products are lost or damaged during shipment or before installation is completed, Licensor shall promptly replace such products, including the replacement of program storage media if necessary, at no additional charge to the City. If any of the Licensed Software products are lost or damaged while in the possession of the City, Licensor will promptly replace such products without charge, except for program storage media, unless supplied by the City.

8. Acceptance Testing. After Licensor has installed, configured and completed initial testing of the Licensed Software, the City shall have a period of 90 days (“Acceptance Testing Period”) from the date of installation to verify that the Licensed Software substantially performs to the Software Specifications contained in the Documentation. In the event that the City determines that the Licensed Software does not meet such Software Specifications, the City shall notify the Licensor in writing, and Licensor shall modify or correct the Licensed Software so that it satisfies the Acceptance criteria. The date of Acceptance will be that date upon which City provides Licensor with written notice of satisfactory completion of Acceptance testing. If City notifies Licensor after the Acceptance Testing Period that the Licensed Software does not meet the Acceptance criteria of this section, then City shall be entitled to terminate this License in accordance with the procedures specified in Section 30(c) herein, and shall be entitled to a full refund of the license fee.

9. Training. Licensor will provide training in the use and operation of the Licensed Software, as outlined in the RFP at Section XII, on SFMTA property at the times indicated in the Project Schedule. Upon request by the City, Licensor will provide additional training at the rates listed in Appendix I or its current best government rates, whichever is less.

10. Licensor’s Default. Failure or refusal of Licensor to perform or do any act herein required shall constitute a default. In the event of any default, in addition to any other remedy available to City, this Contract may be terminated by City upon ten days written notice. Such termination does not waive any other legal remedies available to City.

11. Maintenance and Support. Licensor shall provide software maintenance and support services as provided in the PARCS Agreement.

12. Warranties: Right to Grant License. Licensor hereby warrants that it has title to and/or the authority to grant the license of the Licensed Software to the City described out in this Software Agreement.

13. Warranties: Conformity to Software Specifications.

a. Warranty and Due Care. Licensor shall perform the Work with due care and diligence, in accordance with the terms and conditions of this Software Agreement and the PARCS Agreement. During the Warranty Period, the Licensor shall provide all necessary services, updates and other improvements to maintain the Licensed

Software, including software updates, so that the Licensed Software operates as stated in the Specifications and as specified in the PARCS Agreement, Appendix I.

b. Warranty Period and Early Completion. Licensor warrants that the Software supplied under this Software Agreement shall conform to the functions described in this Software Agreement, the PARCS Agreement, and the RFP for a period of 66 months commencing on the effective date of the NTP. The parties anticipate that Licensor will complete installation of the PARCS in all Parking Facilities within said 30 month period commencing at NTP (the Installation Period). If Licensor completes the installation of the PARCS prior to the completion date stated in the Project Schedule, the Warranty shall commence at the actual completion date.

c. Suspension. If the SFMTA suspends the Work, the Parking Facilities covered by the warranty described in this Section will be limited to those facilities in which installation of the PARCS have passed all Acceptance Tests, and of which the SFMTA has beneficial use.

d. Software Warranty. Licensor does not warrant that the Software shall be error free. But during the Warranty Period and during any period for which the SFMTA has paid for Software Maintenance Services, Licensor shall, at its own expense, promptly correct or bypass any reproducible malfunction, lack of conformity with functions described in the design documents and technical specifications, and/or anomaly within the Warranty Period and the service periods stated in the Software Agreement and the PARCS Agreement. Licensor shall warrant software changed pursuant to a warranty correction under the same conditions as above, for a period expiring either simultaneously with the initial Warranty Period, or six (6) months after acceptance of such correction, whichever is longer.

e. Manufacturer's Warranties Where Licensor's Equipment Licensors provide a pass-through warranty, the SFMTA shall be listed as the intended beneficiary on all warranty documents, which shall be provided to the SFMTA as a condition of Final Acceptance.

f. No Implied Warranties. Licensor disclaims any and all implied warranties, including, but not limited to, and any and all implied warranties that may be applicable under the Uniform Commercial Code or other applicable statutes, including implied warranties arising by usage or custom of trade.

g. Actions That May Void Warranty. Notwithstanding any provision to the contrary, Licensor shall have no obligation to repair or replace the License Software if:

The Licensed Software has been modified by any party other than Licensor, without Licensor's prior written consent; or

(2) The defect is the result of:

i. any improper storage, handling or use of the Licensed Software by City; or

- ii. any use of the Software by City in conjunction with another software that is electronically or mechanically incompatible or of an inferior quality; or
- iii. modifications by SFMTA to the interface specifications that Licensor does not agree to; or
- iv. any damage to the Software by power failure, fire, explosion or any act of God or other cause beyond Licensor's control;
- v. or installation not performed in accordance with the Licensor's procedures and/or instructions.

The warranties set forth herein shall be non-transferable. The fulfillment of the above obligations shall be in full satisfaction of Licensor's responsibility for correction of defects in the Licensed Software and such repair or replacement constitutes the City's sole remedy as to the repair or replacement of defective License Software supplied hereunder.

14. Source Code Provided Upon Discontinuation of Agreement.

a. Licensor agrees that in the event it discontinues its obligations under the terms of this Agreement, except as expressly provided for in Section 30 (Termination), or ceases to market and/or provide maintenance and support for the Licensed Software, and there is no successor in interest by merger, operation of law, assignment, purchase, or otherwise, it will provide City, without charge, one (1) copy of the then-current Source Code for all of the programs and all supporting Documentation for the Licensed Software then operating and installed at City's locations. If City should obtain the Source Code and the Documentation pursuant to this section, the only use made of the Source Code and the Documentation will be for the proper maintenance of the Licensed Software in connection with City's use of the Licensed Software as provided for, and limited by, the provisions of this Agreement.

b. In furtherance of its obligations as stated above, Licensor will provide to City a copy of the Source Code which corresponds to the most current version of the Licensed Software. Licensor agrees to update, enhance or otherwise modify such Source Code promptly upon its release of a new version of the Licensed Software to its other Licensees such that the Source Code is maintained as corresponding to the newest released version of the Licensed Software. City's right to possession of the Source Code will be governed by Appendix A.

15. PCI Data Security Requirements. The Licensed Software shall comply with the Payment Card Industry Data Security Requirements as set out in the PARCS Agreement.

16. Infringement Indemnification.

a. If notified promptly in writing of any judicial action brought against City based on an allegation that City's use of the PARCS or Licensed Software infringes a patent, copyright, or any right of a third party or constitutes misuse or misappropriation of a trade secret or any other right in intellectual property (Infringement), Licensor shall hold

City harmless and defend such action at its own expense. Licensor shall pay the costs and damages awarded in any such action or the cost of settling such action, provided that Licensor shall have sole control of the defense of any such action and all negotiations or its settlement or compromise. If notified promptly in writing of any informal claim (other than a judicial action) brought against City based on an allegation that City's use of the PARCS or the Licensed Software constitutes Infringement, Licensor will pay the costs associated with resolving such claim and will pay the settlement amount (if any), provided that Licensor shall have sole control of the resolution of any such claim and all negotiations for its settlement.

b. In the event a final injunction is obtained against City's use of any component of the PARCS (including but not limited to the Licensed Software) by reason of infringement or other violation of another's copyright, patent or other recognized intellectual property right ("Infringement"), or in Licensor's opinion City's use of any the PARCS or any PARCS Component is likely to become the subject of Infringement, Licensor may at its option and expense: (1) procure for City the right to continue to use the infringing PARCS Component for the purposes stated in this License Agreement, (2) replace the infringing PARCS Component with a non-infringing, functionally equivalent substitute, or (3) suitably modify the PARCS or the Licensed Software to make its use non-infringing while retaining functional equivalency to the unmodified version of the PARCS. If none of these options is reasonably available to Licensor, then the applicable Authorization Document or relevant part of such Authorization Document may be terminated at the option of either party hereto and Licensor shall refund to City all amounts paid under this License Agreement or other agreement for the use of the PARCS or the infringing PARCS Component to the extent said PARCS Component and its functions may be severed from the PARCS.

c. Any unauthorized modification or attempted modification of the PARCS or a PARCS Component by City or any failure by City to implement any improvements or updates to the PARCS or a PARCS Component, as supplied by Licensor, shall void this indemnity unless City has obtained prior written authorization from Licensor permitting such modification, attempted modification or failure to implement.

d. Licensor shall have no liability for any claim of Infringement based on City's use or combination of the PARCS with products, data or system that Licensor has not approved. This subsection 16.d. shall not apply to the integration of the PARCS with any product, data or system performed by Licensor under this License Agreement or under any other contract with the SFMTA. Contractor acknowledges that is has superior knowledge to the SFMTA and is in the best position to recognize an integration to the PARCS that infringes upon another party's intellectual property rights or is otherwise restricted or prohibited.

17. Compensation; License Fee.

a. SFMTA shall pay Licensor a one-time license fee of \$ _____ as compensation for the perpetual licenses provided under this License Agreement. The cost of maintenance of the Licensed Software is set out in the PARCS Agreement, Appendix I. For any software for which Vendor does not have the right to grant a perpetual license (that is, software that Vendor sublicenses to the City or software for

which Vendor obtains a license on behalf of the City), Vendor's charges for the subscription fee or other costs of said licenses shall be included in the annual Maintenance Fee. (See PARCS Agreement, Appendices B and I.)

b. Compensation shall be due and payable within 45 days of the date of invoice. In no event shall the amount of this Software License Agreement exceed \$_____. No charges shall be incurred under this Agreement nor shall any payments become due to Licensor until the Licensed Software has been received from Licensor and approved by SFMTA as being in accordance with this Agreement.

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

18. Guaranteed Maximum Costs.

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

b. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Licensor to perform services or to provide materials, equipment and supplies that would result in Licensor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize additional services, materials, equipment or supplies. The City is not required to reimburse Licensor for services, materials, equipment or supplies that are provided by Licensor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.

c. The City and its employees and officers are not authorized to offer or promise to Licensor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Licensor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

d. The City shall provide upon request confirmation as to amount of funds for the Project certified by the City's Controller, which amount the City shall also state in its Notice to Proceed with the Work. Contractor acknowledges that funds for the Project may be received from funding sources on a rolling basis or allocated year-by-year on a fiscal/budget year basis, and therefore may not be available in the full Contract Amount at the outset of the Project or any particular time in the Contract Term. The Contractor is not obligated to perform the Work beyond the value of certified funds.

19. Invoice Format. Invoices furnished by Licensor under this Agreement must be in a form acceptable to the Controller, and must include a unique identifying number. All

amounts paid by City to Licensor shall be subject to audit by City. Payment shall be made by City to Licensor at the address specified in the section entitled "Notices to the Parties."

20. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

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

22. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Licensor, shall in no way lessen the liability of Licensor to replace unsatisfactory Work or the Licensed Software, although the unsatisfactory character of such Work or Licensed Software may not have been apparent or detected at the time such payment was made. Software, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Licensor without delay. The granting of any payment by City, or the receipt thereof by Licensor, shall not be deemed to be a waiver of the provisions for warranty provided in this License Agreement or any other agreement between the City and Licensor.

23. Qualified Personnel. Work under this Software License Agreement shall be performed only by competent personnel under the supervision of and in the employment of Licensor. Licensor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Licensor.

24. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Licensor, or by any of its employees, even though such equipment be furnished, rented or loaned to Licensor by City. Licensor represents that it will not rent, borrow or otherwise use City-owned equipment.

25. Independent Contractor; Payment of Taxes and Other Expenses

a. Independent Contractor. Licensor or any agent or employee of Licensor 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 License Agreement. Licensor or any agent or employee of Licensor 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. Licensor or any agent or employee of Licensor is liable for the acts and omissions of itself, its employees and its agents. Licensor 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 Licensor's performing services and work, or any agent or employee of Licensor providing same. Nothing in this License Agreement shall be construed as creating an employment or agency relationship between City and Licensor or any agent or employee of Licensor. Any terms in this License Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Licensor'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 Licensor performs work under this License Agreement.

b. Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Licensor is an employee for purposes of collection of any employment taxes, the amounts payable under this License 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 Licensor 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 Licensor for City, upon notification of such fact by City, Licensor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Licensor under this License Agreement (again, offsetting any amounts already paid by Licensor 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 License Agreement, Licensor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Licensor is an employee for any other purpose, then Licensor agrees to a reduction in City's financial liability so that City's total expenses under this License Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Licensor was not an employee.

26. Insurance.

a. Without in any way limiting Licensor's liability pursuant to the "Indemnification" section of this License Agreement, Licensor must maintain in force, during any period in which the Contractor is providing Software Maintenance Services under this License Agreement, insurance in the following amounts and coverages:

- i. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- ii. 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
- iii. 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.
- iv. Information and Network Technology Blended Liability Insurance coverage, with limits of \$1,000,000 each occurrence and each loss, and \$2,000,000 general aggregate. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:
- v. Liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, bank or credit card account and PIN access numbers, or other personally identifying information, stored or transmitted in electronic form;
- vi. Network security liability arising from the unauthorized access to, use of, or tampering with PARCS Components, computers or computer systems, including hacker attacks; and
- vii. Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.
- viii. Blanket fidelity bond covering all officers and employees of Licensor performing Work at any City garage or who have access to the PARCS, no less than \$1,000,000. Alternatively, Licensor may fulfill the fidelity bond obligation by providing a crime policy with coverage no less than One Million Dollars (\$1,000,000) and any deductible not to exceed Twenty Five Thousand Dollars (\$25,000) for each loss.

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

- i. Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
- ii. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this License Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- iii. 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 the Section entitled "Notices to the Parties."
- iv. Should any of the required insurance be provided under a claims-made form, Licensor shall maintain such coverage continuously throughout the term of this License Agreement and, without lapse, for a period of three years beyond the expiration of this License Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the License Agreement, such claims shall be covered by such claims-made policies.

c. Should any required insurance lapse during the term of this License 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 License Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this License Agreement effective on the date of such lapse of insurance.

d. Before commencing any Services, Licensor 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 Licensor's liability hereunder.

e. The Workers' Compensation policy or policies shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Licensor, its employees, agents and subcontractors.

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

27. Indemnification.

a. Licensor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Licensor or loss of or damage to property, arising directly or indirectly from Licensor's performance of this License Agreement, including, but not limited to, Licensor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this License Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Licensor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

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

28. Incidental and Consequential Damages. Licensor shall be responsible for incidental and consequential damages resulting in whole or in part from Licensor's acts or omissions. Licensor's liability to the City for incidental and consequential damages shall be limited to five million dollars (\$5,000,000) per incident giving rise to a claim against Licensor by the City. Licensor's liability to third parties is not limited, and Licensor's obligation to indemnify the City for any claim or action brought by a third party is not limited. Nothing in this License Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

29. Liability of City. City's payment obligations under this License Agreement shall be limited to the payment of the License Fee as provided for in Section 5 (Compensation) of this License Agreement. Notwithstanding any other provision of this License 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 License Agreement or the services performed in connection with this License Agreement or the PARCS Agreement.

30. Nondisclosure. City agrees that it shall treat the Licensed Software with the same degree of care as it treats like information of its own, which it does not wish to disclose to the public, from the date the Licensed Software is Accepted by the City until the license is terminated as provided herein. The obligations of the City set forth above, however, shall not apply to the Licensed Software, or any portion thereof, which:

a. is now or hereafter becomes publicly known;

- b. is disclosed to the City by a third party which the City has no reason to believe is not legally entitled to disclose such information;
- c. is known to the City prior to its receipt of the Licensed Software;
- d. is subsequently developed by the City independently of any disclosures made hereunder by Licensor;
- e. is disclosed with Licensor's prior written consent;
- f. is disclosed by Licensor to a third party without similar restrictions.

31. Proprietary or Confidential Information of City. Licensor understands and agrees that, in the performance of the work or services under this License Agreement or in contemplation thereof, Licensor 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. Licensor agrees that all information disclosed by City to Licensor shall be held in confidence and used only in the performance of the License Agreement. Licensor shall exercise the same standard of care to protect such information as a reasonably prudent Licensor would use to protect its own proprietary data.

32. Ownership of Data and Plans.

a. All information or data generated by the Licensed Software in operating the PARCS or stored in the PARCS shall be the property of the City, and Vendor and its Subcontractors shall have no interest whatsoever in said information or data. Said information and data includes but is not limited to the following: records of individual parking and payment transactions, transaction reports, dashboard reports, and reports concerning payments, revenues, facility/ies traffic and occupancy, exceptions and fraud alerts, validations, events, sales, and custom data reports. Upon termination or expiration of this PARCS Agreement, and as a condition of any final payment or other release of funds or acceptance of Work, Vendor shall transmit said data to the SFMTA in an agreed electronic format so that the information and data can be retrieved and efficiently searched and used for data reporting and data comparison.

b. Upon the termination or expiration of this License Agreement or the Software License, if directed by the SFMTA, the Licensor shall for a reasonable hourly rate or reasonable negotiated fixed-fee Agreement transfer information and data stored in the PARCS into a universal electronic format to be determined by the SFMTA, so that the SFMTA may archive, access and utilize said data and information.

33. Scope of License; Licensed Materials.

a. The user manuals, maintenance documents, and other materials listed in Appendix D ("Licensed Materials" or "PARCS Documentation") provided to the City under this PARCS Agreement shall remain the property of Vendor. Vendor grants to the City a non-exclusive, perpetual, royalty-free license to the Licensed Materials. City shall use the Licensed Materials only for its own internal use in operating and maintaining the PARCS, accessing and managing data created by or stored in the PARCS, training employees and garage management contractors and their personnel,

and other uses related to the management and operation of the PARCS for the purposes of managing off-street parking facilities.

b. The City may make copies of the Licensed Materials to the extent necessary to maintain an archive version, and as required to train its employees in the operation and maintenance of the PARCS, provided always that all copyright, confidentiality or proprietary legends or other markings shall be transposed onto such copies. The Licensed Materials and all copies thereof shall at all times be treated as proprietary and a trade secret of the Vendor and be subject to the provisions of this PARCS Agreement for Confidential Information.

34. Force Majeure.

a. Force Majeure shall mean any act of God or any other cause beyond a Party's control (including, but not limited to, an act of war, terror, riot or civil commotion, strike, lock-out, plant shutdown, material shortage, delay in transportation, earthquake, severe weather such as hurricane or tornado, flood, or other catastrophe, or delay in performance by its suppliers or subcontractors for any similar cause), that could not have been reasonably foreseen, avoided or mitigated. Neither Party shall by reason of Force Majeure be deemed in default of this PARCS Agreement, entitled to terminate this PARCS Agreement for cause, nor have any claim for damages against the other for its failure to perform or delay in performance under the PARCS Agreement as a result of such Force Majeure. If the performance in whole or part of any obligation under this PARCS Agreement is delayed by reason of any such event of Force Majeure for a period exceeding three months, the Parties shall discuss and review in good faith the desirability and conditions of terminating this PARCS Agreement.

b. The prevented or delayed party shall, as soon as it becomes aware of an event of Force Majeure, immediately inform the other Party of the nature and the beginning and the end of the Force Majeure circumstances preventing the performance of the PARCS Agreement.

35. Termination

a. Termination of License by Licensor. Licensor shall the right to terminate the Software License under this License Agreement if City fails to pay the License Fee or breaches a material term of said license and fails to remedy said breach within 30 Days following receipt of notice of said breach from Licensor.

b. Termination of Software Maintenance Services by Licensor. Licensor shall have the right to terminate Software Maintenance Services under this License Agreement if City is delinquent in making payments of any sum due under this License Agreement for said services, and the City continues to be delinquent for a period of ninety days after the last day payment is due; provided, however, that written notice is given to City by Licensor of the expiration date of the ninety-day delinquency period at least ten days prior to the expiration.

c. Basis for Termination by City. City shall have the right, without further obligation or liability to Licensor (except as specified in Sections 29 (Nondisclosure) and

34(c) (Disposition of Licensed Software on Termination) hereof): (i) to immediately terminate the Software Maintenance Services, the Software License, or this License Agreement in its entirety if Licensor commits any breach of this License Agreement and fails to remedy such breach within thirty (30) days after written notice by City of such breach, in which event, Licensor shall reimburse City in the same manner as for the removal of the Licensed Software due to infringement under Section 13. Termination of this License Agreement by City shall be effective upon receipt by Licensor of written notice of said termination.

d. Disposition of Licensed Software on Termination. Upon the termination of the Software License, City shall immediately: (i) return the Licensed Software to Licensor together with all Documentation; (ii) purge all copies of the Licensed Software or any portion thereof from all CPU's and from any computer storage medium or device on which City has placed or permitted others to place the Licensed Software; and (iii) give Licensor written certification that through its best efforts and to the best of its knowledge, City has complied with all of its obligations under Section 30(c). Upon termination of Software Maintenance Services, the City may continue to use the Licensed Software in accordance with the terms of the Software License.

36. Survival. This section and the following sections of this License Agreement shall survive termination or expiration of this License Agreement:

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| 5. Relationship to PARCS Agreement | 30. Nondisclosure. |
| 16. Infringement Indemnification. | |
| 20. Submitting False Claims; Monetary Penalties. | 31. Proprietary or Confidential Information of City |
| 21. Taxes | |
| 22. Payment Does Not Imply Acceptance of Work. | 45. Non-Waiver of Rights. |
| 24. Responsibility for Equipment | 46. Modification of Agreement |
| 25. Independent Contractor; Payment of Taxes and Other Expenses | 47. Administrative Remedy for Agreement Interpretation |
| 26. Insurance | 48. Agreement Made in California; Venue. |
| 27. Indemnification | 49. Construction |
| 28. Incidental and Consequential Damages. | 50. Entire Agreement |
| 29. Liability of City. | |

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

To City: Director of Parking
Sustainable Streets/Parking Division
SFMTA
1 South Van Ness, 8th floor
San Francisco, CA 94103
E-mail: Ted.Graff@sfmta.com

with a copy to: Director of Sustainable Streets
SFMTA
1 South Van Ness, 8th floor
San Francisco, CA 94103
E-mail: tom.maguire@sfmta.com

To Licensor: SKIDATA, Inc.
One Harvard Way, Suite 5
Hillsborough, New Jersey 08844
Fax: 908.243.0660
Attn. Alexander Christl
alexander.christl@skidata.com

with a copy to: Nissenbaum Law Group, LLC
2400 Morris Avenue
Union, New Jersey 07083
Fax: 908.686.8550
Attn: Gary D. Nissenbaum, Esq.
gdn@gdnlaw.com

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

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

39. Subcontracting. Licensor is prohibited from subcontracting this License Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this License Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

40. Assignment. The services to be performed by Licensor are personal in character and neither this License Agreement nor any duties or obligations hereunder may be assigned or delegated by the Licensor unless first approved by City by written

instrument executed and approved as required by SFMTA policies concerning delegation of contracting authority.

41. Audit and Inspection of Records. Vendor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this PARCS Agreement. Vendor 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 License Agreement, whether funded in whole or in part under this License Agreement. Vendor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this License 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 License Agreement shall have the same rights conferred upon City by this Section.

42. Service Obligations. Vendor agrees that it will provide warranty and maintenance services as set out in this License Agreement and in the maintenance provisions of the PARCS Agreement at Appendix I, including updates to the Licensed Software, for the expected duration (lifetime) of the PARCS, which shall be not less than seven years following expiration of the Warranty Period. Following expiration of the Maintenance Period, should Vendor determine to no longer sell parking access revenue control systems or should Vendor determine that it will no longer support the PARCS provided under the PARCS Agreement or any of the PARCS Components, Vendor shall give the SFMTA not less than 36 months notice prior to leaving the business, and shall provide to the SFMTA with the Source Code so that the SFMTA may maintain and continue to use the PARCS for the expected lifetime of the PARCS.

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

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

45. 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. This section shall not apply to waiver of rights or obligations set out by ordinance or statute, including but not limited to the requirements of the Government Claims Act, California Government Code section 900 et seq.

46. Modification of Agreement. This License Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in accordance with the adopted policies of the SFMTA concerning delegation and authority to approve contracts. Licensor shall cooperate with the SFMTA to submit to the SFMTA Contract Compliance Office any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this License Agreement by more than 20% (CMD Contract Modification Form).

47. Administrative Remedy for Agreement Interpretation.

a. Negotiation; Alternative Dispute Resolution. The parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this License Agreement by negotiation. The status of any dispute or controversy notwithstanding, Licensor shall proceed diligently with the performance of its obligations under this License Agreement in accordance with the License Agreement and the written directions of the City. If agreed by both parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. Neither party will be entitled to legal fees or costs for matters resolved under this section.

b. Administrative Remedy. Should any question arise as to the meaning and intent of this License Agreement, as an administrative remedy, the question shall, prior to any other action or resort to any other legal remedy, be referred to Director of Transportation who shall determine the true meaning and intent of this License Agreement. Provided that said question is first so presented to the Director of Transportation for his administrative determination, that administrative determination does not waive or otherwise preclude Licensor from pursuing other legal remedy.

c. Government Code Claims. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this License Agreement shall operate to toll, waive or excuse Licensor's compliance with the Government Code Claim requirements set forth in Administrative Code Chapter 10 and Government Code Section 900, et seq.

48. Agreement Made in California; Venue. The formation, interpretation and performance of this License 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 License Agreement shall be in San Francisco.

49. Construction. All paragraph captions or titles are for reference only aids for the ease and convenience of the reader, and they shall not be deemed to modify, limit or define the scope or substance of the provisions they introduce, nor will they be used in construing the intent or effect of such provisions or to otherwise and shall not be considered in construing interpret this License Agreement.

50. Entire Agreement. This License Agreement sets forth the entire agreement between the parties as to the licensing of the Licensed Software, and supersedes all other oral or written provisions. If any provision of this Agreement is held to be unenforceable, this License Agreement shall be construed without such provision. Software maintenance and related services are addressed in the License Agreement.

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

52. Compliance with Laws. Licensor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this License 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.

53. Consideration of Criminal History in Hiring and Employment Decisions.

a. Licensor agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Licensor/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 License Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at www.sfgov.org/olse/fco. A partial listing of some of Licensor's obligations under Chapter 12T is set forth in this Section. Licensor 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 License Agreement shall have the meanings assigned to such terms in Chapter 12T.

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

apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and 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.

c. Licensor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Licensor's failure to comply with the obligations in this subsection shall constitute a material breach of this License Agreement.

d. Licensor 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. Licensor 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 subsection 32(d), above. Licensor 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. Licensor 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 License Agreement, that the Licensor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

g. Licensor 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 Licensor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this License 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. Licensor 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 License Agreement.

54. Nondiscrimination; Penalties.

a. Licensor Shall Not Discriminate. In the performance of this License Agreement, Licensor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts. Licensor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Licensor's failure to comply with the obligations in this subsection shall constitute a material breach of this License Agreement.

c. Nondiscrimination in Benefits. Licensor does not as of the date of this License Agreement and will not during the term of this License Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract. As a condition to this License Agreement, Licensor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

e. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this License Agreement as though fully set forth herein. Licensor shall comply fully with and be bound by all of the provisions that apply to this License Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this

License Agreement may be assessed against Licensor and/or deducted from any payments due Licensor.

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

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

57. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Licensor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

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

59. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

60. Public Access to Meetings and Records. If the Licensor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Licensor shall comply with and be bound by all the applicable provisions of that

Chapter. By executing this License Agreement, the Licensor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Licensor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Licensor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this License Agreement. The Licensor further acknowledges that such material breach of the PARCS Agreement shall be grounds for the City to terminate and/or not renew the PARCS Agreement, partially or in its entirety.

61. Limitations on Contributions. Through execution of this License Agreement, Licensor 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. Licensor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Licensor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Licensor's board of directors; Licensor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Licensor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Licensor. Additionally, Licensor acknowledges that Licensor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensor further agrees to provide to City the names of each person, entity or committee described above.

62. Requiring Minimum Compensation for Covered Employees.

a. Licensor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this License Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Licensor's obligations under the MCO is set forth in this Section. Licensor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Licensor to pay Licensor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and

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

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

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

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

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

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

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

i. If Licensor is exempt from the MCO when this License Agreement is executed because the cumulative amount of agreements with this department for the

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

63. Requiring Health Benefits for Covered Employees.

Licensor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this License Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this License Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Licensor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Licensor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Licensor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Licensor's failure to comply with the HCAO shall constitute a material breach of this License Agreement. City shall notify Licensor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this License Agreement for violating the HCAO, Licensor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Licensor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Licensor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Licensor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Licensor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Licensor based on the Subcontractor's failure to comply, provided that City has first provided Licensor with notice and an opportunity to obtain a cure of the violation.

e. Licensor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Licensor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Licensor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Licensor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Licensor shall keep itself informed of the current requirements of the HCAO.

i. Licensor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Licensor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Licensor shall allow City to inspect Licensor's job sites and have access to Licensor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Licensor to ascertain its compliance with HCAO. Licensor agrees to cooperate with City when it conducts such audits.

m. If Licensor is exempt from the HCAO when this License Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Licensor later enters into an agreement or agreements that cause Licensor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Licensor and the City to be equal to or greater than \$75,000 in the fiscal year.

64. Cooperative Drafting. This License Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the License Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this License 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 License Agreement.

65. Approval by Counterparts. This License Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and either of the Parties may execute this License Agreement by signing any such counterpart. Delivery may be completed by the Party concerned transmitting

to the other Party a facsimile copy of the counterpart signed by such Party. Any Party delivering any executed counterpart of this License Agreement as provided herein shall confirm execution by delivering by courier an original of such executed counterpart to the other Party.

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

<p>CITY</p> <p>San Francisco Municipal Transportation Agency</p> <hr/> <p>Edward D. Reiskin Director of Transportation</p> <p>AUTHORIZED BY:</p> <p>MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS</p> <p>Resolution No: _____</p> <p>Adopted: _____</p> <p>Attest: _____</p> <p>Roberta Boomer, Secretary SFMTA Board of Directors</p> <p>Clerk of the Board</p> <p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p> <p>By: _____</p> <p>Robert K. Stone Deputy City Attorney</p>	<p>LICENSOR</p> <p>SKIDATA, Inc.</p> <p>By signing this License Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.</p> <p>I have read and understood paragraph 35, 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.</p> <hr/> <p>Alexander Christl CEO & President</p> <p>SKIDATA, Inc. One Harvard Way, Suite 5 Hillsborough, New Jersey 08844 Fax: 908.243.0660 Attn. Alexander Christlalexander.christl@skidata.com</p> <p>City License Number: </p>
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APPENDIX I

Contract No. SFMTA 2015-36

WARRANTY AND MAINTENANCE SERVICES FOR THE PARKING ACCESS AND REVENUE CONTROL SYSTEM

- 1. Definitions.** Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Appendix I, it shall have the meaning provided below. Terms defined in the main body of the PARCS Agreement shall have the meaning provided there.

Covered Services All services, equipment or materials necessary for the PARCS to perform and operate in accordance with functional and availability requirements and specifications stated in the RFP and this PARCS Agreement, including Hotline Support. Covered Services are summarized in Sections 7 and 8 of this Appendix I; services that are not Covered Services are those services listed in Sections 9, 11, 12, and 13.

Fix Repair or replacement of Equipment or Licensed Software to remedy a Malfunction.

Licensed Software The software programs, code, associated documentation and other Licensed Materials provided to the City by Vendor under this PARCS Agreement and the Software License Agreement or any subscription agreement, including any modifications to the Licensed Materials, including Patches, Fixes, Workarounds, Upgrades, amended documentation, and Subsequent Releases of the Licensed Software that Vendor provides to any other licensee of the Licensed Software under a maintenance agreement.

Maintenance Agreement This Appendix I, "PARCS Equipment and Software Maintenance Agreement" and relevant provisions of the RFP and PARCS Agreement which together specify the terms and conditions of Vendor's provision of Maintenance Services.

Maintenance Fee The agreed amount stated in the PARCS Agreement at Appendix B, that the Vendor shall annually charge the SFMTA for Maintenance Services.

Maintenance Period	Any period in which Vendor provides Maintenance Services to the SFMTA for the PARCS in consideration of the SFMTA's payment of the agreed Maintenance Fee.
Maintenance Services	The correction of Malfunctions in the Licensed Software, provision of Upgrades, Patches, Fixes, and Workarounds for the Licensed Software (including any applications developed by Vendor under this contract; detection, warning and correction of viruses caused by or introduced by Vendor), and maintenance repairs and replacement of PARCS Equipment, as necessary to maintain and repair the PARCS and ensure that the PARCS continues to operate for the term of the Installation period, Warranty Period, and any Maintenance Period in accordance with the PARCS Agreement and the RFP.
Malfunction	Any error, defect or other equipment or software deviation between the function of the PARCS and the PARCS specifications and requirements set out in the RFP and this PARCS Agreement that degrades or impairs the function and utility of the PARCS.
Patch	Temporary repair or replacement of code in the Software to remedy a Malfunction. Patches may be made permanent and released in Subsequent Releases of the Software.
Priority Category	A priority assigned to a Malfunction, designating the urgency of correcting a Malfunction. Priority Categories shall be High, Problematic and Minor, as detailed in Section VII.D of the RFP. Assignment of a Priority Category to a Malfunction is based on City's determination of the severity of the Malfunction and Vendor's reasonable analysis of the priority of the Malfunction.
Priority Protocol	Based on the Priority Category, and as detailed in Section VII.D of the RFP, the rules specifying the turnaround time for correcting Malfunctions, escalation procedures, and personnel assignment.
Scheduled Maintenance	Maintenance Services, both routine and preventative, performed by Vendor on a regular schedule (without the SFMTA's request for service) to ensure that the installed PARCS operates as required by the RFP and the PARCS Agreement.
Subsequent Release	A release of a new version of the Licensed Software for use in a particular operating environment which has the same general functions but is an improved, upgraded or customized version and supersedes the Software. A Subsequent Release is offered and expressly designated by Vendor as a replacement to a specified

Software product. A Subsequent Release of the Licensed Software, including the Operating System software, will be supported by Vendor in accordance with the terms of this Appendix I. Multiple Subsequent Releases may be supported by Vendor at any given time.

Upgrade Either an enhancement to the Software code to add new features or functions to the system or software programming revisions that contain corrections to Malfunctions that have been reported by users or discovered by the Vendor. Upgrades shall include any replacement of software, firmware, hardware and/or operating system with a newer or improved version to bring the PARCS up to date or to improve its usability.

Warranty Period The 36-month period, as described in Section 22 of the PARCS Agreement, commencing 33 months following NTP, during which the Vendor shall maintain and repair the PARCS, including PARCS Equipment and PARCS Software, so that the PARCS continues to operate as specified in the PARCS Agreement and the RFP.

Workaround A change in the procedures followed or end user operation of the PARCS to avoid a Malfunction without significantly impairing functionality or degrading the use of the PARCS.

2. Warranty Services.

As provided in Section 22 of the PARCS Agreement, and as more specifically described in the RFP at Section VII, Vendor shall provide Warranty Services to the SFMTA to ensure that the PARCS functions in accordance with all performance specifications and requirements stated in the RFP and this PARCS Agreement during the Warranty Period. Except for things that are specifically identified in Sections 9, 11, 12, and 13 of this Appendix I as services, equipment or materials that the SFMTA shall provide, Vendor shall during the Warranty Period and any Maintenance Period, provide Scheduled Maintenance and all services (“Covered Services”), software, equipment or materials (i.e., all parts and labor) necessary for the PARCS to meet the functional and availability requirements and specifications stated in the RFP and this PARCS Agreement.

3. Maintenance Services.

For a period not to exceed seven years following the expiration of the Warranty Period, for as long as the City pays the agreed annual Maintenance Fee provided in Section 5, below and Appendix B to the PARCS Agreement, Vendor shall provide Covered Services to the SFMTA so that the PARCS functions in accordance with the performance specifications and requirements stated in the RFP and this PARCS Agreement. Except for things that are specifically identified in Section 12 of this

Appendix I as services, equipment or materials that the SFMTA shall provide, Vendor shall provide all services, equipment or materials (“Covered Services”) necessary for the PARCS to perform and operate in accordance with functional and availability requirements and specifications stated in the RFP and this PARCS Agreement. Maintenance Services are a continuation of Warranty Services.

There shall be no appreciable difference between Warranty Services and Maintenance Services, other than Warranty Services are included in the Contract Sum, and Maintenance Services are provided in exchange for the SFMTA’s annual payment of the Maintenance Fee. During the Warranty Period and any Maintenance Period, Vendor shall ensure that the PARCS Equipment provided by Vendor to the SFMTA under this PARCS Agreement and the Licensed Software provided by Vendor under the PARCS Software License Agreement continue to operate in accordance with the Specifications set out in those agreements and the RFP unless amended by a change in writing and agreed to by both parties.

4. Maintenance Term.

Subject to Sections 2 and 22 of the PARCS Agreement, the Vendor shall provide Maintenance Services commencing at expiration of the Warranty Period for a period of seven years, renewed annually, as long as the SFMTA pays Vendor the annual Maintenance Fee as provided in Appendix B to the PARCS Agreement. The term of this Agreement shall not be extended or renewed except by written agreement duly authorized, executed and delivered by City.

5. Compensation

SFMTA will pay Vendor annually for Maintenance Services as set forth in Appendix B of the PARCS Agreement. Each Maintenance Services Year shall commence on the anniversary of the expiration of the Warranty Period. Vendor shall submit an invoice for the Maintenance Services for the next annual Maintenance Period 90 days before the end of any Maintenance Service Year. Vendor shall present to the SFMTA an invoice for the next Maintenance Service Period 60 days before the current Maintenance Period ends.

6. Prevailing Wage Modification

If during the Warranty Period and any Maintenance Period, the California Division of Industrial Relations orders an increase to the prevailing wage rates applicable to the job classes of Vendor's employees who will perform Warranty Services and Maintenance Services, the SFMTA will compensate Vendor its actual costs incurred by such increase, including the difference between the contracted wage rate and the increase, plus any unavoidable additional costs that are directly related to the required increase (such as additional workers' compensation insurance premiums), without profit, subject to proof of said actual costs. The SFMTA shall not compensate Vendor for any increases to the required prevailing wages rates prior to the commencement of the Warranty Period.

7. **Scope of Software Maintenance Services.**

- a. Licensed Software. Vendor shall provide as Covered Services all Maintenance Services necessary to ensure that the Licensed Software will operate as specified in the PARCS Agreement and the RFP and as accepted by the SFMTA, for the term of the Installation Period, the Warranty Period, and any Maintenance Period. Covered Services include remote and on-site support, Upgrades, Patches, Fixes, including those required to maintain PCI-DSS compliance of the software, Workarounds to correct Malfunctions in the Licensed Software.
- b. Upgrades. Vendor will provide as Covered Services, for City's use, whatever improvements, enhancements, extensions and other changes to the Licensed Software, including those required to maintain PCI-DSS compliance of the software that Vendor may develop in any Maintenance Period.

- c. Software Support Services. As Covered Services, Vendor shall furnish services for the Licensed Software in accordance with the Priority Categories listed below, based on the City's reasonable determination of the severity of the Malfunction and Vendor's reasonable analysis of the cause and impact of the Malfunction.

Priority 1 (High): A Malfunction that renders the Licensed Software inoperative; or causes the Licensed Software to fail catastrophically at one or more Facilities, including SFMTA main offices.

Priority 2 (Problematic): A Malfunction that substantially degrades the performance of the Licensed Software at one or more Facilities, but does not prohibit the City's use of the Licensed Software.

Priority 3 (Minor): A Malfunction that causes only a minor impact on the use of the Licensed Software.

- d. Software Priority Response Times. Vendor will correct any Malfunction within the following periods:

Priority 1: Within two hours, Vendor assigns a product technical specialist(s) to diagnose and correct the Malfunction; thereafter, Vendor shall provide ongoing communication about the status of the correction; shall proceed to immediately provide a Fix or present a schedule for implementation of a Patch or a Workaround; and exercise all commercially reasonable efforts to include a Fix or Patch for the Malfunction in the next Subsequent Release. Vendor will escalate resolution of the problem to personnel with successively higher levels of technical expertise until the Malfunction is corrected.

Priority 2: Within two hours, Vendor assigns a product technical specialist(s) to diagnose the Malfunction and to commence correction of the Malfunction; to immediately provide a Fix or present a schedule for implementation of a Workaround; to provide escalation procedures as reasonably determined by Vendor's staff; and to exercise all commercially reasonable efforts to include a Fix or Patch for the Malfunction in a Software maintenance release indicative of the impact to the system.

Priority 3: Vendor shall assess the severity of the malfunction and present a schedule for implementation of a Fix or Patch to be implemented in the next software Upgrade.

Liquidated damages (LDs) shall apply if Vendor fails to respond within the designated time frame to Priority 1 or Priority 2 issues. As detailed in Section VII.D of the RFP, LDs shall be applied at \$125 per hour for the first two hours Vendor is late and \$275 per hour for the third and subsequent hours the Vendor is late in responding. The SFMTA shall notify Vendor in writing within 72 hours of occurrence where SFMTA believes the Vendor did not respond within the specified time frame.

8. Scope of Equipment Maintenance Services.

a. Equipment Maintenance Services. As Covered Services, in each of the Parking Facilities, Vendor shall provide all necessary maintenance, repairs and replacement of the Equipment installed by Vendor necessary to maintain the PARCS Equipment and ensure that the Equipment operates in accordance with the Specifications and Section V of the RFP. Equipment Maintenance includes but is not limited to the following:

- (1) All scheduled inspection, cleaning, lubricating and adjusting of the PARCS Equipment, which Vendor shall perform not less often than quarterly
- (2) All scheduled and non-scheduled service calls.
- (3) All parts and components of the PARCS Equipment, including parts and components covered by a manufacturer's warranty.
- (4) Replacement and repair of damaged or broken parts or items rendered inoperative as a result of wear and tear.
- (5) Replacement and repair of the following components commonly referred to as consumable items are included under this Maintenance Agreement. Covered components include but are limited to: validators, thermal printer heads, UPS power supplies; key pads; touch screens; display screens; announcers; sound devices and speakers. Vendor shall set and reset as necessary time and date clocks.

b. Equipment Maintenance Service Availability. Vendor shall provide Scheduled Maintenance services from 8:00 a.m. to 5:00 p.m., Monday through Friday (excluding public Holidays). Warranty and maintenance response period shall be in effect seven days per week, nine hours per day excluding holidays in accordance with the Priority Categories listed below, based on a determination of the severity of the Malfunction and Vendor's reasonable analysis of the cause and impact of the Malfunction.

Priority 1 (High): A Malfunction that involves the complete closure of an ingress or egress lane due to a malfunction of the equipment, or a situation that compromises the revenue security of part or all of the PARCS.

Priority 2 (Problematic): A Malfunction that is intermittent in nature but that can be worked around without continuously causing an inconvenience to the customer or jeopardizing the revenue security of the system.

Priority 3 (Minor): A Malfunction that does not have an immediate impact on either customer service/convenience or revenue security.

- c. **Response Times.** Vendor will furnish Maintenance Services to correct any malfunction of PARCS Equipment, i.e., repair, remedy or replacement of the malfunctioning Equipment (or provide a schedule acceptable to the SFMTA by which Vendor will make such corrections) within the following periods:

Priority 1: Within two hours, Vendor's technical specialist(s) will arrive at the Facility to diagnose and correct (repair, remedy or replace) the Malfunction; thereafter, Vendor shall provide ongoing communication about the status of the correction; shall proceed to immediately provide a repair or remedy; Vendor shall exercise all commercially reasonable efforts to complete the correction by the end of the calendar day following the day in which the service call was initiated by SFMTA or Facility Manager. Vendor will escalate resolution of the problem to personnel with successively higher levels of technical expertise until the malfunction is corrected.

Priority 2: Within four hours, Vendor's technical specialist(s) will arrive at the Facility and/or remotely connect to the System to diagnose and correct (i.e., repair, remedy or replace) the Malfunction; thereafter, Vendor shall provide ongoing communication about the status of the correction; shall proceed to immediately repair or otherwise remedy the Malfunction, and exercise all commercially reasonable efforts to complete repair or remedy by the end of the calendar day following the day in which the service call was initiated by SFMTA or Facility Manager. Vendor will escalate resolution of the problem to personnel with successively higher levels of technical expertise until the Malfunction is corrected.

Priority 3: Vendor shall provide a correction (i.e., repair, remedy or replacement of the malfunctioning Equipment) within 10 Days from the date the SFMTA notifies Vendor of the Malfunction.

Liquidated damages (LDs) shall apply if Vendor's technical specialist(s) does not respond within the designated time frame to Priority 1 or Priority 2 service calls. As detailed in Section VII.D of the RFP, LDs shall be applied at \$125 per hour for the first two hours Vendor is late and \$275 per hour for the third and subsequent hours the Vendor is late in responding. The SFMTA shall notify Vendor in writing within 72 hours of occurrence where SFMTA believes the Vendor did not respond within the specified time frame.

9. After Hours Services.

Maintenance requested for services that are not Covered Services shall be available during normal working hours at the Vendor's best government rates (See Appendix B). Maintenance requested at other than normal working hours (after 5:00 p.m. or before 8:00 a.m. weekdays, and all day Saturdays, Sundays, and Holidays) shall be provided at Vendor's published premium-time rates (See Appendix B).

10. Hotline Support.

Vendor shall provide remote access hotline support 9 hours per day excluding City holidays. Vendor's qualified service technician shall respond by telephone to SFMTA requests for Hotline assistance within 15 minutes of receipt, as provided in the RFP at Section VII.D (System Maintenance & Warranty) Hotline support shall be available by electronic bulletin board, electronic mail or other service, in addition to by telephone. Responses to issues posted by electronic means will be made within the time frame established under Priority Protocols for a Malfunction in the Licensed Software or PARCS Equipment (as described in Section 8.c., above).

11. Operating System Updates.

At any time during the Term of the PARCS Agreement or during any Maintenance Period, if the Operating System or other third-party software not directly licensed by Vendor must be updated or replaced because the licensor of said software will no longer support the installed version of said Operating System or software or the version of software required to support a upgrade of said Systems, at the SFMTA's request, Vendor shall procure said updated Operating System or software for the SFMTA, and the SFMTA shall be the licensee for said Operating System or software. The SFMTA shall reimburse Vendor for procuring said Operating System or software at the Vendor's actual costs, subject to proof. Vendor shall install and configure such Operating System and other software updates on a time and materials basis, at Vendor's published best government rates. (See Appendix B.)

12. City Responsibilities in re Vendor's Warranty and Maintenance Services.

- a. City shall assign a SFMTA manager who will be responsible for coordinating Vendor's access to Facilities and providing information held by the SFMTA that is necessary for Vendor to provide the Maintenance Services.
- b. SFMTA shall permit Vendor's representatives to access the PARCS Equipment and Licensed Software during the regular business hours to perform the Maintenance Services. If necessary for the operations of a Facility, SFMTA shall provide Vendor access to the Equipment to perform Maintenance Services outside regular business hours.
- c. City shall use reasonable efforts to provide Vendor access to the Facilities, Equipment and the Licensed Software, and all relevant PARCS documentation and records.
- d. City shall provide reasonable assistance to Vendor, including sample output and diagnostic information, to assist Vendor in providing Maintenance Services.
- e. City shall be responsible for any interface between the Licensed Software and other software products installed on City equipment, unless the City contracts with Vendor to provide that interface.
- f. The City shall provide the fiber-optic network that connects the Facilities to the Internet and to the SFMTA's Transportation Management Center (TMC).

Vendor shall not be liable for communication interruptions that result from failure of the City-owned fiber-optic network.

13. Excluded Services. Warranty Services and Maintenance Services do not include the services and PARCS failures listed below, but Vendor shall provide said services as requested by the SFMTA on a time and materials basis.

- a. Service calls as a result of power failure or removal of primary power for any reason, to the extent such power failure lasts longer than the 30 minutes for which backup power shall be available to PARCS equipment components via installed uninterrupted power source (UPS) units;
- b. Failure of interconnect wiring (communication cabling) not installed by Vendor;
- c. Failure of a PARCS Component due to vandalism (intentional damage);
- d. Damage to PARCS components due to the negligence of employees of SFMTA employees or the Facility Manager, garage customers or other third parties, excluding failure caused by wear and tear, even if such wear and tear exceeds normal equipment deterioration;
- e. Failure of communication networks and services that provide internet connectivity that are provided or maintained by entities other than Vendor;
- f. Failure of the Windows Operating System (OS) or failure of the OS supporting software or other software that is not a component of the Licensed Software provided by Vendor. Note: Vendor warrants the compatibility of the Licensed Software and all upgrades and updates to the Licensed Software with future versions of the supported OS;
- g. Failure of a PARCS Component due to a modification or repair or rework performed by any party other than Vendor, without Vendor's prior consent;
- h. Failure of a PARCS Component due to improper storage, by City;
- i. Failure of a PARCS Component due to use of the Equipment or Software by City in conjunction with another equipment or software that is electronically or mechanically incompatible or of an inferior quality;
- j. Failure of a PARCS Component due to modifications by SFMTA to the interface specifications that Vendor does not agree to;
- k. Failure of a PARCS Component due to any damage to the Equipment or Software by power failure, fire, explosion or any act of God or other cause beyond Vendor's control;
- l. Failure of a PARCS Component due to installation not performed in accordance with the Vendor's procedures and/or instructions;
- m. Failure of a PARCS Component due to installation not performed and or provided by Vendor;

- n. Replacement or repair of consumable products including but not limited to; tickets, blank receipt stock, gate arms, labels/signs, gate shear bolts, RFID cards/tags, and printer ink cartridges.

14. Data Security. Vendor shall at no additional charge to the City during the Warranty Period and any Maintenance Period comply with the data security provisions set out in Section 63 of the PARCS Agreement and provide the Data Security services described in Appendix A to the PARCS Agreement.

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