

**AGREEMENT FOR AIRPORT ACCESS CONTROL SYSTEM & SERVICES
BETWEEN
THE CITY OF SAN JOSÉ
AND
ELECTRONIC TECHNOLOGIES CORPORATION USA
(DBA INGERSOLL RAND SECURITY TECHNOLOGIES)**

This Agreement is entered into as of June __, 2009 between the City of San José, a municipal corporation (hereafter "City" or "Airport"), and Electronic Technologies Corporation USA, a New York Corporation registered to do business in the State of California, doing business as Ingersoll Rand Security Technologies (hereafter "Contractor" or "Ingersoll").

RECITALS

1. WHEREAS, City has issued a Request for Proposal ("RFP") for an Airport Access Control System and Services; and
2. WHEREAS, the Contractor has gained a good understanding of City's requirements; and
3. WHEREAS, Contractor has the necessary expertise and skills to perform such services and Contractor's proposal can best meet City's needs;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1 AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Contractor shall consist of this Agreement including:

- Exhibit A - Scope of Services
- Exhibit A-1 - Hardware Specifications
- Exhibit A-2 - Contract Price
- Exhibit A-3 - Schedule of Performance
- Exhibit B - Compensation
- Exhibit C - Insurance Requirements
- Exhibit D - Labor Compliance Addendum
- Exhibit D-1 - Airport Living Wage Ordinance
- Exhibit E - Change Order Form
- Exhibit F - Supplemental Services Authorization Form
- Exhibit G - Maintenance, Operation & Repair Services Renewal Addendum Form
- Exhibit H - Airport Security Measures
- Exhibit I - Proposal Response
- Exhibit J - RFP #08-09-17 Airport Access Control System & Services

In the event any discrepancies or inconsistencies between the provisions of this Agreement and any of the above-referenced documents arise, the provisions of this Agreement will prevail. To the extent not inconsistent with this Agreement between the City and Contractor, including this Scope of Services, Contractor's response and Proposal 08-09-17 Airport Access Control System and Services (EXHIBITS I and J) shall supplement the Scope of Services (Exhibit A) and be subject to the terms and conditions of the Agreement. In the event of conflict between these documents, the Scope of Services shall take precedence over the Proposal.

This Agreement and the Exhibits set forth above, contain all of the agreements, representations and understandings of the parties hereto, and supersede and replace any previous understandings, commitments, or agreements, whether oral or written.

2 TERM OF AGREEMENT

2.1 Initial Term

The Initial Term of this Agreement is from July 1, 2009 to June 30, 2011, inclusive, subject to the provisions of Section 12 and subsection 12.2.

2.2 Option to Extend

The City reserves the right to extend the term of this Agreement for maintenance and support for three (3) additional one-year periods (the "Option Periods"), based upon the same conditions of the Initial Term, subject to adjustments for compensation as set forth in Exhibit B. City shall provide Contractor prior written notice in the form of Exhibit G of its intention to exercise its option prior to the end of the then current term.

2.3 No Waiver

City's agreement to extend the term of this Agreement is not a waiver of the "time is of the essence" provision in Section 4.

3 SCOPE OF SERVICES

Contractor shall perform those services specified in detail in the attached Exhibit A, entitled "Scope of Services".

4 SCHEDULE OF PERFORMANCE

Contractor's services must be completed according to the schedule set out in the attached A-3, entitled "Schedule of Performance." Time is of the essence in this Agreement.

5 DATA AND FACILITIES

Contractor acknowledges that it has in its possession all applicable specifications and drawings, and all other documents to which reference is made herein and/or which are matched hereto, and all such data are adequate to enable Contractor fairly to determine its ability to perform the work called for herein at the price set forth: Contractor represents that it now has or can readily procure without assistance of City all facilities, machinery and equipment necessary for the performance of this purchase order. (Note: all drawings have been returned to the City but will be provided to the contractor at commencement of contract).

6 STANDARDS OF SERVICE

In connection with the performance of any services pursuant to this Agreement:

6.1 Number of Employees

Contractor warrants it will provide sufficient employees to complete the services ordered within the applicable time frames established pursuant to this Agreement. Furthermore, Contractor shall, at its expense, supply all tools, equipment and other materials necessary to perform the services contemplated in this Agreement.

6.2 Skill of Employees

Contractor warrants that employees shall have sufficient skill, knowledge, and training to perform services and that the services shall be performed in a professional and workmanlike manner.

6.3 Duty of Confidentiality

All data, documents, discussions or other information developed or received by or for one party in performance of this Agreement are confidential and must not be disclosed to any person except as authorized by the other party, or as required by law. The receiving party warrants that all employees utilized by it in performing services are under a written obligation to the receiving party requiring the employee to maintain the confidentiality of information of the other party.

6.4 Security and Safety

Contractor shall require employees providing services at a City location to comply with applicable City security and safety regulations and policies. City may require each employee providing services to undergo a background investigation, including, but not limited to a criminal records and fingerprint check. Contractor shall promptly replace any employee found to be unacceptable to City, in its discretion, on the basis of a significant infraction found in the background investigation.

6.5 Contractor's obligations to employees

Contractor shall provide for and pay the compensation of employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Contractor or to any employee for Contractor's failure to perform its compensation, benefit, or tax obligations. Contractor shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

6.6 Replacement of Employees

During the course of performance of services, City may request replacement of an employee or a proposed employee, provided that there is reasonable cause. In such event, Contractor shall, within five (5) working days of receipt of such request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable services. If, within the first thirty (30) days after an employee's commencement of services, City notifies Contractor (1) such employee's level of performance is unacceptable, (2) such employee has failed to perform as required, or (3) such employee, in City's sole opinion, lacks the skill, knowledge or training to perform at the required level, then Contractor will be required to review the work performed by said employee, confirm the quality of work, and correct any items the Contractor deems incorrect. If City requests replacement of an employee for the above-referenced reasons after such thirty (30) day time period, or at any time for a reason other than the reasons indicated above.

7 CHANGE ORDER PROCEDURE AND AUTHORIZATION

7.1 Changes

Any changes to this Agreement after the Effective Date that relate to (i) the deletion of products or services, (ii) adding additional products, or services (iii) changing or modifying products or services, or (iv) making other changes that materially alter the scope of this Agreement or the deliverables required under this Agreement, including approval of all performance and/or payment schedules shall be made by the Director of Finance in accordance with the procedures set forth below.

7.2 Contract Change Requests

Either party hereto may, from time to time, and at any time during the term hereof request a change, as defined in the above section. (The party requesting the change is hereinafter referred to as the "Requesting Party.") Requests for changes shall be in writing and shall be addressed and delivered to the other party. Such writing shall be identified as a "Contract

Change Request," shall carry a sequential number for ease of tracking, shall set forth in detail the nature of the change requested and the costs associated therewith, and shall identify the products, services, deliverables or schedules to be changed.

7.3 Procedures

As soon as practical after receipt by the notified party of copies of the Contract Change Request, the parties shall as necessary meet to discuss the change and to ascertain its cost and schedule impacts, if any.

7.4 Change Orders

If the parties decide to implement a change request, a standard form Change Order ("CO") shall be prepared in a form substantially similar to the form attached hereto as Exhibit E, which CO shall describe the change, delineate the cost, schedule, and other impacts of the change and the payment terms for any price increase. Only City's Director of Finance and Contractor's Authorized Representative shall have authority to execute CO's to this Agreement. Execution of a CO by City's Director of Finance and Contractor's Authorized Representative shall constitute a modification hereof and shall be binding on both parties hereto.

8 SUPPLEMENTAL SERVICES PROCEDURE AND AUTHORIZATION

Requests for Supplemental Services shall use the procedure in substantial form as outlined above for Change Orders, except the parties shall use Exhibit F. Supplemental work requires written approval by the Airport Project Manager.

Supplemental work shall be defined as additional services and/or equipment requested by the City and provided by the Contractor, which are in addition to the services and equipment listed in the Contractor's Proposal Response. Compensation for supplemental work shall be based on time and materials at the rates listed in the set forth in Exhibit B. Items not listed in Exhibit A-2 shall be compensated at 15% off manufactures list price. Supplemental work requires written approval by the City Project Manager.

9 COMPENSATION

City shall pay Contractor an amount not to exceed Three Hundred Forty Two Thousand, Seven Hundred Eleven Dollars and Thirteen Cents (\$342,711.13) for Contractor's services and reimbursable expenses, if any. The terms, rate and schedule of payment are set forth in the attached Exhibit B, entitled "Compensation."

10 TAXES AND CHARGES

Contractor shall be responsible for payment of all taxes, fees contributions or charges applicable to the conduct of Contractor's business.

11 LABOR COMPLIANCE

This Agreement is subject to City's Airport Living Wage Ordinance and the applicable implementing regulations (collectively, the "Ordinance"). Contractor shall comply with the provisions of the attached Labor Compliance Addendum (Exhibit D), which sets forth Contractor's obligations under the Ordinance.

12 TERMINATION

12.1 Termination for Convenience

City shall have the right to terminate this Agreement, without cause, by giving not less than thirty (30) days' written notice of termination.

12.2 Termination for Default

If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice.

12.3 Termination Authority

The Director of Finance ("Director") is empowered to terminate this Agreement on behalf of City.

12.4 Consequences of Termination

In the event of termination, Contractor shall deliver to City copies of all reports, documents, and other work performed by Contractor under this Agreement, and upon receipt thereof, City shall pay Contractor for services performed and reimbursable expenses incurred to the date of termination.

13 INDEMNIFICATION

Contractor shall defend, indemnify and hold harmless City, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this Agreement due to the willful or negligent acts (active or passive) or omissions by Contractor's officers, employees or agents. The acceptance of said services and duties by City shall not operate as a waiver of such right of indemnification.

14 WARRANTY AGAINST INFRINGEMENT

If any article sold hereunder is covered, or is purported to be covered by any patent or copyright, Contractor agrees to defend, indemnify and hold harmless the City, its officers, agents and employees, from and against it by any and all suits, claims, judgements and costs instituted or recovered against it by any person or persons whomsoever, on account of the purchase, use or resale of such article by City in violation or claimed violation of any rights under patent or copyright.

15 INSURANCE REQUIREMENTS

Contractor agrees to have and maintain the policies set forth in Exhibit C, entitled "Insurance Requirements," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. Contractor agrees to provide City with a copy of said policies, certificates and/or endorsements before work commences under this Agreement.

16 WAIVER

Contractor agrees that City's waiver of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver of any other provision or a waiver of any subsequent breach or violation of the same or any other provision. City's acceptance of the performance of any of Contractor's services will not be a waiver of any provision of this Agreement.

17 INDEPENDENT CONTRACTOR

Contractor, in the performance of this Agreement, is an independent contractor. Contractor shall maintain complete control over all of Contractor's employees, any subcontracting subcontractors, and Contractor's operations. Neither Contractor nor any person retained by Contractor may represent, act, or purport to act as the agent, representative or employee of City. Neither Contractor nor City is granted any right or authority to assume or create any obligation on behalf of the other.

18 COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws, ordinances, codes and regulations (collectively, "laws") of the federal, state and local governments, including without limitation, any and all laws specified elsewhere in this Agreement.

19 CONFLICT OF INTEREST

Contractor shall avoid all conflict of interest or the appearance of conflict of interest in performance of this Agreement.

20 NONDISCRIMINATION

Contractor agrees that there shall be no discrimination against, or segregation of, any person, on account of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, marital status, or family status, in connection with or related to the performance of this Agreement.

21 GIFTS

21.1 Prohibition on Gifts

Contractor acknowledges that Chapter 12.08 of the San Jose Municipal Code prohibits City's officers and designated employees from accepting gifts as defined in Chapter 12.08.

21.2 No Offer

Contractor agrees not to offer any City officer or designated employee any gift prohibited by Chapter 12.08.

21.3 Breach of Agreement

Contractor's offer or giving of any gift prohibited by Chapter 12.08 will constitute a material breach of this Agreement. In addition to any other remedies City may have in law or equity, City may terminate this Agreement for such breach as provided in Section 12.2 of this Agreement.

22 DISQUALIFICATION OF FORMER EMPLOYEES

Contractor is familiar with Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance") relating to the disqualification of City's former officers and employees in matters which are connected with their former duties or official responsibilities. Contractor shall not utilize either directly or indirectly any officer, employee, or agent of Contractor to perform services under this Agreement, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

23 CONFIDENTIAL INFORMATION AND PROPRIETARY INFORMATION

23.1 Confidentiality

All data, documents, discussions or other information developed or received by or for Contractor in performance of this Agreement are confidential and must not be disclosed to any person except as authorized by City, or as required by law.

23.2 Ownership of Material

All reports, documents or other materials developed or discovered by Contractor or any other person engaged directly or indirectly by Contractor to perform Contractor's services are City's property without restriction or limitation upon their use.

23.3 Ownership of Data

The City shall maintain ownership and control of the data throughout the contract period. Contractor shall have the right to use the data solely to perform services under the Agreement with the City. Contractor may not use the data, a subset of the data, and/or a summary of the data, or, cause or permit the data, a subset and/or a summary, to be used by any third party, outside the scope of the Agreement without the express written consent of the City. Contractor shall provide City with a copy of the data in a mutually agreed upon format at regular intervals and at such additional times as the City deems appropriate. Contractor warrants that throughout all operational and maintenance activities the accuracy of the database will be preserved.

23.4 Enforcement

City and Contractor agree that damages are not adequate, and no adequate remedy at law exists for any threatened or actual disclosure or use of information by Contractor in violation of the provisions of this Agreement. Accordingly, Contractor consents to the entry of an injunction against threatened or actual disclosure or use of the information in violation of any provision of this Agreement.

24 CONTRACTOR'S BOOKS AND RECORDS

24.1 Maintenance during Term

Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor pursuant to this Agreement.

24.2 Maintenance after Term

Contractor shall maintain all documents which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

24.3 Inspection

Any documents required to be maintained pursuant to this Agreement must be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Contractor shall provide copies of such documents to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

24.4 Custody of Records

Where City has reason to believe that any of Contractor's documents relating to this Agreement may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, City may, by written request by any of the above-named officers, require that custody of the Contractor's documents be given to City and that these documents be maintained in City Hall. City agrees to grant access to Contractor's documents to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

25 ASSIGNABILITY

The parties agree that the expertise and experience of Contractor are material considerations for this Agreement. Unless specifically authorized by this Agreement, Contractor may not assign the performance of any obligation or interest under this Agreement without the prior written consent of City. Any attempt by Contractor to assign this Agreement, in violation of this Section, will be voidable at City's sole option.

26 SUBCONTRACTORS

26.1 Authorized Subcontractors

Notwithstanding Section 25 (Assignability) above, Contractor may use designated subcontractors approved in advance by City in performing Contractor's services. Contractor must obtain City's prior written consent in order to change or add subcontractors. Contractor shall be responsible for directing the work of the approved subcontractors and for any compensation due to subcontractors. City assumes no responsibility whatsoever concerning such compensation.

26.2 Compliance with Agreement

Contractor shall ensure that Contractor's subcontractors comply with this Agreement. At City's request, Contractor shall require any or all of Contractor's subcontractors to sign an agreement with Contractor requiring compliance with this Agreement.

27 GOVERNING LAW

This Agreement must be construed -- and its performance enforced--under California law.

28 VENUE

In the event that suit is brought by either party to this Agreement, the parties agree that venue must be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

29 NOTICES

All notices and other communications required or permitted to be given under this Agreement must be in writing and must be personally served, or mailed; postage prepaid via U. S. mail, or sent via courier service, addressed to the respective parties as follows:

To City: Director of Finance
 City of San Jose
 200 East Santa Clara St.
 San Jose, CA 95113

To Contractor: **Electronic Technologies Corporation**
 (dba Ingersoll Rand Security Technologies)
 Attention: Dennis Mancuso
 6689 Owens Drive
 Pleasanton, CA 94588

Notice will be effective on the date personally delivered or if sent by courier service, on the date of receipt. If mailed, notice will be effective three (3) days after deposit in the mail.

The parties may change their respective addresses in accordance with the provisions of this Section.

30 MISCELLANEOUS

30.1 Survival of Provisions

If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable.

30.2 Assignment

Subject to the provisions of Section 25 (Assignability), this Agreement binds and inures to the benefit of the parties and their respective successors and assigns.

30.3 Headings

The headings of the sections and exhibits of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and are not to be used in its construction.

30.4 Authority of City Manager

Where this Agreement requires or permits City to act and no officer of the City is specified, City's Manager or the designated representative of City's Manager has the authority to act on City's behalf.

APPROVED AS TO FORM:

City of San José
a municipal corporation

Senior Deputy City Attorney

By _____
Name: Mark Giovannetti
Title: Purchasing Officer
Date: _____

"Contractor"
Electronic Technologies Corporation USA,
a New York Corporation,
authorized to conduct business in California
(dba Ingersoll Rand Security Technologies)

By *Gregory T. ...*, Treasurer 6/10/09
Name:
Title:
Date:

EXHIBIT A SCOPE OF SERVICES

The following Scope of Services defines the principal activities and responsibilities of Contractor and the City for Access Control System (hereafter "ACS" and/or "System") and related services at the Norman Y. Mineta San Jose International Airport.

Contractor shall perform the following services:

1. OVERVIEW OF SERVICES

- 1.1 Contractor shall provide all labor, materials, tools, parts, supplies equipment, transportation and supervision necessary to fulfill all the requirements as described herein.
 - 1.1.1 New installation of ACS with one year warranty as per confidential drawings provided separately.
 - 1.1.2 Survey existing ACS System based on Software House C-Cure 800 (version 9.2) software as per confidential drawings provided separately and upgrade System as may be required. Any upgrades performed shall come with one year warranty.
 - 1.1.3 Provide ongoing hardware and software maintenance and support services of existing ACS through semi-annual Preventative Maintenance Plan, and overall system after the applicable warranty periods.
 - 1.1.4 Provide out of scope service calls on a Time and Materials basis.

2. CITY RESPONSIBILITIES

- 2.1 The City shall provide Contractor representatives full and supervised access to the facilities and appropriate personnel that are required to accomplish their tasks.
- 2.2 The City will pay the cost of utilities required by the ACS.
- 2.3 The City will provide access to one (1) internal copy of any available as-built, operation and maintenance manuals and other documents related to the ACS that are required for support and maintenance.
- 2.4 The City will provide Security Identification Display Area (SIDA) training, ramp driving training, finger printing and criminal history background checks and security badges free of charge.
- 2.5 The City shall provide conduit/raceways, wiring, cabling, electrical boxes, handholes, pullboxes, door contacts and cable required for the ACS installation.
- 2.6 The City will be responsible for all electrical installations as may be required for the System. Contractor shall coordinate with City any required electrical work.
- 2.7 The City will be responsible to back-up the ACS System on a weekly basis.
- 2.8 The City will be responsible for Local Area Network (LAN) for the ACS.

3. PROJECT MANAGEMENT

3.1 Project Kick-off and Plan

- 3.1.1 Contractor will visit the City for a one day project kick-off meeting as early as possible in the project cycle. One of the objectives is to agree on start time.
- 3.1.2 Contractor shall develop and submit to the City a detailed draft Project Management Plan (PMP) for each project phase to the City addressing all aspects of implementing and accomplishing the services set forth in this contract within 30 calendar days after execution of Agreement. Contractor shall incorporate the City's comments and/or changes and issue a final PMP within ten days of receipt of City's comments.

3.2 Schedule

- 3.2.1 The Schedule is provided in Exhibit A-3 and incorporates the following:
 - 3.2.1.1 North Concourse. The first major element of The New Airport is the North Concourse, located between Terminal A and Terminal C. This quarter-mile long "horizontal high rise" will have ten gates, new dining and retail concessions, and will feature a "paseo" interior design with open spaces and natural lighting to take advantage of San José's wonderful climate. The North Concourse is scheduled to be partially open for service in summer 2009.
 - 3.2.1.2 Terminal A Upgrade. Originally opened in 1990, the terminal is getting a major overall to improve customers comfort and convenience. Security checkpoint capacity will be doubled on the second floor, which will reduce wait times and improve service. Expanded ticket counters will be relocated to new space under construction on the ground floor of the terminal. New concession areas will space for passengers waiting in the departure gate lounges. The improvements are scheduled for completion in late-2009.
 - 3.2.1.3 Terminal B. When completed in mid-2010, this beautiful new terminal will replace Terminal C and connect with the North Concourse to provide ticketing, baggage claim, and security functions. The facility also includes new inline baggage screening systems for greater efficiency for airlines, passengers, and TSA operations. Once Terminal B is open, all airlines currently using Terminal C will move to either Terminal A or Terminal B.
- 3.2.2 Contractor shall submit to the City a schedule for effectively planning and reporting on the status of each project to ensure completion.
- 3.2.3 Contractor shall submit a three-week rolling schedule each week to be used as the basis for discussion of project progress in weekly meetings. The three-week rolling schedule shall represent the actual detailed work plan used by Contractor in meeting the schedule and contract milestones.
- 3.2.4 Within fifteen (15) days of notification of an initiating event which impacts the

critical path or an intermediate milestone date, the Contractor shall submit to the City a time impact analysis illustrating the influence of the event on the appropriate intermediate milestone or milestones and/or critical path.

3.2.5 Contractor shall incorporate change order activities as each is approved.

3.2.6 Contractor shall keep accurate and detailed records of progress on the project during all stages including the submission of weekly progress reports to the City.

3.2.7 Contractor shall submit a monthly report on progress including status of change orders, budget, quality control, inspections and tests.

3.3 Pre-Implementation Conference

3.3.1 Contractor shall participate in a Pre-Implementation Conference initiated by the City before the start of the project to review responsibilities and personnel assignments.

3.3.2 Contractor shall submit proposed implementation and milestone schedule and any other information requested by the City.

3.4 Pre-Installation Conference

3.4.1 Contractor shall call a Pre-Installation Conference with at least five (5) days notice to the City for final coordination and agenda preparation.

3.5 Contractor Use of Premises & Security

3.5.1 Contractor shall use the staging area as designated by the City.

3.5.2 Contractor shall comply with rules and regulations governing airport security and ramp operations affecting the work while engaged in the project.

3.5.3 Contractor shall only allow entrance of authorized employees with proper City issued badges to the work areas.

3.5.4 Contractor shall maintain a log of workmen and visitors that enter the work area, and make such log available to the City upon request.

3.5.5 Contractor shall obtain City identification badges for all personnel authorized to enter work area, and which must be worn at all times and in plain view.

3.5.5.1 To obtain badges Contractor shall provide a list of authorized employees to the City and fill out all paperwork for employees to receive a badge for issuance of photo identification.

3.5.6 Contractor is responsible to return each employee's identification cards to the City at expiration or termination of their employment on the project.

3.6 Communications

3.6.1 Contractor shall establish and maintain an effective communications link with the City for the duration of the Agreement.

- 3.6.2 Within 30 calendar days after execution of the Agreement, Contractor will submit to the City a schedule for effectively planning and reporting on the status of each project to ensure completion within the approved schedules. The schedule shall include computer generated reports and master Critical Path Method (CPM) milestones of all project activities.
- 3.6.3 Contractor will monitor and enter all change orders on the CPM data files, analyze the effects of all change orders entailing time delays and their impacts on the schedule.
- 3.6.4 Contractor will attend weekly progress meetings at a location designated by the City.
- 3.6.5 Contractor must provide a minimum of three telephone numbers (land line voice, fax, cell phone) where City can contact the Contractor or leave a message on a 24 hour per day, 7 days per week basis. Contractor shall update the City within 24 hours if any contact information changes.

3.7 Monthly Reports

- 3.7.1 Contractor shall submit a monthly report with a progress cutoff to be established by the City. The monthly report shall consist of the following:
 - 3.7.1.1 Narrative Report
 - 3.7.1.2 Progress Schedule
 - 3.7.1.3 Special Reports
 - 3.7.1.4 Unusual Events
 - 3.7.1.5 Accidents
- 3.7.2 Contractor shall maintain budget records and report on the budget status in monthly progress reports.

3.8 Deliverables:

- 3.8.1 Project Management Plan (PMP)
- 3.8.2 CPM Milestone Report
- 3.8.3 Monthly Reports

4. SURVEY & UPGRADE OF EXISTING SYSTEM

- 4.1 Contractor shall survey the existing ACS system and provide detailed inspection of the existing ACS System and present to the City a comprehensive upgrade and repair plan.
- 4.2 Contractor shall take field measurements and record other data required for preparation of shop drawings and other submittals.
- 4.3 Contractor is solely responsible for determining suitability of the existing conditions and for confirming the exact needs of the Airport for access and door operation.
- 4.4 Contractor shall submit any proposed improvements and modifications of layout including detailed designs to the City for consideration and approval.

- 4.5 Prior to installation of any equipment, the Contractor shall submit a copy of the installation drawings in AutoCAD 2005 format for review by the City. Drawings shall include both physical and logical system configurations and results of all measurements and tests. Contractor shall also provide a copy of drawings on a compact disc (CD).
- 4.6 All upgrades performed shall include all the same requirements listed in Section 5 below for new installations, including warranty.
- 4.7 Within thirty days following contract execution, Contractor shall submit a report to the City describing the site investigation and shall include the following information:
- 4.7.1 Current ACS details (location of all equipment, estimated date of manufacture of components, firmware version, serial numbers of iStar panels, iStar cluster configuration etc.)
- 4.7.2 Indicate noted conflicts between System drawings and site investigation
- 4.7.3 Describe proposed modifications and reasons for change
- 4.7.4 Include specifications sheets and written functional requirements to support findings
- 4.7.5 Prepare drawings and other data required to show variations and corrections. Major drawing modifications will be billed on time and material basis.
- 4.7.6 If work schedule is affected by site investigation, revise initial progress schedule, and submit to the City.
- 4.8 Contractor shall certify site investigation has been performed and that, except for items noted, conditions shown and described in System drawings are correct and equipment can be installed and work can be performed as specified without conflicts with existing site conditions and is in compliance with all applicable codes and ordinances.
- 4.9 The Contractor shall exchange, replace or install new parts for all defective, worn, or missing parts, when such replacement is required to maintain proper equipment operation. Such replacement parts shall be charged in accordance with the Unit Price List in Exhibit A-2 Price List.
- 4.10 After the successful completion of system survey and identified repairs, Contractor shall certify the existing ACS installation as warrantable and shall provide warranty and maintenance services to the City, signaling the start of the Maintenance Agreement for the existing ACS. The maintenance agreement for the existing ACS system may not coincide exactly with the maintenance agreement of the new ACS system due to unforeseen scheduling and phased completion dates of coverage.
- 4.11 Contractor shall provide an annual written assessment to City of the ACS to include the following:
- 4.11.1 Overall condition of the ACS system
- 4.11.2 Proper functionality of the components of the system
- 4.11.3 List of the failures of the major components of the system that occurred in the past 12 months.

4.11.4 List of the repairs that were made in the past 12 months.

4.12 Deliverables:

4.12.1 Site Investigation Report

4.12.2 Annual Written Assessment of ACS

5. INSTALLATION OF NEW SYSTEM (EXPAND EXISTING SYSTEM)

5.1 Contractor shall provide all required expansion and modifications of the existing system including new software and additional licenses as may be required as per Hardware Specifications in Exhibit A-1.

5.2 Contractor shall provide all work, hardware, software, systems integration, engineering, design work, wiring diagram, programming, testing and commissioning required for the installation of new equipment and ACS devices including all required system programming, SCP configuration, camera call-ups and graphical map creation required for a complete and operational extension and modification of the existing system.

5.2.1 Mounting Screws used to mount junction box covers, pull boxes and all other devices (card readers, audio/visual devices, request-to-exit switch etc.) shall be pinned torx stainless steel type.

5.3 Contractor shall be responsible for training installation personnel, oversight and inspection of the installation by others of all ACS end devices. Contractor shall be responsible for all terminations within security control panels (SCP). End devices include: card readers, door locking hardware, cable transfer devices, door contacts, rex devices, junction boxes, security screws, cable conduit, cable and any and all equipment not located in the SCP closets.

5.4 Contractor will confirm that City installed cabling and conduit meets system requirements and specifications.

5.5 Contractor shall perform required programming and testing to interface the existing ACS to the new Internet Protocol Television (IPTV) or legacy CCTV system for alarm video call-up on the ACC video monitors and IPV Graphic User Interfaces (GUI) workstations. System programming shall include but not limited to the following:

- Alarm point description
- Camera Call-up
- Modification of graphical maps
- Interlocks modifications (if applicable)
- Security door sequence of operations
- IPTV System interface

5.6 All ACS workstations and file servers affected by the ACS software modifications shall be updated. This shall include but not limited to the workstations in the Airport Communications Center (ACC) and Federal Inspection Services (FIS) areas.

5.7 Contractor shall provide a copy of corrected and approved shop drawings for the project, updated to show as-built conditions, including the manufacturers' brochures. Drawings

shall indicate exact device and junction box locations, panel termination, cable and conduit routes and wire numbers as tagged and color-coded on the cable tag. Final point-to-point wiring diagrams shall be included in the "as-builts". Prepare "as-builts" using the latest release of AutoCAD and deliver files to the Airport.

- 5.8 Contractor shall coordinate the interface of all emergency egress security doors with the City or its designated fire alarm service provider, for loss of power to the security door electrical locking device in the event of fire alarm system activation within the area the security door(s) is located. ACS installations and modifications shall comply with all applicable requirements of the National Fire Protection Association codes.
- 5.9 Contractor shall provide one year warranty and related warranty information. The warranty on any new or upgrade installations shall be one year from the date of testing and final acceptance by the City.
- 5.10 After installation, Contractor shall provide a suggested spare parts list including prices.
- 5.11 Thirty days prior to any modification, Contractor shall provide software manual detailing all required modification to the System.
- 5.12 Contractor shall provide complete set of manuals and other information (shop drawings, wiring schematics and functional descriptions) necessary for the operation and maintenance of the System including Operator's Manual, Maintenance and Service Manual, and Operation and Maintenance Manuals.
- 5.13 Contractor shall clean the work and staging areas to normal "clean" condition. Within five (5) days of substantial completion, Contractor shall clean and remove from site all surplus and discarded materials, temporary security fencing, waste and debris of every kind. Contractor shall remove waste materials from site and dispose of in a lawful manner. City electrical contractor is responsible for clean up of work performed under their contract
- 5.14 **Deliverables:**
 - 5.14.1 Suggested spare parts list including prices.
 - 5.14.2 Drawings including "as-build" information
 - 5.14.3 Wiring diagrams for each door type and unique sequence of operations
 - 5.14.4 Complete set of manuals

6. QUALITY ASSURANCE

- 6.1 All equipment and materials required for installation under this Agreement shall be new and without blemish or defect.
- 6.2 Quality control services include inspections and tests and related requirements including administration, management, supervision, reports, record keeping, or other services.
- 6.3 Contractor shall perform and document all inspections, tests, and other activities.
- 6.4 Contractor shall designate a Quality Control Supervisor whose sole responsibility is to ensure compliance with the requirements of this Agreement and submit Weekly Quality

Control Summary Reports to the City.

6.4.1 Log record to track each test performed

6.4.2 Log or rolling punch-list, to record and track all inspections and tests, which remain open or uncorrected at the close of each workday or shift.

6.5 Contractor shall establish a system of sign-off sheets certifying that all work required of critical work elements has been completed in accordance with the plans and specifications.

6.6 Contractor shall provide full and complete documentation of all quality control activities including: quality control plan detailed quality control procedures, progress reports, inspection reports and inspection control log, deficiency log, weekly deficiency reports, test reports, sign-off sheets, quality awareness and training records, and project record documents.

6.7 The Quality Control activities shall include at a minimum 1) Preparatory Inspections, 2) Initial Inspection, 3) Follow-up Inspections, and 4) Code Required Inspections.

6.8 Deliverables:

6.8.1 Quality Control Records

6.8.2 Weekly Quality Control Summary Reports

7. TESTING AND FINAL ACCEPTANCE

7.1 After installation, Contractor shall perform testing and adjustment of the completed ACS.

7.2 Contractor shall demonstrate to the City all field tests and the successful operation of the system at each installed location. The field testing shall at a minimum include the following:

7.2.1 Activation of all access controlled door alarms to the ACS workstation.

7.2.2 Verification of automated camera call-up

7.2.3 Graphic alarm annunciation

7.2.4 Emergency exit functionality

7.2.5 Interlocks operation (if applicable)

7.3 Contractor installs, configures and tests the components. Contractor will perform Final Acceptance on the production system environment. Final acceptance of the new system will consist of a written acceptance by City's Project Manager of the individual system components, equipment, hardware and software and the system as a whole.

7.4 The Final Acceptance Test will begin upon completion of all software and hardware installations and demonstration of all system functions. The test will comprise of thirty (30) calendar days of live operation.

7.5 The System software will be available and operational for at least ninety nine and ninety

nine one hundredths percent (99.99%) of normal business hours during this period to constitute a valid test, excluding downtime caused by City or unrelated to Contractor System.

- 7.6 Contractor shall submit drawings and records to the City prior to Final Acceptance.
- 7.7 Final Acceptance shall be based on satisfactory delivery or completion of the following:
 - 7.7.1 All systems have been completed in accordance with the scope of the requirements and contract; and
 - 7.7.2 All systems have passed the acceptance test plan; and
 - 7.7.3 All deliverables have been delivered to the complete satisfaction of the City.
 - 7.7.4 Upon successful completion and Final Acceptance, Contractor and City will memorialize this event by promptly executing a Final System Acceptance Certificate Attachment 1.
- 7.8 Deliverables:
 - 7.8.1 Acceptance Test Plan
 - 7.8.2 Acceptance Reports
 - 7.8.3 Final as-built drawings and documents
 - 7.8.4 Final System Acceptance Certificate

8. WARRANTY

- 8.1 Contractor shall warrant work, equipment and systems provided under this Agreement for a period of twelve months from date of acceptance.
- 8.2 The after hours response and emergency response for the new system is built into the yearly maintenance agreement prices and assumes work performed by City and/or electrical contractor are done in a professional manner.
- 8.3 Contractor shall provide complete warranty maintenance service including modifications, repairs, adjustments and general preventative maintenance for all equipment, hardware, and software installed under this contract including all re-used existing security devices, wire/cable, and support structures, including all normal life-cycle hardware and equipment replacements that occur throughout the entire warranty maintenance period. Such warranty maintenance services shall be provided in accordance to the service levels specified in Section 12.5 of this Exhibit.
- 8.4 At the completion of each routine and/or emergency service call, Contractor shall generate a written post service event report. This report shall include the date of the event, service(s) performed, equipment replaced and/or removed from operation by Contractor, and a description of the root cause of the event.
- 8.5 Contractor shall develop, submit, obtain approval for, and support a detailed Warranty Maintenance Plan for the ACS prior to final acceptance by the City. This plan shall address the requirements as set forth herein and cover both the initial warranty

maintenance period and chargeable services that may occur after expiration of the initial warranty maintenance period.

- 8.5.1 Installation Phase and one year warranty period
- 8.5.2 Supplementary maintenance program for the warranty period
- 8.5.3 A comprehensive preventative maintenance plan
- 8.5.4 Post Warranty Period
- 8.6 Contractor shall maintain copies of all original warranty maintenance related hard copy and electronic documents onsite at all time which shall be made available to City at any time upon request. Warranty records for existing equipment shall be included.
- 8.7 If items supplied as part of this Agreement have longer warranties, Contractor shall supply longer warranty.
- 8.8 At the end of the one year warranty period, Contractor shall provide detailed documentation of regular and corrective warranty maintenance performed during that time. Documentation shall include description of service provided and, where corrective action was required, symptoms diagnoses, subsequent actions taken, and a description of the root cause of the problems(s). Any recommended changes in routine preventive maintenance procedures shall also be included.
- 8.9 The installation of this project will be completed in phases. And as each phase is brought into operation and accepted by the City the one (1) year warranty period for the equipment associated with that phase will begin. At the completion of the entire installation project, Contractor recommends a meeting with the City to bring the warranty work begun in phases and the maintenance plan put in place for the existing ACS system to begin and renew on the same annual schedule. This may require extending warranty services and/or providing accrual for agreements as needed to bring the entire system under one annual renewal basis.
- 8.10 The warranty and maintenance plan do not cover acts of God or vandalism.
- 8.11 Deliverables:
 - 8.11.1 Warranty Maintenance Plan
 - 8.11.2 Post Warranty Report

9. HARDWARE AND SOFTWARE SUPPORT

- 9.1 After the one year warranty for new or upgraded installations, Contractor shall provide ongoing hardware and software support on an on-call, T&M basis.
- 9.2 Contractor shall provide ongoing hardware and software support for existing system on an on-call, T&M basis.
- 9.3 Contractor shall notify City of software and firmware updates and provide a recommendation to install or not install. This shall be done within a reasonable amount of time after release during regular semi-annual preventative maintenance checks or at City's option on an on-call, T&M basis.

- 9.4 On-going hardware and software support shall be performed on a semi-annual basis as Preventative Maintenance. Such Preventative Maintenance shall be performed by at least two certified Software House technicians. These technicians shall be on-site for a minimum of five eight-hour days for each Preventative Maintenance visit and inspection.
- 9.5 Contractor shall work closely with City's in-house electrician who may respond to emergency conditions such as hardware failures. Contractor shall also work to certify the City's in-house electrician as Software House certified installer at no additional cost to the City.

10. PREVENTATIVE MAINTENANCE

The Contractor shall conduct semi-annual Preventative Maintenance that includes at minimum the following tasks:

10.1 General

- 10.1.1 Check customer's fault log and site documentation are present and up to date.
- 10.1.2 Identify any additional customer requirements and take appropriate action.
- 10.1.3 Check if building alterations have affected the system effectiveness.
- 10.1.4 Ensure there are no outstanding works to be completed.
- 10.1.5 Identify any operational difficulties the customer is experiencing.
- 10.1.6 Ensure any access equipment is suitably safe and available for use.
- 10.1.7 Ensure any required access authorizations are obtained.
- 10.1.8 Obtain from the customer an understanding of site Health and Safety issues (Fire, First Aid, etc.).
- 10.1.9 Check printer logs for any past faults or failures.
- 10.1.10 Clean all devices and equipment

10.2 Field Devices

- 10.2.1 Overall condition of devices
- 10.2.2 Reader functionality, including read range and indicator lights
- 10.2.3 Request to exit devices (REX)
- 10.2.4 Locking mechanisms
- 10.2.5 Audio/visual devices (if applicable)
- 10.2.6 Proper interlock (If applicable)
- 10.2.7 Door position switches
- 10.2.8 External indicator lights (if applicable)

10.2.9 Proper voltage

10.3 Control Panels

10.3.1 Overall condition

10.3.2 Proper voltages of power supplies

10.3.3 Proper voltage of batteries

10.3.4 Proper communications of panels to devices and servers

10.3.5 Proper labeling of wires within control panels

10.3.6 Firmware versions (update when new versions are released)

10.4 Client Workstations

10.4.1 Check current software for appropriate revision levels and make upgrade recommendations.

10.4.2 Load required software patches

10.4.3 Inspect and clean the computer and peripherals.

10.4.4 Clean and align badge printers to assure proper printing.

10.4.5 Scandisk and defrag the storage drives.

10.5 Servers

10.5.1 Verify the C-Cure version and make recommendations for upgrade if appropriate.

10.5.2 Verify the integrity of the database.

10.5.3 Verify condition of all storage drives.

10.5.4 Ensure all storage drivers and arrays are working properly.

10.5.5 Ensure redundant power supplies are working

10.5.6 Scandisk and defrag the hard drives.

10.5.7 Ensure all software updates and patches have been installed.

10.5.8 Ensure Legato software functions properly by forcing a switchover.

10.5.9 Check network for bandwidth usage by devices and investigate any high readings.

10.6 Reports

10.6.1 To assist the City in establish an economic basis for retiring specific items of equipment from service (life cycle costs) or for other needs, the Contractor shall

establish and maintain a computerized master list of all equipment installed and all spare parts inventoried.

10.6.2 Contractor shall establish, maintain and update a computerized maintenance record for each piece of equipment by type, manufacturer, model number, operating system software and if a client computer general computer properties and device location followed by appropriate work performed and the cost of replacement parts utilized.

10.7 Deliverables:

10.7.1 Master Computerized Maintenance Records

11. SUPPLEMENTAL MAINTENANCE SERVICES

11.1 The City shall have the right to request Contractor perform additional services as may be required to ensure optimum System performance. Contractor shall provide a "Not to Exceed" quote for all requested work or parts or equipment replacement. All extra work or parts or equipment replacement must have prior written authorization by Airport Project Manager pursuant to Agreement Section 8 and using Exhibit F before proceeding with extra work or equipment replacement. Extra work may include upgrading/adding of new devices authorized for the Software House system.

11.2 All out of scope service calls "call-outs", shall be based on time and material basis as specified in the Exhibit B – Compensation.

11.3 If it is necessary for the Contractor to subcontract out the extra work, City requires the Contractor to identify at least three firms qualified to perform the work, to supply City with documentation of their qualifications, experience and references, and to obtain at least three competitive quotations for the work. This requirement may be waived by City at City's sole discretion.

11.4 Contractor shall be compensated on a per job basis for extra work requested by City once that work has been completed and accepted by City. Invoices may be submitted as soon as the work is complete and accepted by City.

12. SERVICE LEVELS

12.1 Contractor shall provide emergency callout service on a 24 hour a day, 365 days per year basis. Contractor's service technician shall respond by phone within ten minutes to any emergency notification by the City and shall arrive at the Airport no later than 60 minutes after the call is responded to. Contractor shall only dispatch a Software House certified technician.

12.1.1 An Emergency failure or system failure shall be considered an emergency if any of the key components are inoperative to the extent the system cannot function in a normal manner. Emergency services shall include inspections and necessary tests to determine the causes of equipment or software malfunction or failure. The emergency services shall include: software changes, and the furnishing and installation of components and parts required to replace malfunctioning system elements. The Contractor shall specify a maximum amount of time to get the system up and operational in the event of an emergency failure. This time period shall be subject to City approval.

12.1.2 Emergency failures shall include situations described below. Note that "inoperative" shall be defined as a hardware or software failure that results in a device not meeting the functional, operational, or performance requirements defined herein.

- 12.1.2.1 Any ACS server is inoperative.
- 12.1.2.2 One (1) or more of the critical ACS door devices are inoperative.
- 12.1.2.3 Three (3) or more of the non-critical ACS door devices are inoperative.
- 12.1.2.4 The City shall make the determination as to which doors qualify as critical or non-critical.
- 12.1.2.5 Any ACS workstation is inoperative.
- 12.1.2.6 Any Security Control Panel is inoperative.
- 12.1.2.7 The third occurrence or greater of the same system failure in a thirty (30) day period.
- 12.1.2.8 The seventh occurrence or greater of the same system failure in any time period.

12.2 Contractor shall provide routine (non-emergency) warranty maintenance service including new additions, modifications, repairs and adjustments during normal business hours Monday through Friday. Emergency failures covered under warranty may require immediate response.

12.3 When the City places a call for non-emergency service to Contractor before 11:00 AM Monday through Friday, Contractor shall prioritize the service request(s) in light of already scheduled work for that day and make all reasonable attempts to provide the service within twenty four (24) hours of the request.

12.4 Contractor shall provide a dedicated Service Request Hot-line with a live agent 24x7x365. The contact information is shown below:

<u>Type of Request:</u>	<u>Contact Information:</u>
Service Request Hotline (live agent):	1-866-225-6221
Email Support:	<u>Integrationsystems@IRCO.com</u>
Fax:	1-866-914-0989

12.5 Contractor agrees to the service levels and response times listed below:

Service Level	Response
Level 1 (Emergency): System Failure/limited functionality	Emergency callout service for 24/7/365. Following receipt of telephone notice from Airport that Level 1 condition exists, Contractor's Hotline live Agent shall provide confirmation and estimated time of arrival and technician shall arrive at the Airport no later than sixty (60) minutes after the call is taken.
Level 2 (Major or non emergency): System or software functionality is limited to some degree however the	Following receipt of telephone notice from Airport before 11:00 am Monday through Friday that a Major condition exists, Contractor shall prioritize

loss of functionality has only minimal impact on the customer's operations, or a work-around solution exists which minimizes the operational impact of the problem	the service request(s) in light of already scheduled work for that day and make all reasonable attempts to provide the service within one business day (24 hours) of the request.
Level 3 (Minor or non-emergency): Minor anomalies in the system or software operation which have no discernable impact on the customer's operations, and/or routine customer requests concerning the operation or features of the system/software or its documentation.	Following receipt of telephone notice from Airport that a Minor condition exists, Contractor will commence corrective action within four (4) business days.

12.6 At the completion of each service call, Contractor shall generate a written post service event report. This report shall include the date of the event, service(s) performed, equipment replaced and/or removed from operation by Contractor, and a description of the root cause of the event including estimated and actual down-time given for the repair to be completed.

12.7 The City shall have the right to purchase additional quantities of key equipment to be used for replacement purposes at the prices listed in Exhibit B – Compensation.

12.8 Deliverables:

12.8.1 Post Service Event Report

ATTACHMENT 1

FINAL ACCEPTANCE CERTIFICATE

After the customer is satisfied with all test results and resolution, the customer will proceed with signing the Final Acceptance Test Certificate.

FINAL SYSTEM ACCEPTANCE CERTIFICATE

Customer Name: City of San Jose – Airport

Project Name: Access Control System

This Final System Acceptance Certificate memorializes the occurrence of Final System Acceptance. Contractor and Customer acknowledge that:

1. *All System or product documentation agreed upon under the Agreement has been provided.*
2. *The System is accepted, except for any items listed on the attached punch list if applicable. The parties will promptly complete their respective punch list responsibilities according to a mutually agreed schedule.*
3. *By acknowledging the Final Acceptance of this contract the customer agrees to pay any remaining invoices to the seller on said contract.*
4. *Upon signed acceptance by the customer access to the Customer Support Center providing Call-in Support Service will be made available during the hours designated in Warranty Agreement purchased with your contract.*

City of San José – Airport

Ingersoll Rand Security Technologies

By _____
Name: _____
Title: _____
Date: _____

By _____
Name: _____
Title: _____
Date: _____

**EXHIBIT A-1
HARDWARE SPECIFICATIONS**

1. SECURITY CONTROL PANEL (SCP)

- 1.1 Acceptable Manufacturer/Model: The access control panel shall be Software House iStar Pro Enterprise Control Panel with 128 Mbytes of memory, no substitutions.
- 1.2 Intelligent access control panels shall be 100% compatible with the existing Software House® system, therefore the design selection is Software House products. These units must be provided with all programming required for integration into the existing system and for the provision of functionality for new doors at the locations detailed on the Contract Drawings.
- 1.3 Include all required General Control Modules (GCM II), Access Control Modules, and input and output modules required for a complete and operational system.
 - 1.3.1 SCP and Card Reader Power Supplies: Each SCP shall be provisioned with Software House APS 12 VDC, power subsystem sized to power an individual APC with 8 or 16 card readers, and provide a minimum of four hour battery backup.
 - 1.3.2 Need specifications for 24 volt DC to power door locks and horn strobes.
 - 1.3.3 Provide intelligent power supplies (APS) with each SCP designated in the system. For each SCP a separate APS shall be provided and sized to support all required power for card readers and the SCP. These power supplies shall be exempt from supplying power to electrical door hardware, audio/visual devices, and other field devices.
 - a) Power supplies shall be equipped with integral battery back up system capable of delivering normal operating power for a period of 4 hours under normal traffic.
 - b) Failure of the battery set, charging system, or transitional switching equipment shall be recorded as an "Abnormal" condition on the ACS system.
 - c) Power supplies shall be equipped with tamper switches mounted in the cover of the device. Activation shall occur within 1/4" abnormal movement, and recorded as an "Alarm" on the ACS system.
- 1.4 The SCP communications shall be Ethernet (100 Base-T) and shall be fully functional during system and credential downloads. In addition, the controller shall support the following communications protocols:
 - 1.4.1 RS-232
 - 1.4.2 Enclosure: The SCP enclosure shall be a UL rated NEMA 1 style metal cabinet designed for surface mounting. It shall have a tempered, hinged door with a high security key lock keyed identical to that of the existing SCPs. It shall have conduit knockouts to allow 1/2" to 1" EMT conduit to be used for cabling entry into the cabinet.
 - 1.4.3 Fire System Interface: The system shall satisfy all requirements of NFPA 101.5-2.1.6.2 Access-Controlled Egress Doors. Loss of power to access control fire system interface that locks the doors shall automatically unlock the doors.

1.4.4 Activation of the building fire-protective signaling system, automatic sprinkler, or fire detection system, shall automatically unlock the doors and the doors shall remain unlocked until the fire-protective signaling system has been manually reset.

2. ETHERNET SWITCH

2.1 The Ethernet Switches for ACS communications and connection to the existing system shall be provided by others.

3. PROXIMITY CARD READER

- 3.1 Acceptable Manufacturer/Model: Software House SWH-4100, no substitutions.
- 3.2 Reader locations: Readers shall be located as shown on the Contract Drawings.
- 3.3 Reader shall be proximity type reader that shall be suitable for horizontal or vertical mounting.
- 3.4 Reader mounting method: Readers shall be suitable for surface or flush mounting as required. Exposed fasteners shall be tamper resistant
- 3.5 The proximity reader shall have a read range of up to 4.5 inches. The reader shall be able to be mounted with its sides against metal door or window frames.
- 3.6 Reader display and indicators: Reader shall have three LEDs (red, amber, green)
- 3.7 Reader response: Reader shall respond to passage requests by generating a signal to the SCP.
- 3.8 Operating temperature shall be plus 32 degrees F to plus 140 degrees F.
- 3.9 The proximity card shall be read when presented in any orientation or at any angle to the surface.

4. PROXIMITY CARD READER WITH PIN PAD

- 4.1 Acceptable Manufacturer/Model: Software House SWH-4200, no substitutions.
- 4.2 Reader locations: Readers shall be located as shown on the Contract Drawings.
- 4.3 Reader shall be proximity type reader suitable for horizontal or vertical mounting.
- 4.4 Reader mounting method: Readers shall be suitable for surface or flush mounting as required. Exposed fasteners shall be tamper resistant
- 4.5 The proximity reader shall have a read range of up to 4.5 inches. The reader shall be able to be mounted with its sides against metal door or window frames.
- 4.6 Reader display and indicators: Reader shall have three LEDs (red, amber, green)
- 4.7 Reader response: Reader shall respond to passage requests by generating a signal to the SCP.

- 4.8 Operating temperature shall be plus 32 degrees F to plus 140 degrees F and -22 degrees to plus 140 degrees with heater kit.
- 4.9 The proximity card shall be read when presented in any orientation or at any angle to the surface.
- 4.10 Proximity card readers shall be installed by others with supervision and direction by PROPOSER.

5. PROXIMITY CARD READER WITH BIOMETRICS

- 5.1 The Airport reserves the right to specify at a later date a card reader with biometrics for use at SJC.
- 5.2 Reader locations: Readers shall be located as shown on the Contract Drawings.
- 5.3 Reader shall be proximity type reader with 12-digit PIN pad that shall be suitable for horizontal or vertical mounting.
- 5.4 Reader mounting method: Readers shall be suitable for surface or flush mounting as required. Exposed fasteners shall be tamper resistant
- 5.5 The proximity reader shall have a read range of up to 4.5 inches. The reader shall be able to be mounted with its sides against metal door or window frames.
- 5.6 Reader display and indicators: Reader shall have three LEDs (red, amber, green)
- 5.7 Reader response: Reader shall respond to passage requests by generating a signal to the SCP.
- 5.8 Operating temperature shall be determined by SJC.
- 5.9 The proximity card shall be read when presented in any orientation or at any angle to the surface.
- 5.10 Proximity card readers shall be installed by others with supervision and direction by PROPOSER.

6. REQUEST-TO-EXIT PUSHBUTTON

- 6.1 Request-to-Exit Pushbutton shall be installed at locations as detailed on the Contract Drawings.
- 6.2 Request-to-Exit Pushbuttons shall be SDC model PB2 or approved equal.
- 6.3 Request-to-Exit Pushbuttons shall be installed by others with supervision and direction by PROPOSER.

7. AUDIBLE/VISUAL DEVICE

- 7.1 Acceptable manufacturer/model: Wheelock model AMT-241575W or approved equal.
- 7.2 Provide a multitone electronic audio/visual device at each access controlled door

location.

- 7.2.1 Devices shall activate upon a signal from the ACS creating an audio and visual alert signal at the door location.
- 7.2.2 Devices shall have the ability to be silenced remotely via the ACS.
- 7.2.3 Upon acknowledgement of the alarm by the ACS operator the device shall reset.
- 7.2.4 The unit shall have multitone selection and shall have Hi and standard volume connection. The PROPOSER shall coordinate tone and volume selection with the CITY.

7.3 Audio/visual devices shall be installed by others with supervision and direction by PROPOSER.

8. DOOR HARDWARE POWER SUPPLY

8.1 Specifications:

- 8.1.1 UL Listed
- 8.1.2 120 VAC
- 8.1.3 4 Hour Battery Backup

8.2 Power supplies shall be individually fused and configured with 25 percent spare capacity.

8.3 Power supplies shall be installed by others with supervision and direction by PROPOSER.

8.4 The number of power supplies shall be as required for complete system operation.

- 8.4.1 Acceptable Manufacturer/Model: Altronix AL1024ULXPD8CB (wall mount), or approved equal.

**EXHIBIT A-2
CONTRACT PRICE LIST**

Equipment	Qty	Unit Of Measure	Cost
Proximity Card Readers	1	Each	\$1,200.00
Proximity Cards	1	Each	\$4.50
Security Control Panels	1	Each	\$6,200.00
Request to Exit Buttons	1	Each	\$250.00
Audio/Visual Alarms	1	Each	\$200.00
Door Position Switches	1	Each	\$150.00
Power Supplies	1	Each	\$500.00
Termination Strips	1	Each	\$100.00

- Notes:
1. Above unit prices are complete costs including installation labor per Best and Final Offer (BAFO) Section 10.1.
 2. Distance from panel to device is unknown therefore provided prices do not include cable or cable installation cost.

**EXHIBIT A-3
PERFORMANCE SCHEDULE**



	Months																
	2009						2010										
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	
PMP Development/Submittal/Revision	█	█															
North Concourse																	
ACS Installation	█	█	█	█													
Testing and Acceptance				█													
Terminal A																	
Installation			█	█	█	█											
Testing & Acceptance						█											
Terminal B																	
Installation							█	█	█	█	█	█	█	█	█	█	█
Testing & Acceptance															█	█	█
Existing System / Maintenance																	
Survey and Document	█																
Create and Submit Documentation		█															
Repairs or Changes to Existing System			█														
Testing and Acceptance				█													
Preventive Maintenance						█						█					

Notes:

- 1) Schedule to begin following acceptance of the Notice to Proceed
- 2) The length of time to upgrade the existing system is an estimate. A more accurate schedule will be created after the survey.
- 3) This schedule is based on an Airport Improvement Program Facts document date 4/08 from the Airportweb site.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

**EXHIBIT B
COMPENSATION**

1. COMPENSATION:

1.1 The maximum amount payable for all products and services provided under this Agreement shall not exceed Three Hundred Forty Two Thousand, Seven Hundred Eleven Dollars and Thirteen Cents (\$342,711.13). Any additional services requested by the City that would exceed the preceding maximum amount will be addressed in accordance with the Change Order Procedures. No additional services will be performed unless both parties execute a Change Order outlining the services requested and the compensation agreed for such services.

1.2 Payment for any part or parts of the System provided hereunder, or inspection or testing thereof by City, shall not constitute acceptance or relieve Contractor of its obligations under this Agreement. City may inspect the components of the System when delivered and reject upon notification to Contractor any and all the System, which does not conform to the Specifications or other requirements of this Agreement. Components of the System, which are rejected shall be promptly corrected, repaired, or replaced by Contractor. If City receives components of the System with defects or nonconformities not reasonably apparent on inspection, then City reserves the right to require prompt correction, repair, or replacement by Contractor in accordance with Contractor's warranty obligations.

2. PROJECT PERFORMANCE & PAYMENT SCHEDULE:

2.1 Compensation and payments shall be made to Contractor by City based on net thirty (30) days payment terms, following acceptance of System. All invoicing shall include only deliverables accepted and approved by City. City shall have no obligation to pay unless Contractor has successfully completed and City has approved the System for which payment is due or an approved progress payment. Payment shall not be delayed due to schedule delays caused by the City's Electrical contractor.

2.2 Work shall commence immediately upon execution of the Agreement.

3. RENEWAL PERIOD COMPENSATION:

Pursuant to Section 2.2 of the Agreement, City reserves the right to renew the maintenance and support services of this Agreement for three (3) additional one-year terms ("Option Periods") at the rates in Table B1.

Table B1: Payment Schedule

Item	Milestone/Deliverables	Estimated Completion	Compensation	%
Initial Term	1. Annual Support and Maintenance (Exhibit A, Section 10) (semi-annual preventative maintenance of new and existing Access Control System)	7/1/09 – 6/30/10	\$44,473.00	100%
	2. Survey/Document Existing System (Exhibit A, Section 4)	7/1/09 – 10/30/09	\$12,000.00	100%
	3. New ACS System			
	• Project Management/Implementation (Exhibit A, Sections 3, 5, 6)	7/1/09 – 10/30/10	\$137,501.57	58%
	• Hardware Delivery/Warranty (Exhibit A, Sections 5, 8, 12)	7/1/09 – 8/30/10	\$39,677.03	17%
	• Final System Acceptance (Exhibit A, Section 7) (20% withhold)	08/1/10 – 10/30/10	\$47,247.63	20%
	• Punch List (5% withhold)	12/30/10	\$11,811.91	5%
SUB-TOTAL CONTRACT AMOUNT			\$292,711.13	100%
	4. Maintenance Services (Exhibit A, Sections 9, 12) (time and materials)	as required	\$50,000.00	
TOTAL NOT-TO-EXCEED CONTRACT AMOUNT			\$342,711.13	
Contingency (if required, use Change Order Procedure)			\$51,407.00	
Option Year 1	Annual Support and Maintenance (Exhibit A, Section 10) (semi-annual preventative maintenance of new and existing Access Control System)	7/1/10 – 6/30/11	\$44,473.00	
Option Year 2	Annual Support and Maintenance (Exhibit A, Section 10) (semi-annual preventative maintenance of new and existing Access Control System)	7/1/11 – 6/30/12	\$44,473.00	
Option Year 3	Annual Support and Maintenance (Exhibit A, Section 10) (semi-annual preventative maintenance of new and existing Access Control System)	7/1/12- 6/30/13	\$44,473.00	
TOTAL OPTIONS AMOUNT			\$133,419.00	

4. MAINTENANCE SERVICES (TIME AND MATERIALS)

City requests for additional services shall be made pursuant to Agreement Section 8. T&M service labor will be charged to City at the rates specified in Section 5 of this Exhibit. Replacement parts and materials required as part of the T&M service will be paid for by City at 15% off manufactures list price. In the event that the cost of replacement parts exceeds 25% of the replacement value of the equipment under work, the Contractor shall cease work and so notify the City. City reserves the option of authorizing work continuance or to withdraw the equipment from service.

5. ADDITIONAL SERVICES

In the event the City requires additional services, Contractor shall provide a written quotation, at no cost to the City, of the type of Additional Service requested and the time required to complete the same. Upon receiving City's written approval in the form of Exhibit F to proceed with the Additional Service, Contractor shall perform the Additional Service at a time mutually agreed upon by Contractor and according to the hourly rates specified below:

Type	Regular Time	Overtime	Holiday
Service	\$95.00	\$142.00	\$190.00
Installation	\$95.00	\$142.00	\$190.00
Engineering & Design	\$110.00	\$165.00	\$220.00
Project Management	\$110.00	\$165.00	\$220.00

Exhibit C Insurance Requirements

INSURANCE REQUIREMENTS Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

D-1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage "occurrence" form CG 0001; and
2. The coverage provided by Insurance Services Office form number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance; and
4. Professional Liability Errors and Omissions.

There shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents and contractors.

D-2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident; coverage shall be endorsed to state carrier waives its rights of subrogation against the City, its officials, agents and contractors.
4. Professional Liability Errors and Omissions \$1,000,000 Aggregate Limit.

D-3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-

insured retentions as respects the City, its officials, employees, agents and contractors; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City.

D-4 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverage

a. The City, its officials, employees, agents and contractors are to be covered as additional insured as respects: liability arising out of activities performed by, or on behalf of, the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents and contractors.

b. The Contractor's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents or contractors shall be excess of the contractor's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, agents, or contractors.

d. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.

3. All Coverage

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City; except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

D-5 Acceptability of Insurance

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

D-6 Verification of Coverage

Contractor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Copies of all the required ENDORSEMENTS shall be attached to the CERTIFICATE OF INSURANCE which shall be provided by the Contractor's insurance company as evidence of the stipulated coverage. This proof of insurance shall then be mailed to: **CITY OF SAN JOSE – HUMAN RESOURCES, Risk Management, 200 East Santa Clara Street 2nd Floor Wing, San Jose, CA 95113-1905**

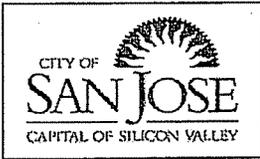
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DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

D-7 Subcontractors

Contractors shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.



**EXHIBIT D
LABOR COMPLIANCE ADDENDUM
SAN JOSÉ LIVING WAGE AND PREVAILING WAGE POLICIES**

AGREEMENT TITLE:	
CONTRACTOR Name and Address:	

By executing this Addendum, Contractor acknowledges and agrees that the work performed pursuant to the above referenced Agreement or Service Order is subject to all applicable provisions of the Norman Y. Mineta San Jose International Airport Living Wage Ordinance, San Jose Municipal Code Chapter 25.11 (copy attached, Exhibit D-1).

Payment of Minimum Compensation to Employees. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate and/or Living Wage Rate as indicated in the attached Exhibit(s) titled **Work Classification and/or Living Wage Determination**.

A. Prevailing Wage Requirements. California Labor Code and/ or Resolutions of the San Jose City Council require the payment of not less than the general prevailing rate of per diem wages and rates for holiday and overtime and adherence to all labor standards and regulations. The General Prevailing Wage Rates may be adjusted throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Contractor shall not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.

Living Wage Requirements. Any employee meeting the definition of a covered employee who works for: 1) an Airport business with an Airport contract; 2) an Airport business with a permit issued by the Airport; or 3) an Airport business that is a subcontractor that provides goods or services at the Airport under a contract with a contractor. A covered employee is one who: 1) is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation; 2) expends at least half of his or her time working for the Airport Business on work at the Airport; 3) is at least eighteen (18) years of age; and 4) is not a student intern or a participant in a job training and education program that has as its express purpose the provision of basic skills and education with the goal of enabling advancement to permanent employment.

B.1 Employee Retention. No less than sixty (60) days prior to termination of this Agreement, the Contractor shall provide to the Office of Equality Assurance a qualified displaced worker list with the names and contact information for all Retention Employees.

B.2 Retaliation and Discrimination Prohibited. Contractor shall not discharge, reduce the compensation of, or discriminate against any employee for making a complaint to the City, participating in any of the City's proceedings related to the Ordinance, using any civil remedies to enforce his or her rights under the Ordinance or otherwise asserting his or her rights under the Ordinance.

B.3 Labor Peace. The City has determined that labor peace is essential to the proprietary interests of the City to ensure that Contract conducting business on City property is a good employer, provides a good work environment without encroaching on the Contractor's ability to conduct business and complies with federal, state and City employment policies. In order to ensure labor peace during the Term and any Option Period of this Agreement, Contractor hereby affirms all labor peace assurances made through the procurement process of this Agreement including Contractor's established and detailed programs that ensures a productive and supportive work environment for its employees as set forth in Contractor's Employee Handbook, such as benefits, discrimination and harassment prevention policies, grievance processes and an open-door policy with management.

B. Reports. Contractor shall file a completed and executed copy of this Addendum with the Department of Finance/Purchasing Division. Upon award the Department of Finance/Purchasing Division shall provide the contractor with compliance documents to be completed and returned (with supporting documentation) to the Office of Equality Assurance. **These documents must be returned within 10 days of receipt.** Contractor shall not perform on site work on this contract until labor compliance documents are filed. Contractor shall also report additional information, including certified payrolls, as requested by Director of Equality Assurance to assure adherence to the Policy.

C. Coexistence with Any Other Employee Rights. These provisions shall not be construed to limit an employee's ability to bring any legal action for violation of any rights of the employee.

D. Audit Rights. All records or documents required to be kept pursuant to this Agreement to verify compliance with the Wage Requirement shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at Contractor's address indicated for receipt of notices in this Contract.

E. Enforcement.

1. **General.** Contractor acknowledges it has read and understands that, pursuant to the terms and conditions of this Agreement, it is required to comply with the Wage Requirement and to submit certain documentation to the City establishing its compliance with such requirement. ("Documentation Provision.") Contractor further acknowledges the City has determined that the Wage Requirement promotes each of the following (collectively "Goals"):

- a. It protects City job opportunities and stimulates the City's economy by reducing the incentive to recruit and pay a substandard wage to labor from distant, cheap-labor areas.
- b. It benefits the public through the superior efficiency of well-paid employees, whereas the payment of inadequate compensation tends to negatively affect the quality of services to the City by fostering high turnover and instability in the workplace.
- c. Paying workers a wage that enables them not to live in poverty is beneficial to the health and welfare of all citizens of San Jose because it increases the ability of such workers to attain sustenance, decreases the amount of poverty and reduces the amount of taxpayer funded social services in San Jose.
- d. It increases competition by promoting a more level playing field among contractors with regard to the wages paid to workers.

2. **Remedies for Contractor's Breach of Prevailing Wage/Living Wage Provisions.**

- a. **WITHHOLDING OF PAYMENT:** Contractor agrees that the Documentation Provision is critical to the City's ability to monitor Contractor's compliance with the Wage Requirement

and to ultimately achieve the Goals. Contractor further agrees its breach of the Documentation Provision results in the need for additional enforcement action to verify compliance with the Wage Requirement. In light of the critical importance of the Documentation Provision, the City and Contractor agree that Contractor's compliance with this Provision, as well as the Wage Requirement, is an express condition of City's obligation to make each payment due to the Contractor pursuant to this Agreement. **THE CITY IS NOT OBLIGATED TO MAKE ANY PAYMENT DUE THE CONTRACTOR UNTIL CONTRACTOR HAS PERFORMED ALL OF ITS OBLIGATIONS UNDER THESE PROVISIONS. THIS PROVISION MEANS THAT CITY CAN WITHHOLD ALL OR PART OF A PAYMENT TO CONTRACTOR UNTIL ALL REQUIRED DOCUMENTATION IS SUBMITTED.** Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of the Wage Requirement or the Documentation Provision.

- b. **RESTITUTION:** Require the employer to pay any amounts underpaid in violation of the required payments. The restitution amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid.
- c. **SUSPENSION OR TERMINATION:** Suspend and/or terminate Agreement for cause;
- d. **DEBARMENT:** Debar Contractor or subcontractor from future City contracts and/or deem the recipient ineligible for future financial assistance.
- e. **FINES FOR BREACH OF WAGE PROVISION:** Require employer to pay a fine to the City. The fine amount shall be equal to three (3) times the difference between the actual amount of wages paid and the amount of wages that should have been paid, but not to exceed one hundred dollars (\$100) for each calendar day, or portion thereof, for each covered employee paid less than the required minimum compensation wage rate. The Administrative Enforcement provisions for the assessment of fines are set forth in Part 17 of the Ordinance.

City

Contractor

By _____
Name: Mark Giovannetti.
Title: Purchasing Officer
Date: _____

By George Thomas 6/10/09
Name: _____
Title: _____
Date: _____

Exhibit D-1

**Norman Y. Mineta San Jose International Airport Living Wage Ordinance
(In abbreviated from)**

**CHAPTER 25.11
AIRPORT LIVING WAGE AND LABOR STANDARDS**

**Part 1
Purpose and Scope**

25.11.100 Purpose and Scope

- A. The establishment of living wage and worker retention requirements at the Airport serves to protect the public health, safety and welfare by requiring the payment of wages sufficient to allow workers to leave or avoid poverty and to decrease worker turnover and instability in the workplace. The consequential benefits of such measures are the improvement of the quality of service to the City, the traveling public and other Airport users; and reduction in dependence on taxpayer funded social services. Retaining experienced and well-trained employees is essential for maintaining Airport safety and security, which is critical for the Airport's successful operation. The City has also expended and continues to invest significant resources in operating, maintaining, and more recently, rebuilding and modernizing the Airport, which benefits the businesses operating at the Airport. The benefits received by Airport businesses from the City's investment should reasonably be shared with their employees through payment of a living wage.

- B. The work environment review and labor peace assurances promote the City's interests in maintaining continuous operation of the Airport. The City as proprietor of the Airport depends upon the revenue it receives from business operations located at the Airport and any interruption in service at the Airport would result in adverse effects on services available to the public and substantial lost revenue for the Airport. The Airport is particularly vulnerable to significant adverse impacts and revenue loss due to the presence of many different employers whose operations are interrelated and interdependent, increasing the likelihood that a service disruption directly involving one employer could impact other operations at the Airport. It is essential for the financial viability of the Airport that services be provided and business operations conducted without interruption.

25.11.110 Exemptions

The requirements of this Chapter shall not apply where and to the extent that state or federal law or regulations preclude or limit their applicability.

**Part 3
Definitions**

25.11.300 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Chapter. The definitions set forth in Part 3 of Chapter 25.01 of this Title shall govern the application and interpretation of the following terms as used in this Chapter: "Advertising Concessions," "Airport," "Car Rental Agencies," "Certificated Air Carriers," "Commercial Activity," "Fixed Based Operators," "Food and Beverage Concessions," "Ground Transportation Management Services," "Ground Transportation Provider," "Janitorial, Custodial and Facility Maintenance Services," "Parking Lot Management," "Retail Concessions," and "Shuttle Transportation."

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25.11.310 Airport Business

"Airport Business" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity conducting Commercial Activity at the Airport pursuant to an Airport Contract or a permit issued by the City under Title 25, and their Subcontractors conducting Commercial Activity at the Airport. "Airport Business" shall not include Ground Transportation Providers, Construction Contractors, the United States Federal Aviation Administration (FAA), the United States Transportation Security Administration (TSA), or any other federal, state or local public agency.

25.11.320 Airport Contract

"Airport Contract" shall mean a lease, license, operating agreement, concession agreement or other contract with the City for the conduct of Commercial Activity at the Airport.

25.11.330 City Manager

"City Manager" shall mean the City Manager or the City Manager's designee.

25.11.340 Construction Contractor

"Construction Contractor" shall mean a construction contractor licensed by the California Contractors State License Board.

25.11.350 Contractor

"Contractor" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity conducting Commercial Activity at the Airport pursuant to an Airport Contract. "Contractor" shall include but not be limited to Certificated Air Carriers, and Car Rental Agencies. "Contractor" shall not include Ground Transportation Providers, Construction Contractors, the United States Federal Aviation Administration (FAA), the United States Transportation Security Administration (TSA), or any other federal, state or local public agency.

25.11.360 Covered Employee

"Covered Employee" shall mean any person employed by an Airport Business who:

- A. Is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation;
- B. Expend at least half of his or her time working for the Airport Business on work at the Airport;
- C. Is at least eighteen (18) years of age; and
- D. Is not a student intern or a participant in a job training and education program that has as its express purpose the provision of basic skills and education with the goal of enabling advancement to permanent employment.

25.11.370 CPI

"CPI" shall mean the Consumer Price Index, All Urban Consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics for the San Francisco-Oakland-San José area, with all items included. In the event the CPI is no longer published, the Director shall use another index published

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by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.

25.11.380 Director

"Director" shall mean the Director of the City's Office of Equality Assurance or such other director designated by the City Manager to administer this Chapter.

25.11.390 Effective Date

"Effective Date" shall mean the effective date of this Chapter.

25.11.400 Minimum Health Insurance Benefits

"Minimum Health Insurance Benefits" shall mean either: (a) an employer-sponsored health insurance plan offered to employees for which the employer pays at least fifty percent (50%) of the cost; or (b) payment by an employer of at least fifty percent (50%) of the cost of an employee's health insurance plan.

25.11.410 Living Wage Policy

"Living Wage Policy" shall mean Resolution No. 68900, adopted by the City Council on June 8, 1999, including any subsequent amendments.

25.11.420 Predecessor Employer

"Predecessor Employer" shall mean the Airport Business that provided substantially similar services at the Airport immediately prior to the Successor Employer.

25.11.430 Prevailing Wage Policy

"Prevailing Wage Policy" shall mean Resolution No. 61144, adopted by the City Council on February 7, 1989, including any subsequent amendments.

25.11.440 Retention Employee

"Retention Employee" shall mean any person employed by a Contractor or Subcontractor subject to Part 7 of this Chapter who:

- A. Performs work on the Airport Contract;
- B. Is not an exempt employee under the Fair Labor Standards Act;
- C. Has been employed by the Predecessor Employer for at least the six (6) month period prior to the date of the new contract with the Successor Employer;
- D. Has not been convicted of a crime that is related to his or her employment at the Airport or to his or her job performance at the Airport; and
- E. Has not been demonstrated to the City to present a significant danger to Airport users or employees, co-workers, or City staff.

25.11.450 Subcontractor

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"Subcontractor" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity that provides goods or services at the Airport under a contract with a Contractor. "Subcontractor" shall not include Construction Contractors.

25.11.460 Successor Employer

"Successor Employer" shall mean the new Airport Business that succeeds the Predecessor Employer in the provision of substantially similar services at the Airport.

**Part 5
Minimum Compensation**

25.11.500 Payment of Minimum Compensation

A. Except as otherwise provided in this Part, all Airport Businesses shall provide to their Covered Employees the following minimum compensation:

1. If Minimum Health Insurance Benefits are provided, a wage of no less than Twelve Dollars and Eighty-Three Cents (\$12.83) per hour.
2. If Minimum Health Insurance Benefits are not provided, a wage of no less than Fourteen Dollars and Eight Cents (\$14.08) per hour.

B. These wage rates will be reviewed annually to determine if any adjustment should be made based on any change as of December 31st of the previous year in the federal poverty level standard established by the Department of Health and Human Services (HHS) or the geographic cost of living adjustment factor expressed as a percentage used by the City to measure the difference between the poverty level standard for the City of San José compared to the federal poverty level standard. The geographic cost of living adjustment factor shall be based on survey data reflecting geographic differences among the following costs: consumables, transportation, services, rent and housing expenses, utilities, insurance, and income and payroll taxes.

1. If the product of the federal poverty level standard multiplied by the geographic cost of living adjustment factor is greater than the wage rate (with Minimum Health Insurance Benefits provided) in effect under this Chapter, the Director shall recalibrate the wage rate to equal the product of the federal poverty level standard multiplied by the geographic cost of living adjustment factor.
2. If neither the federal poverty level standard nor the geographic cost of living adjustment factor has changed, the Director shall refer to the CPI. If the CPI has increased by at least one percent (1%) between January 1 and December 31 of the previous year, the wage rate (with Minimum Health Insurance Benefits provided) in effect under this Chapter shall be adjusted by the same percentage change in the CPI but not to exceed three percent (3%). If the CPI has not increased by at least one percent (1%), the wage rate shall remain unchanged.
3. The wage rate applicable if Minimum Health Insurance Benefits are not provided shall be adjusted to remain One Dollar and Twenty-Five Cents (\$1.25) greater than the wage rate applicable if Minimum Health Insurance Benefits are provided.

C. Any wage rate adjustments shall be effective July 1st of each year.

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- D. At least thirty (30) days prior to the adjustment of wage rates, the Director shall publish the new wage rates on the City of San José website.

25.11.510 Exemptions

- A. The minimum compensation requirements of this Part shall not apply to any Airport Business during the term of any collective bargaining agreement that expressly provides that the terms of the collective bargaining agreement shall supersede either the Living Wage Policy or the minimum compensation requirements of this Part.
- B. Contractors currently operating at the Airport pursuant to the terms of an Airport Contract that is subject to and includes the terms and conditions of the Living Wage Policy and/or Prevailing Wage Policy shall not be subject to the requirements of this Part for the remaining term of the Airport Contract.

25.11.520 Temporary Exemption for Passenger Airlines

- A. The minimum compensation requirements of this Part shall not apply to any Covered Employee of a passenger airline, only if the sum of the hourly wage, the employer's direct hourly contribution for the Covered Employee's health and medical care insurance, if any, and the employer's direct hourly contribution for the Covered Employee's retirement benefits, if any, is no less than the greater of:
1. Twelve Dollars and Eighty-Three Cents (\$12.83) per hour; or
 2. The then current minimum compensation rate with Minimum Health Benefits provided, as adjusted on an annual basis under this Part.
- B. The employer's direct hourly contribution shall be the rate of contribution irrevocably made by the employer to a trustee or to a third person pursuant to a fund, plan or program for the benefit of employees.
- C. Any exemption under this Section shall expire on December 31, 2010.

**Part 7
Employee Retention**

25.11.700 Application

Except as otherwise provided in this Part, the employee retention requirements under this Part shall apply to any Airport Business that provides services at the Airport to either the City or to an Airport Businesses, including but not limited to:

- A. Food and Beverage Concessions;
- B. Retail Concessions;
- C. Janitorial, Custodial and Facility Maintenance Services;
- D. Shuttle Transportation;
- E. Parking Lot Management;

- F. Ground Transportation Management Services;
- G. Security Services;
- H. Curbside Passenger Check-in and Baggage Check Services (Sky Caps);
- I. Wheelchair Escorts;
- J. General Aircraft Maintenance;
- K. Baggage and Cargo Handling;
- L. Aircraft Interior Cleaning and Carpet Cleaning Services;
- M. Washing and Cleaning of Aircraft or Ground Support Equipment;
- N. Aircraft Tow-In and Push Back;
- O. Engine Oil Servicing;
- P. Water and Lavatory Servicing;
- Q. Electrical and Air Power Boost Servicing;
- R. Ground Support Equipment Repair and Maintenance;
- S. Ground Support Vehicle Fueling;
- T. Aircraft Into-Plane Fueling and Defueling.

25.11.710 Exemptions

The employee retention requirements of this Part shall not apply to employees of the following Airport Businesses:

- A. Certificated Air Carriers;
- B. Car Rental Agencies;
- C. Fixed Base Operators; and
- D. Advertising Concessionaires.

25.11.720 Notice to Employees

- A. No less than sixty (60) days prior to the termination of a Predecessor Employer's contract, the Predecessor Employer shall provide to the Office of Equality Assurance a qualified displaced worker list with the names and contact information for all Retention Employees.
- B. No less than thirty (30) days prior to the termination of a Predecessor Employer's contract, all Retention Employees shall be notified in writing that they have been placed on a qualified displaced worker list and that the Successor Employer will be required to offer him or her continued employment at the Airport. The notification letter shall detail the worker retention

process and timeline and include the phone number of and the name of a contact person at the Office of Equality Assurance.

25.11.730 Retention Offer

- A. Except as otherwise provided in this Part, Successor Employers subject to this Part shall offer employment to all Retention Employees.
- B. The Successor Employer may treat any of its current employees as Retention Employees for purposes of this Part who, based on payroll records or other reliable evidence, can be shown to the satisfaction of the Director:
 - 1. To have been employed for at least the six (6) month period prior to the date of the new contract by the Successor Employer; and
 - 2. To not be eligible for continued employment by the Successor Employer other than the Airport.
- C. In the event that the Successor Employer does not have enough positions available for all Retention Employees and its current employees eligible for retention under subsection B, the Successor Employer shall hire the Retention Employees and retain its current employees who are eligible for retention by seniority within each employment classification. For any positions that become available during the initial ninety (90) day period of the new contract, the Successor Employer will hire Retention Employees and rehire its employees who are eligible for retention by seniority within each employment classification.

25.11.740 Retention Period

- A. A Successor Employer shall not discharge a Retention Employee without cause during the initial ninety (90) day period of his or her employment.
- B. A Successor Employer shall offer continued employment to each Retention Employee who receives a satisfactory performance evaluation at the end of the initial ninety (90) day period of employment under terms and conditions established by the Successor Employer for all its employees.

**Part 9
Employee Work Environment**

25.11.900 Employee Work Environment Reporting Requirement

- A. Prior to the effective date of any Airport Contract or amendment to an Airport Contract entered into on or after the Effective Date, the Contractor shall provide to the City work environment information for Contractor and its Subcontractors, including a description of the following:
 - 1. compensated days off per year, including holidays, sick leave, vacation, and personal leave, offered to employees;
 - 2. employee health benefits;
 - 3. compliance with state and federal workplace standards; and
 - 4. employee complaint procedures.

- B. For Subcontractors hired after the effective date of the Airport Contract, the Contractor shall provide the City with the work environment information in subsection A prior to the effective date of the contract between the Contractor and Subcontractor.

**Part 11
Labor Peace Assurance**

25.11.1100 Labor Peace Assurance

- A. Prior to the effective date of any Airport Contract or amendment to an Airport Contract entered into on or after the Effective Date, the Contractor shall provide to the City assurances on how the Contractor will prevent service disruptions at the Airport due to labor disputes. These assurances shall be included in the Airport Contract.
- B. Any Airport Contract or amendment to an Airport Contract entered into on or after the Effective Date shall provide that each Contractor shall require that its Subcontractors provide it with assurances on how the Subcontractor will prevent service disruptions at the Airport due to labor disputes.

**Part 13
Retaliation and Discrimination Prohibited**

25.11.1300 Prohibition

An Airport Business shall not discharge, reduce the compensation of, or discriminate against any employee for making a complaint to the City, participating in any of the City's proceedings related to the enforcement of this Chapter, using any civil remedies to enforce his or her rights under this Chapter, or otherwise asserting his or her rights under this Chapter.

**Part 15
Administration**

25.11.1500 Compliance Monitoring

The City's Office of Equality Assurance shall monitor compliance with this Chapter, including the investigation of claimed violations.

25.11.1510 Regulations

- A. The Director may promulgate regulations consistent with this Chapter.
- B. The Director shall hold a public hearing and allow public comment on any proposed rule or regulation prior to adoption thereof. The Director shall provide not less than ten (10) days' notice of such public hearing. A copy of such administrative rules and regulations shall be on file in the Office of Equality Assurance.
- C. It shall be unlawful to disobey or fail to comply with any regulation adopted pursuant to this Chapter.

25.11.1520 Report

The Director shall provide a report on compliance with this Chapter to the City Council annually.

25.11.1530 Record Keeping, Reporting and Audit

- A. Each Airport Business shall maintain for each employee performing work at the Airport a true and accurate record of the employee's name, address, job classification, hours worked, pay rate and health benefits received, and shall preserve such records for at least three (3) years.
- B. Each Airport Business shall submit a copy of the records or documents required to be kept pursuant to this Section to the City at least by March 31st, June 30th, September 30th and December 31st of each year. Failure to provide a copy of such records or documents within five (5) days of the due date will result in a late fine of One Hundred Dollars (\$100.00) per day.
- C. At all other times, the Airport Business shall make all records or documents required to be kept pursuant to this Section or regulations promulgated by the Director to verify compliance with this Chapter, available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at the Airport Business's address indicated for receipt of notices in the Airport Contract or permit.
- D. The records or documents required to be kept pursuant to this Section or regulations promulgated by the Director to verify compliance with this Chapter shall be complete and accurate. The provision of false information to the City shall be a violation of this Chapter.

25.11.1540 Access to Work Site

Each Airport Business shall permit access to work sites for authorized City representatives for the purpose of monitoring compliance with this Chapter, investigating complaints of noncompliance, and evaluating the operation and effects of this Chapter.

**Part 17
Administrative Enforcement**

25.11.1700 Applicability

- A. This Part provides for administrative citations that are in addition to all other legal remedies that may be pursued by the City to address any violations of the minimum compensation requirements of this Chapter.
- B. Use of this Part shall be at the sole discretion of the City.

25.11.1710 Complaint to City

Any person claiming a violation of this Chapter may file a complaint with the City. The City may, in its sole discretion, investigate and address any alleged violation of this Chapter's requirements. However, the City's failure to investigate an alleged violation or to otherwise enforce any of the provisions of this Chapter shall not create any right of action or right to recover damages from the City by any person, including but not limited to an aggrieved employee.

25.11.1720 Administrative Citation

- A. Whenever the Director determines that a violation of the minimum compensation requirements of this Chapter has occurred, the Director shall have the authority to issue an administrative citation to any person responsible for the violation.

B. Each administrative citation shall contain the following information:

1. The date of the violation;
2. The section of this Chapter violated and a description of the violation;
3. The amount of the fine and restitution for the code violation;
4. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
5. An order prohibiting the repeated occurrence of the code violation described in the administrative citation;
6. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
7. The name and signature of the Director.

25.11.1730 Fine and Restitution Amount

A. For violations of the minimum compensation requirements imposed pursuant to this Chapter, the fine amount shall be equal to three (3) times the difference between the actual amount of wages paid and the amount of wages that should have been paid, but not to exceed one hundred dollars (\$100) for each calendar day, or portion thereof, for each Covered Employee paid less than the required minimum compensation wage rate. The restitution amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid.

- B. For violations of the employee retention requirements imposed pursuant to this Chapter, the fine amount shall be equal to three (3) times the amount of wages unpaid for the period that the Retention Employee should have been but was not employed, but not to exceed one hundred dollars (\$100) for each calendar day, or portion thereof, for each Retention Employee not employed. The restitution amount shall be equal to the amount of wages unpaid for the period that the employee should have been but was not employed.
- C. The fine amounts collected under subsections A and B, above, shall be used to defray the cost of administration of the requirements of this Chapter.
- D. For other violations of this Chapter, the fine amount shall be one hundred dollars (\$100) per violation, except as otherwise specified in this Chapter.

25.11.1740 Payment of the Fine and Restitution

A. Within thirty (30) days from the date of the issuance of the administrative citation, the fine shall be paid to the City and restitution shall be paid to the underpaid employee or employees.

- B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section 25.03.470.D if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

- C. Payment of a fine or restitution under this Chapter shall not excuse or discharge any repeated occurrence of the code violation that is the subject of the administrative citation.

Corrected page

25.11.1750 Hearing Request

- A. Any recipient of an administrative citation may contest the violation set forth in the administrative citation or that he or she is the responsible party by completing a request for hearing form and returning it to the Director within thirty (30) days from the date of the issuance of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 25.11.1760.
- B. A request for hearing form may be obtained from the Director.
- C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.
- D. If City staff submits an additional written report concerning the administrative citation for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.

25.11.1760

Advance Deposit Hardship Waiver

- A. Any person who intends to request a hearing to contest an administrative citation under this Chapter or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 25.11.1750.A may file a request for an advance deposit hardship waiver.
- B. The request shall be filed with the Director on an advance deposit hardship waiver application form, available from the Director, within fifteen (15) days of the date of the administrative citation.
- C. The requirement to deposit the full amount of the fine as described in Section 25.11.1750.A shall be stayed unless and until the Director makes a determination not to issue the advance deposit hardship waiver.
- D. The Director may waive the requirement of an advance deposit set forth in Section 25.11.1750.A and issue the advance deposit hardship waiver only if the cited party submits to the Director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the Director the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.
- E. If the Director determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the City within ten (10) days of the date of that decision or thirty (30) days from the date of the administrative citation, whichever is later.
- F. The Director shall issue a written determination listing the reasons for the Director's determination to issue or not issue the advance deposit hardship waiver. The written determination of the Director shall be final.
- G. The written determination of the Director shall be served upon the person who applied for the advance deposit hardship waiver.

25.11.1770

Hearing Procedure

- A. The City Manager shall conduct the administrative citation hearing for violations of this Chapter pursuant to this Section and any rules and procedures for the conduct of hearings as adopted by the City Manager.
- B. No hearing to contest an administrative citation before the City Manager shall be held unless the fine has been deposited in advance in accordance with Section 25.11.1750.A or an advance deposit hardship waiver has been issued in accordance with Section 25.11.1760.
- C. A hearing before the City Manager shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this Chapter.
- D. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.
- E. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

- F. The administrative citation and any additional report submitted by the Director shall constitute prima facie evidence of the respective facts contained in those documents.
- G. The City Manager may continue the hearing and request additional information from the Director or the recipient of the administrative citation prior to issuing a written decision.

25.11.1780 Decision of the City Manager

- A. After considering all of the testimony and evidence submitted at the hearing, the City Manager shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the City Manager shall be final.
- B. If the City Manager determines that the administrative citation should be upheld, then the fine amount on deposit with the City shall be retained by the City.
- C. If the City Manager determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the City Manager shall set forth in the decision a payment schedule for the fine.
- D. If the City Manager determines that the administrative citation should be upheld, the City Manager shall order that restitution be paid to the underpaid employee or employees.
- E. If the City Manager determines that the administrative citation should be canceled and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the City's portfolio for the period of time that the fine amount was held by the City.
- F. The recipient of the administrative citation shall be served with a copy of the City Manager's written decision.

25.11.1790 Late Payment Charges

Any person who fails to pay to the City the amount of any fine imposed pursuant to the provisions of this Chapter on or before the date that fine amount is due shall be liable for the payment of an additional delinquency penalty. The delinquency penalty is equal to ten percent (10%) of the amount of the fine due to the City, or ten percent (10%) of the amount of the fine remaining unpaid to the City if a portion of the fine amount was timely paid. Interest shall accrue on all delinquent fine amounts, exclusive of delinquency penalties, at the rate of one half of one percent (0.5%) per month, pro rata, of the total delinquent fine amount, from the date the fine amount becomes delinquent until the date that all delinquent fine amounts are paid to the City.

25.11.1800 Recovery of Administrative Citation Fines and Costs

- A. The City may collect any past due administrative citation fine or late payment charge by use of all available legal means.
- B. Any person who fails to pay any past due administrative citation fine or late payment charge shall be liable in any action brought by the City for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees.
- C. Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the past due administrative citation fine.

- D. Collection costs imposed under this Section shall be added to and become a part of the underlying administrative citation fine.

25.11.1810 No Exhaustion of Remedies Requirement

Exhaustion of remedies under this Part shall not be a prerequisite to the filing of a civil action pursuant to Section 25.11.1700 of Part 17 of this Chapter.

**Part 19
Civil Enforcement and Contract Remedies**

25.11.1900 Civil Enforcement

- A. Any employee aggrieved by a violation of the minimum compensation requirements, the employee retention requirements or the prohibition on retaliation and discrimination of this Chapter, or organization of which such employee is a member, may bring a civil action in a court of competent jurisdiction against the Airport Business violating this Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages and benefits unlawfully withheld and interest thereon, reinstatement in employment and/or injunctive relief, and shall be awarded reasonable attorney's fees and costs. For a willful violation of this Chapter, a court may award as a penalty up to treble the amount of monies to be paid as damages.
- B. This Part shall not be construed to limit an employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights.

25.11.1910 Contract Enforcement

If a violation of any contract provision required by this Chapter occurs and is not corrected after written notice, the City may, at its option, do any or all of the following:

- A. Terminate the Airport Contract for default;
- B. Withhold payment or compensation, if applicable.

**Part 21
Effective Date**

25.11.1921 Effective Date

This Chapter shall become effective on January 1, 2009.

**EXHIBIT G
MAINTENANCE, OPERATIONS AND REPAIR SERVICES RENEWAL ADDENDUM**

AGREEMENT TITLE:	
CONTRACTOR Name and Address:	
DATE:	

(date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section _____ of the Agreement referenced above, the City of San Jose hereby exercises its option to acquire annual operation, maintenance and repair services as set forth in the Agreement for the following term and at the following rate(s) of compensation:

OPTION NO.	
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NEW OPTION TERM

Begin date:	
End date:	
Annual Maintenance fee	

MAXIMUM COMPENSATION for New Option Term:	
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For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of San Jose hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

CITY OF SAN JOSE a municipal corporation

By _____ Name: Title:

EXHIBIT H AIRPORT SECURITY MEASURES

AIRPORT SECURITY

Under the provisions of TSR 107.11(F), it has been determined that employees of the Airport, Airport tenants, contractors, and air carriers who have access to the controlled areas of airports are in positions where their actions can have a critical impact on the safety of the traveling public.

Therefore, it is understood and agreed that if the work, storage or access areas provide access to the aprons, taxiways, runways or any other restricted areas of the Airport, the Contractor, at his own expense and cost, will take what ever steps are reasonably necessary to prevent or deter persons and vehicles from unauthorized access to such areas and to take such further actions as may be necessary because of the nature of the work to insure continuing compliance with all applicable regulations relative to Airport security.

Contractor/vendors access to controlled areas

Contractors, sub-contractors, their employees, vendors, truckers and any other person who are required to perform work that allows them to have access to the controlled areas of the airfield must either be badged or escorted by someone who is badged. This specifically includes trucks bringing materials into or out of the controlled area.

Identification Badges

All persons employed by the contractor or any sub-contractor who must have unescorted access to any area of the Airport controlled for security reasons must pass a criminal history records check (CHRC) and Security Threat Assessment (STA) to obtain an identification badge from the Airport. This badge must be worn at all times when in the controlled area. **Airport police and TSA security personnel can and will arrest and levy fines on individuals and companies for violations of security regulations.**

Procedure to obtain a badge: Upon award of the contract, the contractor will be provided appropriate forms to allow necessary employees to obtain airport access badges. The Airport Project Manager or Designee will work closely with the contractor to assist with the Airport badging process.

Signature form: Submit on the appropriate form to the Airport Project Manager or Designee a list of the individuals authorized by the contractor to accept responsibility for signing badge applications Two Authorized Representative Signatures might be required if the employer also plans to get a badge as a person cannot sign for their own application.

Badge Application: Each person requesting a badge must complete a badge application form in blue or black ink, have it signed by their company's authorized representative and submit it to the Airport Project Manager or Designee. The project manager will have the application co-signed by an airport authorized signatory

Finger printing for criminal history: Badge applicants are also required to have their finger prints taken and those finger prints will be processed through an FBI / Law Enforcement /Government data base. Complete an Authorization to Process Fingerprints form. The completed form should be returned to the Airport Project Manager or Designee for appropriate co-signature. The completed Badge Application and Finger Print Authorization forms can now be taken to the Airport Badging office. Incomplete applications will be returned. Fax's or copies are not acceptable. Normal Finger Print background checks can take 72 hours to process. Pending background checks can take 1 to 6 weeks.

SIDA training: The TSA has mandated that any person who has unescorted access to controlled areas of the Airport must undergo security training. The Airport provides this training on a drop in basis at the badging office. The badging office is located at 1311 Airport Blvd.. There is no cost for the class. This class can be taken when the Badge Application and Authorization for Finger printing form are submitted to the badging office. Allow 3 hrs for 2 tests. No testing starts after 4:30 p.m.

Badging: After completion of the SIDA training and CHRC and STA clearance the badge can be issued. The Badging office is open Monday-Friday 1 p.m. - 4 p.m.; Wednesday 7 a.m. - noon. The applicant must bring 2 forms of acceptable ID.

Return of badges and employers obligation to notify Airport of termination of an employee: The Badging office must be notified verbally within 15 minutes of the termination of an employee so the status of the I.D. badge may be updated. The number for the Badging office is (408) 392-1100. After hours, call the Airport Communications Center at (408) 277 5100. Badges of terminated employees must be retrieved and turned in to the Badging office within one day after termination.

Lost or stolen badges: The Badging office must be notified verbally within 15 minutes of a lost or stolen badge. Written notification must reach the Badging office within 8 hours of the verbal notice. There is a fee for lost badges.

It is the contractor's responsibility to have sufficient badged employees to perform the work without additional escort from the Airport.

Technical Specifications provides for a one-time payment for preparation to meet the emergency response time. Part of this payment is to cover the Contractors costs in obtaining sufficient badges.