

**STAFF REPORT FOR CALENDAR ITEM NO.: 9  
FOR THE MEETING OF: January 11, 2018**

**TRANSBAY JOINT POWERS AUTHORITY**

**BRIEF DESCRIPTION:**

Approve a Memorandum of Understanding (MOU) between the TJPA and the San Francisco Police Department (SFPD) for on-site law enforcement services at the new transit center and related facilities under the TJPA's control for \$2.3 million annually (FY17-18), escalated by 3% each year.

**REPORT:**

To enhance public safety at the new transit center and related facilities under the TJPA's control (TJPA Property) including, but not limited to, all levels of the transit center, bus ramp, bus storage facility, Natoma Pedestrian Way, and the portion of Shaw Alley that transects the center, and to protect TJPA Property, the TJPA is implementing a robust safety and security program. The TJPA's safety and security program is planned to include a multi-layered security team consisting of roving ambassadors, private unarmed security guards, and law enforcement officers. The security team is expected to work cooperatively to, among other things, deter and detect crime, disseminate facility rules and regulations, provide general information and assistance to the public, and direct the homeless and others to resources. As part of the security team, law enforcement officers are expected to provide a highly vigilant uniformed presence with the ability to enforce the rules and regulations, perform arrests, investigate and report on crimes that occur in, on, about, or affect TJPA Property, and coordinate with other law enforcement entities, as appropriate.

Staff has developed an MOU with the SFPD under which SFPD would provide a law enforcement unit, which will provide, among other things, a consistent police presence and regular patrol of the TJPA Property, including open space and transit-related areas, public circulation areas, and retail spaces. The police services described in the MOU are intended to enhance, rather than supersede, diminish, or replace the community policing services already provided throughout San Francisco by the SFPD. SFPD's Southern Station will continue to provide this standard level of community policing and crime response, and specialty units from SFPD will respond to incidents at the transit center as needed.

Key provisions of the MOU are as follows:

**Staffing.** SFPD will provide a minimum of 10 shifts per day for each day of the year, filled by police officers who are sworn members of SFPD.

**Budget.** The budget for SFPD's services under the MOU is \$2.3 million annually (FY17-18), escalated by 3% each year. The annual amount is prorated for partial years of service. Except for additional services requested and approved by the TJPA, the approved budget reflects the TJPA's total financial obligation to SFPD for the police services under the MOU;

to the extent SFPD's costs for services under the MOU exceed the approved budget, SFPD shall bear that portion of the cost.

The cost of SFPD services is comparable to what the San Francisco Sheriff's Department offered. The TJPA determined that SFPD was more competitive at this time in terms of its breadth of officer pool, and the consistency its services would provide with the law enforcement services provided to the Transbay neighborhood and the City at large.

**Term.** SFPD will begin providing services within 30 days after TJPA gives notice to SFPD. The MOU is terminable by either party in its discretion on 90 days' notice.

**Training and Equipment.** SFPD will furnish the police officers assigned to the TJPA with the same training, equipment, support, and resources provided to other similar SFPD officers.

**Reporting.** The officer-in-charge will meet and confer regularly with the TJPA Chief Security Officer (CSO) and will submit to the CSO monthly activity reports.

**Coordination.** Among other coordination tasks, the officer-in-charge will participate in meetings; assist the CSO with developing public safety, law enforcement, security, and policing priorities; and participate in the development of public safety outreach and training programs.

#### **RECOMMENDATION:**

Approve the MOU between the TJPA and SFPD in the form attached for on-site law enforcement services at TJPA Property for \$2.3 million annually, to be prorated for Fiscal Year 2017-18, and escalated by 3% each year.

#### **ENCLOSURES:**

1. Resolution
2. Memorandum of Understanding between the TJPA and SFPD

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**Resolution No. \_\_\_\_\_**

WHEREAS, The Transbay Joint Powers Authority (TJPA) is a joint powers agency organized and existing under the laws of the State of California; and

WHEREAS, Pursuant to the Joint Powers Agreement creating the TJPA, dated April 4, 2001, the TJPA has the authority to, among other things, make and enter into contracts and exercise all powers necessary and proper to carry out the provisions of the Joint Powers Agreement; and

WHEREAS, The TJPA has developed a robust safety and security program for the transit center and related facilities under the TJPA's control (TJPA Property); and

WHEREAS, The TJPA's safety and security program is planned to include a multi-layered security team consisting of roving ambassadors, private unarmed security guards, and law enforcement officers; and

WHEREAS, The TJPA has negotiated an agreement with the San Francisco Police Department (SFPD) to provide a law enforcement unit, which will provide, among other things, a consistent police presence and regular patrol of the TJPA Property, the terms of which are described in a Memorandum of Understanding (MOU) between the TJPA and SFPD; and

WHEREAS, The SFPD services under the MOU are intended to enhance, rather than supersede, diminish, or replace the community policing services already provided throughout San Francisco by the SFPD; and

WHEREAS, The budget for SFPD's services under the MOU is \$2.3 million annually, prorated for Fiscal Year 2017-18 and escalated by 3% each year thereafter; now, therefore, be it

RESOLVED, That the TJPA Board of Directors approves the MOU between the TJPA and SFPD for on-site law enforcement services at TJPA Property for \$2.3 million annually (FY17-18), escalated by 3% each year; and, be it

FURTHER RESOLVED, That the TJPA Board authorizes the Executive Director to take all actions and execute all documents as he deems reasonably necessary to implement and effectuate the above approval.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of January 11, 2018.

\_\_\_\_\_  
Secretary, Transbay Joint Powers Authority

**CITY AND COUNTY OF SAN FRANCISCO**

**MEMORANDUM OF UNDERSTANDING**

**No. \_\_\_\_\_**

**BY AND BETWEEN**

**TRANSBAY JOINT POWERS AUTHORITY**

**AND**

**SAN FRANCISCO POLICE DEPARTMENT**

**MARK ZABANEH  
EXECUTIVE DIRECTOR**

**TRANSBAY JOINT POWERS AUTHORITY**

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## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into as of \_\_\_\_\_, 2017 (“Effective Date”) between the Transbay Joint Powers Authority (“TJPA”) and the City and County of San Francisco acting through the San Francisco Police Department (“SFPD”).

### DECLARATION

This MOU memorializes the agreement between the TJPA and SFPD to ensure a regular presence of sworn police officers on property and facilities under the control of the TJPA for the purposes of enhancing public safety, preventing crime, detecting criminal activity, and assisting in the prosecution of offenses occurring in, on, about, or affecting the TJPA Property. The MOU also covers policies, programs, procedures, management, prioritization of police activities, operational command and control, reporting, record keeping, budgeting, accounting, liability for claims, and related administrative matters concerning the police services.

#### 1. Definitions

As used in this MOU, the following definitions will apply:

- 1.1. “Approved Budget” means the annual budget for any Fiscal Year during the term of this MOU for Supplemental Police Services provided by SFPD under this MOU.
- 1.2. “Baseline Police Services” or “Baseline Services” mean police services provided to the general public at the direction of the Chief of Police. Under the Charter, the San Francisco Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California, and the City and County.
- 1.3. “Chief of Police” means the Chief of Police of the San Francisco Police Department, or designee.
- 1.4. “Chief Security Officer” or “CSO” means the TJPA staff person in charge of TJPA’s security programs and personnel, or designee.
- 1.5. “City” means the City and County of San Francisco, a municipal corporation.
- 1.6. “Executive Director” means the Executive Director of the Transbay Joint Powers Authority, or designee.
- 1.7. “Fiscal Year” means the annual period from July 1 through June 30.
- 1.8. “MOU” means this Memorandum of Understanding between the Transbay Joint Powers Authority and the City and County of San Francisco acting through the San Francisco Police Department.
- 1.9. “Parties” means SFPD and TJPA.

- 1.10. "SFPD" means the San Francisco Police Department of the City and County of San Francisco.
- 1.11. "Supplemental Services" or "Supplemental Police Services" means the police services provided above and beyond the Baseline Services as described in this MOU. All the services described in this MOU are considered Supplemental Services or Supplemental Police Services.
- 1.12. "TJPA" means the Transbay Joint Powers Authority, a joint exercise of powers authority created by the City and County of San Francisco, the Alameda-Contra Costa Transit District, the Peninsula Corridor Joint Powers Board, and Caltrans (ex officio).
- 1.13. "TJPA CFO" means the Chief Financial Officer of the TJPA, or designee.
- 1.14. "TJPA Property" means property and facilities controlled by the TJPA, including, but not limited to, the Transit Center (all levels), Bus Ramp, Bus Storage Facility, Natoma Pedestrian Way, and Shaw Alley (as it transects the Transit Center).
- 1.15. "TJPA Law Enforcement Unit" is the SFPD force providing the Supplemental Police Services for the TJPA Property under this MOU.

## 2. General Provisions

- 2.1. Termination. Either the Chief of Police or the Executive Director may unilaterally terminate this MOU in writing to the other party. Termination of this MOU under this section will be effective upon the date set forth in the written notice, which date will be no earlier than ninety (90) calendar days after delivery of the notice to the other party.
- 2.2. Notices. Any notice, consent or correspondence shall be effective only in writing personally delivered with an executed acknowledgement of receipt or deposited in the US mail, certified, postage prepaid and addressed as follow

To TJPA:

Chief Security Officer  
Transbay Joint Powers Authority  
201 Mission Street, Suite 2100  
San Francisco, CA 94105

To SFPD:

Chief of Police or his or her designee  
San Francisco Police Department  
1245 3rd Street  
San Francisco, CA 95158

- 2.3. Modification; Waiver. This MOU may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by the Chief of Police and the Executive Director.
- 2.4. Acceptance of Supporting Documentation and Approvals. The acceptance of supporting documentation and approvals that are authorized or required under this MOU may not be unreasonably withheld.
- 2.5. Delegation of Authority. Any delegation of authority to act as the "authorized designee" of the Chief of Police, the Executive Director, the CSO, or the TJPA CFO under this MOU will be in writing indicating the term of the delegation and executed by the principal on whose behalf the designee is authorized to act, and a copy thereof transmitted to the Chief of Police, or to the Executive Director, the CSO, and TJPA CFO, as appropriate. Any conditions or limitations on the authority delegated to the designee will be set forth in the written delegation.
- 2.6. Insurance. SFPD, as a department of the City, is self-insured, including for workers' compensation, employers' liability, commercial general liability, automobile liability, and professional liability. If at any time during the term of this MOU the City plans to cease to be self-insured for any of these possible claims, the City shall provide advance notice to TJPA and the Parties will negotiate appropriate insurance arrangements before any such change in coverage.
- 2.7. Indemnification. City and County of San Francisco agrees to defend, indemnify and hold harmless TJPA, its officers, employees, and agents from any and all liabilities, losses, expenses, attorneys' fees and costs, or claims for injury or damages (collectively, "Claims") by whomever asserted arising out of acts or omissions of the City and County of San Francisco in its obligations under this MOU except those arising by reason of the negligence of TJPA, its officers, employees, and agents.

TJPA agrees to defend, indemnify and hold harmless the City and County of San Francisco, its officers, employees and agents, from any and all Claims by whomever asserted, arising out of acts or omissions of TJPA in its obligations under this MOU except those arising by reason of the negligence of the City and County of San Francisco, its officers, employees and agents.

In the event of concurrent negligence of City, its officers, employees and agents, and TJPA, its officers, employees, and agents, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

The indemnification obligations imposed under this section and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

- 2.8. Relationship of the Parties. The relationship of SFPD to TJPA is that of an independent contractor, and all persons working for or under the direction of SFPD

are its agents or employees, and not the agents or employees of TJPA. TJPA and SFPD shall, at all times, treat all persons working for or under the direction of SFPD as agents and employees of SFPD, and not as agents or employees of TJPA.

### **3. TJPA Law Enforcement Unit – Composition and Scope of Services**

- 3.1. Services Date.** SFPD will provide the Supplemental Police Services by the TJPA Law Enforcement Unit effective thirty (30) calendar days after delivery of a written notice from the TJPA to SFPD.
- 3.2. Staffing.** SFPD will provide a minimum of ten (10) shifts per day (minimum eight (8) hour shifts) for each day of the calendar year filled by police officers who are sworn members of SFPD. The Parties will develop a staffing plan, reviewed at least annually, acceptable to the TJPA and that meets the TJPA's safety and security commitments, including under the July 24, 2017 Naming and Signage Rights Agreement between the TJPA and salesforce.com.
- 3.3. General Statement of Supplemental Police Services.** The TJPA Law Enforcement Unit will provide a highly vigilant uniformed presence of sworn police officers to the TJPA Property for the purposes of enhancing public safety, preventing crime, detecting criminal activity, dealing with the homeless and mentally ill, working with the CSO as well as with TJPA private security and roving Ambassadors, as part of the transit center security team. The TJPA Law Enforcement Unit and the CSO will work cooperatively to and assist in the prosecution of offenses occurring in, on, about, or affecting the TJPA Property. The TJPA Law Enforcement Unit will patrol all areas of the TJPA Property, deter crime, identify crime, perform arrests, investigate and report on crimes that occur in, on, about, or affect the TJPA Property, and coordinate with other law enforcement entities as appropriate. The TJPA Law Enforcement Unit shall comply with all SFPD policies, Department Bulletins, General Orders, and applicable laws.
- 3.4. Command of TJPA Law Enforcement Unit.** Command of the TJPA Law Enforcement Unit will be under the supervision of the Chief of Police. All SFPD shall operate under the authority and guidance of the SFPD policies, Department Bulletins, General Orders, and applicable laws. Specific responsibilities of the TJPA Law Enforcement Unit are listed below. Any additional duties must be agreed upon by both Parties.
  - 3.4.1** Assigning SFPD officers to positions throughout the TJPA Property, ensuring that equipment and workload are properly distributed.
  - 3.4.2** Visiting assigned SFPD officers during their tour of duty, recording times and places of visits, and conducting inspections of the officers.
  - 3.4.3** Recording details regarding SFPD officer assignments.
  - 3.4.4** Ensuring members of the TJPA Law Enforcement Unit participate in operations and security briefings and other strategic meetings as requested by the CSO.
  - 3.4.5** Ensuring the TJPA Law Enforcement Unit participates in the TJPA

security communications plan and infrastructure in order to remain in contact with the TJPA Security Operations Center (SOC).

**3.4.6** Maintaining contact with and coordinating with other law enforcement and City agencies, as appropriate.

**3.4.7** Informing the CSO of places on the TJPA Property suspected of being used for unlawful activities or places where known criminals congregate.

**3.4.8** All SFPD officers assigned to TJPA will follow Department General Orders, Bulletins, policies and procedures.

**3.4.9** Responding to calls that may require supervision.

**3.4.10** Communicating with regional and federal agencies, directly or via SFPD channels as appropriate, such as the Federal Transit Administration, Transportation Security Administration, Federal Bureau of Investigation, Department of Homeland Security, and Northern California Regional Intelligence Center.

**3.4.11** Participating, in coordination with the CSO, in trainings and exercises, and maintaining records of SFPD staff participation.

**3.4.12** Ensuring that the TJPA Law Enforcement Unit assists during all special events on the TJPA Property, including but not limited to New Year's Eve, July 4th, Halloween, and sporting events as requested by the CSO.

**3.4.13** Assisting and coordinating with the TJPA as described in Section 4.

**3.5. Reporting.** The Chief of Police or his or her designee will confer with the CSO on a weekly basis or more frequently if requested by the CSO, regarding the TJPA Law Enforcement Unit's activities. Additionally, the Chief of Police or his or her designee will ensure that the following recurring reports are prepared and submitted to the TJPA:

**3.5.1 Monthly Activity Report.** An activity report that summarizes the law enforcement activities that relate to the TJPA Property will be provided to the Chief of Police, the Executive Director, and the CSO monthly, or more frequently as requested by the Executive Director. These reports will include, but not necessarily be limited to, information on the date, time, duration, location, and actions taken on incidents on the TJPA Property to which SFPD officers responded or that were reported to SFPD.

**3.6. Crime Investigation and Analysis.** SFPD will handle all criminal investigations on or affecting the TJPA Property. SFPD will analyze pertinent data on crimes and incidents occurring in, on, about, or affecting the TJPA Property with the objective of enhancing the effective deployment of SFPD officers assigned to the TJPA Law Enforcement Unit and reducing criminal activity. SFPD will provide TJPA with regular crime analysis on a schedule agreed upon by both agencies. Except for information that SFPD designates as sensitive, SFPD will share information covered by this subsection with the CSO.

- 3.7. Training. SFPD will provide individual and unit training for officers assigned to the TJPA Law Enforcement Unit, as well as supply the necessary equipment, support, and resources to improve the quality, efficiency, and productivity of the TJPA Law Enforcement Unit.
- 3.8. Equipment. SFPD will provide for all SFPD officers assigned to the TJPA Law Enforcement Unit the same equipment that is provided to any other similar SFPD officer.

#### **4. Administration and Coordination with the TJPA**

- 4.1. Service Priorities. The CSO, in conjunction with the SFPD, will develop public safety, law enforcement, security, and policing priorities.
- 4.2. Redeployment of Resources. The SFPD will notify the CSO of the redeployment of any TJPA Law Enforcement Unit officers when feasible and such redeployment is not reasonably related to the TJPA property. The TJPA will not be responsible for the payment for services of any redeployed personnel during the period of any redeployment.
- 4.3. Public Safety Outreach. The TJPA may develop public safety outreach programs and plans with the input and participation from SFPD. These programs may include public safety advertisements, emergency procedures for both the public and the TJPA, and development of audio/visual media for the press.
- 4.4. Training Programs. The TJPA may develop public safety, security, enforcement, and other training programs for TJPA personnel, contractors, transit operators, and other tenants with input and participation from SFPD.
- 4.5. Regular Staff Meetings. Appropriate personnel from the TJPA, including the CSO, and SFPD may hold regular staff meetings to address the SFPD services and activities under this MOU to further the purposes described in the Declaration.
- 4.6. Agreements with Other Agencies. The TJPA may enter into agreements with other City departments, governmental agencies, or private firms deemed appropriate by the Executive Director for the safety and security of the TJPA Property. TJPA will consult with SFPD prior to entering such agreements.
- 4.7. Use of TJPA-Funded Equipment. SFPD will use all equipment paid for or provided by the TJPA only for police services related to the TJPA Property. SFPD will be responsible for the safety and condition of the equipment while in the possession of or issued to SFPD personnel. If any of the equipment is damaged or removed by SFPD personnel due to gross negligence, SFPD will be responsible for payment to TJPA for replacement of the equipment. TJPA may deduct the cost from the amounts payable to SFPD for the current Fiscal Year or the following Fiscal Year.
- 4.8. Community Policing and Baseline Services. The police services described under this MOU are intended to supplement the Baseline Services, rather than supersede, diminish, or replace the community policing services provided by SFPD throughout

San Francisco. SFPD will provide ongoing Baseline Services on the TJPA Property as part of this community policing obligation, which includes but is not limited to responding to reports of crimes and other criminal activity on the TJPA Property.

- 4.9. Security Enhancement Program. Joint efforts may be coordinated between the Transit Security Administration (“TSA”), SFPD, TJPA, and other law enforcement agencies with jurisdiction to deploy additional personnel to the TJPA Property to provide enhanced security. SFPD may only do so to the extent it is consistent with applicable policies and law.

## **5. Budget and Other Fiscal Issues**

- 5.1. Approved Budget. The Approved Budget for Supplemental Police Services provided by SFPD under this MOU is two million three hundred thousand and dollars (\$2.3 million) for Fiscal Year 2017-2018 and shall increase three percent (3%) each year thereafter. The Approved Budget shall be prorated daily based on the dates SFPD provides Supplemental Police Services under this MOU. Except as provided in Section 5.2, the Approved Budget reflects the TJPA’s total financial obligation to SFPD for the TJPA Law Enforcement Unit to provide the Supplemental Police Services under this MOU; to the extent SFPD’s cost for the TJPA Law Enforcement Unit to provide the Supplemental Police Services exceeds the Approved Budget, SFPD shall bear that portion of the cost. If the costs are far in excess of the budgeted amounts as adjusted by the annual increase, SFPD may terminate the Agreement.
- 5.2. Additional Services. To the extent the TJPA requests that SFPD provide police services beyond the Supplemental Police Services under this MOU that will require SFPD staffing in excess of the agreed upon staffing levels as set forth in Section 3.2 and included in the Approved Budget, SFPD will notify the TJPA and TJPA will approve such additional services in writing in advance. SFPD will charge the TJPA at the EWW (Extended Work Week) rate for such services. SFPD will provide quarterly billing and payroll reports for personnel assigned to provide these services. SFPD will charge the TJPA for direct costs only.
- 5.3. Invoices; Compliance with TJPA’s Requirements. All invoices submitted by SFPD under this MOU, and supporting documentation, must be in a form acceptable to the TJPA CFO and must include a unique invoice number.
- 5.4. TJPA’s Payment Obligation. SFPD will invoice the TJPA for Supplemental Police Services provided under this MOU within forty-five (45) days after the end of each quarter, except for the quarter ending June 30<sup>th</sup>, for which services must be submitted within thirty (30) days. The TJPA’s payment of SFPD’s invoices will be consistent with the procedures and fiscal provisions in this MOU. The total amount paid to SFPD for each Fiscal Year will not exceed the amount specified in section 5.1.
- 5.5. Direct Purchase of Goods and Equipment by TJPA. The TJPA will be responsible for the direct purchase and payment of goods and equipment that the TJPA requests

that the TJPA Law Enforcement Unit use in the provision of police services under this MOU and that are not included among the goods and equipment SFPD otherwise provides to any other similar SFPD officers.

- 5.6. SFPD Employee Salary and Benefits.** SFPD shall, at its sole expense, provide for the salary and any and all benefits of the SFPD officers assigned to the TJPA Law Enforcement Unit, including such benefits as workers' compensation, disability insurance, vacation pay, sick pay, or retirement benefits; costs to obtain and maintain all licenses necessary for the performing the police services; and any and all taxes incurred as a result of the officers' compensation and benefits, including estimated taxes, FICA, and other employment taxes. For the avoidance of doubt, SFPD officers assigned to the TJPA Law Enforcement Unit are employees of the SFPD and not of the TJPA.
- 5.7. Audit and Inspection of Records.** SFPD agrees to maintain and make available to the TJPA accurate books and accounting records relating to its work under this MOU. Subject to Cal. Government Code section 6254 et seq., and Penal Code section 832.7, SFPD will permit the TJPA or its designee to audit, examine, and make excerpts and transcripts from such records and to make audits of all invoices, materials, payrolls, records, personnel, or other data related to all other matters covered by this MOU. TJPA agrees not to release SFPD's records without first consulting with SFPD. SFPD will maintain such data and records in an accessible location and condition for a period of not less than three (3) years after final payment under this MOU or until after final audit has been resolved, whichever is later.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding as of the Effective Date.

TRANSBAY JOINT POWERS  
AUTHORITY

SAN FRANCISCO POLICE  
DEPARTMENT

By: \_\_\_\_\_  
Mark Zabaneh  
Executive Director

By: William Scott  
William Scott  
Chief of Police

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deborah L. Miller  
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By: Alicia Cabrera  
Alicia Cabrera  
Deputy City Attorney