



Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

April 3, 2008

Ila Deiss
Assistant United States Attorney
United States Attorney's Office
Northern District of California
9th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102-3495

Re: Revised Southwest Border Prosecution Initiative (SWBPI) Corrective Action Plan

Dear Ms. Deiss:

Below, please find the City and County of San Francisco's revised Corrective Action Plan, modified from the version sent to the Department of Justice Office of Justice Programs on February 25, 2008 at the direction of the United States Attorney's Office (USAO). The changes from our earlier version are as follows:

1. The Plan has been revised to include the claim period from October 2006 through December 2006, for which the City submitted a claim for \$642,500 and received a remittance of \$336,254.37. This claim period was not included in Audit Report GR-60-08-001 issued in November 2007. All references to the end of the time period of the claims covered by the Plan have been revised from 9/30/06 to 12/31/06.
2. The list of federal agencies in sections II.A.1. and II.B.3. are now the same.
3. The list of supporting documentation in section II.A.3. includes arrest date and total number of days in detention.

The Department of Justice Office of the Inspector General (OIG) and Office of Justice Programs (OJP) have determined that the City and County of San Francisco's interpretation of the SWBPI program guidelines in the cases reviewed during its audit was erroneous. The City and County of San Francisco made a good faith effort to prepare claims in compliance with Bureau of Justice Assistance (BJA) guidelines in effect at the time, and which we believed met the program criteria at the time of the claim. During the audit process, all City agencies involved complied with the requests of the auditors to provide case files and other documentation. At this time, we are committed to resolving the questioned costs promptly and completely and to fulfilling the elements of this revised Corrective Action Plan.

I. The Person Responsible for Overseeing Implementation of the Corrective Action Plan.

Russ Giuntini, Chief Assistant District Attorney.

II. Specific Steps Taken to Comply with the Audit Recommendations & U.S. Attorney's Direction:

A. Remedy \$5,751,150 received by San Francisco for the 2,344 cases submitted for reimbursement.

1. Verify Federal Initiation

The City and County of San Francisco continues to believe that a number of cases meet the program requirements as outlined in the audit report, as a number of case files not chosen for review by the auditors contained documentation of Federal initiation consistent with the requirements as explained during the audit process.

In addition, staff of the District Attorney's Office have contacted eleven Federal law enforcement offices, requesting lists of arrests made during the period from 1/1/03 through 12/31/06 (with disposition dates from 10/1/03 through 12/31/06) which were prosecuted by the District Attorney's Office. We have requested lists of arrests and asked that the agencies include arrests made: 1) directly by Federal officers; 2) pursuant to an investigation involving one of their officers, and/or; 3) in the context of a task force in which a Federal agency or officer participated in the investigation or arrest process.

Specifically, the District Attorney's Office has requested arrest information for cases initiated by the following federal agencies: Bureau of Alcohol, Tobacco & Firearms, D.E.A., Department of Defense, F.B.I., Federal Protection Service, Homeland Security, Park Police, Postal Inspection Service, Secret Service, State Department, and Veterans Affairs. In addition, the San Francisco Police Department (SFPD) is compiling lists of arrests made by specific SFPD officers during such time as they were designated as Federal law enforcement officers from 1/1/03 through 12/31/06.

When the lists are received by the District Attorney's Office from the above-mentioned Federal law enforcement agencies and the San Francisco Police Department, those lists will be cross-referenced against the SWBPI claim categories and ensuring disposition dates during the appropriate quarters.

2. Verify Declination or Referral to the District Attorney's Office

The list of SWBPI cases for each quarter claimed that meet OJP's definition of Federal initiation will then be examined to document Federal declination/referral to the District Attorney's Office for prosecution. Many of the cases in question are narcotics arrests which fall under a blanket prosecution policy of the United States Attorney's Office for the Northern District of California. That blanket policy specifies the threshold quantities required by the U.S. Attorney in order to consider prosecution under Federal law. Other cases were directly referred for prosecution to the San Francisco District Attorney by the U.S. Attorney or by the arresting Federal law enforcement agencies (e.g., DUI arrests on Federal land referred by the U.S. Park Police.) The specific mechanism of referral or declination will be documented for each case.

3. *Forward Supporting Documentation to the U.S. Attorney's Office*

Supporting documentation will be provided to your office in the form of a list of cases for each Federal quarter in question, including:

- a. case number,
- b. defendant's name,
- c. federal agency that initiated the case,
- d. referral/declination mechanism and date,
- e. a synopsis of the case,
- f. the date of disposition,
- g. arrest date, and
- h. total number of days in detention.

In addition, the City and County will request letters from the initiating Federal agencies confirming the list of cases. This process will be completed and the supporting documentation sent to your office by July 31, 2008. If there is additional information or verification from the Federal agencies that you would like provided for each case, please let us know as soon as possible so that we can gather that information and include it in the documentation sent to your office.

B. Maintain a List of Cases Submitted for Future Reimbursement.

The City and County of San Francisco is implementing a set of procedures for any future reimbursement claims to ensure consistent documentation of the eligibility of cases on which SWBPI submissions are based and to ensure compliance with all OJP requirements as specified in the November 2007 audit report (GR-60-08-001). San Francisco did not submit a claim for cases disposed between January and September 2007. The deadline to submit that claim was January 10, 2008, and our new procedures had not yet been put in place.

The following steps have been completed and/or are being taken to ensure that all future reimbursements are fully supported as per the guidelines and instructions provided by the auditors during their site visit:

1. The City and County has assigned internal City staff and discontinued the use of an independent contractor who managed the prior claim process, to ensure a heightened level of program claiming process validation.
2. A clear set of steps to be taken to prepare each claim has been detailed. The new procedures specify which local agency is responsible for each task, including data validation.

The new procedures mirror the steps described above for gathering supporting documentation for prior quarters. The District Attorney's Office will be responsible for compiling a complete list of cases which includes the Federal initiating agency and date of referral for local prosecution. We have asked the following Federal agencies to work with us to create a tracking system for cases they refer, including: Bureau of Alcohol, Tobacco & Firearms, D.E.A., Department of Defense, F.B.I., Federal Protection Service, Homeland Security, Park Police, Postal Inspection Service, Secret Service, State Department, and Veterans Affairs. Prospectively, a running list of potentially eligible cases will be maintained from the time of referral and included in a reimbursement claim once there has been a disposition in the case. Once the list for a given

quarter, including the date of disposition, is verified by the District Attorney's Office, the Sheriff's Office will document the booking date and release date for each defendant. The District Attorney's Office will maintain documentation from referring Federal Law Enforcement agencies verifying Federal initiation and declination/referral for each case.

3. The Controller's Office will review the submission and provide an additional level of quality control by reviewing a sample of files to ensure that all eligibility and claiming issues are documented (including Federal initiation, declination/referral, local prosecution, detention services, disposition date) and to ensure that there are no duplicate cases included in the reimbursement submission.
4. The final list will be stored by both the District Attorney and Controller. Supporting documentation will be maintained by the District Attorney's Finance Division.

III. Timetable for Implementation of the Recommendations.

TASK	RESPONSIBLE DEPARTMENT	DUE DATE
Request case lists from Federal agencies	District Attorney	Completed
Review case lists from Federal agencies, clarify any questions	District Attorney	April 25, 2008
Submit case lists of arrests by cross-designated SFPD officers	Police Department	April 25, 2008
Document declination or referral date	District Attorney	May 30, 2008
Document date of arrest and total number of days in detention	District Attorney, Sheriff	June 23, 2008
Prepare spreadsheet of cases for USAO	District Attorney	July 1, 2008
Review and validate spreadsheet of cases for USAO	Controller	July 16, 2008
Transmit case spreadsheet and letters from Federal initiating agencies to USAO	Controller	July 31, 2008

IV. Description of Monitoring to be Conducted to Ensure Implementation.

The Chief Assistant District Attorney will be responsible for monitoring compliance with the above timeline for providing supporting documentation to USAO and for overseeing the preparation of any future reimbursement claims. The District Attorney's Chief Financial Officer will review future claims and back-up case files to ensure supporting documentation for all claims.

Staff from the Office of the Controller will review the claims for reimbursement prepared by the District Attorney's Office, including validation that cases are correctly claimed within the disposition categories.

V. Resolving Audit Findings.

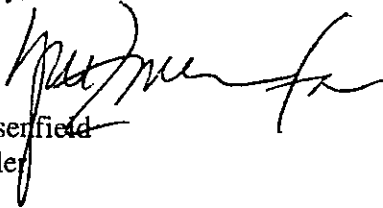
As stated above, the City believed at the time the claims were submitted that all cases upon which the claims were based met the requirements of the SWBPI program. We understand that the OIG auditors and OJP have determined that our interpretation of the guidelines in some cases was erroneous.

Based on documentation already available in files not reviewed by the auditors and discussions with federal law enforcement agencies, we believe that we will be able to provide supporting documentation

for a portion of the cases. While we do not yet know the precise reimbursement value of those cases, we assume a portion of the claim value will still be eligible given the clarified guidelines. A repayment check in the amount of \$2,700,000 was sent on February 28, 2008. Once the process described above is completed and the value of the supported cases is determined, a check for any remaining balance will be forwarded to your office no later than August 4, 2008.

The City and County of San Francisco is committed to taking all necessary steps to ensure full compliance with OJP's requirements for this program as reflected in the most recent program guidelines, revised July 2007, and with implementing this revised Corrective Action Plan.

Sincerely,



Ben Roserfield
Controller



Edward Harrington
Controller

Monique Zmuda
Deputy Controller

March 27, 2008

Ila Deiss
Assistant United States Attorney
United States Attorney's Office
Northern District of California
9th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102-3495

Re: Revised Southwest Border Prosecution Initiative (SWBPI) Corrective Action Plan

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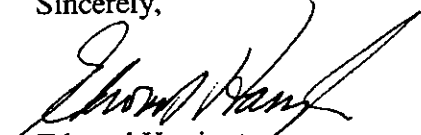
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Sincerely,

A handwritten signature in black ink, appearing to read "Edward Harrington", written in a cursive style.

Edward Harrington
Controller

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

MOLLY S. STUMP
Deputy City Attorney

DIRECT DIAL: (415) 554-4628

E-MAIL: molly.stump@sfgov.org

February 29, 2008

SENT VIA FAX 415-436-7169 AND U.S. MAIL

Ila Deiss
Assistant United States Attorney
United States Attorney's Office, Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *Audit of Southwest Border Prosecution Initiative funding received by San Francisco*

Dear Ms. Deiss:

You asked me to determine the status of San Francisco's \$2,700,000 remittance to the Office of Justice Programs ("OJP") for Southwest Border Prosecution Initiative ("SWBPI") funds previously paid to San Francisco, as described in the February 25, 2008 Corrective Action Plan.

Yesterday, San Francisco cut a check and delivered it to OJP by overnight express. Attached are copies of the check, a cover letter to Donna Hamilton of OJP, and the overnight express waybill. Please let me know if there is anything else you need.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Molly S. Stump".

MOLLY S. STUMP
Deputy City Attorney



Edward Harrington
Controller

Monique Zmuda
Deputy Controller

February 28, 2008

Donna Hamilton
Office of Justice Programs
Office of Audit, Assessment and Management
Audit and Review Division
810 Seventh Street, N.W.
Washington, D.C. 20531

Re: Southwest Border Prosecution Initiative (SWBPI) Corrective Action Plan

Dear Ms. Hamilton:

Enclosed please find the remittance of \$2,700,000 as discussed in the City and County's February 25, 2008 Corrective Action Plan. A copy of the Plan is attached for your reference.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Allersma".

Michelle Allersma
Assistant Budget & Revenue Manager

encl

THIS MULTITONE AREA OF THE DOCUMENT CHANGES COLOR GRADUALLY AND EVENLY FROM DARK TO LIGHT WITH DARKEN AREAS BOTH TOP & BOTTOM

BANK OF AMERICA N.T. & S.A.
San Francisco, CA

CITY AND COUNTY OF SAN FRANCISCO

PAYABLE AT ANY BANK IF PRESENTED WITHIN NINETY DAYS

1600-3512128

1600 -03512128

11-36
1210

DATE
02/28/2008

PAY

TWO MILLION SEVEN HUNDRED THOUSAND,
DOLLARS AND NO CENTS

AMOUNT
\$ **2,700,000.00

TO THE
ORDER OF

OFFICE OF JUSTICE PROGRAMS
ATTN: DONNA HAMILTON, AUDIT & REVIEW DIV
810 SEVENTH STREET, NW
WASHINGTON DC 20531

 *Edward Herrera*
CONTROLLER

⑈6003512128⑈ ⑆121000358⑆ 14990⑈80080⑈

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.

CCOT172346 01

02/28/2008

1600 03512128

DOCUMENT NUMBER	DOC REF NUMBER	AMOUNT
RRCO0800000101	RR08-SY-0001	1,147,500.00
REVENUE REFUND FROM THE SWBPI PROGRAM		
RRCO0800000102	RR08-SY-0001	1,147,500.00
REVENUE REFUND FROM THE SWBPI PROGRAM		
RRCO0800000103	RR08-SY-0001	405,000.00
REVENUE REFUND FROM THE SWBPI PROGRAM		

02/28/2008

2,700,000.00

OFFICE OF JUSTICE PROGRAMS
ATTN: DONNA HAMILTON, AUDIT & REVIEW DIV
810 SEVENTH STREET, NW
WASHINGTON DC 20531



EXPRESS OVERNITE		PICK UP DRIVER <i>San Jose</i>		DATE: <i>2/28/08</i>	
FROM (YOUR NAME)		TIME OF PICK UP <i>4:15</i> <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M.		SHIPPING NUMBER E 2648645	
SHIP COMPANY <i>Michelle Allersma</i>		ATTENTION <i>Dana Hamilton</i>		PHONE NUMBER <i>(202) 305-7483</i>	
SHIP CONTROLLER'S OFFICE		COMPANY <i>DOJ OJP Audit & Review Division</i>			
SHIP STREET ADDRESS <i>1 DR. CARLTON B. GOODLET 3RD FLOOR</i>		STREET ADDRESS (EO CANNOT DELIVER TO P.O. BOX OR P.O. ZIP CODES) <i>810 Seventh Street NW</i>			
SHIP CITY <i>SAN FRANCISCO</i>		STATE <i>CA</i>		ZIP CODE <i>94102</i>	
CUSTOMER REFERENCE NUMBER		SHIPPER BILLING ACCOUNT NUMBER <i>2114</i>			

SHIPPER E-MAIL ADDRESS <i>Michelle.Allersma@stgov.org</i>		EXPRESS OVERNITE 1501 MARIPOSA STREET #317 SAN FRANCISCO, CA 94107 1-800-728-1100	
PIECES <i>1</i>		WEIGHT SUBJECT TO DIMENSIONAL CORRECTION	
TERMS AND CONDITIONS ON REVERSE SIDE OF THIS FORM ARE PART OF THE CONTRACT		SHIPPING NUMBER E 2648645	

SERVICES: CHECK ONE CONSULT YOUR ESO TARIFF FOR SPECIFIC SERVICES, CHARGES AND DESTINATIONS SERVED.

<input checked="" type="checkbox"/> OVERNIGHT EXPRESS	GUARANTEED DELIVERY NEXT BUSINESS DAY, BEFORE 10:30 A.M. TO MOST DESTINATIONS.	<input type="checkbox"/> NO DELIVERY SIGNATURE REQUIRED	SHIPPER RELEASES ALL LIABILITY RESULTING FROM ANY CLAIM, REGARDLESS IF ANY VALUE IS DECLARED.
<input type="checkbox"/> AFTERNOON DELIVERY	DELIVERY GUARANTEED BY NEXT BUSINESS DAY BY 3:00 P.M. NOT AVAILABLE TO ALL DESTINATIONS.	<input type="checkbox"/> DECLARED VALUE \$ _____	MAXIMUM VALUE FOR CARRIAGE IS \$5000. .80 PER \$100.00 DECLARED VALUE.
<input type="checkbox"/> ECONOMY 2nd DAY	DELIVERY 2nd BUSINESS DAY BY THE END OF THE BUSINESS DAY. SOME PORTS MAY BE SERVED 3rd DAY.	<input type="checkbox"/> INFO (NEXT FLIGHT OUT)	SAME DAY SERVICE IMMEDIATE PICK-UP AND DELIVERY. ADDITIONAL CHARGES APPLY.
<input type="checkbox"/> PRIORITY 9 A.M.	DELIVERY NEXT BUSINESS DAY BY 9 A.M. TO MOST DESTINATIONS. ADDITIONAL CHARGES APPLY DEPENDING UPON DESTINATION.	<input type="checkbox"/> INTERNATIONAL	CONTACT EXPRESS SERVICES FOR SPECIFIC TRANSIT TIMES AND RATES. A COMPLETE DESCRIPTION OF CONTENTS FOR ALL INTERNATIONAL PACKAGES.
<input type="checkbox"/> SATURDAY DELIVERY	ADDITIONAL CHARGES APPLY. NOT AVAILABLE TO ALL LOCATIONS.	<input type="checkbox"/> GROUND	DELIVERY TIMES VARY BETWEEN 3 TO 8 BUSINESS DAYS.

SHIPPER'S COPY

File

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

MOLLY S. STUMP
Deputy City Attorney

DIRECT DIAL: (415) 554-4628
E-MAIL: molly.stump@sfgov.org

February 25, 2008

SENT VIA FAX 415-436-7169 AND U.S. MAIL

Ila Deiss
Assistant United States Attorney
United States Attorney's Office, Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *Audit of Southwest Border Prosecution Initiative funding received by San Francisco*

Dear Ms. Deiss:

Attached to this letter is a copy of the Corrective Action Plan that San Francisco sent today to Donna Hamilton, U.S. Department of Justice, Office of Justice Programs, Office of Audit, Assessment, and Management, regarding funding received by San Francisco under the Southwest Border Prosecution Initiative (SWBPI).

As described in the Corrective Action Plan, San Francisco is taking the following steps to resolve the costs questioned by the auditors: (1) immediately remitting \$2,700,000 to the Office of Justice Programs; (2) providing supporting documentation for some portion of the remaining questioned costs and remitting the balance, no later than July 14, 2008; and (3) submitting a plan to ensure that all future claims comply with current program requirements.

San Francisco is committed to resolving this matter promptly and fully. To that end, we would like to meet with you at your very earliest convenience to discuss your concerns. I will call you next week, once you have had an opportunity to review the Corrective Action Plan, to arrange a time to meet. Please do not hesitate to contact me before then if there is anything further you need.

Very truly yours,

DENNIS J. HERRERA
City Attorney

MOLLY S. STUMP
Deputy City Attorney

Letter to Ila Deiss
Page 2
February 25, 2008

cc: Edward M. Harrington
Controller
City and County of San Francisco

Russ Giuntini
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Timothy P. Silard
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Donna Hamilton
Office of Justice Programs
Office of Audit, Assessment and Management
Audit and Review Division
810 Seventh Street, N.W.
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Re: *Southwest Border Prosecution Initiative (SWBPI) Corrective Action Plan*

Dear Ms. Hamilton:

Below, please find the City and County of San Francisco's proposed Corrective Action Plan in response to your letter dated January 24, 2008.

We are committed to resolving the questioned costs promptly and completely and to fulfilling the elements of the Corrective Action Plan detailed in your letter.

The Department of Justice Office of the Inspector General (OIG) and Office of Justice Programs (OJP) have determined that the City and County of San Francisco's interpretation of the SWBPI program guidelines in the cases reviewed during its audit was erroneous. The City and County of San Francisco made a good faith effort to prepare claims in compliance with Bureau of Justice Assistance's (BJA) guidelines in effect at the time. Each claim was based upon cases prosecuted by local authorities, which we believed met the program criteria at the time of the claim. During the audit process, all City agencies involved complied with the requests of the auditors to provide case files and other documentation.

Sections I through V below set forth action steps to promptly and completely remedy the questioned costs, including an immediate remittance of \$2,700,000 for estimated disallowances given the clarified guideline requirements, and a specific plan to fulfill the four required elements of the Corrective Action Plan. Staff in the District Attorney's Office, Sheriff's Department, and Controller's Office are available to discuss this plan and to modify it based on your feedback.

I. The Person Responsible for Overseeing Implementation of the Corrective Action Plan.

Russ Giuntini, Chief Assistant District Attorney.

II. Specific Steps Taken to Comply with the Audit Recommendations.

A. Remedy the \$5,414,895 in Questioned Costs Received by San Francisco for the 2,241 Disallowed Cases Submitted for Reimbursement.

1. Verify Federal Initiation

The City and County of San Francisco continues to believe that a number of cases meet the program requirements as outlined in the audit report, as a number of case files not chosen for review by the auditors contained documentation of Federal initiation consistent with the requirements as explained during the audit process.

In addition, staff of the District Attorney's Office have contacted five Federal law enforcement offices, requesting lists of arrests made during the period from 1/1/03 through 9/30/06 (with disposition dates from 10/1/03 through 9/30/06) which were prosecuted by the District Attorney's Office. We have requested lists of arrests and asked that the agencies include arrests made: 1) directly by Federal officers; 2) pursuant to an investigation involving one of their officers, and/or; 3) in the context of a task force in which a Federal agency or officer participated in the investigation or arrest process.

Specifically, the District Attorney's Office has requested arrest information for cases initiated by the Drug Enforcement Agency, Federal Bureau of Investigation, Postal Service, Park Police and Secret Service. In addition, the San Francisco Police Department (SFPD) is compiling lists of arrests made by specific SFPD officers during such time as they were designated as Federal law enforcement officers from 1/1/03 through 9/30/06.

When the lists are received by the District Attorney's Office from the above-mentioned Federal law enforcement agencies and the San Francisco Police Department, those lists will be cross-referenced against the SWBPI claim categories and ensuring disposition dates during the appropriate quarters.

2. Verify Declination or Referral to the District Attorney's Office

The list of SWBPI cases for each quarter claimed that meet OJP's definition of Federal initiation will then be examined to document Federal declination/referral to the District Attorney's Office for prosecution. Many of the cases in question are narcotics arrests which fall under a blanket prosecution policy of the United States Attorney's Office for the Northern District of California. That blanket policy specifies the threshold quantities required by the U.S. Attorney in order to consider prosecution under Federal law. Other cases were directly referred for prosecution to the San Francisco District Attorney by the U.S. Attorney or by the arresting Federal law enforcement agencies (e.g., DUI arrests on Federal land referred by the U.S. Park Police.) The specific mechanism of referral or declination will be documented for each case.

3. Forward Supporting Documentation to the Office of Justice Programs

Supporting documentation will be provided to the Office of Justice Programs in the form of a list of cases for each Federal quarter in question, including:

- a. case number,
- b. defendant's name,
- c. Federal agency that initiated the case,
- d. referral/declination mechanism and date,
- e. a synopsis of the case, and
- f. the date of disposition.

In addition, the City and County will request letters from the initiating Federal agencies confirming the list of cases. This process will be completed and the supporting documentation sent to your office by July 14, 2008, if this timeline is agreeable to you. If there is additional information or verification from the Federal agencies that you would like provided for each case, we greatly appreciate your letting us know by Monday, March 10, 2008, to ensure we can gather that information and include it in the documentation sent to OJP.

B. Maintain a List of Cases Submitted for Future Reimbursement.

The City and County of San Francisco is implementing a set of procedures for any future reimbursement claims to ensure consistent documentation of the eligibility of cases on which SWBPI submissions are based and to ensure compliance with all OJP requirements as specified in the November 2007 audit report (GR-60-08-001). San Francisco did not submit a claim for cases disposed between January and September 2007. The deadline to submit that claim was January 10, 2008, and our new procedures had not yet been put in place.

The following steps have been completed and/or are being taken to ensure that all future reimbursements are fully supported as per the guidelines and instructions provided by the auditors during their site visit:

1. The City and County has assigned internal City staff and discontinued the use of an independent contractor who managed the prior claim process, to ensure a heightened level of program claiming process validation.
2. A clear set of steps to be taken to prepare each claim has been detailed. The new procedures specify which local agency is responsible for each task, including data validation.
3. The new procedures mirror the steps described above for gathering supporting documentation for prior quarters. The District Attorney's Office will be responsible for compiling a complete list of cases which includes the Federal initiating agency and date of referral for local prosecution. We have asked the following Federal agencies to work with us to create a tracking system for cases they refer: Drug Enforcement Agency, Bureau of Alcohol, Tobacco and Firearms, Postal Service, Federal Bureau of Investigation, Homeland Security, Department of Defense, Veterans Affairs, State Department, and Federal Protective Service. Prospectively, a running list of potentially eligible cases will be maintained from the time of referral and included in a reimbursement claim once there has been a disposition in the case. Once the list for a given quarter, including the date of disposition, is verified by the District Attorney's Office, the Sheriff's Office will document the booking date and release date for each defendant. The District Attorney's Office will maintain documentation from referring Federal Law Enforcement agencies verifying Federal initiation and declination/referral for each case.

4. The Controller's Office will review the submission and provide an additional level of quality control by reviewing a sample of files to ensure that all eligibility and claiming issues are documented (including Federal initiation, declination/referral, local prosecution, detention services, disposition date) and to ensure that there are no duplicate cases included in the reimbursement submission.
5. The final list will be stored by both the District Attorney and Controller. Supporting documentation will be maintained by the District Attorney's Finance Division.

III. Timetable for Implementation of the Recommendations.

TASK	RESPONSIBLE DEPARTMENT	DUE DATE
Request case lists from Federal agencies	District Attorney	Completed
Review case lists from Federal agencies, clarify any questions	District Attorney	April 25, 2008
Submit case lists of arrests by cross-designated SFPD officers	Police Department	April 25, 2008
Cross-reference Federal and SFPD case lists with SWBPI claims	District Attorney	May 9, 2008
Document declination or referral date	District Attorney	May 30, 2008
Prepare spreadsheet of cases for OJP	District Attorney	June 13, 2008
Review and validate spreadsheet of cases for OJP	Controller	June 27, 2008
Transmit case spreadsheet and letters from Federal initiating agencies to OJP	Controller	July 14, 2008

IV. Description of Monitoring to be Conducted to Ensure Implementation.

The Chief Assistant District Attorney will be responsible for monitoring compliance with the above timeline for providing supporting documentation to OJP and for overseeing the preparation of any future reimbursement claims. The District Attorney's Chief Financial Officer will review future claims and back-up case files to ensure supporting documentation for all claims.

The Office of the Controller will review the claims for reimbursement prepared by the District Attorney's Office, including validation that cases are correctly claimed within the disposition categories.

V. Resolving Questioned Costs

As stated above, the City believed at the time the claims were submitted that all cases upon which the claims were based met the requirements of the SWBPI program. We understand that the OIG auditors and OJP have determined that our interpretation of the guidelines in some cases was erroneous.

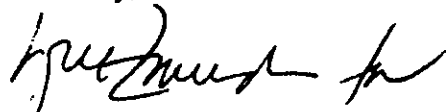
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determined, a check for any remaining balance of questioned costs will be forwarded to your office no later than July 14, 2008.

The City and County of San Francisco is committed to taking all necessary steps to ensure full compliance with OJP's requirements for this program as reflected in the most recent program guidelines, revised July 2007. Staff in the District Attorney's Office, Sheriff's Department, and Controller's Office are available to discuss this plan and to modify it based on your feedback.

Thank you in advance for your guidance during this process.

Sincerely,



Edward Harrington
Controller



Edward Harrington
Controller

Monique Zmuda
Deputy Controller

February 25, 2008

Donna Hamilton
Office of Justice Programs
Office of Audit, Assessment and Management
Audit and Review Division
810 Seventh Street, N.W.
Washington, D.C. 20531

Re: Southwest Border Prosecution Initiative (SWBPI) Corrective Action Plan

Dear Ms. Hamilton:

Below, please find the City and County of San Francisco's proposed Corrective Action Plan in response to your letter dated January 24, 2008.

We are committed to resolving the questioned costs promptly and completely and to fulfilling the elements of the Corrective Action Plan detailed in your letter.

The Department of Justice Office of the Inspector General (OIG) and Office of Justice Programs (OJP) have determined that the City and County of San Francisco's interpretation of the SWBPI program guidelines in the cases reviewed during its audit was erroneous. The City and County of San Francisco made a good faith effort to prepare claims in compliance with Bureau of Justice Assistance's (BJA) guidelines in effect at the time. Each claim was based upon cases prosecuted by local authorities, which we believed met the program criteria at the time of the claim. During the audit process, all City agencies involved complied with the requests of the auditors to provide case files and other documentation.

Sections I through V below set forth action steps to promptly and completely remedy the questioned costs, including an immediate remittance of \$2,700,000 for estimated disallowances given the clarified guideline requirements, and a specific plan to fulfill the four required elements of the Corrective Action Plan. Staff in the District Attorney's Office, Sheriff's Department, and Controller's Office are available to discuss this plan and to modify it based on your feedback.

I. The Person Responsible for Overseeing Implementation of the Corrective Action Plan.

Russ Giuntini, Chief Assistant District Attorney.

II. Specific Steps Taken to Comply with the Audit Recommendations.

A. Remedy the \$5,414,895 in Questioned Costs Received by San Francisco for the 2,241 Disallowed Cases Submitted for Reimbursement.

1. Verify Federal Initiation

The City and County of San Francisco continues to believe that a number of cases meet the program requirements as outlined in the audit report, as a number of case files not chosen for review by the auditors contained documentation of Federal initiation consistent with the requirements as explained during the audit process.

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In addition, the City and County will request letters from the initiating Federal agencies confirming the list of cases. This process will be completed and the supporting documentation sent to your office by July 14, 2008, if this timeline is agreeable to you. If there is additional information or verification from the Federal agencies that you would like provided for each case, we greatly appreciate your letting us know by Monday, March 10, 2008, to ensure we can gather that information and include it in the documentation sent to OJP.

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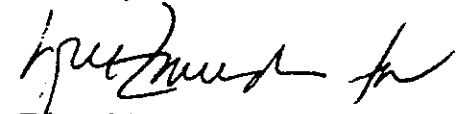
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The City and County of San Francisco is committed to taking all necessary steps to ensure full compliance with OJP's requirements for this program as reflected in the most recent program guidelines, revised July 2007. Staff in the District Attorney's Office, Sheriff's Department, and Controller's Office are available to discuss this plan and to modify it based on your feedback.

Thank you in advance for your guidance during this process.

Sincerely,



Edward Harrington
Controller



U.S. Department of Justice

United States Attorney
Northern District of California

9th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495

(415) 436-7124

FAX:(415) 436-7169

February 14, 2008

Via Facsimile and Certified Mail

Molly S. Stump
Deputy City Attorney
City and County of San Francisco
Office of the City Attorney
1 Dr. Carlton B. Goodlett Place
Room 234
San Francisco, CA 94102

Dear Ms. Stump:

Thank you for your telephone call and letter from yesterday. I want to be sure that you understand that while the U.S. Attorney's Office is looking forward to reviewing San Francisco's response to Ms. Donna Hamilton's January 24, 2008 letter, our inquiry transcends a mere corrective action plan. This Office is, in fact, conducting its own assessment of whether to file a civil suit against the City and County of San Francisco for violations of the Federal False Claims Act. Such a suit would focus primarily on funds erroneously paid to San Francisco under the Office of Justice Programs (OJP) Southwest Border Prosecution Initiative (SWBPI).

Again, before we decide whether to file suit, we would like the opportunity to discuss the audit and review together all documentation regarding San Francisco's participation in SWBPI. If I do not hear back from you by March 7, 2008, I will assume that San Francisco does not wish to discuss this matter further and this Office will proceed to take action without the benefit of your views.

Very truly yours,

JOSEPH P. RUSSONIELLO
United States Attorney

By:


I.A. DEISS

Assistant United States Attorney

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

MOLLY S. STUMP
Deputy City Attorney

DIRECT DIAL: (415) 554-4628
E-MAIL: molly.stump@sfgov.org

February 13, 2008

SENT VIA FAX 415-436-7169 AND U.S. MAIL

Ila Deiss
Assistant United States Attorney
United States Attorney's Office, Northern District of California
45 Golden Gate Avenue
San Francisco, CA 94102

Re: *Audit of Southwest Border Prosecution Initiative funding received by San Francisco*

Dear Ms. Deiss:

Thank you for taking the time to speak with me today. I write to confirm our conversation and in response to your letter to San Francisco's Controller Edward M. Harrington, dated January 29, 2008, concerning funding received by San Francisco under the Southwest Border Prosecution Initiative (SWBPI). I represent the City and County of San Francisco, including the District Attorney's Office and the Controller, in this matter.

I have attached a letter from Donna Hamilton, U.S. Department of Justice, Office of Justice Programs, Office of Audit, Assessment, and Management to Mr. Harrington, which we received on January 29, 2008. Ms. Hamilton instructs the City to provide a corrective action plan addressing the audit recommendation issued by the Office of Inspector General respecting SWBPI funding received by the City and County of San Francisco. San Francisco confirmed with Ms. Hamilton that the corrective action plan should be provided by February 25, 2008.

We will provide you with a copy of the response that we send to Ms. Hamilton. Based on our telephone conversation, it is my understanding that this is a satisfactory response to your January 29, 2008 letter, at least until such time as you have an opportunity to review San Francisco's response to Ms. Hamilton.

If I have not accurately described the status of this matter, please contact me at your earliest convenience. Thank you for your attention to this matter.

Very truly yours,

DENNIS J. HERRERA
City Attorney

MOLLY S. STUMP
Deputy City Attorney

Letter to Ila Deiss
Page 2
February 13, 2008

cc: Edward M. Harrington
Controller
City and County of San Francisco

Timothy P. Silard
Office of the District Attorney
City and County of San Francisco



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

Washington, D.C. 20531

JAN 24 2008

Edward M. Harrington
Controller
City and County of San Francisco
Office of the Controller
1 Dr. Carlton B. Goodlett Place
City Hall, Room 316
San Francisco, CA 94102-4694

RECEIVED
07 JAN 29 PM 3:15
CITY & COUNTY OF S.F.
CONTROLLERS ADMINISTRATION

Re: Audit Report Number GR-60-08-001

Dear Mr. Harrington:

The Department of Justice (DOJ), Office of the Inspector General (OIG), Denver Regional Audit Office, conducted an audit of the Southwest Border Prosecution Initiative (SWBPI) funding received by the City and County of San Francisco (CCSF).

The report contains one recommendation and \$5,414,895 in questioned costs. In order to close this audit report, it is required that the CCSF provide a corrective action plan to address the recommendation.

Remedy the \$5,414,895 in questioned costs received by San Francisco for the 2,241 unallowable cases submitted for reimbursement.

The CCSF must provide documentation to support the \$5,414,895 in questioned costs for the 2,241 cases in which the CCSF received reimbursement from the SWBPI funding program. This documentation should only include Federally initiated and Federally declined-referred cases that were submitted during the application periods in which the CCSF received reimbursement. The list of cases should be detailed to include, the case number, defendant's name, Federal agency that initiated the case, a synopsis of the case, the date of disposition, and/or the date of declination.

A Federally initiated case results from a criminal investigation or an arrest involving Federal law enforcement authorities for a potential violation of Federal criminal law, including task forces in which a Federal agency or officer participates in the investigation or arrest process. A Federal declination/referral occurs when, during an investigation or following an arrest, a U.S. Attorney or a Federal law enforcement official decides not to pursue Federal criminal charges against a defendant (declination) and requests that a state or local jurisdiction prosecute the defendant for possible violation of state or local criminal statutes (referral).

In addition, the CCSF must provide a copy of procedures implemented to ensure that it maintains a listing of cases submitted for future reimbursement.

Please note that the SWBPI funding program allows for financial assistance of eligible criminal cases in which the case resolution date falls within the SWBPI application period and must be submitted before the last day of the application period in order to receive financial assistance for the case. If the cases were not originally submitted during the corresponding application quarter, the Bureau of Justice Assistance will not retroactively approve these cases for reimbursement.

The corrective action plan should include the following elements for the recommendations:

1. The name and number of the contact person responsible for the corrective action plan.
2. Specific steps taken to comply with the recommendations.
3. Timetable for performance and/or implementation dates for the recommendations.
4. Description of monitoring to be conducted to ensure implementation.

Please note that Federal grant recipients are responsible for ensuring that findings related to the independent audits of federal funds are resolved in a timely manner. The Office of Justice Programs, the Bureau of Justice Assistance, and the Office of the Inspector General are prepared to provide technical assistance, if requested. Grantees who are not in compliance with federal requirements may be subject to administrative action such as withholding of funds or noncertification of new grant awards.

Please provide this matter your immediate attention. A response is due to me within 30 days from the date of this letter at the following address:

Office of Justice Programs
Office of Audit, Assessment, and Management
Audit and Review Division
Attention: Donna Hamilton
810 Seventh Street, NW
Washington, DC 20531

Thank you in advance for your cooperation. If you have any questions, please feel free to contact me at (202) 305-7483.

Sincerely,



Donna Hamilton
Audit Liaison Specialist
Audit and Review Division

cc: LeToya A. Johnson
Deputy Director, Audit and Review Division
Office of Audit, Assessment, and Management

cc: Hope D. Janke
Counsel to the Director
Bureau of Justice Assistance

Amanda LoCicero
Audit Liaison
Bureau of Justice Assistance

Linda Hammond-Deckard
Policy Advisor
Bureau of Justice Assistance

Richard P. Theis
Assistance Director
Audit Liaison Group
Justice Management Division

David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General
(Audit Report No.: GR-60-08-001)



U.S. Department of Justice

United States Attorney
Northern District of California

RECEIVED

07 JAN 30 PH 4:00

CITY & COUNTY OF S.F.
CONTROLLERS ADMINISTRATION

9th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495

(415) 436-7124
FAX:(415) 436-7169

January 29, 2008

Via Facsimile and Certified Mail

Edward M. Harrington
City and County of San Francisco
Office of the Controller
1 Dr. Carlton B. Goodlett Place
Room 316
San Francisco, CA 04102-4694

Dear Mr. Harrington:

This Office has received an audit report from the United States Department of Justice, Office of the Inspector General, Audit Division. The audit is of the funding awarded by Office of Justice Programs (OJP) under the Southwest Border Prosecution Initiative (SWBPI) to the City and County of San Francisco. As of December 5, 2007, San Francisco had received SWBPI funding totaling \$5,751,149.

The SWBPI was established in Fiscal Year 2002, when Congress began appropriating funds to reimburse State, County, parish, tribal, and municipal governments for costs associated with detention and prosecution of criminal cases that were both initiated by federal law enforcement authorities and declined/referred by local United States Attorneys' offices. The audit report questions all of the SWBPI funding received by San Francisco.

The United States is considering whether to file a civil suit against San Francisco in connection with the audit findings. Before we decide whether to file suit, we would like the opportunity to discuss the audit with you. If you are interested in discussing this matter, please have an attorney for San Francisco contact me at the above telephone number at your very earliest convenience to arrange a meeting. I am copyin Mr. Silard and Mr. Troncoso because they were Attorneys present during the audit.

If I do not hear back by February 15, 2008, I will assume that San Francisco does not wish to discuss this matter, and we will proceed to make our decision whether to file a complaint without the benefit of your views.

Very truly yours,

JOSEPH P. RUSSONIELLO
United States Attorney

By:


ILA DEISS
Assistant United States Attorney

cc:

Timothy P. Silard
City and County of San Francisco
Office of the District Attorney
Hall of Justice
850 Bryant St., Room 325
San Francisco, CA 94103

Michael A. Troncoso
City and County of San Francisco
Office of the District Attorney
Hall of Justice
850 Bryant St., Room 325
San Francisco, CA 94103



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

Washington, D.C. 20531

JAN 24 2008

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Donna Hamilton
Audit Liaison Specialist
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cc: LeToya A. Johnson
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cc: Hope D. Janke
Counsel to the Director
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Policy Advisor
Bureau of Justice Assistance

Richard P. Theis
Assistance Director
Audit Liaison Group
Justice Management Division

David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General
(Audit Report No.: GR-60-08-001)

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF CONTRACT ADMINISTRATION
PURCHASING DIVISION

FIRST AMENDMENT

THIS AMENDMENT (this "Amendment") is made as of February 1, 2006, in San Francisco, California, by and between Public Resource Management Group, LLP ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein;

WHEREAS, approval for this Amendment was obtained from a Civil Services Commission Notice of Action for Contract Number 4082-05/06 on February 21, 2006;

NOW, THEREFORE, Contractor and the City agree as follows:

1. **Definitions.** The following definitions shall apply to this Amendment:

(a) **Agreement.** The term "Agreement" shall mean the Agreement dated February 1, 2005, between Contractor and City.

(b) **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

(a) **Section 2.** Section 2, Term of the Agreement, of the Agreement currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from February 1, 2005 to January 31, 2006.

Such section is hereby amended in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from February 1, 2005 to January 31, 2008, consistent with all the terms and conditions provided for in this Agreement.

(b) **Section 5.** Section 5, Compensation, of the Agreement currently reads as follows:

Compensation shall be a 15% contingent fee of the SWBPI claim reimbursement amounts received by the City as a result of the work that the Controller, in his or her sole discretion, concludes has been performed by Contractor pursuant to Appendix A of this Agreement. Such payments shall be made within 30 days of the City's receipt of SWBPI claim reimbursement funds from the federal government. In no event shall the amount of this Agreement exceed \$75,000 (Seventy-five thousand dollars). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. There is no guarantee of minimum compensation to Contractor for services performed under this Agreement.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by Controller's Office as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

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

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller shall withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

Such section is hereby amended in its entirety to read as follows:

For the contract period 2/01/05-1/31/06, in no event shall the amount of compensation exceed \$75,000 (Seventy-five thousand dollars) for work, as set forth in Section 4 of this Agreement, that the Controller, in his or her sole discretion, concludes has been performed by Contractor pursuant to Appendix A of this Agreement.

For the contract period 2/01/06-1/31/08, in no event shall the amount of compensation exceed \$140,000 for work, as set forth in Section 4 of this Agreement, that the Controller, in his or her sole discretion, concludes has been performed by Contractor pursuant to Appendix A of this Agreement.

In no event shall the amount of this Agreement exceed \$215,000 (Two hundred fifteen thousand dollars). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. There is no guarantee of minimum compensation to Contractor for services performed under this Agreement.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the Controller's Office as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

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

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

(c) Graffiti Removal. Section 58 is hereby added to the Agreement, as follows:

58. Graffiti Removal

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real

property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

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

(d) **Section 20.** Section 20, Default; Remedies, of the Agreement, subsection a.(1) currently reads as follows:

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

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 53, 55, or 57.

Such subsection a.(1) is hereby amended in its entirety to read as follows:

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

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 53, 55, 57, or 58.

(e) **Appendix A.** Appendix A is hereby amended in its entirety to read as attached.

(f) **Appendix B.** Appendix B is hereby amended in its entirety to read as attached.

3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. **Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:



Signature for Department

Monique Zmuda

Printed Name

Deputy Controller

Title and Department

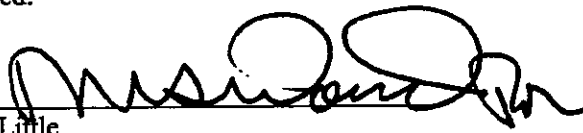
Approved as to Form:

Dennis J. Herrera
City Attorney

By 

Deputy City Attorney

Approved:



Naomi Little
Director of Office of Contract Administration/
Purchaser

By 

J. Bradley Burgess

Printed Name

Partner

Title

Public Resource Management Group LLC

Company Name

68403

City Vendor Number

Appendix A
Services to be Provided by Contractor

I. General Description of Services

The Southwest Border Prosecution Initiative (SWBPI) is a federal program that authorizes the United States Department of Justice (DOJ) to reimburse state, county, parish, tribal, or municipal governments for the federal costs associated with the prosecution of criminal cases declined by local U.S. Attorneys' offices. There is a total of \$30 million available to all applicants for SWBPI reimbursement for federal fiscal year (FFY) 2005. SWBPI reimbursement applications are reviewed and approved by the DOJ Bureau of Justice Assistance (BJA) based on compliance with program guidelines and availability of funding. Timely and accurate submission of applications for reimbursement increases the probability of receiving maximum payment to the City. If total amount requested by all SWBPI applicants exceeds the funding level of \$30 million for FFY 2005, applicants will receive funds on a uniform, pro-rata basis.

The Contractor shall provide the services, as specified below, on behalf of the City for each of the following BJA eligible reporting periods for the SWBPI program:

YEAR ONE FOR CONTRACT PERIOD 2/01/05-1/31/06

- October 1, 2004 to December 31, 2004
- January 1, 2005 to March 31, 2005
- April 1, 2005 to June 30, 2005
- July 1, 2005 to September 30, 2005

YEAR TWO FOR CONTRACT PERIOD 2/01/06-1/31/07

- October 1, 2005 to December 31, 2005
- January 1, 2006 to March 31, 2006
- April 1, 2006 to June 30, 2006
- July 1, 2006 to September 30, 2006

YEAR THREE FOR CONTRACT PERIOD 2/01/07-1/31/08

- October 1, 2006 to December 31, 2006
- January 1, 2007 to March 31, 2007
- April 1, 2007 to June 30, 2007
- July 1, 2007 to September 30, 2007

II. Research and Background Preparation for Claims

1. Contractor shall identify for City all City departments that are eligible to participate in the SWBPI program.
2. Contractor shall research and provide a written summary to the Controller's Office and the applicable City departments identified in #1 above on the requirements of the SWBPI program, including reporting deadlines of the program for claims application and reimbursement.
3. Contractor shall conduct meetings with all applicable City departments identified in #1 above that may have claims eligible for reimbursement under the SWBPI program. These departments include, but are not limited to the: District Attorney's Office, Sheriff's Department, and Juvenile Probation Department.

At such department meetings, Contractor shall:

- a. Educate City department personnel regarding all aspects of SWBPI program
 - b. Discuss Contractor's data collection needs and format, as well as methods of data analysis to determine eligibility of cases, as mutually agreed between City and Contractor
 - c. Discuss Contractor's timeline for receipt of data from each City department identified in #1 above. Contractor and City shall mutually agree on a schedule for submission of data from departments to Contractor.
 - d. Propose for departments' approval, a projected schedule for filing claims to federal government.
4. Contractor shall register for ability to apply for reimbursement on the federal government Bureau of Justice Assistance (BJA) website (<http://southwest.ojp.gov>) or confirm City's prior registration and investigate proper procedures for re-registration or continuation of existing registration, as appropriate. To ensure successful acceptance of City's application(s) for reimbursement over the term of the Agreement, Contractor shall take all actions necessary, including developing a tracking system to make sure that claims are not lost, inappropriately adjusted, or allowed to age beyond the appropriate submission date. Data and reports from such tracking system shall be made available to City immediately upon request.
5. Contractor shall compile the data collected by the City departments identified in #1 above and ensure the accuracy of claims data with the applicable City departments and the Controller's Office prior to submission of application or filing.

III. Filing of Application for the Recovery of Federal Revenue/Claims for Reimbursement

Contractor shall file all case data through application process required for claims submission reimbursement with the BJA per eligible case reporting periods established by BJA for the term of the Agreement before the end of each pertinent eligible case reporting period and provide the City with written proof that the application(s) has been filed. To complete the online application and determine the maximum payment, Contractor shall group eligible cases according to the length of case disposition per the chart below.

The BJA defines case disposition as 'the time between a suspect's arrest and the resolution (e.g., dismissals, pleas, convictions, etc.) of the criminal charges through a county or state judicial or prosecutorial process.' Disposition consists of both prosecution services and pre-trial detention services. The four disposition categories are: 1 to 15 days, 16 to 30 days, 31 to 90 days, and 91+ days. A federally declined-referred case is one that, at some point during a federal investigation, a U.S. Attorney or other federal law enforcement official decides not to pursue federal criminal charges against a defendant and requests that a state or local jurisdiction prosecutes the defendant(s) for possible violation of state or local criminal statutes. Each defendant shall be claimed separately. Federally referred cases that are declined and not pursued by state or county prosecutors are ineligible for reimbursement. Eligible cases are defined as any federally initiated and declined-referred criminal case that was prosecuted by an eligible state or county prosecutor and disposed of during an eligible reporting period. A federally initiated case is one that involves federal law enforcement authorities and results from a criminal investigation or an arrest for potential violation of federal criminal law. The maximum payment for each disposition category is calculated per the chart below.

Disposition Category	Prosecution Services	Pre-Trial Detention Services	Total
1 to 15 days	\$1,250	\$1,250	\$2,500

16 to 30 days	\$2,500	\$2,500	\$5,000
31 to 90 days	\$3,750	\$3,750	\$7,500
91+ days	\$5,000	\$5,000	\$10,000

1. Contractor shall file all case data through application process required for claims submission reimbursement with the BJA per eligible case reporting periods established by BJA for the term of the Agreement before the end of each pertinent eligible case reporting period and provide the City with written proof that the application(s) has been filed. To complete the online application and determine the maximum payment, Contractor shall group eligible cases according to the length of case disposition per the chart above.
2. Upon completion of the online application process, Contractor shall provide claims submission reimbursement estimate to City for each eligible case. Each eligible case can receive a maximum payment of \$10,000. To qualify for that payment, an eligible case will have received both pre-trial detention services and prosecution services in excess of 90 days.
3. Contractor shall contact federal referral agencies to establish confirmation of receipt and accuracy of the City's data, claims, and applications, and to verify and reconcile payments made to City as required by the federal government and as requested by the City. In the event of any discrepancies in the payment amount, the Contractor shall work with the BJA to resolve any differences, resubmit rejected claims upon City's direction, and keep the City apprised of developments toward resolution and acceptance of resubmitted claims. In the event City and Contractor disagree on the filing of a claim, City's decision shall prevail. The City shall have the right to offset, against any reimbursement to Contractor, any claim amount disallowed by the federal government as a result of Contractor's failure to comply with any statute, rule, or regulation or any claim amount for which Contractor failed to file a claim as a result of its negligence or willful misconduct.
4. Contractor shall provide progress reports to City for each of the BJA eligible case reporting periods, including payment calculation and information on the disposition of cases per the four disposition categories: 1 to 15 days; 16 to 30 days; 31 to 90 days; and 91+ days. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible. Since the application and payment request process occurs online, Contractor shall provide copies of Internet submissions on recycled paper and printed on double-sided pages to the maximum extent possible.

IV. Ongoing Technical Assistance:

1. Contractor shall investigate, follow-up and resolve SWBPI-related problems and issues after discussion and mutual agreement with City on methods to ensure claims are appropriately submitted, received, and processed.
2. Contractor shall provide on-going strategic planning, training, and other assistance to City personnel, as requested by City, to maximize successful claims reimbursement/collection of revenues by City.
3. Contractor shall provide City with legislative and appropriation updates related to SWBPI that may affect claim application guidelines or procedures. Contractor shall report all changes in the SWBPI program to City to ensure the timely and accurate submission of all claims.
4. Upon direction by City, Contractor shall address inquiries from federal, state, and local governments, other reporting agencies, or the public, related to SWBPI and any SWBPI-related

federal grants or applications. Contractor shall track and summarize inquiries received and responses given as part of progress reports to City (see 9. above).

5. Contractor shall participate in all meetings related to the scope of services provided herein and keep the City appropriately informed of the status, issues, and any information impacting the status of the project. Contractor shall respond in a timely manner to all requests for information by City regarding claims under this Agreement. Contractor shall take such steps as are appropriate to ensure that the scope of services described herein is properly coordinated with related work being carried out on in the City.

V. Reports

In addition to the reports specified above, Contractor shall submit written reports as requested by the Controller's Office. Format for the content of such reports shall be determined by the Controller's Office. 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.

VI. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the Controller's Office for contract administration issues will be Esther Reyes, and Contractor's liaison with the Controller's Office for project management and payment approval issues will be Todd Rydstrom.

**Appendix B
Calculation of Charges**

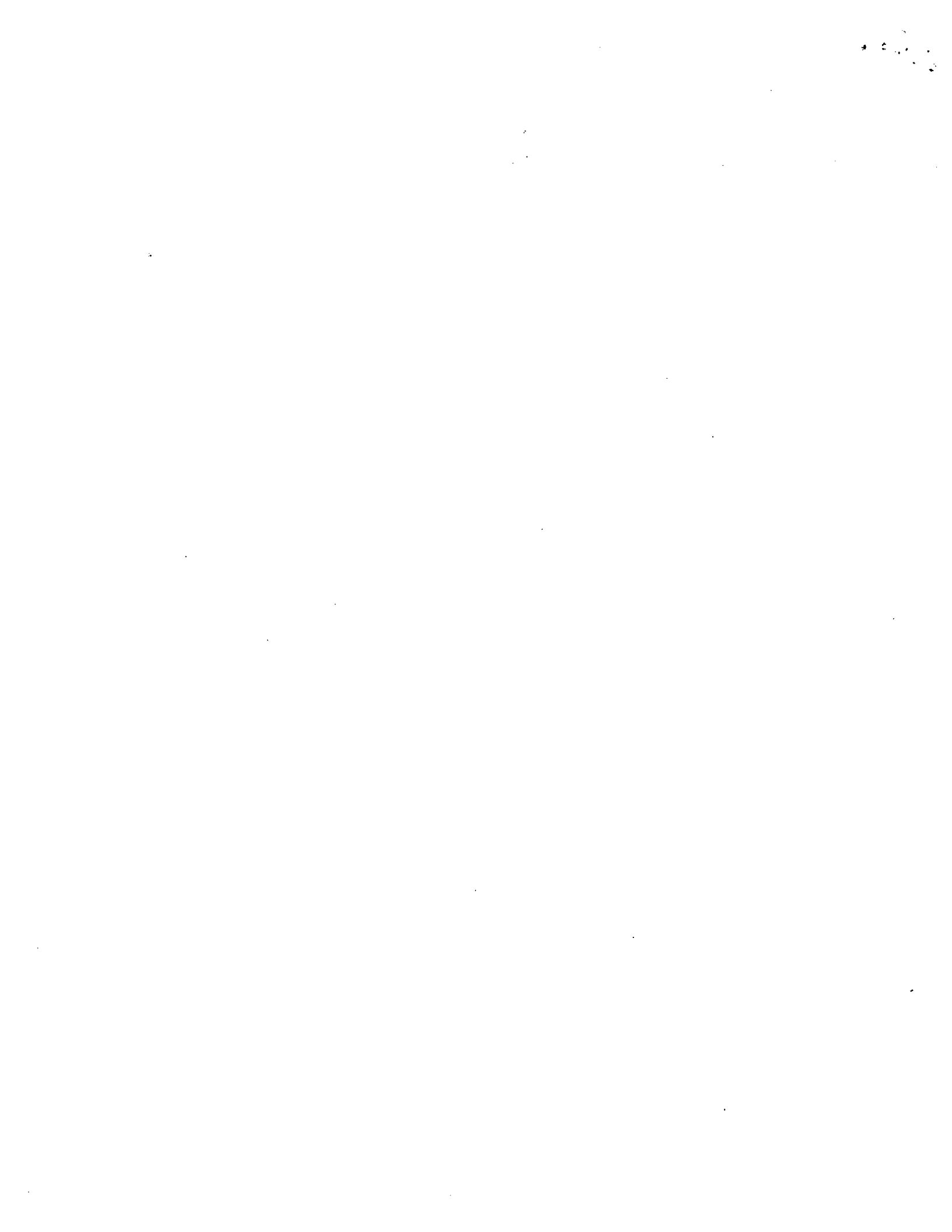
In accordance with Section 5 of this Agreement, the Contractor's fees are detailed below, inclusive of all costs and meetings required to complete the scope of work specified in Appendix A. In no event shall the total costs under this Agreement exceed the not to exceed amount provided in Section 5 of this Agreement.

Payments, based on the schedule below, will be made by City to Contractor:

- 1) After the City has accepted as satisfactory, in the City's sole and absolute discretion, the services rendered by the Contractor to the City in accordance with this Agreement;
- 2) After the federal government has transferred and the City has received and allocated SWBPI program reimbursements to eligible City departments; and
- 3) Within 30 days after the City has received Contractor's invoice.

For Years Two and Three of the agreement, if, as a direct result of the Contractor's performance of the scope of work specified in Appendix A, the City successfully receives more than 10% (on an annualized basis) than what the City received during the previous Contract Period Year in SWBPI program reimbursement from the federal Bureau of Justice Assistance (BJA), the City will provide an additional \$15,000 to the Contractor, as specified below.

Contract Period	Amount
YEAR ONE FOR CONTRACT PERIOD 2/01/05-1/31/06	\$75,000
YEAR TWO FOR CONTRACT PERIOD 2/01/06-1/31/07	\$55,000
Incentive payment for federal reimbursement successfully received by City in excess of 10% on annualized basis over what City received in Year One.	\$15,000
YEAR THREE FOR CONTRACT PERIOD 2/01/07-1/31/08	\$55,000
Incentive payment for federal reimbursement successfully received by City in excess of 10% on annualized basis over what City received in Year Two.	\$15,000
TOTAL	\$215,000



**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

Agreement between the City and County of San Francisco and
Public Resource Management Group

This Agreement is made this 1st day of February, 2005, in the City and County of San Francisco, State of California, by and between: Public Resource Management Group, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the Controller's Office ("Department") wishes to obtain services to file claims on behalf of the City for reimbursement under the United States Department of Justice program known as the Southwest Border Prosecution Initiative (SWBPI); and,

WHEREAS, a Request for Proposals ("RFP") was issued on January 3, 2005, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

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

WHEREAS, approval for said Agreement was obtained from a Civil Service Commission Notice of Action for Contract Number 3055-04/05 on 12/20/04;

Now, THEREFORE, the parties agree as follows:

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.

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be from February 1, 2005 to January 31, 2006. At any time prior to the termination date of this Agreement, City may, in its sole discretion, exercise an option to extend the Agreement for one year, consistent with all the terms and conditions provided for in this Agreement. At any time prior to the termination date of said option period, City may, in its sole discretion, extend the Agreement for an additional one year period, consistent with the terms and conditions of this Agreement.

3. Effective Date of Agreement

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

4. Services Contractor Agrees to Perform

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

5. Compensation

Compensation shall be a 15% contingent fee of the SWBPI claim reimbursement amounts received by the City as a result of the work that the Controller, in his or her sole discretion, concludes has been performed by Contractor pursuant to Appendix A of this Agreement. Such payments shall be made within 30 days of the City's receipt of SWBPI claim reimbursement funds from the federal government. In no event shall the amount of this Agreement exceed \$75,000 (Seventy-five thousand dollars). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. There is no guarantee of minimum compensation to Contractor for services performed under this Agreement.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by Controller's Office as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

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

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller shall withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

6. Guaranteed Maximum Costs

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

b. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

c. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.

d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. Payment; Invoice Format

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by City to Contractor shall be subject to audit by City.

Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Disallowance

If Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement.

By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Contractor acknowledges that this certification of eligibility to receive federal funds is a material term of the Agreement.

10. Taxes

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

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

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

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

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

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

11. Payment Does Not Imply Acceptance of Work

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at

the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel

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

13. Responsibility for Equipment

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

14. Independent Contractor; Payment of Taxes and Other Expenses

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

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. **Payment of Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this

Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

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

15. Insurance

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

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

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

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

(4) Professional Liability Insurance with limits not less than \$1,000,000 each claim.

b. Commercial General Liability and Business Automobile Liability Insurance policies must provide the following:

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

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

c. All policies shall provide thirty days' advance written notice to City of cancellation mailed to the following address:

Esther Reyes
City & County of SF Controller's Office
City Hall, Rm. 395
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

d. 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.

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

f. 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.

g. Before commencing any operations under this Agreement, Contractor shall do the following: (a) furnish to City certificates of insurance, and additional insured policy endorsements with insurers with ratings comparable to A-, VII 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, and (b) furnish complete copies of policies promptly upon City request.

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

16. Indemnification

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

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

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright,

trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages

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

18. Liability of City

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

19. Left Blank by Agreement of the Parties.

20. Default; Remedies

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

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 53, 55, or 57.

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

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

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

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement. Contractor shall also be obligated to return all data and materials related to claims or potential claims under this Agreement upon request by City.

c. 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.

21. Termination for Convenience

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

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

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

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

(3) Terminating all existing orders and subcontracts.

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

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

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

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

c. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors.

22. Rights and Duties Upon Termination or Expiration

a. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 8 through 11, 13 through 18, 24, 26, 27, 28, 48 through 52, 56, and 57.

b. Subject to the immediately preceding subsection (a), upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, including completed or incomplete claims, all data in electronic or paper format, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement or related to the City's Southwest Border Prosecution Initiative claims, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

23. Conflict of Interest

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

24. Proprietary or Confidential Information of City

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

25. Notices to the Parties

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

To City: Esther Reyes, Contracts Manager
Controller's Office
1 Dr. Carlton B. Goodlett Pl., Rm. 395
San Francisco, CA 94102
esther.reyes@sfgov.org

To Contractor: J. Bradley Burgess, Partner
Public Resource Management Group, LLC
1380 Lead Hill blvd., #106
Roseville, CA 95661
bradburgess@prmgroun.net

Any notice of default must be sent by registered mail.

26. Ownership of Results

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

27. Works for Hire

If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. Audit and Inspection of Records

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

29. Subcontracting

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

30. Assignment

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

31. 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.

32. Earned Income Credit (EIC) Forms

Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

a. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

b. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

c. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.

d. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Disadvantaged Business Enterprise Utilization; Liquidated Damages

a. The DBE Ordinance

Contractor, shall comply with all the requirements of the Disadvantaged Business Enterprise Ordinance set forth in Chapter 14A of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "DBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the DBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provision of the DBE Ordinance is a material breach of Contractor's obligations under this

Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the DBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance and Enforcement

1. Enforcement

If Contractor willfully fails to comply with any of the provisions of the DBE Ordinance, the rules and regulations implementing the DBE Ordinance, or the provisions of this Agreement pertaining to DBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the DBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the DBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's DBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14A.13(B).

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

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

2. Subcontracting Goals

The DBE subcontracting participation goal for this contract is 15%. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in HRC Form 7 and Form 9. Failure to provide HRC Form 7 and Form 9 with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until HRC Form 7 and Form 9 is provided by Contractor.

Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the DBE Ordinance, for any purpose inconsistent with the provisions of the DBE Ordinance, its implementing rules and regulations, or this Section.

3. Subcontract Language Requirements

Contractor shall incorporate the DBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors.

Contractor shall include in all subcontracts with DBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any DBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the DBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of HRC and Purchasing to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction.

Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the DBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of HRC or the Controller upon request.

4. Payment of Subcontractors

Contractor shall pay its subcontractors within three working days after receiving payment from the City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount.

Contractor further agrees, within ten working days following receipt of payment from the City, to file an affidavit (HRC Form 9) with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code §14A.13.

34. Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate

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

b. Subcontracts

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

c. Nondiscrimination in Benefits

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

d. Condition to Contract

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

e. Incorporation of Administrative Code Provisions by Reference

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

35. MacBride Principles—Northern Ireland

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

36. Tropical Hardwood and Virgin Redwood Ban

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

37. Drug-Free Workplace Policy

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

38. Resource Conservation

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

39. Compliance with Americans with Disabilities Act

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

40. Sunshine Ordinance

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

41. Public Access to Meetings and Records

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

42. Limitations on Contributions

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer of the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until the later of either (1) the termination of negotiations for such contract or (2) three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

43. Requiring Minimum Compensation for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at <http://www.sfgov.org/oca/lwlh.htm>. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, Contractor agrees to all of the following:

a. (a) For each hour worked by a Covered Employee during a Pay Period on work funded under the City contract during the term of this Agreement, Contractor shall provide to the Covered Employee no less than the Minimum Compensation, which includes a minimum hourly wage and compensated and uncompensated time off consistent with the requirements of the MCO. For the hourly gross compensation portion of the MCO, Contractor shall pay a minimum of \$10.77 an hour beginning January 1, 2005 and for the remainder of the term of this Agreement; provided, however, that Contractors that are Nonprofit Corporations or public entities shall pay a minimum of \$9 an hour for the term of this Agreement.

b. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to Contractor's compliance or anticipated compliance with the requirements of the MCO, for opposing any practice proscribed by the MCO, for participating in proceedings related to the MCO, or for seeking to assert or enforce any rights under the MCO by any lawful means.

c. Contractor understands and agrees that the failure to comply with the requirements of the MCO shall constitute a material breach by Contractor of the terms of this Agreement. The City, acting through the Contracting Department, shall determine whether such a breach has occurred.

d. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City, acting through the Contracting Department, shall have the right to pursue the following rights or remedies and any rights or remedies available under applicable law:

(1) The right to charge Contractor an amount equal to the difference between the Minimum Compensation and any compensation actually provided to a Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law;

(2) The right to set off all or any portion of the amount described in Subsection (d)(1) of this Section against amounts due to Contractor under this Agreement;

(3) The right to terminate this Agreement in whole or in part;

(4) In the event of a breach by Contractor of the covenant referred to in Subsection (b) of this Section, the right to seek reinstatement of the employee or to obtain other appropriate equitable

relief; and

(5) The right to bar Contractor from entering into future contracts with the City for three years.

Each of the rights provided in this Subsection (d) shall be exercisable individually or in combination with any other rights or remedies available to the City. Any amounts realized by the City pursuant to this subsection shall be paid to the Covered Employee who failed to receive the required Minimum Compensation.

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

f. Contractor shall keep itself informed of the current requirements of the MCO, including increases to the hourly gross compensation due Covered Employees under the MCO, and shall provide prompt written notice to all Covered Employees of any increases in compensation, as well as any written communications received by the Contractor from the City, which communications are marked to indicate that they are to be distributed to Covered Employees.

g. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the MCO, including reports on subcontractors.

h. The Contractor shall provide the City with access to pertinent records after receiving a written request from the City to do so and being provided at least five (5) business days to respond.

i. The City may conduct random audits of Contractor. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten days of the written notice; and (iv) limited to one audit of Contractor every two years for the duration of this Agreement. Nothing in this Agreement is intended to preclude the City from investigating any report of an alleged violation of the MCO.

j. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. A subcontract means an agreement between the Contractor and a third party which requires the third party to perform all or a portion of the services covered by this Agreement. Contractor shall notify the Department of Administrative Services when it enters into such a subcontract and shall certify to the Department of Administrative Services that it has notified the subcontractor of the obligations under the MCO and has imposed the requirements of the MCO on the subcontractor through the provisions of the subcontract. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

k. Each Covered Employee is a third-party beneficiary with respect to the requirements of subsections (a) and (b) of this Section, and may pursue the following remedies in the event of a breach by Contractor of subsections (a) and (b), but only after the Covered Employee has provided the notice, participated in the administrative review hearing, and waited the 21-day period required by the MCO. Contractor understands and agrees that if the Covered Employee prevails in such action, the Covered Employee may be awarded: (1) an amount equal to the difference between the Minimum Compensation

and any compensation actually provided to the Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law; (2) in the event of a breach by Contractor of subsections (a) or (b), the right to seek reinstatement or to obtain other appropriate equitable relief; and (3) in the event that the Covered Employee is the prevailing party in any legal action or proceeding against Contractor arising from this Agreement, the right to obtain all costs and expenses, including reasonable attorney's fees and disbursements, incurred by the Covered Employee. Contractor also understands that the MCO provides that if Contractor prevails in any such action, Contractor may be awarded costs and expenses, including reasonable attorney's fees and disbursements, from the Covered Employee if the court determines that the Covered Employee's action was frivolous, vexatious or otherwise an act of bad faith.

1. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 (\$50,000 for nonprofits) in the fiscal year.

44. Requiring Health Benefits for Covered Employees

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

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

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

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

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on

Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

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

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

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

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

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

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

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

45. First Source Hiring Program

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

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

b. **First Source Hiring Agreement.**

(1) Contractor will comply with First Source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the exclusive opportunity to initially provide Qualified Economically Disadvantaged Individuals for consideration for employment for Entry Level Positions. The duration of the First Source

interviewing requirement shall be ten (10) days, unless business necessity requires a shorter period of time;

(2) Contractor will comply with requirements for providing timely, appropriate notification of available Entry Level Positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of Qualified Economically Disadvantaged Individuals to participating Employers;

(3) Contractor agrees to use good faith efforts to comply with the First Source hiring requirements. A Contractor may establish its good faith efforts by filling: 1) its first available Entry Level Position with a job applicant referred through the First Source Program; and, 2) fifty percent (50%) of its subsequent available Entry Level Positions with job applicants referred through the San Francisco Workforce Development System. Failure to meet this target, while not imputing bad faith, may result in a review of the Contractor's employment records.

c. Hiring Decisions.

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

d. Exceptions

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

e. Liquidated Damages

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$2,070 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. Subcontracts

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

46. Prohibition on Political Activity with City Funds

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

period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic

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

48. Modification of Agreement

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of HRC 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%.

49. Administrative Remedy for Agreement Interpretation

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

50. 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.

51. Construction

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

52. Entire Agreement

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

53. Compliance with Laws

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

54. Services Provided by Attorneys

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

55. Left Blank by Agreement of the Parties.

56. 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.

57. Nondisclosure of Private Information

As of March 5, 2005, Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

(a) Neither Contractor nor any of its Subcontractors shall disclose Private Information obtained in the performance of this Agreement to any other Subcontractor, person, or other entity, unless one of the following is true:

(i) The disclosure is authorized by this Agreement;

(ii) The Contractor received advance written approval from the Contracting Department to disclose the information; or

(iii) The disclosure is required by law or judicial order.

(b) Any disclosure or use of Private Information authorized by this Agreement shall be in accordance with any conditions or restrictions stated in this Agreement. Any disclosure or use of Private

Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.

(c) Any failure of Contractor to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, debar Contractor, or bring a false claim action against Contractor.

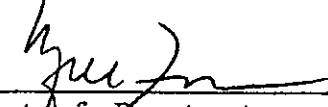
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

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



Signature for Department

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

Monique Zmuda
Printed Name

Deputy Controller
Title and Department



Authorized Signature

Approved as to Form:

Dennis J. Herrera
City Attorney

J. Bradley Burgess
Printed Name

By Angela Herrera
Deputy City Attorney

Partner
Title

Approved:

Public Resource Management Group
Company Name

Naomi Little For 03/11/05
Director of Office of Contract Administration/
Purchaser

63007
City Vendor Number

1380 Lead Hill Blvd., #106
Address

Roseville, CA 95661
City, State, ZIP

916-677-4233
Phone Number

020647228F
Federal Employer ID Number

APPENDICES

- A: Services to be Provided by Contractor
- B: Calculation of Charges

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Appendix A
Services to be Provided by Contractor

I. General Description of Services

The Southwest Border Prosecution Initiative (SWBPI) is a federal program that authorizes the United States Department of Justice (DOJ) to reimburse state, county, parish, tribal, or municipal governments for the federal costs associated with the prosecution of criminal cases declined by local U.S. Attorneys' offices. There is a total of \$30 million available to all applicants for SWBPI reimbursement for federal fiscal year (FFY) 2005. SWBPI reimbursement applications are reviewed and approved by the DOJ Bureau of Justice Assistance (BJA) based on compliance with program guidelines and availability of funding. Timely and accurate submission of applications for reimbursement increases the probability of receiving maximum payment to the City. If total amount requested by all SWBPI applicants exceeds the funding level of \$30 million for FFY 2005, applicants will receive funds on a uniform, pro-rata basis.

The Contractor shall provide the services, as specified below, on behalf of the City for each of the following BJA eligible reporting periods for the SWBPI program:

- October 1, 2004 to December 31, 2004
- January 1, 2005 to March 31, 2005
- April 1, 2005 to June 30, 2005
- July 1, 2005 to September 30, 2005

II. Research and Background Preparation for Claims

1. Contractor shall identify for City all City departments that are eligible to participate in the SWBPI program.
2. Contractor shall research and provide a written summary to the Controller's Office and the applicable City departments identified in #1 above on the requirements of the SWBPI program, including reporting deadlines of the program for claims application and reimbursement.
3. Contractor shall conduct meetings with all applicable City departments identified in #1 above that may have claims eligible for reimbursement under the SWBPI program. These departments include, but are not limited to the: District Attorney's Office, Sheriff's Department, and Juvenile Probation Department.

At such department meetings, Contractor shall:

- a. Educate City department personnel regarding all aspects of SWBPI program
 - b. Discuss Contractor's data collection needs and format, as well as methods of data analysis to determine eligibility of cases, as mutually agreed between City and Contractor
 - c. Discuss Contractor's timeline for receipt of data from each City department identified in #1 above. Contractor and City shall mutually agree on a schedule for submission of data from departments to Contractor.
 - d. Propose for departments' approval, a projected schedule for filing claims to federal government.
4. Contractor shall register for ability to apply for reimbursement on the federal government Bureau of Justice Assistance (BJA) website (<http://southwest.ojp.gov>) or confirm City's prior

registration and investigate proper procedures for re-registration or continuation of existing registration, as appropriate. To ensure successful acceptance of City's application(s) for reimbursement over the term of the Agreement, Contractor shall take all actions necessary, including developing a tracking system to make sure that claims are not lost, inappropriately adjusted, or allowed to age beyond the appropriate submission date. Data and reports from such tracking system shall be made available to City immediately upon request.

5. Contractor shall compile the data collected by the City departments identified in #1 above and ensure the accuracy of claims data with the applicable City departments and the Controller's Office prior to submission of application or filing.

III. Filing of Application for the Recovery of Federal Revenue/Claims for Reimbursement

Contractor shall file all case data through application process required for claims submission reimbursement with the BJA per eligible case reporting periods established by BJA for the term of the Agreement before the end of each pertinent eligible case reporting period and provide the City with written proof that the application(s) has been filed. To complete the online application and determine the maximum payment, Contractor shall group eligible cases according to the length of case disposition per the chart below.

The BJA defines case disposition as 'the time between a suspect's arrest and the resolution (e.g., dismissals, pleas, convictions, etc.) of the criminal charges through a county or state judicial or prosecutorial process.' Disposition consists of both prosecution services and pre-trial detention services. The four disposition categories are: 1 to 15 days, 16 to 30 days, 31 to 90 days, and 91+ days. A federally declined-referred case is one that, at some point during a federal investigation, a U.S. Attorney or other federal law enforcement official decides not to pursue federal criminal charges against a defendant and requests that a state or local jurisdiction prosecutes the defendant(s) for possible violation of state or local criminal statutes. Each defendant shall be claimed separately. Federally referred cases that are declined and not pursued by state or county prosecutors are ineligible for reimbursement. Eligible cases are defined as any federally initiated and declined-referred criminal case that was prosecuted by an eligible state or county prosecutor and disposed of during an eligible reporting period. A federally initiated case is one that involves federal law enforcement authorities and results from a criminal investigation or an arrest for potential violation of federal criminal law. The maximum payment for each disposition category is calculated per the chart below.

Disposition Category	Prosecution Services	Pre-Trial Detention Services	Total
1 to 15 days	\$1,250	\$1,250	\$2,500
16 to 30 days	\$2,500	\$2,500	\$5,000
31 to 90 days	\$3,750	\$3,750	\$7,500
91+ days	\$5,000	\$5,000	\$10,000

1. Contractor shall file all case data through application process required for claims submission reimbursement with the BJA per eligible case reporting periods established by BJA for the term of the Agreement before the end of each pertinent eligible case reporting period and provide the City with written proof that the application(s) has been filed. To complete the online application and determine the maximum payment, Contractor shall group eligible cases according to the length of case disposition per the chart above.

6. Upon completion of the online application process, Contractor shall provide claims submission reimbursement estimate to City for each eligible case. Each eligible case can receive a maximum payment of \$10,000. To qualify for that payment, an eligible case will have received both pre-trial detention services and prosecution services in excess of 90 days.
7. Contractor shall contact federal referral agencies to establish confirmation of receipt and accuracy of the City's data, claims, and applications, and to verify and reconcile payments made to City as required by the federal government and as requested by the City. In the event of any discrepancies in the payment amount, the Contractor shall work with the BJA to resolve any differences, resubmit rejected claims upon City's direction, and keep the City apprised of developments toward resolution and acceptance of resubmitted claims. In the event City and Contractor disagree on the filing of a claim, City's decision shall prevail. The City shall have the right to offset, against any reimbursement to Contractor, any claim amount disallowed by the federal government as a result of Contractor's failure to comply with any statute, rule, or regulation or any claim amount for which Contractor failed to file a claim as a result of its negligence or willful misconduct.
8. Contractor shall provide progress reports to City for each of the BJA eligible case reporting periods, including payment calculation and information on the disposition of cases per the four disposition categories: 1 to 15 days; 16 to 30 days; 31 to 90 days; and 91+ days. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible. Since the application and payment request process occurs online, Contractor shall provide copies of Internet submissions on recycled paper and printed on double-sided pages to the maximum extent possible.

IV. Ongoing Technical Assistance:

9. Contractor shall investigate, follow-up and resolve SWBPI-related problems and issues after discussion and mutual agreement with City on methods to ensure claims are appropriately submitted, received, and processed.
10. Contractor shall provide on-going strategic planning, training, and other assistance to City personnel, as requested by City, to maximize successful claims reimbursement/collection of revenues by City.
11. Contractor shall provide City with legislative and appropriation updates related to SWBPI that may affect claim application guidelines or procedures. Contractor shall report all changes in the SWBPI program to City to ensure the timely and accurate submission of all claims.
12. Upon direction by City, Contractor shall address inquiries from federal, state, and local governments, other reporting agencies, or the public, related to SWBPI and any SWBPI-related federal grants or applications. Contractor shall track and summarize inquiries received and responses given as part of progress reports to City (see 9. above).
13. Contractor shall participate in all meetings related to the scope of services provided herein and keep the City appropriately informed of the status, issues, and any information impacting the status of the project. Contractor shall respond in a timely manner to all requests for information by City regarding claims under this Agreement. Contractor shall take such steps as are appropriate to ensure that the scope of services described herein is properly coordinated with related work being carried out on in the City.

V. Reports

In addition to the reports specified above, Contractor shall submit written reports as requested by the Controller's Office. Format for the content of such reports shall be determined by the Controller's Office. 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.

VI. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the Controller's Office will be the SB-90 Coordinator.

Appendix B
Calculation of Charges

In accordance with Section 5 of this Agreement, the Contractor shall receive as sole compensation for the services provided under this Agreement, 15% of the reimbursement received by the City under the SWBPI program from claims filed by the Contractor on behalf of the City during the term of this Agreement. This fee is inclusive of all costs and meetings required to complete the scope of work specified in Appendix A. Payment shall not be made by City to Contractor for services rendered under this Agreement until the federal government transfers and the City receives and allocates SWBPI program reimbursements to eligible City departments.

In no event shall the total costs under this Agreement exceed the amount provided in Section 5 of this Agreement.





Edward Harrington
Controller

Monique Zmuda
Deputy Controller

March 18, 2008

Mr. J. Bradley Burgess
Partner
Public Resource Management Group
1380 Lead Hill Blvd., #106
Roseville, CA 95661

Re: Request for Refund

Dear Mr. Burgess:

This letter is a 60-day follow-up to our letter of January 17, 2008, requesting a refund of the \$145,000 paid to PRM (Contractor) per the terms of its contract with the City for the Southwest Border Prosecution Initiative (SWBPI) claiming services.

As noted in that letter, the Department of Justice Office of Inspector General issued Audit Report GR-60-08-001 in November 2007, finding the entire \$5,414,895 in reimbursements received by San Francisco as of March 26, 2007 to be disallowable and recommended that the entire amount be remedied. Section 9, Disallowance, of the City's Agreement with PRM states that if the Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, the Contractor shall promptly refund the disallowed amount to City upon City's request.

Please contact me in the next week to let me know when the refund will be processed.

Sincerely,


Todd Rydstrom
Director, Budget & Analysis Division