

# ATTACHMENT I: ACKNOWLEDGEMENT OF RFQ TERMS AND CONDITIONS

## HOW TO RESPOND TO THIS ATTACHMENT

**By submitting a Response, the Respondent, on behalf of itself and its Partners/Subcontractors acknowledges and agrees that:**

1. **RESPONDENT AUTHORIZATION:** The signatories are authorized by the Respondent to make representations for the Respondent and to obligate the Respondent to perform the commitments contained in its Response.
2. **RESPONDENT SELECTION:** Based on Responses received to this Request for Qualifications (“RFQ”), it is the intent of the Controller’s Office (also referred to as “Controller”) to create a pre-qualified pool from which to select a Respondent(s) for contract negotiations. This RFQ 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 Responses received are inadequate to satisfy its needs.
3. **CONTRACT NEGOTIATIONS:** The City may use the pre-qualified list, at its sole and absolute discretion, for selection of firms and negotiations of contracts for up to four years following establishment of the list. Contracts issued to pre-qualified firms will have terms of varying lengths depending on the City's needs, but in no case longer than 5 years. If a satisfactory contract cannot be negotiated in a reasonable time or for a reasonable price with the selected Respondent, then the Controller’s Office, in its sole discretion, may terminate negotiations and begin contract negotiations with another Respondent. The selection of any Respondent for contract negotiations shall not imply acceptance by the City of all terms of the Response, 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 Respondents selected for contract negotiations.
5. **COMPLIANCE WITH LAWS AND REGULATIONS:** Respondent 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 Response prior to their delivery, it shall be the responsibility of the successful Respondent 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 Response will be performing the work and will not be substituted with other personnel or reassigned to another project by the Respondent/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 RFQ. Such approval by the City will not be unreasonably withheld. If selected for interviews, the Respondent’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 Respondent(s) will be expected to take the lead role in project management and staff/subcontractor coordination. Responses should factor this assumption into pricing.
8. S.F. Administrative Code Chapter 14B **LOCAL BUSINESS ENTERPRISE (“LBE”)**  
**SUBCONTRACTING REQUIREMENT:** There is no LBE subcontracting requirement for the total value of goods and services provided under this RFQ and resulting contracts.
9. **CITY’S APPROVAL RIGHTS OVER SUBCONTRACTORS AND SUBCONTRACTOR PAYMENTS:** The City has approval rights over the use of all subcontractors. Respondents must identify all subcontractors in their Response and these subcontractors must conform to all City policies regarding subcontractors. Furthermore, each Respondent understands, acknowledges, and agrees that if it subcontracts with a third party for services, the Respondent accepts responsibility for full and prompt payment to the third party. Any dispute between the Respondent and the third party, including any payment dispute, will be promptly remedied by the Respondent.

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Failure to promptly remedy or to make prompt payment to a third party (subcontractor) may result in the withholding of funds from the Respondent by the City.

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 *RFQ Attachment III*.

Respondent 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 RFQ Attachment III.

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

Respondent 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 *RFQ Attachment IV*). Respondents 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 strike over and added sections in boldface type). The City's selection of any Respondent who proposes changes to the City's Agreement terms shall not be deemed as acceptance of the Respondent's proposed changes.

13. TERM OF COST AND WORK EFFORT ESTIMATE: Submission of a Response signifies that the proposed services and prices are valid for the full possible term of the contract awarded under this RFQ 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 Responses received without discussion. A Respondent'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 Responses that are not responsive to this RFQ.

14. RELEASE OF LIABILITY: The Respondent 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 RFQ. 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 RESPONSE COSTS:

The City accepts no financial responsibility for any costs incurred by a firm in responding to this RFQ. Responses (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 Respondent submitting the response. One electronic copy of a submitted response will be retained for official files and become public record.

**Any material that a Respondent 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 Respondent's response, as it may be made available to the public.**

16. CONTRACT TIMELINE: Actual contract periods may vary, depending upon service and project needs. Any Respondent selected for a contract must be available to commence work no later than the estimated start date stated in the RFQ. It will be the responsibility of any Respondent selected for contract 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 RFQ ADDENDA: Should a Respondent object on any ground to any provision or legal requirement set forth in this RFQ, the Respondent must, not more than three (3) business days after the RFQ is issued, provide written notice to the Controller's Office setting forth with specificity the grounds for the objection. The City may modify the RFQ document through RFQ addenda. If any Respondent 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

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following the posting of the addendum. The failure of a Respondent 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 RFQ: All information requested in this RFQ must be supplied. Respondents may clearly identify any exceptions to the RFQ 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 Response. Respondents may also provide supplemental information, if necessary, to assist the City in analyzing Responses.

19. ERRORS AND OMISSIONS IN RFQ: Respondents are responsible for reviewing all portions of this RFQ. Respondents are to promptly notify the Controller's Office, in writing, if the Respondent discovers any ambiguity, discrepancy, omission or other error in the RFQ. Any such notification should be directed to the Controller's Office promptly after discovery, but in no event later than three (3) business days following the RFQ issuance or RFQ addendum. Modifications and clarifications will be made by addenda as provided below.

20. INQUIRIES AND COMMUNICATIONS REGARDING RFQ: Inquiries regarding the RFQ and all communications including notifications related to, exceptions or objections to, or of an intent to request written modification or clarification of, the RFQ must be directed by e-mail (mail and fax are not acceptable) to Tuquan Harrison LGBTQI Initiatives, Tuquan.Harrison@sfgov.org.

21. CHANGE NOTICES: The Controller's Office may modify the RFQ, prior to the Response due date, by issuing written addenda. The Controller's Office will make reasonable efforts to post notification of modifications in a timely manner. Notwithstanding this provision, the Respondent shall be responsible for ensuring that its Response reflects any and all addenda issued by the Controller's Office prior to the Response due date regardless of when the Response is submitted. Therefore, the City recommends that the Respondent call the Controller's Office or check the Controller's Office website before submitting its Response to determine if the Respondent is aware of all addenda.

22. REVISION OF RESPONSE: Respondent may revise a Response on the Respondent's own initiative at any time before the deadline for Responses. The Respondent must submit the revised Response in the same manner as the original. A revised Response must be received on or before the Response 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 Response 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 Respondent 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 Respondent 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 Respondent 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 Respondent that the City has selected the Respondent.

**RESPONDENTS ARE STRONGLY ADVISED TO CONSULT WITH THEIR LEGAL COUNSEL REGARDING THEIR ELIGIBILITY TO SUBMIT A RESPONSE FOR THIS RFQ OR SUBSEQUENT RFQS/RFPS.**

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

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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 Respondent 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 Respondent 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 Responses, 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, Respondents should contact the San Francisco Ethics Commission at (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. Respondent understands that any writing presented under this RFQ may be subject to public disclosure.

26. **PUBLIC ACCESS TO MEETINGS AND RECORDS:** If a Respondent 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 Respondent must comply with Chapter 12L. The Respondent must include in its Response (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to Respondent's meetings and records, and (2) a summary of all complaints concerning the Respondent'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 Respondents shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in Respondent's Chapter 12L submission shall

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be grounds for rejection of the Response and/or termination of any subsequent Agreement reached on the basis of the Response.

27. RESERVATIONS OF RIGHTS BY THE CITY: The issuance of this RFQ 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 Response, response, or response procedure;
- B. Reject any or all Responses;
- C. Reissue a Request for Qualifications or Request for Responses;
- D. Prior to submission deadline for Responses, modify all or any portion of the selection procedures, including deadlines for accepting Responses, the specifications or requirements for any materials, equipment or services to be provided under this RFQ, or the requirements for contents or format of the Responses;
- E. Procure any materials, equipment or services specified in this RFQ 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 RFQ shall be implied from any failure by the City to recognize or take action on account of any failure by a Respondent to observe any provision of this RFQ. Failure by the Department to object to an error, omission or deviation in the Response in no way will modify the RFQ or excuse the Respondent from full compliance with the specifications of the RFQ or any contract awarded pursuant to the RFQ.

29. CERTIFICATION: Each Respondent hereby certifies that it has carefully examined this RFQ and documents attached hereto for terms, conditions, specifications, covenants, requirements, services, etc.; and the Respondent certifies that it understands the services requested, that the Respondent has knowledge and expertise to provide the proposed services submitted for consideration, and that its Response is based upon the terms, conditions, specifications, services, and requirements of this RFQ and attachments. By its signature on this Attachment, the Respondent certifies that its Response is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Response for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud, so that all Responses 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 Response indicates a Respondent's acceptance of the terms and conditions contained in this RFQ unless clearly and specifically noted otherwise in the Response. The City may discontinue its selection, contract negotiations, or contract award processes with any Respondent if it is determined that the Respondent has not accepted the RFQ terms and conditions contained herein.

31. CONTRACT REQUIREMENTS:

**A. Standard Contract Provisions**

The successful respondent will be required to enter into a contract substantially in the form of the Agreement for Professional Services. 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.

Respondent are urged to pay special attention to the requirements of Administrative Code Chapters 12B and 12C, Nondiscrimination in Contracts and Benefits, (§10.5 in the Agreement); the Minimum Compensation Ordinance (§10.7 in the Agreement); the Health Care Accountability Ordinance (§10.8 in the Agreement); the First Source Hiring Program (§10.9 in the Agreement); and applicable conflict of interest laws (§10.2 in the Agreement), as set forth in paragraphs B, C, D, E and F below.

**B. Nondiscrimination in Contracts and Benefits**

The successful respondent 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

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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](http://www.sfcmd.org).

## **C. Minimum Compensation Ordinance (MCO)**

The successful respondent 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](http://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](http://www.sfgov.org/olse/mco).

## **D. Health Care Accountability Ordinance (HCAO)**

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

## **F. Conflicts of Interest**

The successful respondent 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 respondent 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 respondent 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 respondent that the City has selected the respondent.

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

Acknowledged and Agreed:

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Signature

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Printed Name

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