

File No. 160256

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date April 13, 2016

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

**OTHER** (Use back side if additional space is needed)

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Completed by: Linda Wong Date April 8, 2016

Completed by: Linda Wong Date \_\_\_\_\_

1 [Accept Gift - Cisco, Inc. - Wi-Fi Equipment - \$353,925]

2  
3 **Resolution retroactively authorizing the Department of Technology to accept**  
4 **a gift of equipment from Cisco, Inc., with a total value of \$353,925 in order to**  
5 **provide free, wireless access to the Internet in San Francisco.**

6  
7 WHEREAS, The City and County of San Francisco seeks to enhance Internet  
8 access to residents and visitors; and

9 WHEREAS, Consistent with that goal, the Department of Technology ("DT") is  
10 developing the #SFWiFi Project to provide free, wireless access to the Internet in certain  
11 public spaces in San Francisco; and

12 WHEREAS, Cisco, Inc. ("Cisco"), a manufacturer of communications infrastructure  
13 products, has donated to the City certain wireless access points and related hardware for  
14 DT to use for the #SFWiFi Project; and

15 WHEREAS, DT and Cisco have determined the value of wireless access points  
16 and related hardware Cisco has donated to the City is \$353,925 based on list prices; and

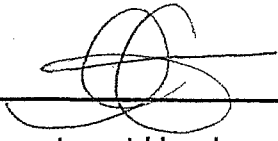
17 WHEREAS, DT has requested retroactive approval of its acceptance of the gift  
18 from Cisco because DT already obtained the equipment in order to enhance the #SFWiFi  
19 Project; now, therefore, be it

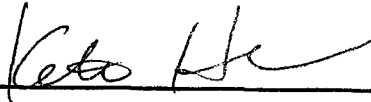
20 RESOLVED, That the Board of Supervisors authorizes the Department of  
21 Technology to retroactively accept the gift from Cisco valued at \$353,925; and, be it


22 FURTHER RESOLVED, That all actions taken heretofore by officers of the City  
23 with respect to the gift are hereby approved, confirmed, and ratified.

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Recommended:

  
\_\_\_\_\_  
Department Head

Approved:   
\_\_\_\_\_  
for Mayor

Approved:   
\_\_\_\_\_  
for Controller

**File Number:** \_\_\_\_\_  
(Provided by Clerk of Board of Supervisors)

**Grant Resolution Information Form**  
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: Cisco Systems, Inc., in-kind gift of Wi-Fi access points, ancillary equipment and services.
2. Department: Technology
3. Contact Person: Brian Roberts Telephone: (415)581-4061
4. Grant Approval Status (check one):  
 Approved by funding agency  Not yet approved
5. Amount of Grant Funding Approved or Applied for: In-kind gift of wi-fi equipment with value of \$353,925.
- 6a. Matching Funds Required: \$0  
b. Source(s) of matching funds (if applicable):
- 7a. Grant Source Agency: Cisco Systems, Inc.  
b. Grant Pass-Through Agency (if applicable):
8. Proposed Grant Project Summary: Accept new wifi equipment from Cisco to be incorporated in the City's #SFWiFi free public wifi service. The gift consists of 75 access points and ancillary equipment, such as antennas and mounting brackets.
9. Grant Project Schedule, as allowed in approval documents, or as proposed:  
Start-Date: End-Date:
- 10a. Amount budgeted for contractual services:  
b. Will contractual services be put out to bid?  
c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements?  
d. Is this likely to be a one-time or ongoing request for contracting out?
- 11a. Does the budget include indirect costs?  Yes  No  
b1. If yes, how much? \$ \_\_\_\_\_  
b2. How was the amount calculated?  
c1. If no, why are indirect costs not included?  
 Not allowed by granting agency  To maximize use of grant funds on direct services  
 Other (please explain): an in-kind gift, therefore not applicable

c2. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments:

**\*\*Disability Access Checklist\*\* (Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Existing Site(s) | <input checked="" type="checkbox"/> Existing Structure(s) | <input type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s)       | <input type="checkbox"/> Rehabilitated Structure(s)       | <input type="checkbox"/> New Program(s) or Service(s)      |
| <input type="checkbox"/> New Site(s)                 | <input type="checkbox"/> New Structure(s)                 |  |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments:

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Carla Johnson  
(Name)

Director, Mayor's Office on Disability  
(Title)

Date Reviewed: 2/19/16

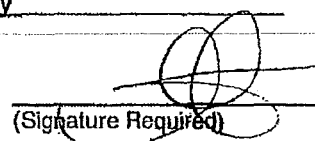
  
(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Miguel Gamliño  
(Name)

Chief Information Officer/Director of the Department of Technology  
(Title)

Date Reviewed: \_\_\_\_\_

  
(Signature Required)



**CISCO SYSTEMS, INC.  
EQUIPMENT DONATION AGREEMENT**

This is an Equipment Donation Agreement (the "Agreement") by and between Cisco Systems, Inc., organized under the laws of California, having its principal place of business at 300 East Tasman Drive, San Jose, California 95134 ("Cisco") and City and County of San Francisco, acting through its Department of Technology, with a business address at One South Van Ness Avenue, San Francisco, CA 94102 ("City" or "Recipient"). This Agreement sets forth the terms under which Cisco agrees to donate certain equipment and grant related rights to Recipient.

In furtherance of the goals of the donation, described below, and in consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

**1. Scope and Purpose of this Donation.**

1.1 This Agreement sets forth the terms and conditions governing Cisco's donation to Recipient of Cisco equipment (identified in Exhibit A) and the grant to Recipient of the right to use Cisco software and documentation as a part of Recipient's use of the Equipment (collectively the "Equipment"), solely for the public interest and benefit, and to further the goals of the Recipient. The parties value the Equipment at \$353,925.00 (Three Hundred Fifty-Three Thousand, Nine Hundred Twenty-Five US Dollars).

1.2 Cisco has no expectation of obtaining or retaining business or securing any improper competitive advantage with Recipient as a result of such donation. It is likewise not Recipient's intent to, nor shall Recipient, influence, offer or provide any business or other competitive advantage to Cisco on account of this donation.

**2. No Sale.** This Agreement does not consist of a "sale" of the Equipment by Cisco to Recipient, but instead is intended as a gift.

**3. No Resale of the Equipment.** Recipient agrees that it will use the Equipment for its own internal use and not for resale, remarketing or distribution, rent, lease or for other use that would be inconsistent with the stated purpose of this donation.

**4. Limited Warranty.**

Cisco represents and warrants that it has full title to, or the right to convey title to, the Equipment, free from any liens or security interests.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EQUIPMENT IS PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES OR REPRESENTATIONS EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT ANY IMPLIED WARRANTY CANNOT BE DISCLAIMED, SUCH IMPLIED WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD FOR THIS EQUIPMENT.

**5. Software License.** Cisco grants to Recipient a license to use any identified Cisco software provided with the Equipment (in object code) ("Software") per Cisco's End User Software License Agreement ("EULA") at

<http://www.cisco.com/en/US/docs/general/warranty/English/EU1KEN.html>.

**6. Documentation.**

Cisco grants Recipient a perpetual fully paid, non-exclusive license to reproduce in its entirety or incorporate sections of Documentation that are delivered with Equipment. All such reproductions will include the following copyright notice at the title page or section page of the Cisco material: "These materials have been reproduced for internal use only with the permission of Cisco Systems, Inc. COPYRIGHT © 2007 CISCO SYSTEMS, INC. ALL RIGHTS RESERVED." This license is granted only for the purposes of operating and maintaining the Equipment for internal use and does not allow distribution to third parties or resale. Recipient shall be solely responsible for the accuracy of all of its modifications and any resultant damages from modified Documentation.

**7. Export, Re-export, Transfer & Use Controls.**

7.1 The parties recognize that the City intends to use the Equipment donated by Cisco for its own purposes only. Nonetheless, should City subsequently decide to export the Equipment, the City agrees to comply with all applicable U.S. laws and/or regulations governing the export, re-export, transfer and use of the Equipment and will obtain all required U.S. and local authorizations, permits, or licenses.

7.2 Cisco and Recipient agree to provide the other information, support documents, and assistance as may reasonably be required by the other in connection with securing authorizations or licenses.

7.3 Recipient shall not transfer, divert or otherwise make available any of the Equipment, or any direct product thereof, to any person or firm that is: (a) engaged, directly or indirectly in the design, development, production, stockpiling, testing or use of any nuclear, chemical, biological weapons or missiles; or (b) is listed on any U.S. Government list of prohibited and restricted parties. Information regarding compliance with U.S. export, re-export, transfer and use laws may be located at: [http://www.cisco.com/wwl/export/compliance\\_provision.html](http://www.cisco.com/wwl/export/compliance_provision.html).

## 8. Compliance with Laws.

8.1 Recipient shall comply with Recipient's applicable national, state or local laws and regulations, including, without limitation, those related to public donations and anti-corruption.

8.2 City shall submit to the Board of Supervisors ("Board") legislation authorizing City to accept the Equipment. Notwithstanding anything herein to the contrary, Cisco understands and agrees that no officer or employee of City has authority to commit City to this Agreement unless and until the Board shall have duly approved the acceptance of the Equipment in accordance with all applicable laws. The Board may approve or reject the acceptance of Equipment in its sole discretion. Therefore, any obligations of City hereunder are contingent upon such approval by the Board, and this Agreement shall not be effective unless and until such Board approval is final.

8.3 The parties recognize that the City intends to use the Equipment donated by Cisco for its own purposes only. Nonetheless, should City subsequently decide to transfer the Equipment, City shall obtain any government-required licenses, permits or approvals that may be required for City's importation, exportation, use, and distribution of the Equipment where the Equipment will be used or deployed.

8.4 City shall be solely responsible for payment of any international, federal, state and local sales taxes, use, value-added and excise taxes, any other taxes or duties of any nature whatsoever that may be assessed upon or with respect to Equipment donated to and used by the City under this Agreement. Cisco shall have no liability relating to any taxes which may be levied on the donation of goods, which taxes will be at Recipient's cost.

## 9. Business Integrity.

9.1 Cisco strives to maintain the highest standards of business integrity; All Cisco employees are required to follow Cisco's Code of Business Conduct

(<http://investor.cisco.com/documentdisplay.cfm?DocumentID=3263>), which prohibits Cisco employees from offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality thereof in order to assist Cisco in obtaining or retaining business. Cisco also expects its business partners to act consistently with Cisco's Global Anti-Corruption Policy at [http://www.cisco.com/legal/anti\\_corruption.html](http://www.cisco.com/legal/anti_corruption.html).

9.2 Cisco encourages the reporting of any concerns to [ethics@cisco.com](mailto:ethics@cisco.com) or by calling Cisco's Helpline: toll free number in North America 1-877-571-1700 or worldwide number (reverse calling charges to Cisco) 001-770-776-5611.

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

## 10. Confidential Information.

10.1 In connection with receiving and using the donated Equipment, Recipient may obtain information relating to the Equipment, and/or Cisco, which is of a confidential and/or proprietary nature to Cisco ("Confidential Information"). Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, Software source documents, data, or information posted on Cisco.com.

10.2 If Cisco identifies in writing that information provided to Recipient is Confidential Information as that term is used herein, Recipient shall keep in trust and confidence all such Confidential Information for a period of at least three years after the receipt of such information, and shall not use such Confidential Information other than as expressly authorized by Cisco; nor shall Recipient disclose any such Confidential Information to third parties without Cisco's prior written consent.

10.3 The obligations of confidentiality herein shall not apply to information which: (a) has entered the public domain except where such entry is the result of Recipient's breach of this Agreement; (b) prior to disclosure hereunder was already rightfully in Recipient's possession; (c) subsequent to disclosure hereunder is obtained by Recipient on a non-confidential basis from a third party who has the right to disclose such information to Recipient; or (d) Recipient is required to produce per a court order, administrative subpoena or lawful request under the California Public Records Act or San Francisco Sunshine Ordinance, provided that Recipient shall notify Cisco of its receipt of such order, subpoena, or request prior to disclosure and provide Cisco an opportunity to protect its interest in the confidentiality of the information to be produced in response.

#### 11. Limitation of Liability.

11.1 Notwithstanding anything else in this Agreement or otherwise, but subject to clause 11.3 below, in no event shall Cisco, its affiliates, officers, directors, employees, agents or suppliers be liable for any special, indirect, consequential, incidental, or exemplary damages, or for damages for loss of business, profits, business interruptions, or for loss of or damaged data, whether arising in contract, tort (including negligence) or otherwise, even if Cisco has been informed of the possibility of such damages.

11.2 Notwithstanding anything else in this Agreement or otherwise, but subject to clause 11.3, all liability of Cisco, its affiliates, officers, directors, employees, agents and suppliers collectively for claims under this Agreement or otherwise howsoever arising shall be limited to ten thousand dollars (USD\$10,000). This limitation of liability is cumulative and not per incident (i.e., the existence of two or more claims will not enlarge this limit).

11.3 Nothing in this Agreement shall limit either party's liability: (a) for personal injury or death caused by its negligence; (b) in the tort of deceit; or (c) for any liability which cannot be excluded under applicable law.

#### 12. Equipment Installation and Possession.

Recipient received the Equipment from Cisco in "as is" condition and accepts responsibility for use and maintenance of the Equipment while in Recipient's possession.

13. **Support Services.** Recipient may procure Support Services to assist with any technical support issues in connection with the Equipment. Such support services ("Services"), are described [http://www.cisco.com/web/about/doing\\_business/legal/service\\_descriptions/index.html](http://www.cisco.com/web/about/doing_business/legal/service_descriptions/index.html).

#### 14. General.

14.1. **Notices.** Any notice to be given under this Agreement will be in writing and addressed to the party at the addresses set forth in the first paragraph of the Agreement. For Cisco, notices should be sent to the attention of General Counsel Office, Legal Department, at address set forth on page 1 of this Agreement; for Recipient, notices should be sent to the attention of: Miguel Gamino, Chief Operating Officer, City and County of San Francisco Department of Technology 1 South Van Ness Avenue, 2nd Floor, San Francisco, CA 94103. Notices will be deemed given and effective (i) if personally delivered, upon delivery, (ii) if sent by an overnight service with tracking capabilities, upon receipt; (iii) if sent by fax or electronic mail, at such time as the party which sent the notice receives confirmation of receipt by the applicable method of transmittal, or (iv) if sent by certified or registered mail, within five days of deposit in the mail.

14.2 **No Waiver.** The waiver by either party of any right provided under this Agreement shall not constitute a subsequent or continuing waiver of such right or of any other right under this Agreement.

14.3 **Assignment.** Recipient may not assign any of its rights or delegate any of its obligations under this Agreement without Cisco's prior written consent. Any attempted assignment or delegation without Cisco's prior written consent, which Cisco will not unreasonably withhold, will be voidable by Cisco.

14.4 **Severability.** If any court of competent jurisdiction holds that any provision of this Agreement is illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining provisions of this Agreement will not be affected or impaired, and all remaining terms of this Agreement remain in full force and effect, provided that this provision shall not be applied to defeat the intent of the parties.

14.5 **No Agency.** This Agreement does not create any agency, partnership, joint venture or other relationship. Each party remains independent. Neither party shall assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.

14.6. **Effective Date.** In the event the Board of Supervisors authorizes City to accept the equipment, the effective date of the legislation shall be the effective date of this Agreement ("Effective Date"). In the event the Board does not approve the acceptance of the Equipment, then: (a) this Agreement shall terminate and shall be of no force



and effect whatsoever; and (b) Recipient shall return the Equipment to Cisco in the condition received.

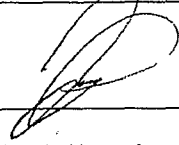
14.7 Entire Agreement. This Agreement is the complete agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter. Any URLs cited herein are incorporated into this Agreement. There are no conditions, understandings, agreements, representations or warranties, expressed or implied,

that are not specified herein. This Agreement may be only modified by a written document executed by the parties.

14.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

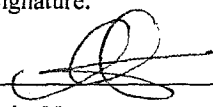
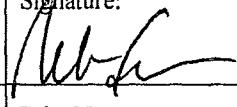
IN WITNESS WHEREOF, each of the parties' duly authorized representatives, by signing this Agreement in the signature blocks below, confirms that each party has read this Agreement in its entirety, including any incorporated exhibits, and agrees to be bound to it.

CISCO SYSTEMS, INC.

Signature:		
Print Name:	Juan Pablo Brockmann	
Title:	Director, Finance	
Date:	March 1, 2016	

**APPROVED BY LEGAL**

CITY AND COUNTY OF SAN FRANCISCO

Approved by:	Approved as to Form By:
Signature:	Signature:
	
Print Name: Miguel Gamiño	Print Name: William K. Sanders
Title: Director/Chief Information Officer	Title: Deputy City Attorney
Department of Technology	
Date:	Date: 3/8/16

*-Exhibit A Follows-*

**Exhibit A**  
**Contribution of the Equipment**

The following donated Equipment is being provided to Recipient.

<b>Line Number</b>	<b>Item Name</b>	<b>Item Description</b>	<b>Quantity</b>
1.0	AIR-ANT2547V-N=	2.4 GHz 4dBi/5 GHz 7dBi Dual Band Omni Antenna, N connector	300
2.0	CAB-PWR-M12-10	M12 DC power cable, 10 ft	50
4.0	AIR-PWRINJ4=	Power Injector - AP-3600 Series w/ Modules-SPARE	25
5.0	AIR-ACCPMK3700=	IW3700 Series Pole-Mount Kit	50
6.0	AIR-ACCDMK3700=	IW3700 Series DIN Rail-Mount Kit	25
7.0	IW3702-2E-UXX9	Industrial Wireless AP 3702, 4 antenna ports on top/bottom	75

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *EW* Mayor Edwin M. Lee *EW*  
RE: Accept Gift – Department of Technology – Wi-Fi Equipment - \$353,925  
DATE: March 15, 2016

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Attached for introduction to the Board of Supervisors is a resolution authorizing the Department of Technology to retroactively accept a gift of equipment from Cisco, Inc. with a total value of \$353,925 in order to provide free, wireless access to the Internet in San Francisco.

I respectfully request that this item be calendared in Budget & Finance Committee.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2016 MAR 15 PM 4:41  
*EW*