

**THIS PRINT COVERS CALENDAR ITEM NO.: 16**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Office of the Board of Directors

**BRIEF DESCRIPTION:**

Recommending that the SFMTA Board of Directors approve the SFMTA Contract Approval Delegation and Requirements Policy, which delegates to the Director of Transportation the authority to approve and execute expenditure and revenue contracts, contract amendments, and other agreements within certain limits.

**SUMMARY:**

- The SFMTA Contract Approval Delegation and Requirements Policy (Contract Policy) would delegate to the Director of Transportation (Director) authority to approve various expenditure contracts, leases, licenses, grant agreements, revenue contracts, miscellaneous agreements, and contract amendments with limits prescribed in the Contract Policy.
- The Contract Policy would allow the Director to re-delegate approval authority to Division Directors and other senior managers within specified limits. The Director would be required to report quarterly to the SFMTA Board all contracts and amendments approved under these delegations.
- In the absence of delegated approval authority to the Director, staff must present routine and relatively low-value agreements and amendments to the SFMTA Board for approval, which can add weeks to the contracting process, delay project implementation or progress, and delay payments to contractors and vendors.
- In the eight years since the SFMTA Board last adopted revisions to SFMTA contracting policies, contracting costs have increased and staff has recognized that the Agency regularly enters into many kinds of routine and relatively low-value agreements that are not within the Director's current delegated approval authority.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Contracting Delegation Policy

**APPROVALS:**

**DATE**

DIRECTOR 	November 25, 2019
SECRETARY 	November 25, 2019

**ASSIGNED SFMTAB CALENDAR DATE:** December 3, 2019

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## **PURPOSE**

Recommending that the SFMTA Board of Directors approve the SFMTA Contract Approval Delegation and Requirements Policy, which delegates to the Director the authority to approve and execute expenditure and revenue contracts, contract amendments, and other agreements within certain limits.

## **STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES**

Approval of the proposed resolution will support the following SFMTA Strategic Plan goals:

Goal 4: Financial Capacity - To ensure financial stability and effective resource utilization.

4.2: Ensure efficient and effective use of resources.

This item does not directly address any Transit First Policy Principles, but by streamlining the process for contract approvals, the proposed policy would support and facilitate more efficient implementation of projects that enhance safety and public transportation.

## **DESCRIPTION**

The SFMTA annually enters into and manages hundreds of contracts, including:

- Construction contracts for small and large projects
- Professional services contracts for engineering, design, and technology services, , customer service, escalator/elevator repair, MUNI Ambassadors programs, worker's compensation and employee assistance services, Vision Zero Safety contracts, and traffic signal services
- Commodities contracts for the purchase of vehicles, vehicle parts, rail and trackway equipment
- Revenue contracts such as vehicle advertising, citation processing, and parking meter services
- Leases for parking garage retail space and Muni utility pole licenses for cellphone transmission antennae.

## **SFMTA CONTRACTING AUTHORITY**

The SFMTA Board last delegated contracting authority to the Director of Transportation (Director) in 2010, in an effort to reduce administrative paperwork and streamline processing of low-dollar value contracts. The prices of the goods and services obtained under those contracts have increased since then, increasing the number of routine contracts that require SFMTA Board approval, and reducing the efficiencies gained by prior delegations. It may be appropriate, therefore, to consider policy adjustments to maintain efficient administration of contracts and projects.

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Charter Section 8A.102(b)1 provides that the SFMTA has “exclusive authority over contracting, leasing, and purchasing by the Agency.” Administrative Code Sections 6.1, 6.40(a) and 21.02 establish a “Threshold Amount” of \$600,000 for contracts for general services and construction contracts and a “Minimum Amount” of \$110,000 for professional services. The head of a department authorized to enter into contracts may approve a contract without board or commission approval, as long as the contract amount is below those limits. But Charter Section 8A.102(g) authorizes the SFMTA Board to exempt the Director from those limits or set different limits on the Director’s authority.

The SFMTA Board has, under four prior resolutions, delegated authority to the Director to approve contracts, contract amendments, and grant agreements. Resolution 00-0125 (approved December 2000) authorized the Director to approve contracts for commodities that had previously been approved by the City’s Purchaser. Resolution 02-110 (approved September 2002) authorized the Director to approve professional services contracts in the same amount the Administrative Code granted other City department heads. Resolution 02-110 also authorized the Director to approve grant agreements and contract amendments up to ten percent of the original Term and amount. Resolution 09-191 (approved November 2009) authorized the Director to: (1) issue Requests for Proposals and Invitations for Bids for contracts that will not require Board of Supervisors’ approval; (2) reject bids and proposals and re-advertise for new bids and proposals; (3) accept, expend and transfer grant funds; and, (4) authorize the City Attorney to settle unlitigated claims of \$25,000 or less.

Resolution 10-008 (approved January 2010), set forth a comprehensive contract delegation policy that authorized the Director to approve contracts not greater than \$500,000 (which was at that time higher than the City’s Threshold Amount), and modifications of existing contracts within specified percentages of the original Contract Amount (that is, the contract value when first awarded) and Term. Resolution 10-008 also expanded the Director’s contracting authority to cover a broader range of contract types and increased the Director’s authority to delegate approval authority to subordinates.

## **REASONS FOR AMENDING EXISTING DELEGATED CONTRACTING AUTHORITY**

In the nearly ten years since the SFMTA Board issued Resolution 10-008, staff has recognized that the Agency regularly enters into many kinds of agreements that are not within the Director’s delegated approval authority, but are routine, are of relatively low monetary value, or do not present policy issues or financial or liability risks that should require the SFMTA Board’s consideration. Examples include contracts for minor systems configuration, engineering and small construction and maintenance projects, customer surveys, as-needed contracts for Muni Ambassador services, printing services, Employee Assistance Program counseling services, SFMTA Community Service Program Administration and bike safety services.

In addition, the Director’s current contract approval authority of \$500,000, does not align with current prices for services and commodities, and is lower than the current Threshold Amount authority (\$600,000 for construction contracts) the Administrative Code grants to the other City department heads. In the absence of delegated approval authority to the Director, staff must

present routine and relatively low-dollar value contracts and amendments to the SFMTA Board for approval, which often adds five weeks or more to the contracting process, which delays projects and limits payments to contractors and vendors for on-going work.

The proposed Contract Policy would further implement the independent contracting authority granted to the SFMTA by Charter Section 8A.102(g), making SFMTA administrative and program operations more efficient, while balancing that efficiency with sufficient Board and regulatory oversight over contracts for large projects and projects that present liability and important policy issues. The Contract Policy would allow the Director to contract more efficiently for consultant services necessary to implement SFMTA projects and policies, which will shorten project timelines, and provide information and resources to Agency projects more quickly than can be achieved under current contracting policies. Amending the Contract Policy to increase authority would also permit staff to expeditiously address unforeseen engineering issues and site conditions on construction projects that require a change to the contract.

The proposed policy does not affect the SFMTA's Contract Compliance Office (CCO) work to ensure that the SFMTA continues to provide opportunities to Small Business Enterprises (SBE), Disadvantaged Business Enterprises (DBE), and Local Business Enterprises (LBE), as required by Administrative Code Article 14. As is currently the practice for every contract, the SFMTA Contract Compliance Office will ensure that Small Business Enterprise, Disadvantaged Business Enterprise, and Local Business Enterprise requirements are fully implemented.

The Contract Policy expands the contracting approval delegation that the SFMTA Board approved under prior SFMTA Board resolutions: it increases the Director's approval authority and authorizes the Director to re-delegate approval authority to Division Director(s) responsible for the contract. The Policy also consolidates existing SFMTA contracting policies and procedures and clarifies contracting legal and policy issues that frequently arise, so that staff may refer to a single comprehensive document for guidance. Prior SFMTA Board Resolutions Nos. 13-061 (May 2013) and 180821-114 (August 2018) delegating to the Director authority to approve contract amendments for Central Subway construction remain in effect and are not changed by this proposed Contract Policy.

## **CURRENT POLICY PROVISIONS**

### **1. Expenditure Contracts (excluding Construction, Transit Vehicles, General Services Commodities, and Leases)**

*Covers contracts for professional services, contracts to procure technology, software, equipment, and systems where the procurement includes professional services, software licenses and other intellectual property licenses that include professional services, engineering, architecture, and construction management services. (Does not include construction, transit vehicles, commodities, general services, and lessee/licensee agreements.)*

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#### **a. Base Contract**

**Current Director Authority:**

Contract amount limit of \$500,000

Term limit of 10 years

**b. Contract Amendments/Modifications**

**Current Director Authority:**

(1) Contracts up to \$500,000:

- 50 percent of Contract Amount;
- 25 percent of Term

(2) Contracts greater than \$500,000 but less than \$10 million:

- 25 percent of Contract Amount;
- 25 percent of Term

**2. Construction and Revenue Transit Vehicle Contracts**

*Construction is the building of public works issued under Administrative Code Chapter 6. Construction Contracts do not include contracts for construction management services, architecture or engineering services. Transit Vehicles are vehicles that are used in revenue service, including buses, trolleys, light rail vehicles, and historic rail vehicles.*

Resolution 10-008 delegated approval authority for construction contracts to the Director as set out below, and also delegated approval authority to multiple levels of subordinate managers (of which, some positions no longer exist). The proposed Contracts Policy increases the Director's approval authority and authorizes the Director to re-delegate approval authority only to the Capital Programs and Construction Division Director.

**a. Base Contract**

**Current Director Authority:**

- Contract amount limit of \$500,000
- Term limit of 10 years

**b. Contract Amendments/Modifications**

**Current Director Authority:**

(1) Contracts up to \$500,000:

- 50 percent of the original Contract Amount
- 25 percent of the original Term

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(2) Contracts \$500,000 to \$9,999,999

- 25 percent of the original Contract Amount
- 25 percent of the original Term

- (3) Contracts \$10,000,000 to \$50,000,000:
  - 10 percent of the original Contract Amount or \$2,500,000 (whichever is less)
  - 25 percent of the original Term
- (4) Contracts greater than \$50,000,000:
  - 10 percent of the original Contract Amount or \$5,000,000 (whichever is less)
  - 25 percent of the original Term.

### **3. General Services and Commodities Contracts**

*General services are services for which the provider is not required to have a license or specialized training and education. Commodities are equipment that do not include services other than warranty and maintenance services, licensed software that does not include training, customization, configuration or other professional services, and goods, such as uniforms, vehicle parts, and facility equipment. Non-revenue vehicles shall be procured as commodities; revenue (transit) vehicles shall not be procured as commodities.*

#### **Current Director Authority:**

The Director may approve all general services and commodities contracts (purchase orders) up to \$10,000,000.

### **4. Revenue Contracts**

*Revenue contracts are agreements in which the SFMTA is paid by the other party. Revenue contracts include contracts for station and vehicle advertising, real property leases and license agreements in which the SFMTA is the lessor or licensor, trade mark licenses in which the SFMTA is the licensor.*

#### **Current Director Authority:**

Director may approve all revenue contracts and approve contract amendments up to \$500,000.

In 2018 and through June 30, 2019, the SFMTA awarded the following professional services and construction contracts:

- Two (two professional services and zero construction contracts) were awarded for between \$500,000 and \$1,000,000
- Thirteen (seven professional services and six construction contracts) were awarded for between \$1 million and \$5 million
- Twelve (seven professional services and five construction contracts) were awarded for over \$5 million

A total of two professional services contracts and no construction contracts would have been impacted by the proposed revisions to the policy

## **COMPARISON OF CONTRACT AUTHORITY OF DIRECTORS OF OTHER CITY DEPARTMENTS AND TRANSIT AGENCIES**

As requested by the Policy and Governance Committee, staff reached out to other CCSF departments and transit properties to see what their delegation policies included. CCSF departments were reviewed based on the size and amount of construction projects of those departments.

Department	Contract Award - Professional Services	Contract Award - Construction	Amendments – Professional Services	Amendments – Construction
Public Utilities Commission (PUC)	Under \$1m	Threshold Amount \$114,000 (prof. services)  \$600,000 (construction)	Up to \$1m and cumulative extension of time or 25% or less	Up to 10% of price and Cumulative extension of time of 25%, or less
Port	Up to \$100,000	Up to \$400,000		
Airport		same as PUC		
Public Works	Up to total Contract Amount of \$9,999,999	Unlimited	Up to total Contract Amount of \$9,999,999	

On a national level, transit agencies’ contract delegation policies generally tend to cap the authority of the director/executive officer to approve contracts at \$100,000. Directors’ are generally authorized to approve Contracts for the purchase of fuel and parts, emergency procurements to avoid impacts to the health, welfare or safety of an employee or the public, or a procurement action taken to prevent a violation of law or a fine by another political jurisdiction, subject to subsequent ratification by the policy body. On a regional level, the Santa Clara Valley Transportation Authority authorizes its’ director to approve contracts for up to \$500,000.

Most transit agencies are special districts and are not part of a city or county governmental structure. Because the SFMTA is a department of the City and County of San Francisco, there are multiple checks and balances that guarantee the validity of contracts and the contracting process, including Board of Supervisors’ oversight of large contracts under Charter Section 9.118 and the budget approval process, the Controller’s financial controls and certification process, the City Purchaser’s regulations and procedures for general services and commodities procurement, and Civil Service approval requirements. Those expenditure checks and protections may not exist in other transit agencies, which may explain the lower limits on the contracting authority of their executives.

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## **STAKEHOLDER ENGAGEMENT**

The proposed policy was presented to the Policy and Governance Committee at their November 2017 meeting. The policy was presented to the Citizen's Advisory Council on April 4, 2018. Upon the recommendation of the CAC's Finance and Advisory Committee, the Council recommended that the "the SFMTA adopt the revised contract delegation policy as presented to the CAC, provided that a list of approved contracts, purchases, and contract modifications approved by the Director of Transportation be included on the SFMTA Board meeting agendas as part of the Director's report." The CAC was subsequently advised that as part of both the current and the proposed policy, the Board already receives a quarterly report of all contracts, including both contracts approved by the Director and contracts approved by the Board. This quarterly report is a public record.

## **ALTERNATIVES CONSIDERED**

The Board could choose higher or lower delegation limits, could reserve approval of certain types of contracts to itself, or delegate additional or less authority to the Director.

## **FUNDING IMPACT**

Streamlining the contracting process will save time and staff resources, and by speeding approval of contracts and amendments may attract more bidders to compete for Agency contracts. That may reduce contract costs, but it would be difficult to quantify potential savings.

## **ENVIRONMENTAL REVIEW**

On March 1, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the Contract Delegation Policy is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b). A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

## **OTHER APPROVALS RECEIVED OR STILL REQUIRED**

No other approvals are required.

The City Attorney's Office has reviewed this item.

## **RECOMMENDATION**

Staff recommends that the SFMTA Board of Directors approve the SFMTA Contract Approval Delegation and Requirements Policy, which delegates to the Director the authority to approve and execute expenditure and revenue contracts, contract amendments, and other agreements within certain limits.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION NO. \_\_\_\_\_

WHEREAS, On November 2, 1999, the voters passed Proposition E, which enacted Chapter 8A of the Charter to create the SFMTA, and under Section 8A.102(b)5 granted the SFMTA exclusive authority over its contracts; and,

WHEREAS, To reduce administrative paperwork and streamline processing of contract approvals, the San Francisco Municipal Transportation Agency Board of Directors (SFMTA Board) adopted Resolution No. 00-0125 (December 2000) and Resolution No. 02-110 (September 2002), which established contracting policies for the SFMTA and delegated to the Director of Transportation authority to approve contracts and other agreements within specified limits; and,

WHEREAS, On November 6, 2007, the voters passed Proposition A, which, among other things, added subsection (g) to Section 8A.102 of the City's Charter; subsection (g) authorizes the SFMTA Board to adopt threshold amounts under which the Director of Transportation and his or her designees may approve contracts, notwithstanding any provisions of Chapters 6 or 21 of the City's Administrative Code; and,

WHEREAS, Under authority granted by Charter Section 8A.102(g), the SFMTA Board first delegated contracting authority to the Director of Transportation in 2000 and 2002, under SFMTA Board Resolutions 00-0125 and 02-110, which respectively authorized the Director to approve contracts for commodities that had previously been approved by the City's Purchaser, and authorized the Director to approve commodities contracts that do not exceed \$10,000,000 in Contract Amount; and,

WHEREAS, On November 3, 2009, the SFMTA Board by Resolution 09-191, authorized the Director of Transportation to: (1) issue Requests for Proposals and bid proposals for contracts that will not require Board of Supervisors' approval; (2) reject bids and proposals and re-advertise for new bids and proposals; (3) accept, expend and transfer grant funds; and, (4) authorize the City Attorney to settle unlitigated claims of \$25,000 or less, to reduce administrative paperwork and streamline processing of contract approvals for relatively small dollar values; and,

WHEREAS, On January 5, 2010, the SFMTA Board by Resolution 10-008, issued a comprehensive contracts approval policy, which delegated approval authority over various types of contracts and contract amendments to the Director of Transportation and subordinate SFMTA executives within specified limits; and,

WHEREAS, The SFMTA Board wishes to modify the existing policies described above to give the Director of Transportation greater authority to approve and execute expenditure and revenue contracts, contract amendments, and other types of contracts, update current policies to further to streamline the contracting process and promote administrative efficiency, while reserving to the SFMTA Board of Directors decisions over significant policy issues, liability and

financial risk, and ensuring compliance with Small Business Enterprises, Disadvantaged Business Enterprises, and Local Business Enterprises requirements; and,

WHEREAS, The SFMTA Board intends that this Resolution will supersede the Director of Transportation's authority to approve contracts as stated in the SFMTA Board Resolutions referenced above, and will not modify or supersede the authority delegated under prior SFMTA Board Resolutions that are not listed here, including but not limited to delegation authority to approve contract amendments for Central Subway construction under SFMTA Board Resolutions Nos. 13-061 and 180821-114; and,

WHEREAS, On March 1, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the SFMTA Board approval and the SFMTA's implementation of "SFMTA Contract Approval Delegation and Requirements Policies" is not a "project" under the California Environmental Quality Act (CEQA) pursuant Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

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

RESOLVED, That the SFMTA Board of Directors approves the SFMTA Contract Approval Delegation and Requirements Policy which delegates to the Director of Transportation the authority to approve and execute expenditure and revenue contracts, contract amendments, and other agreements within certain limits.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of December 3, 2019.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

## **SFMTA CONTRACT APPROVAL DELEGATION AND REQUIREMENTS POLICY**

### **A. EXPENDITURE CONTRACTS**

An Expenditure Contract is a written agreement issued in accordance with Administrative Codes Chapter 6 or Chapter 21, in which the SFMTA promises to compensate a contractor, vendor, lessor (landlord), licensor, or other public agency (excluding another City department) for goods received, services provided, construction services provided, possession or use of real property, use of intellectual property, systems maintenance, or other exchange of consideration for benefits received by the SFMTA, and amendments to such contracts. The Contract Amount is the net value of compensation to be paid a contractor, vendor, licensor or lessor, including the value of all approved contract amendments. The Term is the period in which the contract requires the contractor to deliver or complete the services, construction, goods, intellectual property or real property as provided in the contract.

The SFMTA Board delegates to the Director of Transportation (Director) the authority to approve Expenditure Contracts as follows:

#### **1. Expenditure Contracts.**

##### **a. Director's Authority.**

- (1) The Director may approve purchase orders for the procurement of "General Services" and "Commodities," where the aggregate expenditure obligations of the SFMTA is less than \$10,000,000, provided that such procurements are made in accordance with applicable City Purchaser's rules and regulations.
- (2) The Director may approve all other Expenditure Contracts except for those listed under item 1.a (1) where the sum of the Contract Amount of the contract and value of all options listed in the contract do not exceed \$1,000,000.

##### **b. Amendments or Modifications to Expenditure Contracts.**

The Director may approve amendments or modifications (collectively referred to as "Amendments") to Expenditure Contracts as follows, subject to the limitations of Charter Section 9.118. All amendments required to be approved by the Board of Supervisors under Charter Section 9.118 must first be approved by the SFMTA Board of Directors.

- (1) **Amendments or Modifications to Expenditure Contracts for Procurement of General Services and Commodities.** The authority given to the Director is limited to cumulative increases totaling 10 percent of the original Purchase Order Amount and 10 percent of the original Term.
- (2) **Amendments or Modifications to all other Expenditure Contracts:**
  - i. Original Contract Amounts up to \$1,000,000.** The authority given to the Director is limited to cumulative increases totaling 50 percent of the original Contract Amount including options, and 25 percent of the original Term including options.

- ii. **Original Contract Amounts over \$1,000,000, but less than \$10,000,000.** The authority given to the Director is limited to cumulative increases totaling 25 percent of the original Contract Amount including options, and 25 percent of the original Term including options.
- iii. **Original Contract Amounts over \$10,000,000.** The authority given to the Director is limited to cumulative increases totaling 10 percent of the original Contract Amount including options, and 25 percent of the original Term including options.

**c. Re-Delegation of Approval Authority for Expenditure Contracts.** Subject to the certification requirements stated in Section E.1, below, the Director may re-delegate to any Division Director or other senior manager the Director's authority to approve Expenditure Contracts and amendments to those contracts as follows:

- (1) Original contracts with a Contract Amount not to exceed \$500,000;
- (2) Contract amendments modifying the Contract Amount up to a maximum of \$250,000, provided that the net value of all amendments does not exceed 50 percent of the authority delegated to the Director;
- (3) Contract amendments extending the Term, provided that the aggregate sum of all amendments does not to exceed 50 percent of the authority delegated to the Director;
- (4) The Director may delegate authority to approve Expenditure Contracts, including purchase orders, and amendments to such agreements, for the procurement of General Services and Commodities, provided that such procurements are made in accordance with the rules of the City Purchaser, as follows:
  - a. To the SFMTA's Chief Financial Officer, original contracts and contract amendments, where the sum of the Contract Amount of the original contract and all amendments does not exceed \$10,000,000;
  - b. To the SFMTA's Controller, original contracts and contract amendments, where the aggregate Contract Amount of an original contract and all amendments does not exceed \$10,000,000;
  - c. To the SFMTA's Manager of Grants Accounting, original contracts and contract amendments, where the aggregate Contract Amount of an original contract and all amendments does not exceed \$10,000,000;
  - d. To the SFMTA's Managers of Contracts and Procurement, original contracts and contract amendments, where the aggregate Contract Amount of an original contract and all amendments does not exceed \$10,000,000;
  - e. To the SFMTA's Materials Coordinators, where the aggregate Contract Amount of an original contract and all amendments does not exceed the Minimum Competitive Amount stated in Administrative Code Section 21.02;

- f. The Director may further delegate to the Chief Financial Officer, SFMTA's Controller, SFMTA's Manager of Grants Accounting and SFMTA's Managers of Contracts and Procurement administrative approval of amounts higher than \$10,000,000 to facilitate processing of the procurement in the City's PeopleSoft Financial System, as long as the procurement was conducted in accordance with Charter Section 9.118.

## **B. REVENUE CONTRACTS.**

A Revenue Contract is an agreement under which the SFMTA will receive rent, lease payments, license fees, advertising revenues, profit-sharing, grants, and other revenue or compensation.

1. The Director is authorized to approve Revenue Contracts and modifications of such agreements where the aggregate sum of the anticipated revenues (or estimated value) the Agency will receive under the agreement and all amendments does not require Board of Supervisors approval under Charter Section 9.118(a) (that is, where the anticipated revenues from the contract are less than \$1,000,000, including all option or extension periods, and the Term is less than ten years).
2. Subject to the certification requirements stated in Section E.1, below, the Director may re-delegate authority to approve Revenue Contracts and amendments to Revenue Contracts to the to the SFMTA Senior Manager of Revenue or other senior manager responsible for the management of fare revenues and sale information, fare and parking payment media), agreements for the sale or distribution information and fare and parking payment media, where the commissions the Agency will receive under such an agreement are not expected to exceed \$250,000 in any fiscal year. and the agreement is not subject to Charter Section 9.118.

## **C. MISCELLANEOUS AGREEMENTS**

1. **Taxi Medallion Sales and Taxi Medallion Surrender Agreements.** The Director is authorized to approve contracts for the sale of taxi medallions up to \$250,000 and is authorized to sign agreements for the surrender of taxi medallions for a payment by SFMTA to the permit holder not to exceed \$200,000, in accordance with Transportation Code Section 1116(b). Subject to the certification requirements stated in Section E.1, below, the Director may delegate to the Director of Accessibility and Regulation Mobility Services Division, the authority to approve agreements for the sale and surrender of Taxi medallions, subject the limits stated in this Section.
2. **Grant Agreements.** The Director is authorized to approve applications for grant funds, to approve agreements to accept, expend grant funds, and to transfer grants funds to a public agency that will be a sub-recipient of said grant funds, and indemnify the grantor (up to the limits stated in Section C.5, below). Subject to the certification requirements stated in Section E.1, the Director is further authorized to delegate said authority to the Chief Financial Officer as provided in Section B.2, above.
3. **Contracts Administered by the Arts Commission.** The Director is authorized to approve Expenditure Contracts for artist design services, artwork fabrication, and acquisition of finished art (Art Contract) for SFMTA capital projects where a project funding source requires the Agency to approve all project contracts. An Art Contract that is approved by the Arts Commission does not require SFMTA Board approval, unless the Art Contract is also subject to Board of Supervisors' approval. Subject to the

certification requirements stated in Section E.1, below, the Director may delegate approval of Art Contracts to the Director of Capital Projects and Construction.

4. **Gifts.** The Director is authorized to accept gifts to the SFMTA and approve contracts to transfer ownership of those gifts to the SFMTA, in accordance with Administrative Code Section 10.100-305. Any gift with a value greater than \$10,000 must be submitted to the SFMTA Board for approval. As required by Section 10.100-305, all gifts to the SFMTA must be reported to the Controller within 90 days of receipt, and to the Board of Supervisors annually in first two weeks of July. Said notices must identify the donor, the value of the gift and any business (e.g., contracts, permits or other vested interests) that the donor has with the City. Gifts over \$100 must be listed on the SFMTA's website.
5. **Indemnity Agreements.**
  - a. The Director is authorized to approve contracts that provide for mutual indemnity with another public agency, where the City Attorney or the City's Risk Manager advise that the work to be performed by or services to be received from the public agency does not pose undue risk to the SFMTA, and that the SFMTA's potential liability under such indemnity agreement will likely not exceed \$2,000,000. Indemnity agreements that, in the opinion of the City Attorney or Risk Manager, are likely to expose the SFMTA to liability greater than \$2,000,000 shall be submitted to the SFMTA Board for approval.
  - b. A contract with a private entity that provides the SFMTA less than full indemnity covering the Agency's liability for third party claims shall be submitted to the SFMTA Board for approval.
  - c. With the exception of real property, lease and license agreements, it is the policy of the SFMTA that the Agency shall not indemnify private entities, except as necessary to achieve policy and program goals of paramount importance.
6. **Waiver or Reduction of Special Damages Indemnity.** The Director is authorized to waive or limit a contractor's liability for consequential damages and incidental damages (aka, special damages) in an Expenditure Contract if the Director determines that such waiver or limitation accords with the factors set out in Administrative Code Section 21.23.
7. **Third Party Indemnity.** A contract with a private entity that provides the SFMTA less than full defense and indemnity for the Agency's liability for third party claims shall be submitted to the SFMTA Board for approval.
8. **Nondisclosure Agreements.** A nondisclosure agreement (NDA) is an agreement to hold confidential information that is proprietary to another party. The Director is authorized to execute NDAs that accord with applicable public records laws and that limit the SFMTA's liability to \$1,000,000 for the following purposes: (1) use of experimental or new technology under a license agreement as part of a pilot project; (2) participation in studies and projects for development of transit, planning and transportation technologies where nondisclosure is a requirement of participation in the project or of project funding; and, (3) software or technology license agreements. Subject to the certification requirements stated in Section E.1, below, the Director may delegate the authority granted under this section to the Division Director responsible for the contract.
9. **Media Licenses.** The Director is authorized to approve license agreements for the use of SFMTA vehicles, real property, intellectual property (including trademarks and trade

dress) for television, motion picture, advertising and other media purposes. Subject to the certification requirements stated in Section E.1, below, the Director may delegate the authority granted under this section to the Division Director or senior manager in charge of marketing and communications or (for the use of real property) to a senior manager in charge of real estate. Any license for filming, photography or other activities along SFMTA right-of-way, in SFMTA facilities or on a transit vehicle that may interfere with the Agency's transit operations requires the written approval of the Director of Transit.

**10. Fare Media Procurement.** The Director is authorized to delegate to the Division Director or senior manager in charge of finance and information technology or to the Division Director or senior manager in charge of revenue the authority to approve and execute agreements for the sale or distribution of fare media and fare cards, where the commissions to be paid under such agreements are not expected to exceed \$250,000 in any calendar year, and such agreement is not subject to Charter Section 9.118..

**11. Sole Source Negotiations.** The Director is authorized to direct staff to commence sole-source contract negotiations, in accordance with the requirements of applicable City ordinances and/or federal procurement requirements.

## **E. ADDITIONAL CONTRACTING AUTHORITY AND REQUIREMENTS**

**1. Certification of Delegated Authority.** The Director shall present to the Secretary of the SFMTA Board of Directors a completed original delegation of authority letter for each person to whom the Director delegates contract approval authority. The SFMTA Board Secretary shall review the delegation letter and certify conformance with requirements of this policy. A delegation of authority shall be in effect when certified by the SFMTA Board Secretary.

**2. Exercise of Options.** The Director is authorized to exercise options reserved by the Agency in any contract, provided that the term and value of the option(s) to be exercised are expressly set forth in the contract and were approved as part of the original contract. The exercise of an option shall be memorialized as a contract amendment but is not otherwise subject to the requirements and limitations stated for issuance of contract amendments in this Contract Policy. The Director may delegate authority to exercise contract options to the Division Director responsible for the contract.

**3. Parking Authority.** The policies and procedures stated in this Contract Policy shall also apply to the contracts of the Parking Authority of the City and County of San Francisco that the SFMTA administers under the agreement between the SFMTA and the Parking Authority, dated October 18, 2007, approved by SFMTA Board Resolution No. 07-171 and Parking Authority Commission Resolution No. 07-173.

**4.** The Director is authorized to (1) issue Requests for Proposals and Invitations for Bids for contracts that will not require Board of Supervisors' approval; (2) reject bids and proposals, and re-advertise for new bids and proposals; and, (3) authorize the City Attorney to settle unlitigated claims of \$25,000 or less.

**5. Successor Titles.** The Director's delegation authority under the Policy is not limited to specific manager titles in use when this Policy is approved but may be conferred on managers holding similar positions and having similar responsibilities, if the titles used by the Agency change.

## **F. QUARTERLY REPORTING**

Every 90 days, the Director shall provide a written report to the SFMTA Board identifying:

1. All contracts awarded by the Director in the preceding 90 days, including the name of the contractor, the amount and Term of the contract, and a summary description of the work to be performed.