

Metropolitan Transportation Commission Operations Committee

September 13, 2019

Agenda Item 4f

Clipper® Contract Change Order Amendments - Ticket Vending Machines (TVM) and Faregate Maintenance - Prevailing Wages: Cubic Transportation Systems, Inc. (\$1,425,000)

Subject: Change Order Amendments – Adding Funds to Pay Prevailing Wages for TVM and Faregate Maintenance per California Labor Code and Federal Davis-Bacon Act: Cubic Transportation Systems, Inc. (Cubic) (\$1,425,000).

Background: The Metropolitan Transportation Commission (MTC) has determined that certain work performed by Cubic employees constitutes “public works” activities subject to prevailing wage requirements pursuant to California Labor Code §1720 et seq. (the California Prevailing Wage Law or PWL) and the federal Davis-Bacon Act (DBA). Specifically, installation, repair and maintenance of TVMs, Add Value Machines (AVMs), stationary validators and faregates affixed to a publicly owned facility (buildings, structure, sidewalk or pathway or other realty) are considered to be public works activities, subject to PWL and DBA. Consistent with applicable law, MTC agreed under a Change Order executed in November 2017 to compensate Cubic for any increased labor costs associated with compliance with PWL and DBA.

While MTC holds the Clipper® Contract and is responsible for the direct payment of Cubic’s invoices, the Clipper Amended and Restated Memorandum of Understanding (MOU) Appendix B-3, “Clipper Cost and Revenue Allocation”, Section 1.c specifies that operating costs resulting from Operator-requested Change Orders are the responsibility of the requesting Operator. Thus, San Francisco Municipal Transportation Agency (SFMTA) and Golden Gate Bridge Highway and Transportation District (GGBHTD) are financially responsible for the operating costs for the faregates and TVMs added to the Clipper Contract by Change Order at their request. Change Order 138 (TVM and Faregate Maintenance) includes first line maintenance activities subject to PWL and DBA. (Change Order 195, the SFMTA Central Subway Implementation, also includes public works activities subject to PWL and DBA, the cost of which will be addressed in an amendment to that Change Order.)

This item requests approval to compensate Cubic via Change Order amendments for increased labor costs associated with operations and maintenance of faregates and TVMs located at SFMTA facilities and TVMs located at GGBHTD facilities. Specifically, approval is requested for: (1) increased pricing for ongoing operations of the TVMs and faregates, and (2) one-time compensation for increased labor costs incurred by Cubic between November 2017 and the date of execution of the proposed Change Order amendment.

Pricing for Ongoing Operations of TVMs and Faregates

MTC negotiated new pricing to support the ongoing operation and maintenance of the TVMs and faregates. These new prices reflect the higher labor rates associated with PWL and DBA, and result in an annual incremental increase of \$505,000.

Compensation for Prevailing Wage-Related Labor Costs from November 2017 to Present

Since November 2017 and pending execution of the new operations and maintenance pricing above, Cubic has compensated its staff at rates in compliance with PWL and DBA, while being paid at the operations and maintenance prices that do not reflect PWL and DBA. The incremental costs associated with PWL and DBA compliance average approximately \$40,000 per month, which would result in a total one-time amount owed to Cubic of \$920,000 (assuming the associated Change Order amendment is executed by September 30, 2019).

Cubic is neither a disadvantaged business enterprise nor a small business enterprise.

The proposed change order amendments were approved by the Clipper Executive Board on July 15, 2019.

Issues: There are no additional issues with these Change Order Amendments.

Recommendation: Staff recommends that the Operations Committee authorize the Executive Director or designee to negotiate and enter into Contract Change Order Amendments with Cubic in an amount not to exceed \$505,000 per year for the increased operations and maintenance fees for SFMTA and GGBHTD TVMs and faregates and a single lump sum amount not to exceed \$920,000 for the increased labor costs since November 2017 associated with compliance with PWL and DBA as described above.


Therese W. McMillan

REQUEST FOR COMMITTEE APPROVAL

Summary of Proposed Contract Change Order Amendments

Consultant:	Cubic Transportation Systems, Inc. San Diego, CA
Work Project Title:	Ticket Vending Machines (TVM) and Faregate Maintenance - Prevailing Wages
Purpose of Project:	Modify operations and maintenance costs for certain Clipper equipment to cover prevailing wages paid for “public works” activities.
Brief Scope of Work:	Update costs for operations and maintenance of ticket vending machines and faregates and compensate Cubic Transportation Systems, Inc. for increased labor costs associated with compliance with the California Prevailing Wage Law and the Federal Davis-Bacon Act.
Project Cost Not to Exceed:	\$505,000/year (transit operator pass-through cost) \$920,000 (one-time transit operator pass-through cost)
Funding Source:	Transit Operator funds
Fiscal Impact:	Funds included in the FY 2019-20 agency budget. Transit Operators San Francisco Municipal Transportation Agency and Golden Gate Bridge, Highway and Transportation District will cover the costs per the Clipper Amended and Restated Memorandum of Understanding.
Motion by Committee:	That the Executive Director or designee is authorized to negotiate and enter into Contract Change Order Amendments with Cubic Transportation Systems, Inc. as described above and in the Operations Committee Summary Sheet dated September 13, 2019, and the Chief Financial Officer is authorized to set aside \$1,425,000 for such amendments.
Operations Committee:	
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	Dave Cortese, Chair
Approved:	September 13, 2019