

Attachment I: Acknowledgement of RFP Terms and Conditions

ATTACHMENT I: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

HOW TO RESPOND TO THIS ATTACHMENT

By submitting a Proposal, the Proposer, on behalf of itself and its Partners/Subcontractors acknowledges and agrees that:

1. **PROPOSER AUTHORIZATION:** The signatories are authorized by the Proposer to make representations for the Proposer and to obligate the Proposer to perform the commitments contained in its Proposal.
2. **PROPOSER SELECTION:** Based on Proposals received to this Request for Proposals ("RFP"), it is the intent of the Controller's Office (also referred to as "Controller") to select the highest scoring and most responsive Proposer for contract negotiations. This RFP does not in any way limit the City's right to solicit contracts for similar or identical services if, in the City's sole and absolute discretion, it determines Proposals received are inadequate to satisfy its needs.
3. **CONTRACT NEGOTIATIONS:** The City will select the highest scoring Proposer(s) with whom the Controller's staff will commence contract negotiations. If a satisfactory contract cannot be negotiated in a reasonable time or for a reasonable price with the selected Proposer, then the Controller's Office, in its sole discretion, may terminate negotiations and begin contract negotiations with next highest scoring Proposer. The selection of any Proposer for contract negotiations shall not imply acceptance by the City of all terms of the Proposal, which may be subject to further negotiation and approvals before the City may be legally bound thereby.
4. **NO GUARANTEE OF WORK OR COMPENSATION:** There is no guarantee of a minimal amount of work or compensation for any of the Proposers selected for contract negotiations.
5. **COMPLIANCE WITH LAWS AND REGULATIONS:** Proposer must comply with all applicable State, Federal, and local laws. In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this Proposal prior to their delivery, it shall be the responsibility of the successful Proposer to notify the City at once, indicating in their letter the specific regulation which required such alterations. The City reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
6. **STAFFING:** The key individuals listed and identified in the Proposal will be performing the work and will not be substituted with other personnel or reassigned to another project by the Proposer/Contractor without the City's prior approval or request. The City, in its sole discretion, shall have the right to review and approve all staff assigned to provide services throughout the duration of the contracts negotiated under this RFP. Such approval by the City will not be unreasonably withheld. If selected for interviews, the Proposer's key individuals, including partner/subcontractor representatives, will be required to meet with the City prior to selection for contract negotiations.
7. **LEAD ROLE:** The selected Proposer(s) will be expected to take the lead role in project management and staff/subcontractor coordination. Proposals should factor this assumption into pricing.
8. S.F. Administrative Code Chapter 14B **LOCAL BUSINESS ENTERPRISE ("LBE") SUBCONTRACTING REQUIREMENT:** see *RFQ Attachment II*.
There are no LBE subcontracting requirement for the total value of goods and services provided under this RFP and resulting contracts. LBEs are strongly encouraged to submit proposals and will be eligible for rating discounts. See RFP Attachment II for more information. There is no LBE subcontracting requirement for the total value of goods and services provided under this RFQ and resulting contracts. In order to be responsive, Respondents must meet the LBE goal and perform the requisite Good Faith Outreach. See RFQ Attachment II for more information. LBEs are strongly encouraged to submit responses and will be eligible for rating bonuses.
9. **CITY'S APPROVAL RIGHTS OVER SUBCONTRACTORS AND SUBCONTRACTOR PAYMENTS:** The City has approval rights over the use of all subcontractors. Proposers must identify all

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subcontractors in their Proposal and these subcontractors must conform to all City policies regarding subcontractors. Furthermore, each Proposer understands, acknowledges, and agrees that if it subcontracts with a third party for services, the Proposer accepts responsibility for full and prompt payment to the third party. Any dispute between the Proposer and the third party, including any payment dispute, will be promptly remedied by the Proposer. Failure to promptly remedy or to make prompt payment to a third party (subcontractor) may result in the City's withholding of payment to the Proposer.

10. CITY RESOURCES: The City will arrange for Contractor's access to equipment and data as deemed appropriate by the City.

11. ADMINISTRATIVE REQUIREMENTS: see *RFP Attachment III*.

Proposer must fulfill the City's administrative requirements for doing business with the City prior to contract award. Fulfillment is defined as completion, submission and approval by applicable City agencies of the forms and requirements referenced in RFP Attachment III.

12. THE CITY'S TERMS AND CONDITIONS: see *RFP Attachment IV*.

Proposer is willing and able to meet all of the City's terms and conditions as stated in the City's standard professional services agreement ("Agreement") template (see *RFP Attachment IV*). Proposers wishing to negotiate modification of other terms and conditions must attach a copy of the City's Agreement referring to the specific portion of the Agreement to be changed, and show proposed changes (deleted sections with a strikethrough and added sections in boldface type). The City's selection of any Proposer who proposes changes to the City's Agreement terms shall not be deemed as acceptance of the Proposer's proposed changes.

13. TERM OF COST AND WORK EFFORT ESTIMATE: Submission of a Proposal signifies that the proposed services and prices are valid for the full term of the contract awarded under this RFP, including all options to extend, and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

The City may award contract(s), based on Proposals received without discussion. A Proposer's initial cost and work effort estimate should, therefore, be based on the most favorable terms available. The City reserves the right to accept other than the lowest price offer and reject all Proposals that are not responsive to this RFP.

14. RELEASE OF LIABILITY: The Proposer hereby releases all individuals, entities and firms from all claims and losses that may arise from said individuals, entities or firms providing information, comments, or conclusions to inquiries that the City and County of San Francisco may make regarding the qualifications of any individual or firm seeking to be selected as a contractor or subcontractor in connection with this RFP. This release is freely given and will be applicable whether or not the responses by said individuals, entities or firms are accurate or not, or made willfully or negligently.

15. FINANCIAL RESPONSIBILITY FOR PROPOSAL COSTS:

The City accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Proposals (and related materials), once submitted, become the property of the City and may be used by the City in any way deemed appropriate, and will be returned only at the City's option and at the expense of the Proposer submitting the proposal. One copy of a submitted proposal will be retained for official files and become public record.

Any material that a Proposer considers as confidential but does not meet the disclosure exemption requirements of applicable public disclosure laws, including but not limited to the San Francisco Sunshine Ordinance and the California Public Records Act, should not be included in the Proposer's proposal, as it may be made available to the public.

16. CONTRACT TIMELINE: Actual contract periods may vary, depending upon service and project needs. Any Proposer selected for a contract must be available to commence work no later than the estimated start date stated in the RFP. It will be the responsibility of any Proposer selected for contract

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negotiations to disclose, before negotiations commence, any limitations that may impact its ability to complete work in accordance with anticipated deliverables and timelines.

17. OBJECTIONS TO RFQ TERMS OR RFP ADDENDA: Should a Proposer object on any ground to any provision or legal requirement set forth in this RFP, the Proposer must, not more than ten (10) calendar days after the RFP is issued, provide written notice to the Controller's Office setting forth with specificity the grounds for the objection. The City may modify the RFP document through RFP addenda. If any Proposer wishes to object on any ground to any provision set forth in an addendum, it must notify the City no later than three (3) business days following the posting of the addendum. The failure of a Proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

18. EXCEPTIONS TO THIS RFP: All information requested in this RFP must be supplied. Proposers may clearly identify any exceptions to the RFP in this section and must provide a written explanation to include the scope of the exceptions, the ramifications of the exceptions for the City, and the description of the advantages or disadvantages to the City as a result of exceptions. The City, in its sole discretion, may reject any exceptions or specifications within the Proposal. Proposers may also provide supplemental information, if necessary, to assist the City in analyzing Proposals.

19. ERRORS AND OMISSIONS IN RFP: Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the Controller's Office, in writing, if the Proposer discovers any ambiguity, discrepancy, omission or other error in the RFP. Any such notification should be directed to the Controller's Office promptly after discovery, but in no event later than five (5) working days prior to the date for receipt of Proposals. Modifications and clarifications will be made by addenda as provided below.

20. INQUIRIES AND COMMUNICATIONS REGARDING RFP: Inquiries regarding the RFP and all communications including notifications related to, exceptions or objections to, or of an intent to request written modification or clarification of, the RFP must be directed by mail or e-mail (fax is not acceptable) to:

Wilson L. Ng
Office of the Clerk of the Board
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Email: Wilson.L.Ng@sfgov.org

21. CHANGE NOTICES: The Controller's Office may modify the RFP, prior to the Proposal due date, by issuing written addenda. Addenda will be posted on the Office of Contract Administration's Bids/Contracts Listing website (<http://mission.sfgov.org/OCABidPublication/ReviewBids.aspx>). The Controller's Office will make reasonable efforts to post notification of modifications in a timely manner. Notwithstanding this provision, the Proposer shall be responsible for ensuring that its Proposal reflects any and all addenda issued by the Controller's Office prior to the Proposal due date regardless of when the Proposal is submitted. Therefore, the City recommends that the Proposer call the Controller's Office or check the Office of Contract Administration's website before submitting its Proposal to determine if the Proposer is aware of all addenda.

22. REVISION OF PROPOSAL: Proposer may revise a Proposal on the Proposer's own initiative at any time before the deadline for Proposals. The Proposer must submit the revised Proposal in the same manner as the original. A revised Proposal must be received on or before the Proposal due date. In no case will a statement of intent to submit a revised Response, or commencement of a revision process, extend the Response due date for any Respondent. At any time during the Proposal evaluation process, the Controller's Office may require a Respondent to provide oral or written clarification of its Response. The City reserves the right to create the RFQ pool without further clarification of Responses received.

23. CONFLICTS OF INTEREST: The successful Proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest,

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including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful Proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful Proposer might be deemed contractors under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten (10) calendar days of the City notifying the successful Proposer that the City has selected the Proposer.

PROPOSERS ARE STRONGLY ADVISED TO CONSULT WITH THEIR LEGAL COUNSEL REGARDING THEIR ELIGIBILITY TO SUBMIT A PROPOSAL FOR THIS RFP OR SUBSEQUENT RFQS/RFPS.

24. PROPOSER'S OBLIGATIONS UNDER THE CAMPAIGN REFORM ORDINANCE: Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a Proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the Proposer is prohibited from making contributions to:

- the officer's re-election campaign
- a candidate for that officer's office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any City officer or employee about a particular contract, or a City officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (i) a vendor contacts a City officer or employee to promote himself or herself as a candidate for a contract; and (ii) a City officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Qualifications or Proposals, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

- a) Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
- b) Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
- c) Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, Proposers should contact the San Francisco Ethics Commission at

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(415) 581-2300.

25. **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. Proposer understands that any writing presented under this RFP may be subject to public disclosure.

26. **PUBLIC ACCESS TO MEETINGS AND RECORDS:** If a Proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the Proposer must comply with Chapter 12L. The Proposer must include in its Proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to Proposer's meetings and records, and (2) a summary of all complaints concerning the Proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the Proposers shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in Proposer's Chapter 12L submission shall be grounds for rejection of the Proposal and/or termination of any subsequent Agreement reached on the basis of the Proposal.

27. **RESERVATIONS OF RIGHTS BY THE CITY:** The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

- A. Waive or correct any defect or informality in any Proposal, response, or response procedure;
- B. Reject any or all Proposals;
- C. Reissue a Request for Qualifications or Request for Proposals;
- D. Prior to submission deadline for Proposals, modify all or any portion of the selection procedures, including deadlines for accepting Proposals, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the Proposals;
- E. Procure any materials, equipment or services specified in this RFP by any other means; or
- F. Determine that no contract will be pursued.

28. **NO WAIVER:** No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a Proposer to observe any provision of this RFP. Failure by the Department to object to an error, omission or deviation in the Proposal in no way will modify the RFP or excuse the Proposer from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

29. **CERTIFICATION:** Each Proposer hereby certifies that it has carefully examined this RFP and documents attached hereto for terms, conditions, specifications, covenants, requirements, services, etc.; and the Proposer certifies that it understands the services requested, that the Proposer has knowledge and expertise to provide the proposed services submitted for consideration, and that its Proposal is based upon the terms, conditions, specifications, services, and requirements of this RFP and attachments. By its signature on this Attachment, the Proposer certifies that its Proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Proposal for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud, so that all Proposals for the purchase will result from free, open and competitive proposing among all vendors, in compliance with the City's laws.

30. **ACCEPTANCE:** Submission of a Proposal indicates a Proposer's acceptance of the terms and conditions contained in this RFP unless clearly and specifically noted otherwise in the Proposal. The City

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may discontinue its selection, contract negotiations, or contract award processes with any Proposer if it is determined that the Proposer has not accepted the RFP terms and conditions contained herein.

31. CONTRACT REQUIREMENTS:

A. Standard Contract Provisions

The successful proposer will be required to enter into a contract substantially in the form of the Agreement for Professional Services, attached hereto as Appendix C. Failure to timely execute the contract, or to furnish any and all insurance certificates and policy endorsement, surety bonds or other materials required in the contract, shall be deemed an abandonment of a contract offer. The City, in its sole discretion, may select another firm and may proceed against the original selectee for damages.

Proposers are urged to pay special attention to the requirements of Administrative Code Chapters 12B and 12C, Nondiscrimination in Contracts and Benefits, (§38 in the Agreement); the Minimum Compensation Ordinance (§47 in the Agreement); the Health Care Accountability Ordinance (§48 in the Agreement); the First Source Hiring Program (§49 in the Agreement); and applicable conflict of interest laws (§26 in the Agreement), as set forth in paragraphs B, C, D, E and F below.

B. Nondiscrimination in Contracts and Benefits

The successful proposer will be required to agree to comply fully with and be bound by the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Generally, Chapter 12B prohibits the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of employees. The Chapter 12C requires nondiscrimination in contracts in public accommodation. Additional information on Chapters 12B and 12C is available on the CMD's website at www.sfCMD.org.

C. Minimum Compensation Ordinance (MCO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires contractors to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements. For the contractual requirements of the MCO, see §47.

For the amount of hourly gross compensation currently required under the MCO, see www.sfgov.org/olse/mco. Note that this hourly rate may increase on January 1 of each year and that contractors will be required to pay any such increases to covered employees during the term of the contract.

Additional information regarding the MCO is available on the web at www.sfgov.org/olse/mco.

D. Health Care Accountability Ordinance (HCAO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at www.sfgov.org/olse/hcao.

E. First Source Hiring Program (FSHP)

If the contract is for more than \$50,000, then the First Source Hiring Program (Admin. Code Chapter 83) may apply. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry-level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHP is available on the

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web at <http://www.workforcedevelopmentsf.org/> and from the First Source Hiring Administrator, (415) 401-4960.

F. Conflicts of Interest

The successful proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten calendar days of the City notifying the successful proposer that the City has selected the proposer.

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Each Proposer, as part of its Proposal, must submit this document signed by a representative(s) authorized by the Proposer to make representations for the Proposer and to obligate the Proposer to perform the commitments contained in its Proposal.

Acknowledged and Agreed:

Signature

Printed Name

Title

Firm Name

City, State

Phone Number

Date

Signature

Printed Name

Title

Firm Name

City, State

Phone Number

Date

Signature

Printed Name

Title

Firm Name

City, State

Phone Number

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Date