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

Agreement between the City and County of San Francisco and

FSP PPM Management, LLC
Contract No. 8994

This Agreement is made this **1st** day of **October**, 2010, in the City and County of San Francisco, State of California, by and between:**FSP PPM Management, LLC, 515 South Flower Street, Suite 3200, Los Angeles, CA 90071** hereinafter referred to as "**Contractor**," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Airport Commission or the Commission's designated agent, hereinafter referred to as "**Commission**."

Recitals

WHEREAS, Commission wishes to engage an independent contractor to operate a comprehensive curbside management program to monitor and oversee the shared ride van, limousine, and taxicab operations at the San Francisco International Airport; and,

WHEREAS, Commission is authorized to enter into all contracts which relate to matters under its jurisdiction; and

WHEREAS, a Request for Proposal ("RFP") was issued on **February 1, 2010**, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Commission awarded this contract to Contractor on **July 6, 2010,** pursuant to Resolution No. **10-0228**; and

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

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number **4100-09/10** on **March 15, 2010**;

Now, THEREFORE, the parties agree as follows:

1. Defined Terms

As used in this Agreement, the following capitalized terms shall have the following meanings:

1.1 "Actual Direct Costs" means amounts actually incurred and paid by Contractor for the direct costs of providing the Services required under this Agreement. Actual Direct Costs include salaries and fringe benefits for direct labor (which excludes those of the On-Site Management Staff); and materials, supplies, and other direct costs specifically provided for in the Annual Cost Proposal submitted by Contractor and approved by City as provided for in Section 6.5, "Reimbursement of Other Direct Costs". Actual Direct Costs specifically exclude depreciation, debt-related interest, any fines or judgments levied against Contractor, costs associated with any components of the Management Fee, any costs to be paid directly by the shared ride van operators, and any other indirect costs. Contractor and City agree that

Generally Accepted Accounting Principles (GAAP) shall govern the resolution of any disputes regarding the definition and classification of any cost.

1.2 "Affiliate" means a person, business, business or other entity that directly or indirectly and/or through one or more intermediaries, controls or is controlled by, or is under common control with Contractor.

1.3 "Airport Rules" means the Airport's Rules and Regulations, as the same may be amended from time to time.

1.4 "Airport's TI Guide" means the Airport's Tenant Improvement Guide, as the same may be amended from time to time.

1.5 "Annual Cost Proposal" means the annual cost proposal prepared and submitted by Contractor and approved by Commission. Such Annual Cost Proposal shall set forth the proposed Management Fee and Actual Direct Costs.

1.6 "CPI" means the Consumer Price Index published by the US Department of Labor, Bureau of Labor Statistics known as "Services Less Rent or Shelter – All Urban Consumers – San Francisco/Oakland/San Jose, California." In the event such index is discontinued, then "CPI" shall mean an index chosen by Director that is, in Director's reasonable judgment, comparable to the index specified above.

1.7 "Curbside Management Program On-Site Management Staff" shall mean the positions set forth below effective July 1, 2010.

General Manager

1.8 "Environmental Laws" shall mean any Federal, State, local, or administrative law, rule, regulation, order, or requirement relating to industrial hygiene, environmental conditions or hazardous materials, whether now in effect or hereafter adopted , including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601, et. seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. §9601, et. seq.), the Clean Water Act (33 U.S.C. §1251, et. seq.), the Safe Drinking Water Act (14 U.S.C. §401, et. seq.), the Hazardous Materials Transportation Act (49 U.S.C. §1801, etc. seq.), the Toxic Substance Control Act (15 U.S.C. §2601, et. seq.), the California Hazardous Waste Control Law (California Health and Safety Code §25100, et. seq.), the Porter-Cologne Water Quality Control Act (California Water Code §13000, et. seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code §25249.5, et. seq.).

1.9 "Facilities" means, collectively, each of the designated ground transportation loading zones and ancillary equipment and systems encompassed in this Agreement. Commission reserves the right to expand or contract the Facilities to include or exclude any new or existing ground transportation loading zones, equipment and/or systems to accommodate the Airport's needs, all as determined at the Director's sole discretion. In the event the Facilities are expanded or contracted, the Management Fee shall not be adjusted.

1.10 "Fiscal Year" means the City and County of San Francisco's budget year from July 1 through June 30 of the following calendar year.

1.11 "Hazardous Materials" shall mean any material that, because of its quantity, concentration, physical or chemical characteristics, is deemed by any Federal, State, or local government authority to

pose a present or potential hazard to human health or safety, or to the environment. "Hazardous Material" includes, without limitation, any material or substance defined as a "hazardous substance" or "pollutant" or "contaminant" pursuant to any Environmental Law; any asbestos and asbestos containing materials; petroleum (including crude oil or any fraction thereof), natural gas or natural gas liquids, and any materials listed in the Airport's TI Guide.

1.12 "Laws" means, collectively, all present and future Federal, State, and local laws, as the same may be amended from time to time, whether foreseen or unforeseen, ordinary as well as extraordinary, including all laws relating to (a) health and safety; (b) disabled access, including the Americans with Disabilities Act (42 U.S.C. §12010, et. seq.) and Title 24 of the California Code of Regulations (collectively "ADA"); (c) Hazardous Materials; and (d) fire sprinkler, seismic retrofit, and other building code requirements.

1.13 "Management Fee" means the annual amount agreed to by City and Contractor, as described below, representing payment to Contractor for the salaries and fringe benefits of the Curbside Management Program On-Site Management Staff.

1.14 "Contractor Equity" shall mean any owner, director, contractor, affiliate, employee, or agent of Contractor.

1.15 "Other Direct Costs" ("ODCs") means actual direct costs other than salaries and fringe benefits of direct labor.

1.16 "Services" means the management and operations services described in Appendix A attached hereto.

1.17 Left Blank by Agreement of the Parties.

1.18 "Shared Ride Van Operators" (formerly Door-to-Door Vans) means those shared ride van operators who hold permits issued by the Airport to provide shared-ride, on-demand van service pursuant to a Passenger Stage Certificate issued by the California Public Utilities Commission.

1.19 "Limousine Operators" means those limousine operators who hold permits issued by the Airport to provide charter service in luxury sedans or sport utility vehicles of standard or extended length pursuant to a Transportation Charter Party certificate issued by the California Public Utilities Commission.

1.20 "Taxicab Operators" means those taxicab operators who are licensed and/or permitted by a municipality to provide on-demand service in vehicles either with or without a taxicab meter.

2. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

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

3. Term of the Agreement. Subject to Section 2, the term of this Agreement shall be from the earlier of the date of Director's Notice to Proceed or **January 1, 2011** to **June 30, 2013, with up to three (3) one-year options to renew at the sole and absolute discretion of the Airport Commission**. In the event that Director issues a Notice to Proceed prior to January 1, 2011, the final option year, if exercised, shall be reduced by the number of days Contractor provided curbside management services before January 1, 2011. The Director may issue a Notice to Proceed prior to January 1, 2011 if the Director, in his sole discretion, determines that it is in the public interest to have Contractor begin services prior to January 1, 2011 ("Early Start Date"). The period from the Early Start Date to January 1, 2011 shall be known as the Early Start Date Period.

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

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

6. Compensation.

6.1 Invoicing and Payments

(a) Contractor shall invoice City for Curbside Management Program services incurred in staffing and managing the limousine and taxicab operators (a) within ten (10) days after the 15th day of each month representing services performed during the period commencing on the 1st day of that month and ending on the 15th day of that month (the "First Period") and (b) within ten (10) days after the last day of each month, representing services performed during the period commencing on the 16th day of the said month and ending on the last day of the said month (the "Second Period"). Contractor shall directly bill the individual shared ride van operators by invoice for Curbside Management Program services incurred in staffing and operating the shared ride van operators' portion of the Program (with information copy provided to City) with costs apportioned among all of the shared ride van operators as set forth in Appendix E "Shared ride Van Curb Coordination Cost Allocation Summary". Upon notice from Contractor that a shared ride van operator is delinquent on payments for Curbside Management Program services, City will investigate the matter and, if necessary, invoke any remedies as set forth in the Airport Operating Permit between the particular shared ride van operator and City. Invoices to the shared ride van operators are to be sent within the abovementioned time frames for those time periods as set forth above and in accordance with separate agreements to be entered into between Contractor and the individual shared ride van operators. The monthly installment of the Management Fee invoiced to City shall be invoiced in the First Period invoice only. All such invoices to City shall include cost reports, original receipts, certifications, and back-up materials as City shall request; however, City will not accept any requests for reimbursement from Contractor for items whose receipts, certifications, and back-up materials are submitted more than sixty (60) days after the date of the invoice unless written approval is obtained in advance from City. City shall pay Contractor for each invoice submitted to City within forty-five (45) days after receipt and approval of such invoices and other materials as needed. Contractor agrees that City shall not be liable for any non-payments by any shared ride van operator. City or shared ride van operators shall have no obligation to pay for any services invoiced that have not been performed as required by this Agreement as determined at the sole discretion of the Airport's Landside Operations division. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor

and approved by Landside Operations as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments or those amounts billed directly to the shared ride van operators.

(b) Invoices furnished by Contractor under this Agreement for services related to the limousine and taxicab operators, as well as any other costs listed in Appendix B as attached in this contract, must be in a form acceptable to the Office of the City Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by City to Contractor shall be subject to audit by City.

(c) Payment shall be made by City to Contractor at the following address:

FSP PPM Management, LLC.
515 South Flower Street, Suite 3200
Los Angeles, CA 90071

6.2 Compensation Structure. Compensation payable by City to Contractor hereunder is comprised of the Management Fee and the Actual Direct Costs for those Curbside Management Program services related to the limousine and taxicab operators, and the supervision and management of the shared ride van operators, as more fully set forth in Appendix B-1/"Annual Cost Proposal Summary". On or before the first day of February of the first and subsequent years, Contractor shall submit to City the Annual Cost Proposal for all elements of the Curbside Management Program, including those costs proposed to be assessed to the shared ride van operators, for the upcoming Fiscal Year. The Annual Cost Proposal shall set forth the proposed Management Fee and Actual Direct Costs for the services related to the limousine and taxicab operators, and the supervision and management of the shared ride van operators, and shall set forth as a separate submittal the Annual Cost Proposal for only the Actual Direct Services related to the shared ride van operators (City will pay the Management Fee, Overhead and Profit, Workers Compensation, and General Liability Insurance related to the shared ride van operators). Contractor may utilize a nationwide blended Worker's Compensation rate with the Airport Director or Designee's approval, based on submittal with the Contractor's proposed Annual Cost Proposal, of proper documentation of the proposed rate and verifying that the proposed rate is more economical than using Contractor's State of California Worker's Compensation rate, and verifying that all Contractor employees will be properly covered based on all Federal, State and local laws, statutes, and ordinances using the proposed rate. Contractor shall incur no expenses under this Agreement unless and until the Annual Cost Proposal has been approved in writing by the City. Compensation payable to Contractor for each contract period shall be limited by the amounts set forth in the approved Annual Cost Proposal. Payment of the costs set forth in Appendix B-4 "Annual Cost Proposal – Shared ride Van Operators" shall be the sole and exclusive responsibility of the shared ride van operators in accordance with those separate agreements entered into between Contractor and each shared ride van operator.

The Management Fee is set forth in Appendix B-2 "Management Fee Schedule". The approved Annual Cost Proposal for the services related to the limousine and taxicab operators and the supervision and management of the shared ride van operation is set forth in Appendix B-1, "Annual Cost Proposal", also attached hereto and incorporated by reference as though fully set forth herein. The Annual Cost Proposal for the services related to the shared ride van operators is set forth in Appendix B-4, "Annual Cost Proposal – Shared ride Van Operators", also attached hereto and incorporated by reference as though fully set forth herein.

6.3 Management Fee Adjustment and Limitations

(a) If and to the extent that City exercises the option(s) to extend the term of this Agreement, the Management Fee for the extension term(s) shall be increased in the same proportion as the increase in the

CPI at such time as compared to the CPI on the commencement date of this Agreement. With the exception of workers compensation premiums and additional services requested in writing by Director, the increases provided for in this section for the management fee shall be limited to three (3%) percent per annum, with a further limitation of ten percent (10%) in total during the duration of this Agreement, including any extensions.

(b) The Overhead and Profit component of the Management Fee, as set forth in Appendix B-2, shall not exceed seven percent (7%) of the Annual Cost Proposal for the initial term of this Agreement. If and to the extent City exercises the option(s) to extend the term of this Agreement, the Overhead and Profit component for the extension term(s) shall be subject to the following limitations, expressed as a percentage of the Annual Cost Proposal for that term:

First Extension Term – 6%

Second Extension Term – 5%

Third Extension Term – 4%

(c) Notwithstanding the foregoing, in no event shall the amounts paid by City for the salaries and fringe benefits of each of the Curbside Management Program management staff exceed amounts actually incurred and paid by Contractor. Any amounts billed by Contractor in excess of amounts actually incurred and paid shall be promptly reflected as credits in Contractor's invoices to City. All amounts billed by Contractor are subject to audit and adjustment by City.

(d) Contractor shall provide their employees under this Agreement the option of having their paychecks deposited using electronic direct deposit to a bank account designated by each employee. Enrollment in direct deposit shall start early enough so that for enrolled employees the first paychecks issued under this Agreement can be direct deposited.

6.4 Labor Cost Limitations

(a) The individual direct labor cost rates, exclusive of fringe benefits, shall be within the salary ranges as set forth in Appendix B-3 "Hourly Salary Ranges" attached hereto and incorporated by reference as though fully set forth herein. .

(b) The individual direct labor cost rates are subject to salary administration by Contractor, but in no case are they to be adjusted more than five percent (5%) without the prior written approval of the Director or his designee.

(c) The following direct labor costs are not allowable without the prior written approval of the Director or his designee:

- Premium costs not already budgeted in Appendix B-1/Annual Cost Proposal Summary incurred as a result of working overtime or holidays.

(d) If and to the extent Contractor anticipates or receives any subsidies or grants of money from any governmental agency for participating in a government-sponsored program for persons employed under this Agreement, such subsidies or grants shall be reflected as credits in the Annual Cost Proposal, and such credits shall be properly reflected in Contractor's invoices to City.

(e) The parties acknowledge that labor costs could increase the cost of performing the services under this Agreement. Accordingly, Contractor shall keep City appraised of all negotiations with labor

regarding labor costs, including the negotiation of any collective bargaining agreements. Notwithstanding the foregoing, increases in labor rates billed by Contractor shall be subject to all limitations set forth in this section. All collective bargaining agreements entered into by Contractor must be consistent with this Agreement and provided to City as public records.

6.5 Reimbursement of Other Direct Costs

(a) All Other Direct Costs, which alone, or taken together with all similar Other Direct Costs, exceed Two Hundred Fifty Dollars ($250), shall be subject to Director's prior written approval; provided, however, that such prior approval shall not be necessary for Other Direct Costs which are specified with reasonable detail in the approved Annual Cost Proposal and are within the limits of such approved Annual Cost Proposal. Without the prior written consent of Director, City will not reimburse Contractor for any costs for goods or services provided hereunder by any Contractor entity.

(b) Reimbursement for Other Direct Costs shall be subject to the following requirements: a) conform with the terms of this Agreement, b) be necessary in order to accomplish the Description of Services as set forth in Appendix A, c) be reasonable for the services to be performed or goods to be purchased as determined by Director or his designee, and d) be actual net costs or prices to Contractor (the cost or price less any refunds, rebates, or other items of value received by Contractor that have the effect of reducing the cost or price actually incurred). City reserves the right to refuse payment of any costs that it considers unreasonable, unnecessary or non-beneficial.

(c) Except as otherwise provided in Section 6.5(h), City retains ownership of any and all goods and services purchased and reimbursed by City upon termination of the Agreement.

(d) City shall reimburse Contractor a maximum of $2,000 per twelve month period for employee recognition awards.

(e) Contractor is to maximize the use of purchasing contracts with vendors for purchases of the necessary goods and services to operate the Curbside Management Program. All purchasing contracts must be cost-effective and/or provide favorable prices and terms. Director must review all such purchasing contracts and reserves the right to require Contractor to seek other vendors for said goods and services.

(f) The following items are not eligible for reimbursement under this Agreement: food and beverages (excluding bottled water) which are not provided as part of an Airport-approved training program, non-office related computer software (including screen savers), and gifts of a personal nature. Director may add to this list as necessary with prior written notice to Contractor.

(g) Reimbursements to Contractor by City for Other Direct Costs shall also be limited as follows and must in each case be accompanied by receipt for payment:

- Reimbursement for expenses incurred in recruiting new non-management employees shall be approved in advance by Director. Such costs are to be reasonable and supported with actual invoices from the provider(s).
- Reimbursement for employee background investigations through the Airport's Security Access Office shall be limited in the first year of the contract to a total not to exceed $10,000 upon the submittal of receipts. In each subsequent year, reimbursements shall be limited to an amount not to exceed $1,500 upon the submittal of receipts.
- Reimbursement for Airport employee identification cards shall be limited in the first year of the contract to an amount not to exceed $10,000 upon the submittal of receipts. In each subsequent

year, reimbursements shall not exceed $1,500 upon the submittal of receipts. However, costs for lost or stolen Airport employee identification cards are not a reimbursable expense.

- Reimbursement for Airport-approved employee name badges shall be limited in the first year of the contract to a total not to exceed $1,500 upon the submittal of receipts. In each subsequent year, the reimbursement amount shall not exceed $500 upon the submittal of receipts. However, costs for lost or stolen name badges shall not be a reimbursable expense.
- Uniform purchase, rental and cleaning shall be a reimbursable expense for only line and immediate supervisory personnel. Such costs are to be reasonable and supported with actual invoices from the provider(s).
- Payroll services shall not be a reimbursable expense. However, personnel timekeeping equipment and maintenance shall be a reimbursable expense only if such costs are reasonable and supported with actual invoices from the provider.
- Hourly wages and benefits for employees repeating a training course shall not be a reimbursable expense.
- Reimbursement for administrative office telephones will be limited to an annual lease amount of $5,400 (rental cost of six standard Airport ITT Avaya 8410D phones with local service) or the actual cost of administrative office telephones, whichever is less. Toll, long distance and directory assistance calls are not reimbursable.
- Reimbursement for voice mail will be limited to an annual cap of $1,500 (cost of six standard ITT voice mailboxes) or the actual cost of voice mail, whichever is less.
- City will provide the facsimile machine and the necessary consumables.
- Reimbursement for an analog facsimile phone line will be limited to an annual cap of $400 (cost of a standard Airport ITT analog data/fax line). Toll and long distance charges shall not be reimbursable expenses.
- The purchases of cellular phone or wireless messaging devices are subject to advance written approval by the Airport. If approved, reimbursement for monthly service shall be limited to an amount not to exceed an average of $60 per device not including applicable telecommunications taxes. Toll, long distance and directory assistance calls are not reimbursable.
- Reimbursement for broadband Internet access will be limited to an annual cap of $1,800 (cost of one Airport ITT broadband Internet data line). Electronic mailbox charges shall not be a reimbursable expense.
- Postage charges for routine certified, first-class and priority mail letters emanating from other offices outside the Airport shall not be a reimbursable expense.
- Express, next-day, or two-day shipments (e.g., DHL, Federal Express, UPS, etc.) shall not be a reimbursable expense unless it is part of an authorized purchase of equipment or other materials and supplies.
- One business reply mail certificate for the return of ground transportation customer comment cards and actual postal charges incurred with the returned business reply comment cards shall be a reimbursable expense.
- Stationary and business cards shall not be a reimbursable expense.
- City will provide and service computers and related peripheral equipment (e.g., printers, monitors, etc.) use for administrative office functions.
- Computer software programs shall not be a reimbursable expense unless approved in advance by Director as City will provide for and maintain basic software for use in the computers (e.g., word processing, spreadsheet, database, operating system, anti-virus, and internet browser).
- Computer consumables (e.g., laser cartridges, inkjet cartridges, floppy diskettes, paper, ticket cardstock, etc.) shall be reimbursable upon advance approval from the Airport only if said costs are reasonable and purchases were essential.
- City will provide and service a photocopier, as well as provide toner for said device. However, any other consumables not provided by City may be purchased by Contractor and reimbursable

by the Airport only if advance approval was received by the Airport and said costs are reasonable and essential.

- Other office equipment, materials and supplies are reimbursable only if such costs are reasonable and have been approved in advance by Director.
- Reimbursement for insurance premiums allowable under this Agreement shall be limited to the amounts reasonably allocable to the contract.

(h) City shall pay Contractor a maximum of $500.00 per month for Contractor's use of a late model vehicle held in title by Contractor and used by Contractor in the performance of this Agreement. Vehicle shall not be more than five model years old and in good working condition at all times while being used under the terms of this Agreement. Vehicle will be housed at the San Francisco International Airport during the term of the Agreement and shall be driven exclusively by Contractor employees performing work directly related to the "Services Contractor Agrees to Perform" as defined in this Agreement. Contractor agrees to allow the Airport to affix an AVI transponder to the vehicle which will be removed when the vehicle will no longer be used by Contractor in performance of this Agreement. In addition to the monthly fee, City shall reimburse Contractor for Contractor's actual cost of State registration, auto liability insurance, gasoline that is priced at or below the area average, routine maintenance, and repairs necessary to keep the vehicle in good working condition during term of the Agreement, unless such costs will be paid or reimbursed to Contractor through an insurance policy or warranty. If the vehicle is not in operable condition for 3 or more days, Contractor will provide a rental car until the vehicle is able to be safely placed back in to service. City shall approve in advance the rental car costs and shall reimburse Contractor for the actual rental cost paid by Contractor, unless the rental costs are to be paid through an insurance policy. The monthly fee for the vehicle shall be prorated for the time the vehicle is not available. At the termination of Agreement, Contractor will retain title to vehicle and be responsible for all costs associated with the vehicle.

6.6 Not to Exceed Amount

In no event shall the amount of this Agreement exceed $10,450,000 for the contract period from January 1, 2011 to June 30, 2013. In the event the contract includes the Early Start Date Period, the total amount of this Agreement shall not exceed $11,200,000. The breakdown of costs associated with this Agreement appears in Appendix B "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event the term of this Agreement is extended, the amount of the Agreement may be increased by parties to reflect the approved Annual Cost Proposal for the particular option and shall be subject to Commission approval. In the event the City chooses to exercise any option year, the total not-to-exceed amount of the entire contract, including any future option years permitted under the Agreement, shall not exceed $26,000,000.

6.7 HRC Forms Related to Payments

The Controller is not authorized to pay invoices submitted by Contractor if Contractor has failed to submit any required Airport Concessionaire Disadvantaged Business Enterprise (ACDBE) forms relating to payments.

6.8 Early Start Date Period

In the event Director issues a Notice to Proceed prior to January 1, 2011, compensation payable by City to Contractor hereunder shall be comprised of a Management Fee and the Actual Direct Costs for those Curbside Management Program services related to the limousine and taxicab operators, and the supervision and management of the shared ride van operators, as more fully set forth in Appendix B-5 "Early Start Date Period Cost Proposal." attached hereto and incorporated by reference as though fully set forth herein. Early Start Date Period monthly Management Fee shall equal one-sixth (1/6) of the Total

Period Management Fee in Appendix B-2 "Management Fee & Other Direct Cost Schedule Summary" for the period from January 1, 2011 through June 30, 2011 pro-rated per day during the first month of the Early Start Date Period. Direct costs conforming with the requirements and limitations of Section 6.5 of this Agreement shall be reimbursed upon submittal of receipts with invoices. The monthly Shared Ride Van Coordination Fee during an Early Start Date Period shall be one-sixth (1/6) of the Total Period Cost Proposal – Vans in Appendix B-4 "Cost Proposal Summary – Shared Ride Van Curb Coordination" pro-rated per day during the first month of the Early Start Date Period and subject to adjustment per Appendix E "Shared Ride Van Curb Coordination Cost Allocation Summary."

7. Guaranteed Maximum Costs. 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. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. 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.

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

9. 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. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at http://www.municode.com/Library/clientCodePage.aspx?clientID=4201 . 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.

10. Disallowance. Left Blank at the Agreement of the Parties – No State or Federal Funds Involved

11. Taxes. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

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

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

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

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

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

13. Qualified Personnel.

a. Personnel. Work under this agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to perform the services specified in this Agreement.

b. Interests in Ground Transportation. Due to the nature of the contracted work, Contractor (including any agents, employees, officers, etc.) shall not have a financial, legal, or any other business/commercial interest in any operator of charter bus/van, shared ride van, limousine, scheduled airporter, or taxicab services (including entities holding or having a business/commercial interest in San Francisco taxicab medallions) at San Francisco International Airport. This prohibition shall commence upon signing the Agreement and shall remain in force throughout the life of the contract.

c. Key Personnel. Without limiting the generality of the foregoing, Contractor agrees that the specified Curbside Management Program On-Site Management Staff, Assistant General Manager, and Shift Managers shall perform the corresponding functions during the entire term of this Agreement. It is recognized that such personnel are not bound by personal employment contracts to Contractor. Contractor agrees that reassignment or replacement of any such personnel during the Agreement period requires prior written approval of the Airport's Landside Operations division, which approval shall not be unreasonably withheld. If reassignment or replacement is aproved by the Airport, Contractor shall

provide Airport with the opportunity to review and approve replacement personnel for those positions, which approval shall not be unreasonably withheld. On-Site Managers must be on-Airport on a full time basis during their respective periods of responsibility. In the event of any vacancies in the Curbside Management Program On-Site Management Staff which continue for more than three (3) weeks or fifteen (15) days whichever is less, the Management Fee shall be reduced accordingly until such vacancy is filled.

d. Affiliates. Without the prior written consent of Director, Contractor shall not do any business with any affiliate for any services hereunder, including the provision of any services or the purchase, installation, maintenance, or removal of any good. Contractor shall immediately disclose the names and relationships of any affiliates that Contractor desires to do business with for services hereunder.

e. Background Investigations and Airport Photo Identification Cards. All Contractor personnel assigned to perform services as required under this Agreement, including On-Site Management, shall undergo and pass a background investigation conducted by the Airport's Security Access Office.prior to assignment at the Airport. Reimbursement for the costs of the background investigation (including fingerprinting) and the employee's initial Airport photo identification card shall be limited as set forth in Section 6.5(g). City will not reimburse Contractor for any replacement Airport photo identification cards.

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

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

a. Independent Contractor. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

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 Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this

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

16. Insurance.

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

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

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

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

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

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

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

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

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

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

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

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

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

j If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

17. Indemnification. Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor'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 Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. 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 Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

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

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

20. Liquidated Damages. By entering into this Agreement, Contractor agrees that in the event the Services, as provided under Section 4 herein, are delayed beyond the scheduled milestones and timelines as provided in Appendix A, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of **Ten thousand dollars ($10,000)** per day for each day of delay beyond scheduled milestones and timelines is not 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 contract was awarded. City may deduct a sum representing the liquidated damages from any money due to Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to deliver to City within the time fixed or such extensions of time permitted in writing by Purchasing.

Contractor further agrees that if City determines, based upon a valid and substantiated claim for reimbursement submitted by a ground transportation passenger holding a prepaid reservation with a specific ground transportation operator that they were directed by Contractor's employees to a different operator's ground transportation service which resulted in passenger's loss of the pre-payment, Contractor shall reimburse that passenger for the amount of the pre-payment and such reimbursement expense shall not be eligible for reimbursement by City.

21. Default; Remedies. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

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

9. Submitting False Claims
11. Taxes
16. Insurance
25. Proprietary or Confidential Information of City
31. Assignment
38. Drug-free Workplace Policy,
54. Compliance with Laws
56. Supervision of Minors
58. Protection of Private Information
59. Graffiti Removal

(2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

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

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

On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

(5) Special Fines. If Contractor defaults under any of the Agreement terms specified below, Director may, at his sole and complete discretion, elect to impose the fines described below on the following basis:

Violation	Section	Special Fine
Insufficient Employees to Staff All Duty Positions	13a	$250/Shift
Failure to Provide Written Reports as Directed	Appendix A	$300/Report/Day
Soliciting on Behalf of a Ground Transportation Operator	Appendix A	$300/Incident
Steering Customers to a Specific Ground Transportation Operator for Personal Economic Reasons	Appendix A	$300/Incident
Employee Allowing Drivers to Solicit and/or Refusing To Covey Customers	Appendix A	$300/Incident
Employee Not in Full Uniform (Including Radio and Employee Name and Photo Identification Badges)	13a	$250/Incident
Employee Having Too Many Vehicles in a Loading Zone	Appendix A	$200/Incident

Director's right to impose the forgoing fines shall be in addition to and not in lieu of any and all rights hereunder, in the Airport Rules and Regulations, or at law or in equity.

22. Termination for Convenience

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

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

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

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

(3) Terminating all existing orders and subcontracts.

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

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

(6) Completing performance of any services or work 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 Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

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

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

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

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

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

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

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

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

23. Rights and Duties upon Termination or Expiration. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

9. Submitting False Claims
10. Disallowance
11. Taxes
12. Payment Does Not Imply Acceptance of Work
14. Responsibility for Equipment
15. Independent Contractor; Payment of Taxes and Other Expenses
16. Insurance
17. Indemnification
18. Incidental and Consequential Damages
19. Liability of City
25. Proprietary or Confidential Information of City
27. Ownership of Results
28. Works for Hire
29. Audit and Inspection of Records
49. Modification of Agreement.
50. Administrative Remedy for Agreement Interpretation.
51. Agreement Made in California; Venue
52. Construction
53. Entire Agreement
57. Severability
58. Protection of private information

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 3, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

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

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

26. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, 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: Elizabeth Mingle,
Senior Transportation Planner
Landside Operations.
SFIA
PO Box 8097
San Francisco, CA 94128-8097,
E-Mail: Elizabeth.Mingle@flysfo.com,
Fax: (650) 821-6508

To Contractor: D. Scott Hutchinson
Senior Vice President
FSP PPM, Management, LLC.
515 South Flower Street, Suite 3200
Los Angeles, CA 90071
Email: SHutchinson@tlrgc.com
Fax: (213) 784-3012

and

Sam Tadesse
FSP PPM Management, LLC
465 California Street, Suite 473
San Francisco, CA 94104
Email: stadesse@pacificparkonline.com
Fax: (415) 434-4455

Any notice of default must be sent by registered mail.

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

28. Works for Hire. If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States

Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

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

30. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void. Contractor is solely responsible for all costs incurred to subcontractor(s) for goods or services obtained. At termination of Agreement, Contractor shall provide proof to City that all subcontractor accounts are paid-in-full before City will authorize payment of final regular contract invoice and any other outstanding invoices as of date of termination of Agreement.

In accordance with the FAA Regulations, 49 CFR 26.29, Contractor shall pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of payment by City to Contractor.

Approved subcontracts for this contract are as follows:

- **VenTek Transit** shall provide maintenance functions required for their proprietary Add Value Machines (AVMs), including on-site and shop-based preventative maintenance, on-site as-needed corrective maintenance, and remote daily monitoring and diagnostic review.

- **Cubic Transportation Systems, Inc**. shall perform, to the best of its ability, corrective maintenance service for the existing SFO Taxicab Smart Card System, including fourteen (14) Contactless Interfaced Device Lynx (CID) devices that read the Taxi Driver Smart Cards, the Ticket Office Terminal (TOT), including VPN connections, and the system servers located at Raging Wire in Sacramento, California..

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

32. 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.

33. Earned Income Credit (EIC) Forms. Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

34. Federal Non-Discrimination Requirements

Federal requirements for US Department of Transportation (USDOT) regulations, 49 CFR Part 23, are applicable to this Agreement. The regulations are incorporated as though fully set forth therein.

The Contractor agrees that it will not discriminate against any owner because of the owner's race, color, national origin, or sex in connection with the award or performance of this Agreement, including any subcontract, purchase or lease agreements, or other agreements covered by 49 CFR Part 23.

35. Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor 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. Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

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

employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract. As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor 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 Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

36. 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 agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

37. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

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

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

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

41. 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.

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

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

44. Requiring Minimum Compensation for Covered Employees

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

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

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

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

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

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

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

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

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

45. Requiring Health Benefits for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time

to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this 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 Agreement shall have the meanings assigned to such terms in Chapter 12Q.

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

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

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 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 Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's 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 Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's 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. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor 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. Contractor shall keep itself informed of the current requirements of the HCAO.

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

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

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

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

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

46. First Source Hiring Program

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

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

b. **First Source Hiring Agreement.**

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

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

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

3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry

level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

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

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

6) Set the term of the requirements.

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

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

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

c. **Hiring Decisions**

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

d. **Exceptions**

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

e. **Liquidated Damages.**

Contractor agrees:

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

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

3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantity; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to $5,000 for every notice of a new hire for an entry level position improperly

withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

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

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

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

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

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

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

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

f. **Subcontracts.**

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

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

from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

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

49. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement

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

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

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

53. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement."

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

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

56. Supervision of Minors: Left Blank by Agreement of the Parties – Contract Does Not Involve Supervision of Minors.

57. Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and

shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

58. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of 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 Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

59. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

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

60. Food Service Waste Reduction Requirements. Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars ($100) liquidated damages for the first breach, two hundred dollars ($200) liquidated damages for the second breach in the same year, and five hundred dollars ($500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this

Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

61. Slavery Era Disclosure: Left Blank by Agreement of the Parties – Contract Not for Insurance or Applicable Financial Services or Textiles.

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

63. Dispute Resolution Procedure: Left Blank by Agreement of the Parties – Contract Not with Health or Human Services Nonprofit.

64. Airport Intellectual Property

Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Airport Director's prior consent.

65. Labor Peace / Card Check Rule

Without limiting the generality of other provisions herein requiring Contractor to comply with all Airport Rules, Contractor shall comply with the Airport's Labor Peace / Card Check Rule, adopted on February 1, 2000, pursuant to Airport Commission Resolution No. 00-0049 (the "Labor Peace / Card Check Rule"). Capitalized terms not defined in this provision are defined in the Labor Peace/Card Check Rule. To comply with the Labor Peace/Care Check Rule, Contractor shall, among other actions: (a) Enter into a Labor Peace/Care Check Rule Agreement with any Labor Organization which requests such an agreement and which has registered with the Airport Director or his / her designee, within thirty (30) days after Labor Peace/Care Check Rule Agreement has been requested; (b) Not less than thirty (30) days prior to the modification of this Agreement, Contractor shall provide notice by mail to any Labor Organization or federation of labor organizations which have registered with the Airport Director or his / her designee (registered labor organization"), that Contractor is seeking to modify or extend this Agreement; (c) Upon issuing any request for proposals, invitations to bid, or similar notice, or in any event not less than thirty (30) days prior to entering into any Subcontract, Contractor shall provide notice to all registered Labor Organizations that Contractor is seeking to enter into such Subcontract; and (d) Contractor shall include in any subcontract with a Subcontractor performing services pursuant to any covered Contract, a provision requiring the Subcontractor performing services pursuant to any covered Contract, a provision requiring the Subcontractor to comply with the requirements of the Labor Peace/Card Check Rule. If Airport Director determines that Contractor violated the Labor Peace/Card Check Rule, Airport Director shall have the option to terminate this Agreement, in addition to exercising all other remedies available to him / her.

66. Premises

a. Office Space. Commission shall provide Contractor with two offices located in the Core B Connector between Terminal 1 and the Airport's Domestic Short Term Parking Garage. Furnishings, including facsimile machines, photocopiers, and computers, are the property of the City and shall be used

strictly for the management and staffing of the Airport's Curbside Management Program as set forth in this Agreement. The furnishings shall be maintained in good working order throughout the term of this Agreement by Contractor. Diagrams for said designated office spaces are attached hereto as Appendix C and incorporated herein by reference.

b. Relocation, Expansion and Reduction. At any time during the term of this Agreement, Commission may, by appropriate Commission Resolution, require that the Contractor's office space(s) be relocated within the Terminal Building Complex, or expand or reduce the number or size of the Contractor's office space, as determined by the needs of the Airport. Any such relocation, expansion or reduction shall be undertaken by the Airport at City's expense.

c. Telecommunications and Broadband Internet Access. Contractor shall be billed by the Airport for all landline-based telecommunications and broadband Internet access supplied to operate and manage the Curbside Management Program. Refer to Section 6.5(g) for maximum allowable annual reimbursable amounts under this Agreement. Under no circumstances shall toll and/or long distance charges be reimbursable expenses.

d. Cellular Telephones and/or Pagers. Unless approved in writing in advance, the purchase of cellular phones, pagers, or other wireless messaging services shall not be a reimbursable expense. If advanced written approval is obtained by City, reimbursement for said services shall be limited to a monthly maximum of $50 per device.

67. Use of Premises

a. Permitted Uses. Contractor shall use the designated office space(s) on a non-exclusive basis to perform management and administrative tasks required to operate the Airport's Curbside Management Program. Other than the services listed above, the office space(s) shall be used for no other service without the express written consent of Director (including outside marketing activities by Contractor). In the event any question or dispute arises as to any specific service or category of services undertaken in the designated office space(s), Contractor may submit a request in writing to Director asking that the matter be reviewed. Director shall give a decision in writing and such determination shall be considered as final authority in the matter. Contractor shall abide by and conform to the decision of Director. Contractor shall not place or install any office equipment and/or furniture outside the boundaries of the premises without the express written consent of Director. Contractor may, with the consent of the Director, install and operate necessary and appropriate signs for the operation of the Curbside Management Program, subject to the approval of Director as to the number, size, height, location, color, and general type and design. Such approval shall be subject to revocation by Director at any time.

b. Prohibited Uses. The designated office space(s) shall not be used except for the purposes specified in Section 65a hereof. Contractor shall not do, or cause or permit anything to be done, in or about the premises, or bring or keep anything thereon which will increase in any way the rate of fire insurance on the Terminal Building Complex or any of its contents; or create a nuisance; or in any way obstruct or interfere with the rights of others in the Terminal Building Complex, or injure or annoy them; or commit or suffer to be committed any waste upon the premises; or use or allow said premises to be used, for any improper, immoral, unlawful or objectionable purposes; or place any loads upon the floor, walls, or ceiling which endanger the structure; or obstruct the sidewalk, passageways, stairways, or escalators in front of, within, or adjacent to the Terminal Building Complex; or do or permit to be done anything in any way tending to injure the reputation or appearance of said Terminal Building Complex. Contractor shall not display any advertising pamphlets, circulars, brochures, signs, or similar materials outside the designated office space(s) unless approved in writing by Director.

c. Preservative-treated Wood Containing Arsenic. As of July 1, 2003, Contractor may not purchase preservative-treated wood products in the performance of this Agreement unless an exemption from the requirements of Chapter 21G is obtained from the Department of the Environment under Section 21G.5 of the Administrative Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

68. Operations

a. Operations of the Premises. Contractor understands and agrees that its operation under this Agreement is a service benefiting airline passengers, transportation providers, and the users of the Airport, and that Contractor shall conduct its operation in a first-class, businesslike, efficient, courteous and accommodating manner. Director shall have the right to make objections to the quality of materials, the character of the service rendered to the public, and the appearance and condition of the designated office space(s) or personnel. Contractor agrees to promptly discontinue or remedy any such objectionable practice. If Director is not satisfied with the performance of Contractor's agents for any reason, Director shall so notify Contractor in writing. In such event, the parties shall discuss the problem(s) and shall use their best efforts to resolve any problems with Contractor's agents. If, in Director's judgment, the problem has not been resolved within fourteen (14) business days after the parties have met, Director shall so notify Contractor in writing and Contractor shall replace agent(s) within thirty (30) days after receipt of such notice. Failure to comply with the foregoing shall constitute a material breach of this Agreement as specified in Section 22 of this Agreement.

b. Representative of Contractor. Contractor shall at all reasonable times retain in the Terminal Building Complex at least one representative from On-Site Management Staff, authorized to represent and act for it in matters pertaining to its operation, and shall keep Director informed in writing of the identity of each such person.

c. Investigation Reports. Contractor agrees, that as required by Director, it will conduct an internal investigation and prepare a written report of the quality of the service and operational techniques being used by Contractor. Contractor shall cause such investigation and observation to be made at such reasonable times and in the manner directed by Director, and shall deliver forthwith to Director or his designee a true and complete written copy of any such reports made by Contractor.

d. Reservations by Commission. Commission shall have the right, without any obligation to do so, at any reasonable time and as often as it considers necessary (a) to inspect any of said premises; (b) to enter thereon to make ordinary repairs to Commission's property; and (c) in the event of an emergency, to take such action therein as may be required for the operation of emergency services and the protection of persons or property. Contractor shall assure Commission of emergency access to the premises.

69. Worker Retention Policy

Without limiting the generality of other provisions herein requiring Contractor to comply with all Airport Rules, Contractor shall comply with the Airport's Worker Retention Policy, adopted on June 19, 2001, pursuant to Airport Commission Resolution No. 01-0205 (the "Worker Retention Policy") as follows:

Retention of Employees of Third Party Covered Employers When a Successor Contract is Awarded.

When a Services Provider contract for parking garage, curbside management operations, the information booths, and/or services by third party service providers subject to the Airport's Quality Standards Program, not including airlines, has been terminated or has ended, any person continuously employed as a service employee of the contractor or subcontractor for six months of more for 16 or more hours per week and whose primary place of employment is at the San Francisco International Airport shall be retained in his/her employment at the Airport by the successor contractor or subcontractor for a 90-day trial employment period.

The term "employee" does not include a person who is (1) a managerial, supervisory, or confidential employee, including those who would be so defined under the Fair Labor Standards Act; or (2) does not meet the quality standards specified in the Quality Standards Program; or (3) is employed less than sixteen hours per week.

A "successor service contract" means a service contract where the services to be performed have previously been rendered under another substantially similar services contract that recently has been terminated or has ended.

Required Employee Information.

Where a service contract subject to this regulation has been terminated or ended, or where a service contractor has given notice of such termination, the service contractor shall, within ten (10) days of giving or receiving notice of such termination, provide to the successor contractor and to the Airport Employment Center, the name, date of hire, and employment occupation classification of each such employee employed at the Airport covered by the prospective contractor at the time of contract termination. This requirement shall also apply to the subcontractors of the terminated contractor.

If the terminated contractor has not learned the identity of the successor contractor, if any, by the time that notice was given of the contract termination, the terminated contractor shall obtain such information from the Airport. If a successor service contract has not been awarded by the end of the ten (10) day period, the employment information referred to earlier shall be provided to the Airport at such time.

Successor Contractor's Obligation to Retain the Employees of the Contractor Whose Services Contract Has Been Terminated or Has Ended.

A successor contractor shall retain, for a 90-day trial employment period, the employees of the predecessor contractor, as defined above. During such trial period, a successor contractor or subcontractor, where applicable, shall evaluate each employee retained pursuant to this policy. If the employee's performance during such period is satisfactory, the successor contractor or subcontractor shall offer the employee continued employment under the terms and conditions established by the successor contractor or subcontractor or as required by the Airport's Quality Standards Program. If the employee's performance is determined to be unsatisfactory, in the opinion of the successor contractor or subcontractor, such employee may be released from employment and shall be referred to the Airport Employment Center.

If at any time a successor contractor determines that fewer employees are required to perform the new service contract than were required by the former contractor and/or subcontractor, if any, the successor contractor shall retain the predecessor contractor's employees by seniority within job classification. During the trial employment period, the successor contractor shall maintain a preferential

hiring list of eligible covered employees not retained by the successor contractor or subcontractor from which the successor contractor or subcontractor shall hire additional employees.

Notwithstanding the requirements referred to herein, a successor contractor or subcontractor may otherwise replace an employee required to be retained pursuant to this policy with a person already actually employed by the successor contractor or subcontractor continuously for six months prior to the commencement of the successor service contract or subcontract if the successor contractor's or subcontractor's employee would otherwise be laid off work as a result of the award of the successor contract.

All contracts subject to this policy shall include a provision in which the contractor agrees to require subcontractors to comply with the obligations imposed by the worker retention program.

All disputes over interpretation or application of the worker retention regulations set forth herein shall be submitted to expedited binding arbitration in accordance with the American Arbitration Association Labor Arbitration Rules including its Expedited Labor Arbitration procedures. Costs incurred in connection with any such arbitration shall be borne equally by the contractor/subcontractor and the affected employee(s) and/or the pertinent labor organization, if any.

70. Area Standard Rate

Contractor, at the commencement of this agreement, must compensate non-management personnel the area standard rate for similar services.

71. Board of Supervisors Approval of Contract

Section 9.118 of the Charter requires that the Board of Supervisors approve certain contracts. If this proposed contract is subject to such approval under section 9.118, then no award of this contract shall be final unless and until a resolution or ordinance of the Board of Supervisors approving the contract becomes effective. And consistent with Section 9.118, adoption of such a resolution or ordinance must remain in the sole and absolute discretion of the Board of Supervisors and Mayor. Accordingly, if this proposed contract is subject to such approval, once the parties reach agreement on the contract terms (following negotiations, if applicable, and following any appropriate approvals by City staff and the contractor), the City's sole commitment regarding the proposed contract is to submit it to the Board of Supervisors, with a recommendation by City staff for approval. Neither such recommendation or any other approval by City staff, including any City department, commission, officer or employee, shall indicate that the Board of Supervisors will approve the contract. Also, after making this submittal, City staff shall have no obligation to advocate for this proposed contract before the Board of Supervisors or Mayor or to renegotiate or revise any of its proposed terms. If the Board of Supervisors fails to approve the contract, City staff shall not be required to resubmit the contract for approval or take any other action and may terminate this contract opportunity.

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

CITY
AIRPORT COMMISSION
CITY AND COUNTY OF
SAN FRANCISCO

By: _____
John L. Martin, Airport Director

Attest:

By _____
Jean Caramatti, Secretary
Airport Commission

Resolution No: 10-0228

Adopted on: July 6, 2010

Approved as to Form:

Dennis J. Herrera
City Attorney

By _____
Melba Yee
Deputy City Attorney

CONTRACTOR

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

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.

_____
Authorized Signature

D. Scott Hutchison
Printed Name

Senior Vice President
Title

FSP PPM Management, LLC.
Company Name

80706
City Vendor Number

515 South Flower Street, 3200
Address

Los Angeles, CA 90071
City, State, ZIP

(213) 784-3011
Telephone Number

27 - 3597718
Federal Employer ID Number