

**MEMORANDUM OF UNDERSTANDING
REGARDING OPERATIONS AND MAINTENANCE OF
CLIPPERSM FARE COLLECTION SYSTEM**

This ClipperSM Memorandum of Understanding (“MOU”) is entered into as of the date on which all Parties listed below have signed the MOU (“Effective Date”), by and among the Metropolitan Transportation Commission (“MTC”) and the following transit operators participating in the ClipperSM program (referred to herein as “Operator” or “Operators”):

Alameda-Contra Costa Transit District (“AC Transit”); Golden Gate Bridge Highway and Transportation District (“GGBHTD”); the San Francisco Bay Area Rapid Transit District (“BART”); the City and County of San Francisco, acting by and through its Municipal Transportation Agency (“MTA”); the San Mateo County Transit District (“SamTrans”); the Santa Clara Valley Transportation Authority (“VTA”); the Peninsula Corridor Joint Powers Board (“Caltrain”); and any other transit operators that implement Clipper and execute this MOU after the Effective Date.

MTC and the Operators are referred to herein as “the Parties” or individually, as a “Party”.

Recitals

1. ClipperSM (formerly TransLink[®]) is an automated fare payment system for intra- and inter-operator transit trips in the San Francisco Bay Area that has been implemented and is currently being operated on Operators’ transit systems.
2. MTC has entered into a contract (“the ClipperSM Contract”) with Cubic Transportation Systems, Inc. (“ClipperSM Contractor”) to operate and maintain ClipperSM through November 2, 2019.
3. On December 12, 2003, MTC and six of the Operators entered into an interagency participation agreement (“IPA”) to create a forum for joint agency decision-making called the TransLink[®] Consortium to work towards the successful implementation of ClipperSM, which agreement was terminated by the Consortium as of the Effective Date.
4. The IPA included provisions assigning responsibilities to MTC and the Operators relative to the implementation, operation and maintenance of the program, including the payment of the operating fees due the ClipperSM Contractor.
5. MTC and the Operators now wish to agree to their continuing obligations to ensure the successful operation and maintenance of ClipperSM.

**Article I
Operator Responsibilities**

Each Operator that is a signatory to this MOU agrees to:

- A. Implement and operate the ClipperSM fare payment system in accordance with the ClipperSM Operating Rules, as adopted and amended from time to time by MTC, consistent with the consultation and approval process set forth in Appendix A, Process for Amending ClipperSM Operating Rules, attached hereto and incorporated herein by this reference. The ClipperSM Operating Rules establish operating parameters and procedures for the consistent and efficient operation of ClipperSM throughout the region and the current version is available on MTC's website at <http://www.mtc.ca.gov/planning/tcip/>.
- B. Pay its share of ClipperSM costs, according to Appendix B, ClipperSM Cost and Revenue Allocation, attached hereto and incorporated herein by this reference. Notwithstanding any contrary survival provisions of the IPA, Appendix B shall supersede Appendix A to the IPA, as of the Effective Date. Changes to Appendix B require an amendment to the MOU in accordance with Article VIII.A.
- C. Make its facilities and staff available to MTC and the ClipperSM Contractor for implementation and operation of ClipperSM. Any Operator and MTC may agree to an operator-specific implementation plan, setting forth specific requirements regarding implementation and operation of ClipperSM for such Operator.
- D. Make determinations regarding the placement of ClipperSM equipment on the Operator's facilities and equipment; perform necessary site preparation; attend ClipperSM Contractor training on the use of the ClipperSM equipment; and provide training to employees using the equipment.
- E. Accept transfer of ownership of equipment one year following Conditional Acceptance by each Operator, as defined in Section 8.3 of the ClipperSM Contract (or for Phase 3 or other new Operators one year following Acceptance, as established by contract change order.) Maintain and track a list of all equipment in accordance with Federal Transit Administration requirements.
- F. Participate in periodic reviews of the cost and revenue allocation formula in Appendix B.1, to support fairness among Operators and to accommodate changes in shared operation costs.

**Article II
MTC Responsibilities**

MTC agrees to:

- A. Operate the ClipperSM fare payment system on behalf of the Operators and carry out the duties and responsibilities of contracting agency for the ClipperSM Contractor through the Term of the Clipper Contract.

- B. Notify and consult with the Operators concerning changes to the Operating Rules affecting Operator Roles and Responsibilities, consistent with the process described in Appendix A.
- C. Fund a portion of the ClipperSM operating and maintenance costs, as set forth in Appendix B.
- D. Transfer ownership of capital equipment to each Operator receiving such equipment one year following Conditional Acceptance of such equipment under the ClipperSM Contract as defined in Section 8.3 of the ClipperSM Contract (or for Phase 3 or other new Operators, one year following Acceptance, as established by contract change order), in accordance with FTA requirements.
- E. Provide regular updates (at least quarterly) on the ClipperSM program to the Operators.
- F. Support the Operators with respect to Article I.F, by providing system data affecting the cost allocation formula.
- G. Hold and manage the ClipperSM bank accounts and act as an agency in trust for the benefit of the cardholders for funds deposited by the cardholders for the ultimate use with the Operators and for the benefit of the Operators for funds due to Operators until dispersed to such Operators.
- H. Retain all books, papers, records, documents, and other materials pertaining to its responsibilities under Appendix B (“the Materials”) in accordance with federal grant and audit requirements and generally accepted accounting principles and make the Materials available to Operators upon request through reasonable means and at reasonable times. Operators may request that Materials be made available for the most recently closed fiscal year during the Term and for up to one year thereafter; provided, however, that nothing in this Article II.H is intended to limit an Operator’s rights to obtain records under the California Public Records Act (Government Code Section 6250 *et seq.*)
- I. Conduct an annual contract compliance audit covering MTC revenue collection and allocation and cost allocation responsibilities under the MOU and provide a copy of the complete audit report to all Operators upon conclusion of each such annual audit.

Article III New Operator Participants

Any Bay Area transit operator not a Party to this Agreement must agree to the terms of the MOU then in effect as a condition of implementing ClipperSM, by entering into a supplemental agreement with MTC. Signature by the other Parties to the MOU is not required. MTC agrees that it will not enter into a supplemental agreement with a particular operator prior to the issuance of a Change Notice to the ClipperSM Contract covering the work required to accept such operator into the system. MTC agrees to provide the other Parties to the MOU with written notice of each supplemental agreement.

**Article IV
Indemnification**

- A. Mutual Indemnification. No Party to this MOU (including any of its directors, commissioners, officers, agents or employees) shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by any other Party under or in connection with this Agreement. Pursuant to Government Code Section 895.4, each Party agrees to fully indemnify and hold other Parties harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by such indemnifying Party under or in connection with this Agreement and for which such indemnifying Party would otherwise be liable.
- B. MTC Indemnification of Operators. Notwithstanding the provisions of Subsection A above, MTC shall indemnify, hold harmless, and defend the Operators from any and all claims or liability resulting from any action or inaction on the part of MTC relating to the ClipperSM Contract or from its failure to carry out its responsibilities under Article II of this MOU. This indemnification covers action or inaction on the part of MTC relating to the ClipperSM Contract prior to the Effective Date of the MOU.
- C. Operator Indemnification of MTC. Notwithstanding the provisions of Subsection A above, each Operator shall indemnify, hold harmless, and defend MTC from any and all claims or liability resulting from any action or inaction on the part of such Operator relating to its responsibilities under Article I of this MOU.

**Article V
Term and Termination/Withdrawal**

- A. Term. The term of the MOU shall begin upon the Effective Date and continue through November 2, 2019 (“the Term”), unless terminated by written agreement of the Parties or as provided in Article V.B below.
- B. Withdrawal. A Party to the MOU may withdraw from the MOU by two hundred forty (240) day advance written notice to all current signators to the MOU. Articles IV and VI and Appendices B and C shall survive a Party’s withdrawal from the MOU.

**Article VI
Dispute Resolution**

The Parties agree to abide by the dispute resolution procedures in Appendix C, Dispute Resolution, attached hereto and incorporated herein by this reference, to resolve disputes between or among Parties to the MOU.

**Article VII
Changed Circumstances**

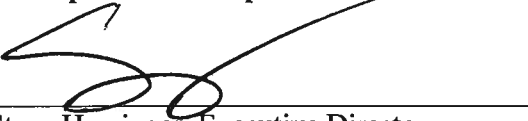
Any Party may initiate informal discussions among the Parties concerning the provisions of this MOU, based on its assessment that changes in technology or other factors external to the MOU or the ClipperSM Contract indicate that it would be in the best interests of one or more Parties to consider revisions to the MOU. If a majority of Parties agree, the Parties will then jointly evaluate the changed circumstances to determine what, if any, revisions to the MOU are necessary or desirable. Any agreed-upon changes would require an amendment to the MOU approved by all Parties.

**Article VIII
General Provisions**

- A. The entire Agreement between and among the Parties is contained herein, and no change in or modification, termination or discharge of this MOU shall be valid or enforceable unless it is approved by the Parties and made in writing and signed by the Parties.
- B. Headings in this MOU are for convenience only and not intended to define, interpret or limit the terms and conditions herein.
- C. This MOU may be executed in one or more counterpart, each of which shall be considered an original and all of which shall constitute a single instrument.
- D. This MOU is intended for the sole benefit of the Parties and is not intended to nor shall be construed to confer any benefit or create any right in any third party.
- E. Appendix D, Special Provisions, attached hereto and incorporated herein by this reference, sets forth the terms and conditions required by the City and County of San Francisco in any contracts or agreements entered into by them.
- F. If any provision of this MOU or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this MOU, or the application of such provision to persons, entities or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this MOU shall be valid and be enforceable to the fullest extent permitted by law.
- G. Notices provided under the MOU shall be provided to the individuals listed in Appendix E, Notices, attached hereto and incorporated herein by this reference. Each Party to the MOU is responsible for notifying other Parties of a change in the individual designated to receive notices in writing. Changes to Appendix E may be made by any Party without an amendment to this MOU. MTC will distribute to every other Party the notice information of new Parties to the MOU added pursuant to Article III.
- H. This MOU supersedes and replaces the IPA or, if the TransLink[®] Consortium has been terminated by its members, the surviving provisions of the IPA.

IN WITNESS WHEREOF, this MOU has been duly authorized and executed by the Parties hereto on the dates specified below.


Metropolitan Transportation Commission



Steve Heminger, Executive Director

Date: 6/26/10

Approved as to Form:



Melanie J. Morgan
Deputy General Counsel

Alameda Contra Costa Transit District

Mary King, Interim General Manager

Date: _____

Approved as to Form:

Ken Scheidig, General Counsel

Golden Gate Bridge Highway and Transportation District

Celia G. Kupersmith, General Manager

Date: _____

Approved as to Form:

David J. Miller
General Counsel

San Francisco Bay Area Rapid Transit District

Dorothy Dugger, General Manager

Date: _____

Approved as to Form:
Office of the General Counsel

Matt Burrows
General Counsel

**City and County of San Francisco
Municipal Transportation Agency**

Nathaniel P. Ford Sr.
Executive Director/CEO

Date: _____

Approved as to Form:
Dennis J. Herrera, City Attorney

Robin M. Reitzes
Deputy City Attorney

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Metropolitan Transportation Commission

Approved as to Form:

Steve Heminger, Executive Director

Melanie J. Morgan
Deputy General Counsel

Date: _____

Alameda Contra Costa Transit District

Approved as to Form:



Mary King, Interim General Manager



Ken Scheidig, General Counsel

Date: 8-24-10

Golden Gate Bridge Highway and Transportation District

Approved as to Form:

Celia G. Kupersmith, General Manager

David J. Miller
General Counsel

Date: _____

San Francisco Bay Area Rapid Transit District

Approved as to Form:
Office of the General Counsel

Dorothy Dugger, General Manager

Matt Burrows
General Counsel

Date: _____

**City and County of San Francisco
Municipal Transportation Agency**

Approved as to Form:
Dennis J. Herrera, City Attorney

Nathaniel P. Ford Sr.
Executive Director/CEO

Robin M. Reitzes
Deputy City Attorney

Date: _____

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Steve Heminger, Executive Director

Melanie J. Morgan
Deputy General Counsel

Date: _____

Alameda Contra Costa Transit District

Approved as to Form:

Mary King, Interim General Manager

Ken Scheidig, General Counsel

Date: _____

Golden Gate Bridge Highway and Transportation District

Approved as to Form:



for Celia G. Kupersmith, General Manager



David J. Miller
General Counsel

Date: Sept 1, 2010

San Francisco Bay Area Rapid Transit District

Approved as to Form:
Office of the General Counsel

Dorothy Dugger, General Manager

Matt Burrows
General Counsel

Date: _____

**City and County of San Francisco
Municipal Transportation Agency**

Approved as to Form:
Dennis J. Herrera, City Attorney

Nathaniel P. Ford Sr.
Executive Director/CEO

Robin M. Reitzes
Deputy City Attorney

Date: _____

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Steve Heminger, Executive Director

Melanie J. Morgan
Deputy General Counsel

Date: _____

Alameda Contra Costa Transit District

Approved as to Form:

Mary King, Interim General Manager

Ken Scheidig, General Counsel

Date: _____

Golden Gate Bridge Highway and Transportation District

Approved as to Form:


Celia G. Kupersmith, General Manager

David J. Miller
General Counsel


Date: _____

San Francisco Bay Area Rapid Transit District

Approved as to Form:
Office of the General Counsel



~~Dorothy Dugger~~, Grace Crunican, General Manager



Matt Burrows
General Counsel

Date: 11-10-11

**City and County of San Francisco
Municipal Transportation Agency**

Approved as to Form:
Dennis J. Herrera, City Attorney

Nathaniel P. Ford Sr.
Executive Director/CEO

Robin M. Reitzes
Deputy City Attorney

Date: _____

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Metropolitan Transportation Commission

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Steve Heminger, Executive Director

Melanie J. Morgan
Deputy General Counsel

Date: _____

Alameda Contra Costa Transit District

Approved as to Form:

Mary King, Interim General Manager

Ken Scheidig, General Counsel

Date: _____

Golden Gate Bridge Highway and Transportation District

Approved as to Form:

Celia G. Kupersmith, General Manager

David J. Miller
General Counsel

Date: _____

San Francisco Bay Area Rapid Transit District

Approved as to Form:
Office of the General Counsel

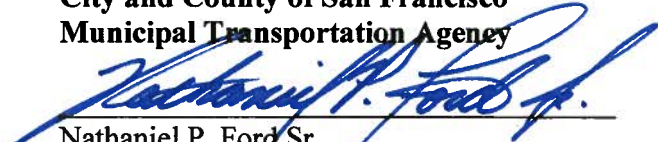
Dorothy Dugger, General Manager

Matt Burrows
General Counsel

Date: _____

**City and County of San Francisco
Municipal Transportation Agency**

Approved as to Form:
Dennis J. Herrera, City Attorney



Nathaniel P. Ford Sr.
Executive Director/CEO



Robin M. Reitzes
Deputy City Attorney

Date: 9.7.10

Municipal Transportation Agency Board of Directors

Resolution No. 10-092

Dated: 6-15-10

R. Boomer
Secretary, MTAB

San Mateo County Transit District

Approved as to Form:

Michael Scanlon, General Manager and
Chief Executive Officer

David J. Miller
General Counsel

Date: _____

Santa Clara Valley Transportation Authority

Approved as to Form:

Michael T. Burns, General Manager

Kevin Allmand
General Counsel

Date: _____

Peninsula Corridor Joint Powers Board

Approved as to Form:

Michael Scanlon, Executive Director

David J. Miller
General Counsel


Date: _____

Municipal Transportation Agency Board of Directors
Resolution No. _____

Dated: _____

Secretary, MTAB

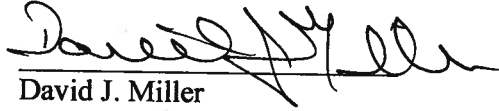
San Mateo County Transit District



Michael Scanlon, General Manager and
Chief Executive Officer

Date: 8/25/2010

Approved as to Form:



David J. Miller
General Counsel

Santa Clara Valley Transportation Authority

Michael T. Burns, General Manager

Date: _____

Approved as to Form:

Kevin Allmand
General Counsel

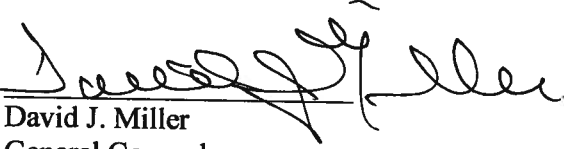
Peninsula Corridor Joint Powers Board



Michael Scanlon, Executive Director

Date: 8/25/2010

Approved as to Form:



David J. Miller
General Counsel

Municipal Transportation Agency Board of Directors

Resolution No. _____

Dated: _____

Secretary, MTAB

San Mateo County Transit District

Approved as to Form:

Michael Scanlon, General Manager and
Chief Executive Officer

David J. Miller
General Counsel

Date: _____

Santa Clara Valley Transportation Authority

Approved as to Form:



Michael T. Burns, General Manager



Kevin Allmand
General Counsel

Date: 8/27/10

Peninsula Corridor Joint Powers Board

Approved as to Form:

Michael Scanlon, Executive Director

David J. Miller
General Counsel

Date: _____

Appendix A – Process for Amending ClipperSM Operating Rules

Appendix B - ClipperSM Cost and Revenue Allocation

Appendix C – Dispute Resolution

Appendix D – Special Provisions

Appendix E – Notices

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Appendix A

Process for Amending ClipperSM Operating Rules

1. MTC will provide written notice to Operators at least ninety (90) days in advance of making any changes to the Operating Rules affecting Operator Roles and Responsibilities (Section 3 of the ClipperSM Operating Rules). Notice shall be provided by email to the contact named in Appendix E, or as subsequently revised or updated by the Operators, as provided in Article VIII.G.
2. MTC will endeavor to provide additional notice to Operators on possible changes to the Operating Rules affecting Operator Roles and Responsibilities in the regular ClipperSM program reports furnished under Article II.E.
3. MTC's notice shall include enough information to enable Operators to determine the financial and other impacts of the proposed change.
4. If requested by any Operator within 30 days of issuance of such notice, MTC will consult with all affected Operators concerning the proposed change prior to its adoption.
5. Any Operator that requires additional time in excess of the notice period specified by MTC to implement a change may notify MTC of the additional period of time required during the initial 30-day notice period. MTC will then work with the Operator(s) during the consultation period to modify the effective date and/or content of the Operating Rules change, as necessary.
6. Following such consultation process, if any Operator(s) objects to the proposed change, as modified during the consultation process, such Operator(s) may initiate one or more of the dispute resolution processes described in Appendix C.
7. MTC agrees to delay the implementation of the disputed change until the conclusion of the dispute resolution process.

Appendix B

ClipperSM Cost and Revenue Allocation

1. Cost Allocation Among Operators

The allocation of ClipperSM operating costs to each Operator shall be based on a combination of revenue collected and the number of fee payment transactions processed. "Revenue collected" shall mean the fee collected on behalf of each Operator by the ClipperSM clearinghouse (*e.g.*, the price charged to ride on the Operator's transit system, the value of pass sales, the amount of parking fees paid). A "fee payment transaction" shall mean any activity in which a ClipperSM card is used to receive service on or from an Operator's system (*e.g.*, to ride on the Operator's transit system, to park on the Operator's property). A fee payment transaction shall be attributed to the Operator on whose system the service was provided, except that a transaction in which a patron uses a Muni Fast Pass to ride BART will be attributed to MTA. All fee payment transactions are included for purposes of allocating ClipperSM operating costs, regardless of whether the transaction results in a reduction of the amount of stored value or stored rides on a ClipperSM card (*e.g.*, use of a monthly pass on a transit system, intra-operator transfers, entry and exit transactions for a single ride where both transactions are required to compute the appropriate fare payment).

One-third (1/3) of ClipperSM operating costs shall be allocated to Operators based on each Operator's share of total revenue collected by the ClipperSM clearinghouse, as defined above. Two-thirds (2/3) of ClipperSM operating costs shall be allocated to Operators based on each Operator's share of total fee payment transactions processed by the ClipperSM clearinghouse, as defined above.

In addition to the ClipperSM operating costs allocated in accordance with Appendix B.2.B(i) herein, each Operator shall be responsible for payment of:

- a. ClipperSM Data Server (CDS) Store operating costs specified below for any TDS Store implemented on such Operator's site; and
- b. Credit/debit interchange fees charged through an Operator-specific credit/debit gateway associated with ClipperSM sales through add value machines, ticket office terminal devices and ticket vending machines. This responsibility is subject to review pursuant to Article I.F to ensure that no single Operator is unfairly burdened by such fees.
- c. Incremental ClipperSM operating costs established by and/or resulting from ClipperSM Contract change orders requested and funded by an Operator for such Operator's use and benefit shall be the responsibility of such Operator. This applies to costs or portions of costs that would otherwise be MTC's responsibility as described below.

2. ClipperSM Costs

- A. MTC Operating and Maintenance Costs. MTC shall pay the following ClipperSM operating costs:
- i. All fixed operating costs of the ClipperSM clearinghouse and equipment maintenance services costs as specified in the ClipperSM Contract's Price Schedule (Attachment 2 to the ClipperSM Contract) (the "Price Schedule"), including:
 - a. Item 3.20 Program Management – Operations and Maintenance
 - b. Item 3.30 ClipperSM Testbed Operations & Maintenance
 - c. Item 5.31 Operator Help Desk
 - d. Item 5.32 Reporting
 - e. Item 5.33 Asset Management
 - f. Item 6.0 Equipment Maintenance Services
 - g. Item 10.21(a) Location Acquisition
 - h. Item 10.22 Location Servicing and Support
 - i. Item 10.23 (a) Acquisition Payment for Third Party Location
 - j. Item 12.0 Network Management
 - k. Item 13.22 Basic Monthly Operations and Admin
 - ii. Variable ClipperSM operating costs as specified in the Price Schedule (Attachment 2 to the ClipperSM Contract), specifically:
 - a. Item 8.0 Card Distribution Services
 - b. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - iii. All other lump sum and capital expense items specified in the Price Schedule not enumerated above or covered by Section 2.B; and
 - iv. \$7,120,000 in incentives to be allocated to Operators to pay operating costs, as shown in Section 4, Incentive Payments, below.
- B. Operator Operating Costs.
- i. Operators shall pay the following listed ClipperSM operating costs in accordance with the cost sharing formula in Appendix B.1, reduced by any amounts payable by MTC pursuant to 2.A(iv) above. References to Item numbers refer to the corresponding prices payable to the ClipperSM Contractor under the ClipperSM Contract Price Schedule, which are subject to annual price adjustment as specified in Article 13.6 of the ClipperSM Contract:
 - a. Item 9.24 Balance Protection Services Registration
 - b. Item 9.25 Lock/unlock ClipperSM Application

- c. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - d. Item 10.11 ClipperSM E-purse Load
 - e. Item 10.12 Pass/Stored Ride Load
 - f. Item 11.0 Autoload Services
 - g. Item 12.22.89 Fixed Monthly Service Fee to Support ClipperSM Data Server Store
 - h. Item 13.22.45 Supplemental Monthly Operations and Admin (except as reduced by MTC in accordance with Section 4.1, Incentive Payments)
 - i. Item 13.31 ClipperSM Transaction Fee
 - j. Item 13.60 Incremental Gateway Fees
 - k. Item 13.70 Incremental Debit Card Interchange Fees
 - l. Item 13.80 Incremental Credit Card Interchange Fees
 - m. Item 13.90 Pass Through Website Credit Card Processing Fees
 - n. Reimbursement of MTC bank fees and direct bank charges in connection with the ClipperSM bank account(s) in excess of the amounts reimbursed under Section 3.A below
 - o. Direct payment or reimbursement of MTC costs for network communication.
- ii. Changes or Additions to Operator Operating Costs Items. Substantive changes or additions to the Operator-paid operating cost items set forth in B(i)(a-o) require an amendment to this Appendix B and approval of all Parties to the MOU as of the date of the change or addition.

- C. MTC shall invoice each Operator on a monthly basis for its share of the operating costs. The Operators shall pay MTC within fifteen (15) calendar days of receipt of such invoice.

3. Revenue Allocation

Revenues generated by ClipperSM during any period of time, including interest earnings on funds held by the clearinghouse and excluding fare revenues or parking fees collected on behalf of and distributed to Operators, shall be utilized as follows:

- A. To offset MTC's bank fees and direct bank charges related to the managing of the ClipperSM accounts;
- B. After deduction of MTC's bank fees and charges under 3.A above, to reduce the Operators' ClipperSM operating costs listed in 2.B(i) above; and
- C. After payment of Operators' ClipperSM operating costs listed in 2.B(i) above, to be allocated to Operators using the formula specified in Section 1 herein.

Notwithstanding the above, fees charged cardholders for card acquisition, card replacement, balance restoration, failed Autoload funding recovery, card refund processing, and other card-related activities shall be reserved to pay for future card procurements; provided, however, that surcharges on limited use cards or other fare media imposed by an Operator to pay for the acquisition, implementation, administration and replacement of such fare media shall be distributed to and retained by such Operator. (For clarity, any surcharge imposed by an Operator as part of its fare structure shall be considered “fare revenue” and shall be distributed to and retained by such Operator.)

4. Incentive Payments

MTC’s \$10,000,000 in incentive funds shall be allocated to pay operating costs associated with Phase II as follows:

- (1) \$2,880,000 contingency to Contractor (for payment of ClipperSM Contract Price Schedule Item No. 13.22.45) for transaction assurances in the event minimum transaction volumes (20,000,000 transactions/month) are not achieved. If the minimum transaction volumes are met and these funds are not needed, MTC may reallocate the remaining funds to other purposes; and
- (2) \$7,120,000 to individual Operators, to be applied as a credit against Phase II variable operating costs, a portion of which has already been credited to certain individual Operators:

AC Transit	\$862,227
BART	2,128,016
Caltrain/SamTrans	484,744
Golden Gate Transit	634,239
MTA	2,327,503
SCVTA	683,271

Appendix C

Dispute Resolution

The Parties agree to resolve disputes concerning this MOU between or among one or more Parties based on the following dispute resolution principles.

1. Informal Dispute Resolution

The Parties agree to attempt to resolve informally all disputes. In the event of a dispute among any Parties to the MOU, those Parties shall notify every other Party in writing about the substance of the dispute. The Parties to the dispute shall meet and confer by exchanging written positions on the dispute, and by meeting in person thereafter to discuss and resolve the dispute. If those representatives are unable to resolve the dispute, the chief executives of those Parties shall be informed of the substance of the dispute and provided all writings that have been exchanged regarding the dispute. The chief executives shall meet and confer in person or by telephone concerning the dispute, and may choose to exchange letters in preparation for the meet and confer.

2. Mediation

If the dispute is not resolved, the Parties may avail themselves by mutual consent to mediation, arbitration (binding or non-binding), or any other dispute resolution resource (collectively "Alternate Dispute Resolution (ADR) processes"). All procedures and methodologies in ADR processes shall be by mutual consent of the Parties, including but not limited to the choice of the mediator or arbitrator, dates and times and timelines, whether documents are exchanged in preparation for the ADR session, etc. Fees and expenses of the mediator will be borne equally, unless otherwise agreed. The Parties to the dispute shall be represented by individuals of their choosing, except that the Parties must agree on the question of whether lawyers are present or not. The entire process shall be confidential and treated as a compromise negotiation for purposes of federal and state rules of evidence. If ADR processes are agreed on, the Parties shall agree on the identity of the mediator or arbitrator within 30 days of agreeing on the ADR process. The Parties shall not unreasonably withhold consent as to the choice of the mediator or arbitrator. Unless the schedule of the mediator or arbitrator does not permit, the Parties shall have their ADR process completed within 60 days after agreement on the choice of the mediator or arbitrator. Nothing in this MOU affects the rights or abilities of the Parties to avail themselves of all rights and remedies they have under the law of California or federal law, and to the state or federal courts to resolve their dispute.

3. Operator Obligations

An Operator who disputes amounts claimed by MTC to be due under the MOU agrees to pay the amount claimed pending dispute resolution.

Appendix D

Special Provisions for the City and County of San Francisco.

(References to "City" in Paragraphs 1 and 2 refer to the City and County of San Francisco)

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

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

2. Guaranteed Maximum Costs. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

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

4. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, no funds appropriated by the City and County of San Francisco for this Agreement may be expended for organizing, creating, funding, participating in, supporting, or attempting to influence any political campaign for a candidate or for a ballot measure. The terms of San Francisco Administrative Code Chapter 12.G are incorporated herein by this reference.

Appendix E

Notices

Contact:

Mailing Address

Metropolitan Transportation Commission:

Melanie Crotty
Director, Traveler Coordination and Information
Email: mcrotty@mtc.ca.gov
Fax: 510-817-5848
Phone: 510-817-5880

101 – 8th St.
Oakland, CA 94607

Alameda Contra Costa Transit District

Mary King
Interim General Manager
Email: mking@actransit.org
Fax: 510-891-7157
Phone: 510-891-4793

1600 Franklin St.
Oakland, CA 94612

Golden Gate Bridge Highway and Transportation District

Celia G. Kupersmith
General Manager
Email: ckup@goldengate.org
Fax: 415-923-2367
Phone: 415-923-2212

Box 9000, Presidio Station
San Francisco, CA 94129-0601

San Francisco Bay Area Rapid Transit District

Larry Kozimor
Project Manager, Transit System Development
Email: lkozimo@bart.gov
Fax: 510-287-4860
Phone: 510-287-4723

300 Lakeside Drive, 21st
Floor,
Oakland, CA 94612

**City and County of San Francisco
Municipal Transportation Agency**

Nathaniel P. Ford Sr.
Executive Director/CEO
Email: Nathaniel.ford@sfmta.com
Fax: 415-701-4502
Phone: 415-701-4687

1 South Van Ness Ave.
7th Floor
San Francisco, CA 94103

San Mateo County Transit District

Virginia Harrington

Deputy CEO

Email: harringtong@samtrans.com

Fax: 650-508-6415

Phone: 650-508-7950

1250 San Carlos Avenue,
P.O. Box 3006
San Carlos, CA 94070-2468

Santa Clara Valley Transportation Authority

Ali Hudda

Deputy Director of Accounting

Email: Ali.Hudda@vta.org

Fax: 408-955-9750

Phone: 408-546-7922

3331 North First St.
San Jose, CA 95134-1906

Peninsula Corridor Joint Powers Board

Virginia Harrington

Deputy CEO

Email: harringtong@samtrans.com

Fax: 650-508-6415

Phone: 650-508-7950

1250 San Carlos Avenue,
P.O. Box 3006
San Carlos, CA 94070-2468

AMENDMENT NO. 1
TO
CLIPPER® MEMORANDUM OF UNDERSTANDING

This Amendment No. 1 to the Clipper® Memorandum of Understanding dated November 10, 2011, (the “MOU”) is entered into as of the 1st day of December, 2011 by and among the Metropolitan Transportation Commission (“MTC”) and the following transit operators participating in the Clipper® program (referred to herein as “Operator” or “Operators”):

Alameda-Contra Costa Transit District (“AC Transit”); Golden Gate Bridge Highway and Transportation District (“GGBHTD”); the San Francisco Bay Area Rapid Transit District (“BART”); the City and County of San Francisco, acting by and through its Municipal Transportation Agency (“MTA”); the San Mateo County Transit District (“SamTrans”); the Santa Clara Valley Transportation Authority (“VTA”); the Peninsula Corridor Joint Powers Board (“Caltrain”); and any other transit operators that implement Clipper and execute this MOU after the Effective Date.


MTC and the Operators are referred to herein as “the Parties” or individually, as a “Party”.

The Parties agree to amend the MOU as follows:

Appendix B, Clipper® Cost and Revenue Allocation, is deleted and the revised Appendix B is substituted, as attached hereto and incorporated herein by this reference.

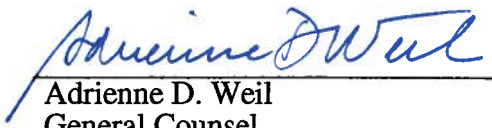
IN WITNESS WHEREOF, this Amendment #1 to the MOU has been duly authorized and executed by the Parties hereto on the dates specified below.

Metropolitan Transportation Commission



Steve Heminger, Executive Director
Date:

Approved as to Form:



Adrienne D. Weil
General Counsel

Alameda Contra Costa Transit District

Mary King, Interim General Manager
Date:

Approved as to Form:

Carol Babington, Interim General
Counsel

**Golden Gate Bridge Highway and
Transportation District**

Denis Mulligan, General Manager
Date:

Approved as to Form:

David J. Miller
General Counsel

**San Francisco Bay Area Rapid Transit
District**

Grace Crunican, General Manager
Date:

Approved as to Form:

Matt Burrows, General Counsel

**City and County of San Francisco
Municipal Transportation Agency**

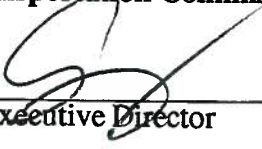
Edward D. Reiskin, Director of
Transportation
Date:

Approved as to Form:
Dennis J. Herrera, City Attorney

Robin M. Reitzes
Deputy City Attorney

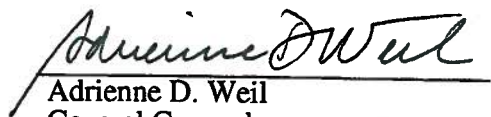
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Metropolitan Transportation Commission



Steve Heminger, Executive Director
Date:

Approved as to Form:



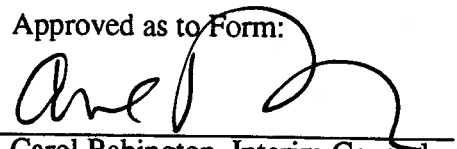
Adrienne D. Weil
General Counsel

Alameda Contra Costa Transit District



Mary King, Interim General Manager
Date:

Approved as to Form:



Carol Babington, Interim General
Counsel

**Golden Gate Bridge Highway and
Transportation District**

Denis Mulligan, General Manager
Date:

Approved as to Form:

David J. Miller
General Counsel

**San Francisco Bay Area Rapid Transit
District**

Grace Crunican, General Manager
Date:

Approved as to Form:

Matt Burrows, General Counsel

**City and County of San Francisco
Municipal Transportation Agency**

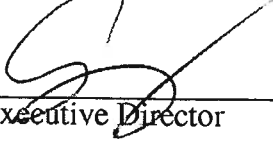
Edward D. Reiskin, Director of
Transportation
Date:

Approved as to Form:
Dennis J. Herrera, City Attorney

Robin M. Reitzes
Deputy City Attorney

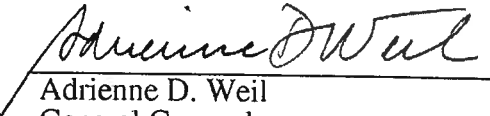
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Approved as to Form:



Adrienne D. Weil
General Counsel

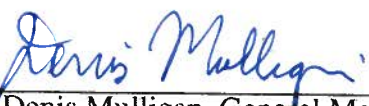
Alameda Contra Costa Transit District

Mary King, Interim General Manager
Date:

Approved as to Form:

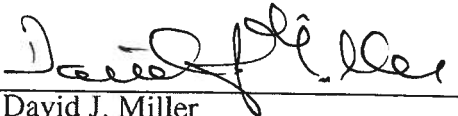
Carol Babington, Interim General
Counsel

**Golden Gate Bridge Highway and
Transportation District**



Denis Mulligan, General Manager
Date:

Approved as to Form:



David J. Miller
General Counsel

**San Francisco Bay Area Rapid Transit
District**

Grace Crunican, General Manager
Date:

Approved as to Form:

Matt Burrows, General Counsel

**City and County of San Francisco
Municipal Transportation Agency**

Edward D. Reiskin, Director of
Transportation
Date:

Approved as to Form:
Dennis J. Herrera, City Attorney

Robin M. Reitzes
Deputy City Attorney

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General Counsel

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Carol Babington, Interim General
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Transportation District**

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Date:

David J. Miller
General Counsel

**San Francisco Bay Area Rapid Transit
District**

Approved as to Form:



Grace Crunican, General Manager
Date:



Matt Burrows, General Counsel

**City and County of San Francisco
Municipal Transportation Agency**


Approved as to Form:
Dennis J. Herrera, City Attorney

Edward D. Reiskin, Director of
Transportation
Date:

Robin M. Reitzes
Deputy City Attorney

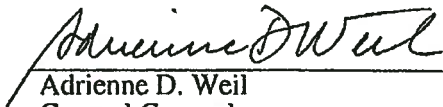
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Metropolitan Transportation Commission



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Date:

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Adrienne D. Weil
General Counsel

Alameda Contra Costa Transit District

Mary King, Interim General Manager
Date:

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Carol Babington, Interim General
Counsel

**Golden Gate Bridge Highway and
Transportation District**

Denis Mulligan, General Manager
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David J. Miller
General Counsel

**San Francisco Bay Area Rapid Transit
District**

Grace Crunican, General Manager
Date:

Approved as to Form:

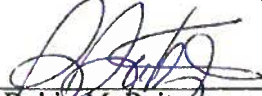
Matt Burrows, General Counsel

**City and County of San Francisco
Municipal Transportation Agency**



Edward D. Reiskin, Director of
Transportation
Date:

Approved as to Form:
Dennis J. Herrera, City Attorney



Robin M. Reitzes
Deputy City Attorney

Municipal Transportation Agency Board of
Directors
Resolution No. _____
Dated: _____

Secretary, MTAB

San Mateo County Transit District



Michael Scanlon, General Manager/CEO
Date:

Approved as to Form:



David J. Miller
General Counsel

**Santa Clara Valley Transportation
Authority**

Approved as to Form:

Michael T. Burns, General Manager
Date:

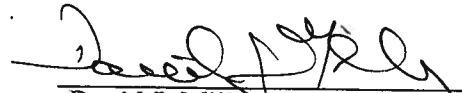
Kevin Allmand
General Counsel

Peninsula Corridor Joint Powers Board

Approved as to Form:



Michael Scanlon, Executive Director
Date:



David J. Miller
General Counsel

J:\CONTRACT\Contracts-New\Con Clipper\MOUs\Clipper MOU\Amendment 1\Clipper MOU_Amend1_final.doc

Municipal Transportation Agency Board of Directors
Resolution No. _____
Dated: _____

Secretary, MTAB

San Mateo County Transit District

Approved as to Form:

Michael Scanlon, General Manager/CEO
Date:

David J. Miller
General Counsel

Santa Clara Valley Transportation Authority

Approved as to Form:

Michael T. Burns

Michael T. Burns, General Manager
Date: *12/16/11*

Yalhy Paul 12/13/11

~~Kevin Allmand~~ *Interim*
General Counsel

Peninsula Corridor Joint Powers Board

Approved as to Form:

Michael Scanlon, Executive Director
Date:

David J. Miller
General Counsel

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Appendix B

ClipperSM Cost and Revenue Allocation

1. Cost Allocation Among Operators

The allocation of Clipper[®] operating costs to each Operator shall be based on a combination of revenue collected and the number of fee payment transactions processed. “Revenue collected” shall mean the fee collected on behalf of each Operator by the Clipper[®] clearinghouse (*e.g.*, the price charged to ride on the Operator’s transit system, the value of pass sales, the amount of parking fees paid). A “fee payment transaction” shall mean any activity in which a ClipperSM card is used to receive service on or from an Operator’s system (*e.g.*, to ride on the Operator’s transit system, to park on the Operator’s property). A fee payment transaction shall be attributed to the Operator on whose system the service was provided, except that a transaction in which a patron uses a Muni Fast Pass to ride BART will be attributed to MTA. All fee payment transactions are included for purposes of allocating Clipper[®] operating costs, regardless of whether the transaction results in a reduction of the amount of stored value or stored rides on a Clipper[®] card (*e.g.*, use of a monthly pass on a transit system, intra-operator transfers, entry and exit transactions for a single ride where both transactions are required to compute the appropriate fare payment).

One-third (1/3) of Clipper[®] operating costs shall be allocated to Operators based on each Operator’s share of total revenue collected by the Clipper[®] clearinghouse, as defined above. Two-thirds (2/3) of Clipper[®] operating costs shall be allocated to Operators based on each Operator’s share of total fee payment transactions processed by the Clipper[®] clearinghouse, as defined above.

In addition to the Clipper[®] operating costs allocated in accordance with Appendix B.2.B(i) herein, each Operator shall be responsible for payment of:

- a. Clipper[®] Data Server (CDS) Store operating costs specified below for any TDS Store implemented on such Operator’s site; and
- b. Credit/debit interchange fees charged through an Operator-specific credit/debit gateway associated with Clipper[®] sales through add value machines, ticket office terminal devices and ticket vending machines. This responsibility is subject to review pursuant to Article I.F to ensure that no single Operator is unfairly burdened by such fees.
- c. Incremental Clipper[®] operating costs established by and/or resulting from Clipper[®] Contract change orders requested and funded by an Operator for such Operator’s use and benefit shall be the responsibility of such Operator. This applies to costs or portions of costs that would otherwise be MTC’s responsibility as described below.

2. Clipper[®] Costs

- A. MTC Operating and Maintenance Costs. MTC shall pay the following Clipper[®] operating costs:

- i. All fixed operating costs of the Clipper[®] clearinghouse and equipment maintenance services costs as specified in the Clipper[®] Contract's Price Schedule (Attachment 2 to the Clipper[®] Contract) (the "Price Schedule"), including:
 - a. Item 3.20 Program Management – Operations and Maintenance
 - b. Item 3.30 Clipper[®] Testbed Operations & Maintenance
 - c. Item 5.31 Operator Help Desk
 - d. Item 5.32 Reporting
 - e. Item 5.33 Asset Management
 - f. Item 6.0 Equipment Maintenance Services
 - g. Item 10.21(a) Location Acquisition
 - h. Item 10.22 Location Servicing and Support
 - i. Item 10.23 (a) Acquisition Payment for Third Party Location
 - j. Item 12.0 Network Management
 - k. Item 13.22 Basic Monthly Operations and Admin
 - ii. Variable Clipper[®] operating costs as specified in the Price Schedule (Attachment 2 to the Clipper[®] Contract), specifically:
 - a. Item 8.0 Card Distribution Services
 - b. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - iii. All other lump sum and capital expense items specified in the Price Schedule not enumerated above or covered by Section 2.B; and
 - iv. \$7,120,000 in incentives to be allocated to Operators to pay operating costs, as shown in Section 4, Incentive Payments, below.
- B. Operator Operating Costs.
- i. Operators shall pay the following listed Clipper[®] operating costs in accordance with the cost sharing formula in Appendix B.1, reduced by any amounts payable by MTC pursuant to 2.A(iv) above. References to Item numbers refer to the corresponding prices payable to the Clipper[®] Contractor under the Clipper[®] Contract Price Schedule, which are subject to annual price adjustment as specified in Article 13.6 of the Clipper[®] Contract:
 - a. Item 9.24 Balance Protection Services Registration
 - b. Item 9.25 Lock/unlock Clipper[®] Application
 - c. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - d. Item 10.11 Clipper[®] E-purse Load
 - e. Item 10.12 Pass/Stored Ride Load
 - f. Item 10.30 Employer Program Commission [see Note below]
 - g. Item 11.0 Autoload Services
 - h. Item 12.22.89 Fixed Monthly Service Fee to Support ClipperSM Data Server Store

- i. Item 13.22.45 Supplemental Monthly Operations and Admin (except as reduced by MTC in accordance with Section 4.1, Incentive Payments)
- j. Item 13.31 Clipper[®] Transaction Fee
- k. Item 13.60 Incremental Gateway Fees
- l. Item 13.70 Incremental Debit Card Interchange Fees
- m. Item 13.80 Incremental Credit Card Interchange Fees
- n. Item 13.90 Pass Through Website Credit Card Processing Fees
- o. Reimbursement of MTC bank fees and direct bank charges in connection with the Clipper[®] bank account(s) in excess of the amounts reimbursed under Section 3.A below
- p. Direct payment or reimbursement of MTC costs for network communication.

Note on Item 10.30: The period in which Item 10.30 shall be a Clipper[®] Operating Cost under this Section shall be from the Effective Date of Amendment No. 1 to June 30, 2013, unless all Operators notify MTC in writing of their agreement to continue to pay Item 10.30, in which case its applicability shall continue through the Term of the MOU.

- ii. Changes or Additions to Operator Operating Costs Items. Substantive changes or additions to the Operator-paid operating cost items set forth in B(i)(a-o) require an amendment to this Appendix B and approval of all Parties to the MOU as of the date of the change or addition.
- C. MTC shall invoice each Operator on a monthly basis for its share of the operating costs. The Operators shall pay MTC within fifteen (15) calendar days of receipt of such invoice.

3. Revenue Allocation

Revenues generated by Clipper[®] during any period of time, including interest earnings on funds held by the clearinghouse and excluding fare revenues or parking fees collected on behalf of and distributed to Operators, shall be utilized as follows:

- A. To offset MTC's bank fees and direct bank charges related to the managing of the Clipper[®] accounts;
- B. After deduction of MTC's bank fees and charges under 3.A above, to reduce the Operators' Clipper[®] operating costs listed in 2.B(i) above; and
- C. After payment of Operators' Clipper[®] operating costs listed in 2.B(i) above, to be allocated to Operators using the formula specified in Section 1 herein.

Notwithstanding the above, fees charged cardholders for card acquisition, card replacement, balance restoration, failed Autoload funding recovery, card refund processing, and other card-related activities shall be reserved to pay for future card procurements; provided, however, that surcharges on limited use cards or other fare media imposed by an Operator to pay for the acquisition, implementation, administration and replacement of such fare media shall be distributed to and retained by such Operator. (For clarity, any surcharge imposed by an Operator

as part of its fare structure shall be considered “fare revenue” and shall be distributed to and retained by such Operator.)

4. Incentive Payments

MTC’s \$10,000,000 in incentive funds shall be allocated to pay operating costs associated with Phase II as follows:

- (1) \$2,880,000 contingency to Contractor (for payment of Clipper® Contract Price Schedule Item No. 13.22.45) for transaction assurances in the event minimum transaction volumes (20,000,000 transactions/month) are not achieved. If the minimum transaction volumes are met and these funds are not needed, MTC may reallocate the remaining funds to other purposes; and
- (2) \$7,120,000 to individual Operators, to be applied as a credit against Phase II variable operating costs, a portion of which has already been credited to certain individual Operators:

AC Transit	\$862,227
BART	2,128,016
Caltrain/SamTrans	484,744
Golden Gate Transit	634,239
MTA	2,327,503
SCVTA	683,271

AMENDMENT NO. 2
TO
CLIPPER® MEMORANDUM OF UNDERSTANDING

This Amendment No. 2 to the Clipper® Memorandum of Understanding dated as of November 10, 2011, as amended by Amendment No. 1, dated as of December 1, 2011 (collectively, the “MOU”) by and among the Metropolitan Transportation Commission (“MTC”) and the following transit operators participating in the Clipper® program (referred to herein as “Operator” or “Operators”), is effective as of June 30, 2013 (“Effective Date”):

Alameda-Contra Costa Transit District (“AC Transit”); Golden Gate Bridge Highway and Transportation District (“GGBHTD”); the San Francisco Bay Area Rapid Transit District (“BART”); the City and County of San Francisco, acting by and through its Municipal Transportation Agency (“MTA”); the San Mateo County Transit District (“SamTrans”); the Santa Clara Valley Transportation Authority (“VTA”); the Peninsula Corridor Joint Powers Board (“Caltrain”); the San Francisco Bay Area Water Emergency Transportation Authority (“WETA”); and any other transit operators that implement Clipper® and execute this MOU after the Effective Date.

MTC and the Operators are referred to herein as “the Parties” or individually, as a “Party”.

The Parties agree to amend the MOU as follows:

1. Subpart E of Article I, Operator Responsibilities, is deleted.
2. Subpart D of Article II, MTC Responsibilities, is deleted.
3. Appendix B, Clipper® Cost and Revenue Allocation, is deleted and the revised Appendix B is substituted, as attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, this Amendment #2 to the MOU has been duly authorized and executed by the Parties hereto on the dates specified below.

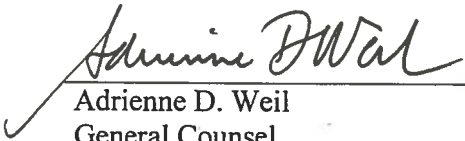
Metropolitan Transportation Commission



Steve Heminger, Executive Director

Date: 9/3/13

Approved as to Form:



Adrienne D. Weil
General Counsel

Alameda Contra Costa Transit District

David J. Armijo, General Manager

Date: _____

Approved as to Form:

David A. Wolf
General Counsel

Golden Gate Bridge Highway and Transportation District

Denis J. Mulligan, General Manager

Date: _____

Approved as to Form:

David J. Miller
General Counsel

San Francisco Bay Area Rapid Transit District

Grace Crunican, General Manager

Date: _____

Approved as to Form:

Matt Burrows, General Counsel

IN WITNESS WHEREOF, this Amendment #2 to the MOU has been duly authorized and executed by the Parties hereto on the dates specified below.

Metropolitan Transportation Commission

Approved as to Form:

Steve Heminger, Executive Director

Adrienne D. Weil
General Counsel

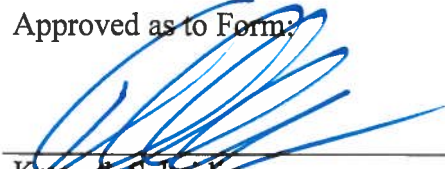
Date: _____

Alameda Contra Costa Transit District

Approved as to Form:



David J. Armijo, General Manager



~~Kenneth Scheidig,~~
Acting General Counsel
David A. Wolf
General Counsel

Date: 8-16-13

Golden Gate Bridge Highway and Transportation District

Approved as to Form:

Denis J. Mulligan, General Manager

David J. Miller
General Counsel

Date: _____

San Francisco Bay Area Rapid Transit District

Approved as to Form:

Grace Crunican, General Manager

Matt Burrows, General Counsel

Date: _____

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Metropolitan Transportation Commission

Approved as to Form:

Steve Heminger, Executive Director

Adrienne D. Weil
General Counsel

Date: _____

Alameda Contra Costa Transit District

Approved as to Form:

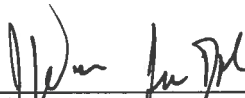
David J. Armijo, General Manager

Kenneth Scheidig,
Acting General Counsel

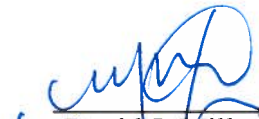
Date: _____

**Golden Gate Bridge Highway and
Transportation District**

Approved as to Form:



Denis J. Mulligan, General Manager



David J. Miller
General Counsel

Date: 7/1/13

**San Francisco Bay Area Rapid Transit
District**

Approved as to Form:

Grace Crunican, General Manager

Matt Burrows, General Counsel

Date: _____

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Metropolitan Transportation Commission

Approved as to Form:

Steve Heminger, Executive Director

Adrienne D. Weil
General Counsel

Date: _____

Alameda Contra Costa Transit District

Approved as to Form:

David J. Armijo, General Manager

Kenneth Scheidig,
Acting General Counsel

Date: _____

**Golden Gate Bridge Highway and
Transportation District**

Approved as to Form:

Denis J. Mulligan, General Manager

David J. Miller
General Counsel

Date: _____

**San Francisco Bay Area Rapid Transit
District**

Approved as to Form:



Grace Crunican, General Manager



Matt Burrows, General Counsel

Date: 6/26/13

**City and County of San Francisco
Municipal Transportation Agency**



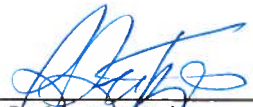
Edward D. Reiskin, Director of
Transportation

Date: 7-2-13

~~Municipal Transportation Agency Board of
Directors
Resolution No. _____
Dated: _____~~

~~_____
Secretary, MTAB~~

Approved as to Form:
Dennis J. Herrera, City Attorney



Robin M. Reitzes
Deputy City Attorney

San Mateo County Transit District

Michael J. Scanlon, General Manager/CEO

Date: _____

Approved as to Form:

David J. Miller
General Counsel

**Santa Clara Valley Transportation
Authority**

Michael T. Burns, General Manager

Date: _____

Approved as to Form:

Robert Fabela
General Counsel

**City and County of San Francisco
Municipal Transportation Agency**

Approved as to Form:
Dennis J. Herrera, City Attorney

Edward D. Reiskin, Director of
Transportation

Robin M. Reitzes
Deputy City Attorney

Date: _____

Municipal Transportation Agency Board of
Directors
Resolution No. _____
Dated: _____

Secretary, MTAB

San Mateo County Transit District

Approved as to Form:



Michael J. Scanlon, General Manager/CEO



David J. Miller
General Counsel

Date: 6/7/2013

**Santa Clara Valley Transportation
Authority**


Approved as to Form:

Michael T. Burns, General Manager

Robert Fabela
General Counsel

Date: _____

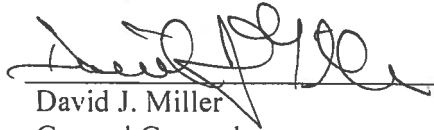
Peninsula Corridor Joint Powers Board



Michael J. Scanlon, Executive Director

Date: 6/7/2013

Approved as to Form:



David J. Miller
General Counsel

**San Francisco Bay Area Water Emergency
Transportation Authority**

Nina Rannells, Executive Director

Date: _____

Approved as to Form:

Stanley S. Taylor, III
Attorney for WETA

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**City and County of San Francisco
Municipal Transportation Agency**

Approved as to Form:
Dennis J. Herrera, City Attorney

Edward D. Reiskin, Director of
Transportation

Robin M. Reitzes
Deputy City Attorney

Date: _____

Municipal Transportation Agency Board of
Directors
Resolution No. _____
Dated: _____

Secretary, MTAB

San Mateo County Transit District

Approved as to Form:

Michael J. Scanlon, General Manager/CEO

David J. Miller
General Counsel


Date: _____

**Santa Clara Valley Transportation
Authority**

Approved as to Form:



Michael T. Burns, General Manager



Robert Fabela
General Counsel

Date: 7/25/13

Peninsula Corridor Joint Powers Board

Approved as to Form:

Michael J. Scanlon, Executive Director

David J. Miller
General Counsel

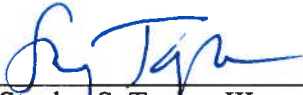
Date: _____

**San Francisco Bay Area Water Emergency
Transportation Authority**

Approved as to Form:



Nina Rannells, Executive Director



Stanley S. Taylor, III
Attorney for WETA

Date: 6/27/13

Appendix B

Clipper[®] Cost and Revenue Allocation

1. Cost Allocation Among Operators

The allocation of Clipper[®] operating costs to each Operator shall be based on a combination of revenue collected and the number of fee payment transactions processed. "Revenue collected" shall mean the fee collected on behalf of each Operator by the Clipper[®] clearinghouse (e.g., the price charged to ride on the Operator's transit system, the value of pass sales, the amount of parking fees paid). A "fee payment transaction" shall mean any activity in which a Clipper[®] card is used to receive service on or from an Operator's system (e.g., to ride on the Operator's transit system, to park on the Operator's property). A fee payment transaction shall be attributed to the Operator on whose system the service was provided, except that a transaction in which a patron uses a Muni Fast Pass to ride BART will be attributed to MTA. All fee payment transactions are included for purposes of allocating Clipper[®] operating costs, regardless of whether the transaction results in a reduction of the amount of stored value or stored rides on a Clipper[®] card (e.g., use of a monthly pass on a transit system, intra-operator transfers, entry and exit transactions for a single ride where both transactions are required to compute the appropriate fare payment).

One-third (1/3) of Clipper[®] operating costs shall be allocated to Operators based on each Operator's share of total revenue collected by the Clipper[®] clearinghouse, as defined above. Two-thirds (2/3) of Clipper[®] operating costs shall be allocated to Operators based on each Operator's share of total fee payment transactions processed by the Clipper[®] clearinghouse, as defined above.

In addition to the Clipper[®] operating costs allocated in accordance with Appendix B.2.B(i) herein, each Operator shall be responsible for payment of:

- a. Clipper[®] Data Server (CDS) Store operating costs specified below for any CDS Store implemented on such Operator's site; and
- b. Credit/debit interchange fees charged through an Operator-specific credit/debit gateway associated with Clipper[®] sales through add value machines, ticket office terminal devices and ticket vending machines. This responsibility is subject to review pursuant to Article I.F to ensure that no single Operator is unfairly burdened by such fees.
- c. Incremental Clipper[®] operating costs established by and/or resulting from Clipper[®] Contract change orders requested and funded by an Operator for such Operator's use and benefit shall be the responsibility of such Operator. This applies to costs or portions of costs that would otherwise be MTC's responsibility as described below.

2. Clipper[®] Costs

A. MTC Operating and Maintenance Costs. MTC shall pay the following Clipper[®] operating costs:

- i. All fixed operating costs of the Clipper[®] clearinghouse and equipment maintenance services costs as specified in the Clipper[®] Contract's Price Schedule (Attachment 2 to the Clipper[®] Contract) (the "Price Schedule"), including:
 - a. Item 3.20 Program Management – Operations and Maintenance
 - b. Item 3.30 Clipper[®] Testbed Operations & Maintenance
 - c. Item 5.31 Operator Help Desk
 - d. Item 5.32 Reporting
 - e. Item 5.33 Asset Management
 - f. Item 6.0 Equipment Maintenance Services
 - g. Item 10.21(a) Location Acquisition
 - h. Item 10.22 Location Servicing and Support
 - i. Item 10.23 (a) Acquisition Payment for Third Party Location
 - j. Item 12.0 Network Management
 - k. Item 13.22 Basic Monthly Operations and Admin
- ii. Variable Clipper[®] operating costs as specified in the Price Schedule (Attachment 2 to the Clipper[®] Contract), specifically:
 - a. Item 8.10(a-g) Card Distribution Services
 - b. Item 8.11 Card Distribution Services
 - c. Item 8.12 Card Distribution Services
 - d. Item 8.20 Cardholder Education
 - e. Item 8.31 Location Acquisition for Completion of Distribution Network
 - f. Item 8.32 Location Acquisition for Completion of Distribution Network
 - g. Item 8.41 Pass Through of Amounts Paid for Installation of Phone Lines
 - h. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
- iii. All other lump sum and capital expense items specified in the Price Schedule not enumerated above or covered by Section 2.B; and
- iv. \$7,120,000 in incentives to be allocated to Operators to pay operating costs, as shown in Section 4, Incentive Payments, below.

B. Operator Operating Costs.

- i. Operators shall pay the following listed Clipper[®] operating costs in accordance with the cost sharing formula in Appendix B.1, reduced by any amounts payable by MTC pursuant to 2.A(iv) above. References to Item numbers refer to the corresponding prices payable to the Clipper[®] Contractor under the Clipper[®]

Contract Price Schedule, which are subject to annual price adjustment as specified in Article 13.6 of the Clipper® Contract:

- a. Item 7.10 Regional Transit Connection (RTC) Clipper® Card Production
 - b. Item 9.24 Balance Protection Services Registration
 - c. Item 9.25 Lock/unlock Clipper® Application
 - d. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - e. Item 10.11 Clipper® E-purse Load
 - f. Item 10.12 Pass/Stored Ride Load
 - g. Item 10.24 Employer Program Commission
 - h. Item 11.0 Autoload Services
 - i. Item 12.22.89 Fixed Monthly Service Fee to Support Clipper® Data Server Store
 - j. Item 13.22.45 Supplemental Monthly Operations and Admin (except as reduced by MTC in accordance with Section 4.1, Incentive Payments)
 - k. Item 13.31 Clipper® Transaction Fee
 - l. Item 13.60 Incremental Gateway Fees
 - m. Item 13.70 Incremental Debit Card Interchange Fees
 - n. Item 13.80 Incremental Credit Card Interchange Fees
 - o. Item 13.90 Pass Through Website Credit Card Processing Fees
 - p. Reimbursement of MTC bank fees and direct bank charges in connection with the Clipper® bank account(s) in excess of the amounts reimbursed under Section 3.A below
 - q. Direct payment or reimbursement of MTC costs for network communication.
 - r. Direct payment or reimbursement of MTC costs for materials necessary for additional printing, e.g. secondary printing or personalization, on Clipper® cards
- ii. Changes or Additions to Operator Operating Costs Items. Substantive changes or additions to the Operator-paid operating cost items set forth in B(i)(a-o) require an amendment to this Appendix B and approval of all Parties to the MOU as of the date of the change or addition.
- C. MTC shall invoice each Operator on a monthly basis for its share of the operating costs. The Operators shall pay MTC within fifteen (15) calendar days of receipt of such invoice.

3. Revenue Allocation

Revenues generated by Clipper® during any period of time, including interest earnings on funds held by the clearinghouse and excluding fare revenues or parking fees collected on behalf of and distributed to Operators, shall be utilized as follows:

- A. To offset MTC’s bank fees and direct bank charges related to the managing of the Clipper® accounts;
- B. After deduction of MTC’s bank fees and charges under 3.A above, to reduce the Operators’ Clipper® operating costs listed in 2.B(i) above; and
- C. After payment of Operators’ Clipper® operating costs listed in 2.B(i) above, to be allocated to Operators using the formula specified in Section 1 herein.

Notwithstanding the above, fees charged cardholders for card acquisition, card replacement, balance restoration, failed Autoload funding recovery, card refund processing, and other card-related activities shall be reserved to pay for future card procurements; provided, however, that surcharges on limited use cards or other fare media imposed by an Operator to pay for the acquisition, implementation, administration and replacement of such fare media shall be distributed to and retained by such Operator. (For clarity, any surcharge imposed by an Operator as part of its fare structure shall be considered “fare revenue” and shall be distributed to and retained by such Operator.)

4. Incentive Payments

MTC’s \$10,000,000 in incentive funds shall be allocated to pay operating costs associated with Phase II as follows:

- (1) \$2,880,000 contingency to Contractor (for payment of Clipper® Contract Price Schedule Item No. 13.22.45) for transaction assurances in the event minimum transaction volumes (20,000,000 transactions/month) are not achieved. If the minimum transaction volumes are met and these funds are not needed, MTC may reallocate the remaining funds to other purposes; and
- (2) \$7,120,000 to individual Operators, to be applied as a credit against Phase II variable operating costs, a portion of which has already been credited to certain individual Operators:

AC Transit	\$862,227
BART	2,128,016
Caltrain/SamTrans	484,744
Golden Gate Transit	634,239
MTA	2,327,503
SCVTA	683,271