

managers. If the dispute has not been resolved within fifteen (15) days from the Notice of Dispute, either Party may escalate the dispute to executive officers of the Parties. If the dispute has not been resolved within thirty (30) days from the Notice of Dispute, then either Party may give written notice to commence mediation (“Notice of Mediation”). Within thirty (30) days of receiving a Notice of Mediation, the Parties will choose an independent mediator through Judicial Arbitration and Mediation Services (“JAMS”). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that JAMS select the mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the non-binding mediation in good faith and will be represented at the mediation by an executive with authority to settle the dispute. If a dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the dispute to a court of competent jurisdiction in the State of California.

12.15 Binding Effect - The failure of either party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

12.16 Taxes – ADF shall pay before delinquency all applicable leasehold excise, gross earnings, business and occupation and other applicable taxes, assessments, licenses and charges on its use and operations of the SBFN for which an exemption is not available. ADF is responsible for the payment of its charges and taxes applicable to the services performed under this Agreement, and ADF agrees to comply with all applicable laws regarding the reporting of income, maintenance of records and all other requirements and obligations imposed pursuant to applicable law. If SBCCOG is assessed, made liable or responsible in any manner for such charges or taxes, ADF holds SBCCOG harmless from such costs, including attorneys’ fees.

12.17 Confidentiality of Information – ADF, on behalf of itself and its Sub-Contractors shall maintain confidential any and all information provided by SBCCOG and SBCCOG Customers, or collected about SBCCOG and SBCCOG Customers in the course of performing this Agreement, and further agree not to sell, rent or otherwise use such information for any other purpose other than the performance of this Agreement. Further, ADF, on behalf of itself and its Sub-Contractors, acknowledges that SBCCOG and Member Cities, as government and quasi-government agencies, have transparency and openness obligations that require disclosure of certain financial and other terms of this Agreement, or which may be required by law to be disclosed. These disclosures shall not be considered in violation of this Agreement, or of any Service Order.

12.18 Time of Essence - Time is of the essence for each provision of this Agreement.

12.19 Prevailing Wages; Indemnification -

a. ADF acknowledges that any improvements, alterations, or repairs made by ADF paid for in whole in part out of public funds pursuant to this Agreement are subject to the payment of prevailing wage under the provisions of the California Labor Code and ADF shall and shall cause its contractors and subcontractors to pay prevailing wages for any improvements, alterations, or repairs as those wages are determined pursuant to Labor Code Sections 1720 et seq.; to employ apprentices as required by Labor Code Sections 1777.5 et seq.; and comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1725.5, 1771, 1771.1, 1771.4, 1776, 1777.5 et seq., 1810-1815 and the implementing regulations of the California Department of Industrial Relations (the “DIR”) for all such Labor Code Sections.