

THIS PRINT COVERS CALENDAR ITEM NO. : 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Human Resources

BRIEF DESCRIPTION:

Authorizing the Director of Transportation or his designee to execute Contract No. SFMTA 2016-45, Employee Assistance Program (EAP), with Claremont Behavioral Services, Inc., to provide Employee Assistance Program (EAP), Peer Assistance Program (PAP), Critical Incidents Program Services, and As-needed Conflict Resolution Training services, for an amount not to exceed \$2,569,980 and a term of seven years.

SUMMARY:

- The SFMTA is required to provide Employee Assistance Program (EAP), Peer Assistance Program (PAP), Critical Incidents Program Services, and As-needed Conflict Resolution Training services under the contracts with various labor organizations.
- EAP services include counseling and referrals for specialized counseling and other services to SFMTA employees to address work/life issues that may impact an employees' ability to perform their work.
- The current contract for EAP services with Claremont expires on January 31, 2017.
- The value of the proposed contract is \$367,140 per year, for a total contract value of \$2,569,980 and for a term of seven years.

ENCLOSURES:

1. SFMTAB Resolution
2. Contract

APPROVALS:

DATE

DIRECTOR



11/8/16

SECRETARY



11/8/16

ASSIGNED SFMTAB CALENDAR DATE: November 15, 2016

PURPOSE

Authorizing the Director of Transportation or his designee to execute Contract No. SFMTA 2016-45, Employee Assistance Program, with Claremont Behavioral Services, Inc., to provide Employee Assistance Program, Peer Assistance Program, Critical Incidents Program Services, and As-needed Conflict Resolution Training services, for an amount not to exceed \$2,569,980 and a term of seven years.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This contract will facilitate the implementation of the following goals, objectives and initiatives in the SFMTA Strategic Plan Goals and Transit Policy Principles:

Goal 1: Create a safer transportation experience for everyone.

Objective 1.2 Improve workplace safety and security.

Goal 4: Create a workplace that delivers outstanding service.

Objective 4.4 Improve relationships and partnerships with our stakeholders.

Transit First Policy Principles:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.
10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

DESCRIPTION

Since 1996, the Employee Assistance Program (EAP) service has been offered as a result of language in collective bargaining agreements between: Transport Workers Union (TWU), Local 250A International Brotherhood of Electrical Workers (IBEW), Local 6; Service Employees International Union (SEIU) Local 1021; International Association of Machinists and Aerospace Workers (IAM), Local 1414; Laborers, Local 261; Stationary Engineers, Local 39; Transport Workers Union (TWU), Local 200; Glaziers, Local 718; and Teamsters, Local 853, and the San Francisco Municipal Transportation Agency that established the need for Employee Assistance Programs (EAP), Peer Assistant Programs (PAP), Critical Incident Services and As-needed Conflict Resolution Training.

The current contract was awarded on May 7, 2013 by the SFMTA Board Resolution 13-053 with Claremont Behavioral Services. The agreement provides a full service, work-site based, Employee Assistance Program (EAP).

Claremont provides four program services: 1) Employee Assistance Program; 2) Peer Assistance Program; 3) Critical Incidents Program Services; and, 4) As-needed Conflict Resolution Training.

The EAP program provides conflict resolution one-to-one or in a team when required. The program is designed to assist in the identification and resolution of productivity problems associated with employees and their families' impaired by personal concerns, including but not limited to health, family, financial, alcohol, drug, legal, emotional, stress or other personal concerns which adversely affect job performance.

The Peer Assistance Program provides peer assistance services provided by SFMTA employee volunteers. Employees experiencing problems at home or work are more likely to make use of the EAP if their initial contact is with a peer rather than an outside counselor. The Peer Assistants' familiarity with the workforce and the work place enhances the prospect for early intervention. Claremont provides clinical oversight and support, and the SFMTA provides administrative oversight through the Human Resources Wellness Unit.

The Critical Incidents Program Services provides support and counseling sessions with a licensed psychologist to employees that have experienced assaults, threats, and serious accidents that occur while on duty. The services are provided 24 hours per day, seven days per week. Counselors contact involved employees within two hours of a critical incident to offer services. Counselors also make follow-up calls within the first 24 to 48 hours following a critical incident.

As-needed Conflict Resolution Training provides staff training to address negotiation, mediation, diplomacy, creative peace building and resolving workplace conflicts.

Clinical supervision of the staff is provided per the agreement for three full-time paid Peer Assistants, and up to eight volunteer Peer Assistants of the Peer Assistance Program.

The value of the existing contract was \$1,062,000 and for a term of May 1, 2013 to April 30, 2016. On December 9, 2015, the contract was modified by the Director of Transportation. The modification extended the term of the current contract for nine months, to expire on January 31, 2017 and for an increased amount of \$265,500 to provide compensation for services provided during the extension of the term. The total value of the current contract is \$1,327,500. The funding amount was underestimated for the modification period. Consequently, funding will run out as of December 1, 2016.

The SFMTA issued a Request for Proposal (RFP) on August 4, 2016, for Employee Assistance, Peer Assistance, Critical Incidents Program and As-needed Conflict Resolution services.

As part of the SFMTA's outreach efforts, the Contract Compliance Office contacted 48 Local Business Entity (LBE) certified firms qualified to provide these services and conducted extensive outreach with phone calls and e-mails to an additional 27 non-LBE service providers throughout the Bay Area and the United States. As an additional effort, SFMTA extended the bid due date to ensure everyone who wanted to respond had the opportunity to do so. In spite of these efforts, Claremont, the current EAP services provider, was the sole proposer.

Claremont is a local, well-regarded provider of employee assistance and trauma response counseling services. Staff negotiated with Claremont for a fair and reasonable price and term. The price for all services will be approximately \$30,595 per month, as compared with the average current price of \$30,500 per month for a total amount not to exceed \$2,569,980 and a term of seven

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years. On September 23, 2016, the SFMTA Contract Compliance Office determined that Claremont is responsive and will meet the five percent LBE subcontracting goals.

STAKEHOLDER ENGAGEMENT

The stakeholders are TWU, Local 250A; IBEW, Local 6; SEIU, Local 1021; IAM, Local 1414; Laborers, Local 261; Stationary Engineers, Local 39; TWU, Local 200; Glaziers, Local 718; and Teamsters, Local 853. These stakeholders were notified of the new contract through the Civil Service Commission and SFMTA Human Resources.

As part of the SFMTA’s outreach efforts, the Contract Compliance Office contacted 75 LBE and non-LBE service providers throughout the Bay Area and the United States.

ALTERNATIVES CONSIDERED

Staff has considered using the EAP administered by the City’s Department Human Resources for other City departments. But DHR’s EAP is not staffed adequately to handle the volume and complexity of issues presented by SFMTA employees. In addition, DHR’s EAP does not provide a physician referral network, which is a critical component of the EAP.

FUNDING IMPACT

Operating funds for these services are included in the FY17 and FY18 budget and will be included in future Fiscal Year budgets.

Total Fees for Year One	\$367,140
Year Two	\$367,140
Year Three	\$367,140
Year Four	\$367,140
Year Five	\$367,140
Year Six	\$367,140
Year Seven	\$367,140

ENVIRONMENTAL REVIEW

On October 17, 2016, the SFMTA, under authority delegated by the Planning Department, determined that the Employee Assistance Program Services Agreement is not defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

There are no additional approvals required.

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The City Attorney's office has reviewed this report.

RECOMMENDATION

Staff recommends authorizing the Director of Transportation or his designee to execute Contract No. SFMTA 2016-45 Employee Assistance Program with Claremont Behavioral Services, Inc. to provide Employee Assistance Program, Peer Assistance Program, Critical Incidents Program Services, and As-needed Conflict Resolution Training services, for an amount not to exceed \$2,569,980 and a term of seven years.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The Memorandum of Understandings between the San Francisco Municipal Transportation Agency (SFMTA) and the Transport Workers Union, Local 250-A and Local 200, IBEW Local 6, SEIU Local 1021, IAM Local 1414; Laborers Local 261, Stationary Engineers Local 39, Glaziers Local 718, and Teamsters Local 853 requires the SFMTA to provide Employee Assistance Program (EAP) services to employees represented by those unions; and,

WHEREAS, The SFMTA provides EAP services to all SFMTA employees including employees not covered by the unions listed above; and,

WHEREAS, EAP services include counseling and referrals to specialized counseling and other services, peer assistance, conflict resolution training, and critical incident counseling to reduce stress, address work and life problems, and create a more productive and pleasant work environment; and,

WHEREAS, Through its Critical Incidents Program Services, the SFMTA provides critical incident counseling services to employees involved in serious accidents, as well as employees subjected to assaults and threats, which has reduced absenteeism and workers' compensation costs; and,

WHEREAS, The SFMTA issued a Request for Proposals on August 4, 2016, for proposals from qualified firms to provide Employee Assistance Program (EAP), which includes a Peer Assistance Program, Critical Incidents Program Services and As-needed Conflict Resolution Training programs; and,

WHEREAS, The SFMTA contacted 75 firms and conducted outreach to encourage qualified firms to submit proposals; and,

WHEREAS, Claremont Behavioral Services, Inc. (Claremont), the SFMTA's current EAP services provider, was the only firm that submitted a proposal; and,

WHEREAS, SFMTA staff negotiated a fair and reasonable price for those services that is approximately three percent higher than the current EAP contract; and,

WHEREAS, SFMTA Contract Compliance Division has determined that Claremont will meet the five percent LBE participation goal established for this contract, and that Claremont has committed to meeting the Non-discrimination Equal Employment requirements of the contract, and complies with Chapter 12B (Equal Benefits provision) of the San Francisco Administrative Code; and,

WHEREAS, On October 17, 2016, the SFMTA, under authority delegated by the Planning Department, determined that the Employee Assistance Program Services Agreement is not defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation or his designee to execute Contract No. SFMTA 2016-45 Employee Assistance Program with Claremont Behavioral Services, Inc. to provide Employee Assistance Program, Peer Assistance Program, Critical Incidents Program Services, and As-needed Conflict Resolution Training services, for an amount not to exceed \$2,569,980 and a term of seven years.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 15, 2016.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

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

**Agreement between the City and County of San Francisco and
Claremont Behavioral Services, Inc.**

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

**Agreement between the City and County of San Francisco and
Claremont Behavioral Services, Inc.
Contract No. SFMTA-2016-45**

This Agreement, dated for convenience as October 21, 2016, made in the City and County of San Francisco, State of California, by and between Claremont Behavioral Services, Inc., 1050 Marina Village Parkway, # 203, Alameda, CA 94501 (Contractor) and the City and County of San Francisco, acting by and through its Municipal Transportation Agency (SFMTA).

Recitals

A. The SFMTA wishes to procure operations and management services for the Agency's Employee Assistance Program (EAP), Peer Assistance Program (PAP), Critical Incidents Program Services, and As-needed Conflict Resolution Training programs.

B. The SFMTA issued a Request for Proposals (RFP) on August 4, 2016, and selected Contractor.

C. The Local Business Entity (LBE) subcontracting participation requirement for this Agreement is 5 percent.

D. Contractor represents and warrants that it is qualified to perform the Services required by City as set forth under this Agreement.

E. Approval for this Agreement was obtained when the Civil Service Commission approved Contract number 41284-15/16 on August 15, 2016.

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

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

1.2 “**CCO**” means SFMTA Contract Compliance Office.

1.3 “**City**” or “**the City**” means the City and County of San Francisco, a municipal corporation, acting by and through its Municipal Transportation Agency (SFMTA).

1.4 “**CMD**” means the Contract Monitoring Division of the City.

1.5 “**Contractor**” or “**Consultant**” means Claremont Behavioral Services, Inc., 1050 Marina Village Parkway, # 203, Alameda, CA 94501.

1.6 “**C&P**” means SFMTA Contracts and Procurement.

1.7 “**Deliverables**” means Contractor’s work product resulting from the Services that are provided by Contractor to City during the course of Contractor’s performance of the Agreement, including without limitation, the work product described in the “Scope of Services” attached as Appendix A.

1.8 “**Employee Assistance Program**” (also referenced as “EAP” or “Program”) means the services Contractor shall provide as described in this Agreement.

1.9 “**Effective Date**” means the date upon which the SFMTA confirms in writing that the City’s Controller has certified the availability of funds for this Agreement and directs that the Contractor commence providing the services, the as provided in Section 3.1.

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

1.11 “**Party**” and “**Parties**” mean the City and Contractor either collectively or individually.

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

1.13 “**San Francisco Municipal Transportation Agency**” or “**SFMTA**” means the agency of City with jurisdiction over all surface transportation in San Francisco.

Article 2 Term of the Agreement

2.1 The term of this Agreement shall commence on the latter of: (i) December 1, 2016; or (ii) the Effective Date and expire on November 30, 2019, unless earlier terminated as otherwise provided herein.

2.2 The City has two options to renew the Agreement for a period of two years each. The City may extend this Agreement beyond the expiration date by exercising an option at the Director of Transportation’s sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, “Modification of this Agreement.”

Article 3 Financial Matters

3.1 Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of

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

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

3.2 Guaranteed Maximum Costs. The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 Compensation.

3.3.1 Payment. Contractor shall provide an invoice to the SFMTA on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the SFMTA's designee, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed Two Million, Five Hundred, Sixty-Nine Thousand, Nine Hundred and Eighty dollars (\$2,569,980). The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments.

3.3.2 Payment Limited to Satisfactory Services. Contractor is not entitled to any payments from City until the SFMTA approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or

detected at the time such payment was made. Deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay at no cost to the City.

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

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

3.3.5 LBE Payment. Contractor must submit all required CMD payment forms to enable CCO to monitor Contractor's compliance with the LBE subcontracting commitments in this Agreement. Contractor shall pay its LBE subcontractors within three working days after receiving payment from SFMTA, except as otherwise authorized by the LBE Ordinance. The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of all required CMD payment forms. Failure to submit all required CMD payment forms with each payment request may result in the Controller withholding 20% of the payment due pursuant to that invoice until the required CMD payment forms are provided. Following SFMTA's payment of an invoice, Contractor has 10 calendar days to submit a CMD Form 9 Payment Affidavit verifying its payments to LBE subcontractors.

3.3.6 Getting Paid for Goods and/or Services from the City.

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

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

3.4 Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls,

records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.5 Submitting False Claims. The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

Article 4 Services and Resources

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

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

4.3 Subcontracting. Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the

name of, the other Party. Any agreement made in violation of this provision shall be null and void. City's execution of this Agreement constitutes its approval of the subcontractors listed below.

- a. Pneumos LLC, Contact: John A. Brown, Phone: 415-624-5426; Address: 2912 Diamond St., #327, San Francisco, CA 94131; Conflict Resolution Training
- b. Julius Johnson, PhD, Phone: 415-905-4557; Address: 3410 Geary Blvd., Suite 328, San Francisco, CA 94118; EAP Clinician
- c. CLC Incorporated, Contact: Curt Padilla, Phone: 916-724-2203; Address: 3001 Lava Ridge Ct., #250, Roseville, CA 95661; Legal Referral Vendor

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

4.4.1 Independent Contractor. For the purposes of this Article 4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or

employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

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

4.5 Assignment. The Services to be performed by Contractor are personal in character, and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

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

Article 5 Insurance and Indemnity

5.1 Insurance.

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

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

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

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

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

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

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

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

5.1.3 All policies shall be endorsed to provide 30 days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties." All notices, certificates and endorsements shall include the SFMTA contract number and title on the cover page.

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

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

5.1.6 Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California,

and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

5.1.7 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

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

5.2 Indemnification. Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises 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, 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 arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

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

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

Article 6 Liability of the Parties

6.1 Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT

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

6.3 Liability for Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions.

Article 7 Payment of Taxes

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

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

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

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

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

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

Article 8 Termination and Default

8.1 Termination for Convenience

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

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

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

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

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

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

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

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

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

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

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

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

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

8.1.4 In no event shall SFMTA be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by SFMTA, except for those costs specifically enumerated and described in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or

unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under Section 8.1.3.

8.1.5 In arriving at the amount due to Contractor under this Section, SFMTA may deduct: (i) all payments previously made by SFMTA for Services covered by Contractor's final invoice; (ii) any claim which SFMTA may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the SFMTA, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and SFMTA's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

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

8.2 Termination for Default; Remedies.

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

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

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

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

(c) Contractor (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any

substantial part of Contractor's property; or (v) takes action for the purpose of any of the foregoing.

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

8.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.2.3 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

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

8.3 Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

8.4 Rights and Duties upon Termination or Expiration.

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

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

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1 above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City.

Article 9 Rights In Deliverables

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

9.2 Works for Hire. If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards,

photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 10 Additional Requirements Incorporated by Reference

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

10.2 Conflict of Interest. By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

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

10.4 Nondisclosure of Private, Proprietary or Confidential Information.

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

10.4.2 In the performance of Services, Contractor may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Contractor, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall

exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

10.5 Nondiscrimination Requirements

10.5.1 Non Discrimination in Contracts. Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

10.5.2 Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Contractor does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance. Contractor shall comply with all applicable provisions of Chapter 14B (“LBE Ordinance”). Contractor is subject to the enforcement and penalty provisions in Chapter 14B. Contractor shall utilize LBE Subcontractors for at least five percent of the Services except as otherwise authorized in writing by the Director of CMD. Contractor shall incorporate the requirements of the LBE Ordinance in each subcontract made in the fulfillment of Contractor’s LBE subcontracting commitments.

10.7 Minimum Compensation Ordinance. Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Contractor is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Contractor certifies that it is in compliance with Chapter 12P.

10.8 Health Care Accountability Ordinance. Contractor shall comply with San Francisco Administrative Code Chapter 12Q. Contractor shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Contractor is subject to the enforcement and penalty provisions in Chapter 12Q.

10.9 First Source Hiring Program. Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

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

10.11 Limitations on Contributions. By executing this Agreement, Contractor acknowledges that it is familiar with Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

10.12 Reserved. (Slavery Era Disclosure)

10.13 Reserved. (Working with Minors)

10.14 Consideration of Criminal History in Hiring and Employment Decisions

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

applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.14.2 The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

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

10.16 Food Service Waste Reduction Requirements. Contractor shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

10.17 Sugar-Sweetened Beverage Prohibition. Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

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

10.19 Reserved. (Preservative Treated Wood Products)

Article 11 General Provisions

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

To City: Mary Donovan
Employee Wellness Manager
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 6th Floor
San Francisco, CA 94103
E-Mail: Mary.Donovan@sfmta.com

To Contractor: Thomas A. Farris, PhD
Claremont Behavioral Services, Inc.
1050 Marina Village Parkway, #203
Alameda, CA 94501

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

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

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

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

11.5 Modification of this Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved as required under City law and under the policy of the SFMTA Board of Directors. Contractor shall cooperate with the SFMTA to submit to the CCO any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

11.6 Dispute Resolution Procedure.

11.6.1 Negotiation; Alternative Dispute Resolution. The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.35, Contractor may submit to the Project Manager a written request for administrative review and documentation of the Contractor's claim(s). Upon such request, the contracting officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of

the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

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

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

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

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

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

11.11 Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

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

11.13 Order of Precedence. Contractor agrees to perform the services described below in accordance with the terms and conditions of this Agreement, implementing task orders, the RFP, and Contractor's proposal dated September 21, 2016. The RFP and Contractor's proposal

are incorporated by reference as though fully set forth herein. Should there be a conflict of terms or conditions, this Agreement and any implementing task orders shall control over the RFP and the Contractor's proposal.

11.14 Services Provided by Attorneys. Any services to be provided by a law firm or attorney on behalf of the City 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. This provision shall not apply to legal services provided to SFMTA employees under the Program, which services are limited to representing and providing advice to said employees. Attorneys to whom referrals are provided under the Program shall not represent the City and shall not represent an SFMTA employee (or any member of an employee's family) in any action or dispute involving the City.

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

11.16 Large Vehicle Driver Safety Training Requirements .

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

b. By entering into this Agreement, Contractor agrees that in the event the Contractor fails to comply with the Large Vehicle Driver Safety Training Requirements, the City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of up to One Thousand Dollars (\$1,000) per employee or subcontractor who is permitted to drive a large vehicle in violation of these requirements is not a penalty, but is a reasonable estimate of the loss that City will incur based on the Contractor's failure to comply with this requirement, established in light of the circumstances existing at the time this Contract was awarded. City may deduct a sum representing the liquidated damages from any money due to

Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply.

11.17 Included Appendices Appendix A (Scope of Services) and Appendix B (Calculation of Charges), attached to this Agreement, are incorporated by reference to this Agreement.

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

<p>CITY</p> <p>San Francisco Municipal Transportation Agency</p> <hr/> <p>Edward D. Reiskin Director of Transportation</p> <p>AUTHORIZED BY:</p> <p>MUNICIPAL TRANSPORTATION AGENCY BOARD OF DIRECTORS</p> <p>Resolution No: _____</p> <p>Adopted: _____</p> <p>Attest: _____ Roberta Boomer, Secretary</p> <p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p> <p>By: _____ Robert K. Stone Deputy City Attorney</p>	<p>CONTRACTOR</p> <p>Claremont Behavioral Services, Inc.</p> <hr/> <p>Thomas A. Farris, PhD Chief Operating Officer 1050 Marina Village Parkway, #203 Alameda, CA 94501</p> <p><u>Acknowledgement of Large Vehicle Driver Safety Training Requirements:</u></p> <p>By signing this Agreement, Contractor acknowledges that it has read and understands Section 11.16: Large Vehicle Driver Safety Training Requirements.</p> <p>City vendor number: 40027</p>
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Appendix A Scope of Services

1. Description of Services

Contractor agrees to perform the following Services:

A. Employee Assistance Program

Contractor shall provide a work-site based Employee Assistance Program (EAP) services designed to assist in the identification and resolution of productivity problems associated with work-related and non-work-related issues such as health, mental, marital, family, financial, alcohol, drug, legal, emotional, relationship stress or other personal concerns which may adversely affect SFMTA employee job performance. The SFMTA will provide office space to Contractor at 949 Presidio Avenue in San Francisco, equipped with telephones, desks, internet access, computers, and furniture.

1. Contractor shall provide the following EAP services:

- a) Direct one-to-one, in-person counseling utilizing Licensed Professionals for purposes of identifying, evaluating and recommending assistance for employees and their families on matters, including but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress, and other personal concerns that may interfere with the employee's ability to perform his or her work. Contractor's Licensed Professionals must be Licensed Clinical Social Workers (LCSW), licensed clinical psychologists, Licensed Marriage and Family Therapists, or licensed psychiatrists. Each employee is entitled to up to three (3) in-person counseling sessions per year. Additional sessions must be offered to the employee, but the employee must either pay for those additional sessions or petition his/her health insurance provider to pay for them. Contractor must provide counseling within twenty-four hours of an employee's urgent request. All other counseling sessions must be held within seventy-two hours of the employee's request. A counseling session must not be shorter than one hour (60 minutes).
- b) A twenty-four-hour/seven day a week/three hundred sixty-five day a year toll free telephone staffed hotline to provide employees access to live counselors with a guaranteed response time of no more than sixty seconds. Phone consultations shall not count as a counseling session for purposes of the paragraph above.
- c) Consultations with labor and management representatives for purposes of developing organizational policies and procedures necessary for effective Program implementation.
- d) Training and orientation of SFMTA employees regarding the purpose, scope, nature and use of the Program.
- e) Training of labor and management staff to develop the knowledge and skills necessary to effectively utilize the Program and increase employee access to the Program.

- f) Referral services to professional community resources for treatment and/or assistance, as may be required.
- g) Act as liaison between employees, the treating Licensed Professional, and the SFMTA.
- h) Prepare reports, including monthly statistical evaluation of Program activities, and other reports as needed.
- i) Attendance of Contractor's principal or his/her delegated representative to monthly meetings required by SFMTA for the administration of the contract.
- j) Other EAP-related duties as the SFMTA may assign from time to time.
- k) Contractor must commit in writing to conform its work with the Employee Assistance Program Association ("EAPA") Code of Ethics and requirements of "Certified Employee Assistance Professionals," as defined therein.

2. Life Management Services

Contractor shall provide the following Life Management Services:

- a) Contractor shall provide unlimited consultations, referrals, and resources for each of the Legal, Financial, Work/Life and convenience services detailed below. These Life Management Services will not be considered as in-person counseling sessions and will not count towards the employee allotted three in-person counseling sessions as described in Section A.1.a above.
- b) Contractor shall provide to SFMTA employees legal services and referrals to legal services providers, as described below. But Contractor shall not provide to any SFMTA employee legal services or referrals to legal services providers concerning any dispute or action between the SFMTA employee (and/or any family member of the SFMTA employee) and the City, including but not limited to legal disputes concerning employment, labor relations, personal injury, and workers compensation. Contractor shall provide the following:
 - i. Unlimited 30-minute Consultations, Referrals and Resources with attorneys on the following legal matters including family/domestic law, consumer/contract issues, personal injury, traffic tickets, DUI, estate planning, elder law, housing and real estate matters, bankruptcy and other legal matters as appropriate.
 - ii. Contractor shall not provide Legal Services to any SFMTA employee concerning any legal dispute between an SFMTA employee (and/or any family member of an employee) and the City, including but not limited to legal disputes concerning employment, labor relations, and workers' compensation matters.
 - iii. Provide a twenty-five percent discount off the attorney's regular rates for additional legal and mediation services

- iv. Free Simple Will-Kits
- c) Contractor shall provide to SFMTA employees the following Financial Services:
- i. Unlimited 30 to 60 minute Consultations, Referrals and Resources with Certified Credit Counselors, Certified Financial Planners or licensed Certified Public Accountants.
 - ii. Financial matter consultations, referrals and resources will include: credit counseling, debt and budgeting assistance, estate planning, tax planning, retirement and college planning, and other investment subjects and tax issues.
 - iii. Financial matter Consultations may be conducted by telephonic or in-person.
 - iv. Free Credit Reports (one report per year per employee).
- d) Contractor shall provide the following Work-Life Services to SFMTA employees:
- i. Unlimited Consultations, Referrals and Resources with work-life and dependent care specialists.
 - ii. Elder Care and Disabled Adult Care services including consulting on and referrals to care providers and/or support services for: elder care and disabled adult issues, hospitalization, nursing home/in-home care, assisted living facilities, meal/nutrition programs, Medicare/insurance, transportation, emergency response services, and caregiver support. Child Care and Parenting services, including consulting on and referrals to family day care homes, infant centers, pre-schools, before/after school programs, sick/emergency care, in-home options, and care for special needs children.
 - iii. Contractor shall also provide relocation information assistance, such as referral to real estate agents, moving companies and other relocation direct service providers.
 - iv. Pet Care services, including consulting on and referrals to vets, animal hospitals, pet services, groomers/boarders, transportation services, pet insurance, and obedience classes. Contractor shall also provide educational materials concerning pet care topics, including tip sheets and checklists.
 - v. Adoption Assistance services, including consulting and advice on adoption options and the adoption process, and referrals to public and private adoption agencies, adoption support organizations, single parent adoptions, adopting special needs children, stepparent adoptions, and international

adoptions. Contractor shall also provide educational materials including tip sheets and resource listings.

- vi. School Selection services, including consulting on public vs. private schools, advantages/disadvantages of each option, selecting an appropriate school, home schooling and referrals to elementary and secondary public/private schools and after school programs. Contractor shall also provide educational materials including school age tip sheets, checklists and resource listings.
- vii. College Assistance services, including consulting on private colleges vs. state universities, graduate programs, college admissions process and referrals to state/private colleges and universities, test preparation courses, financial aid, educational consultants. Contractor shall also provide College Guidebook and SAT information.
- viii. Community services, including referrals to low or no cost community resources such as support groups, 12-step meetings, medical and mental health information and resources, and inpatient and outpatient treatment facilities.
- ix. Convenience services to help with daily living, health and wellbeing. Services include home repair locator (plumbers, electricians, etc.), moving services, travel assistance, entertainment services, fitness and wellness centers, children's health resources, alternative medicine, diet and nutrition programs, physician searches, women's health resources, chronic condition support groups.

3. Other EAP-Related Tools and Materials

Contractor shall provide the following EAP-related tools and materials:

- a. ***Self-Help Website***: Unlimited access to www.ClaremontEAP.com which includes information on a variety of health and mental health topics, self-assessments, and a full menu of EAP services.
- b. ***Employee Orientations and Materials***: Onsite/telephone meetings, video/DVD, on-line, and written materials to ensure employees understand how to access EAP services.
- c. ***Newsletters and Promotional Materials***: EAP promotional materials including brochures, posters, wallet cards, magnets and quarterly newsletters.

4. Services for Management and Labor

Contractor shall provide the following services for Management and Labor:

- a. ***Dedicated Account Management, Program Implementation and Evaluation:*** Contractor shall provide a dedicated Account Manager assigned to the SFMTA with a responsibility for understanding SFMTA culture, challenges, and resources; to assist in identifying problem departments and employees, and developing special programs as needed; to integrate the EAP into relevant management practices and policies, service planning, employee orientations, and coordinate the distribution of EAP promotional materials. Contractor's Account Manager will be available to attend any meetings as requested. Contractor's Account Manager will meet with SFMTA's Program Manager at least once per quarter to review the Program.
- b. ***Program Utilization Reports:*** Contractor shall provide SFMTA management with monthly reports addressing utilization data, trainings, consultations, and general observations on a routine. Contractor shall aggregate the monthly reports into quarterly and annual reports to the SFMTA, and as the SFMTA may otherwise request. These reports will not identify specific individuals that have used EAP services or information that otherwise violates privacy laws.
- c. ***Management and Labor Training and Orientations:*** Contractor shall provide manager orientations in-person, by telephone or video. Contractor shall also provide a brief (7 minute) manager orientation video.
- d. ***Employer and Union Representative Consultations:*** Contractor shall provide SFMTA Managers, Human Resources and Union representatives unlimited telephone consultations with qualified counselors and industrial psychologists to facilitate referral of employees that the SFMTA has identified as experiencing difficulties in the work place or who otherwise may benefit from EAP services. [MTA only receives confirmation that the employee has attended EAP sessions when an employee signs a Release of Information form allowing the disclosure.]
- e. ***Formal Organizational Counseling Referrals:*** Contractor shall provide Formal Organizational Counseling Referrals resulting from consultations with HR, managers or labor regarding an employee who the SFMTA identifies as experiencing difficulties in the work place or who may otherwise benefit from EAP services where an employee appears to have personal problem that is affecting his or her work. In these cases, Contractor will notify SFMTA to confirm the employee's participation in counseling. Contractor's reporting to SFMTA will only occur when the employee signs a Release of Information agreement, legally permitting Contractor to report limited information to the SFMTA Liaison.
- f. ***EAP Policy Consultations:*** Contractor shall collaborate with SFMTA on the integration of the EAP into existing SFMTA policies and procedures.
- g. ***Health Fair Participation:*** Contractor will provide EAP, work-life, health and wellness information for SFMTA sponsored Health Fairs.

C. Critical Incidents Program

As set out below, Contractor shall provide counseling to SFMTA employees involved in “critical incidents,” which are defined as work-related assaults, threats of bodily harm, or serious accidents.

Contractor shall provide the following Critical Incidents Program services:

1. A twenty-four-hour/seven day per week counseling on-call hot-line service for critical incident response. The number for the hotline shall be the same as hotline used for the EAP.
2. Contact (or make good faith efforts to contact) any employee involved in a critical incident (within no more than two hours after the SFMTA provides notice to Contractor that a critical incident has occurred) to inform the employee of the Critical Incidents Program and offer Program services. In the event that contact was not made, Contractor is to notify the SFMTA Liaison or her designee, in writing (i.e., via e-mail) as to the reason why contact was not made.
3. Follow-up in person or by telephone within the first twenty-four and forty-eight hours following a critical incident regardless of whether the employee has elected to use the Program after the initial contact. In the event that contact was not made, Contractor is to notify the SFMTA Liaison or her designee, in writing (i.e., via e-mail) as to the reason a follow-up was not made.
4. Provide up to three one-on-one in-person counseling sessions for the employee with a fully qualified and licensed psychologist following any critical incident, and assist employees in securing additional counseling visits with other qualified counselors under the employee’s health plan, or other providers, if necessary.
5. Review and recommend changes in SFMTA’s current critical incident policies and procedures.
6. Perform other critical incident related duties as the SFMTA may assign from time-to-time.

C. Peer Assistance Program

Contractor shall administer a Peer Assistance Program (“PAP”) to work in conjunction with and support of the EAP and Critical Incidents Program. There are currently three (3) fulltime Peer Assistants and up to eight (8) volunteers drawn from the ranks of SFMTA employees to whom Contractor will provide clinical supervision.

Contractor shall provide the following PAP services:

1. Establish guidelines for PAP volunteers as to Program parameters, procedures, and policies concerning provision of services, client contact and training.
2. Clinical supervision of the Peer Assistants, including the presence of a qualified Program director on-site for no less than twenty hours each week, and supplemented by

twenty-four hour telephone access to other clinical resources when the Program director is not on site, or when additional clinical input is required.

3. Provide ongoing training of Peer Assistants so that each may obtain certification as a Certified Employee Assistance Professional.
4. Coordinate Union and SFMTA joint outreach programs to SFMTA employees.
5. Develop and adhere to documented internal quality management standards for PAP services for SFMTA review and audit.
6. Assist the SFMTA in the selection of Peer Assistants.
7. Create and maintain a statistical database by which the SFMTA may evaluate the effectiveness of the PAP and generate monthly or as needed reports on and audit Program service statistics.
8. Individual Case Handling: PAP will refer employees as appropriate to Contractor's EAP for on-going counseling, as well as provide support and case management services.
9. Critical Incident Response: Contractor shall train Peer Assistants in Critical Incident Stress Debriefing/Management (CISD/CISM), as a supplement to Contractor's CIP requirement detailed in Section 1.C above.
10. Organizational Consultations: SFMTA and Union representatives may contact a PAP to request that the PAP contact an employee who appears to be having difficulties in the workplace or otherwise needing assistance that a PAP may appropriately provide.

D. Conflict Resolution Training

Contractor shall provide Conflict Resolution Training to staff identified by SFMTA as described below. The training shall address negotiation, mediation, diplomacy and creative peace building and other means of resolving workplace conflicts.

Contractor shall provide the following Conflict Resolution Training services:

- a) 26 scheduled training sessions, each lasting two hours, to SFMTA employees selected by the SFMTA.
- b) Participants will learn the five methods of conflict resolution and how to arrive at the best method for resolving a specific conflict. The focus of the training is on helping SFMTA employees defuse conflicts with the public, before they escalate into verbal altercations and assaults.

3. Reports

In addition to the reports described above, Contractor shall provide additional written reports as requested by the SFMTA. Format for the content of such reports shall be determined by the SFMTA. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be

submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

4. Department Liaison

In performing the Services provided for in this Agreement, Contractor's liaison with the SFMTA will be:

Mary Donovan
Employee Wellness Manager.
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 6th Floor
San Francisco, CA 94103
E-Mail: mary.donovan@sfmta.com

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Appendix B Calculation of Charges

1. Flat Fee per Month

Contractor shall perform all services described in this Agreement and any ancillary administrative tasks necessary to perform said services in exchange for the payment of an all-inclusive Monthly Fee by SFMTA. Said Monthly Fee shall be Thirty Thousand Five Hundred Ninety-Five Dollars (\$30,595) for the term of this Agreement.

Contractor shall submit to the City an invoice for the Monthly Fee for the services rendered by Contractor in the immediately preceding month. The City will not prepay for services.