



City and County of San Francisco
Sourcing Event ID 0000007216 | Dept Contract ID: 1000025886

Formal Request for Proposals for:

Fine Art Services Providers who will care for and maintain the City's Art Collection under the jurisdiction of the San Francisco Arts Commission (Arts Commission). The Arts Commission is looking for qualified art technicians, providers of fine arts services, conservators, and fine art installers (both licensed and unlicensed contractors) with experience and expertise in the installation, moving and restoration of monuments and artworks, with the intent of identifying firms able to perform a variety of services necessary for the care and maintenance of the City's art collection.

This Solicitation can be viewed on the City's Supplier Portal at: <https://sfcitypartner.sfgov.org/pages/index.aspx>

Request for Proposals Issuance	Wednesday, July 6, 2022, 5:00 PM Pacific Daylight Time
Deadline for Questions	Wednesday, August 3, 2022, 5:00 PM Pacific Daylight Time
Deadline to Submit Proposals	Friday, August 5, 2022, 5:00 PM Pacific Daylight Time
Notice of Intent to Award	Monday, August 15, 2022, 5:00 PM Pacific Daylight Time
Period for Protesting Notice of Intent to Award	Within three (3) business days of the City's issuance of a Notice of Intent to Award.
Contract Administrator:	Jenn Doyle Crane Project Manager Civic Art Collection, San Francisco Arts Commission 401 Van Ness Ave. Suite #325 San Francisco, CA 94102 Phone: (415) 252-2224 Email: jennifer.crane@sfgov.org

Attachments

- Attachment 1: City's Proposed Agreement Terms (Chapter 21 and/or Chapter 6 Contracts)
- Attachment 2: Proposer Questionnaire and References
- Attachment 3: CMD Form 3
- Attachment 4: LBE Participation and Good Faith Outreach Forms
- Attachment 5: Reserved (Written Proposal Template)
- Attachment 6: Reserved (Price Proposal Template)
- Attachment 7: First Source Hiring Form
- Attachment 8: HCAO and MCO Declaration Forms

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I. INTRODUCTION AND SOLICITATION SCHEDULE

A. Introduction

1. General

This Request for Proposals (hereinafter “RFP” or “Solicitation”) is being issued by the San Francisco Arts Commission (hereinafter, “Arts Commission” or “City”). The Arts Commission is seeking qualified suppliers (“Proposers”) to provide proposals for one or all of the fine art service categories (“Proposal”) described below. The City has approximately 65 departments, ranging from small to very large. Some departments maintain facilities located outside of the geographic limits of the City.

The Arts Commission will identify a number of firms within one or more art service categories, each of which require different qualifications and experience. The art service categories are as follows:

- A. Art Services Contractors to install and de-install large-scale works of public art
- B. Fine Art and Cultural Artifact and Properties Conservators
- C. Art Care Technicians and Installers
- D. Fine Art Transportation and Storage
- E. Art Photography, Digital Imaging, Printmaking and Sign makers
- F. Fine Art Framing Services
- G. Fine Art Appraisers

Firms may apply for qualification in one or more categories.

The Arts Commission shall order goods and/or services covered by the awarded contract(s) through the issuance of individual Purchase Orders and/or Task Orders which shall be released against the awarded contract(s) during the contract term.

2. Selection Overview

The City shall award a contract to each Proposer that meets the Minimum Qualifications of this Solicitation and scores a minimum of 80 points and passes the reasonable fee structure requirement. Responsive Proposals will be evaluated by a panel (“Evaluation Panel”) consisting of one or more parties with expertise related to goods and/or services being procured through this Solicitation. The Evaluation Panel may include staff from various City departments. Proposals will be evaluated based on the criteria outlined herein. If applicable, a Contract Monitoring Division (CMD) Contract Compliance Officer will assess Proposal compliance with Local Business Enterprise (LBE) requirements and assign a rating bonus to Proposal scores. The CMD-adjusted scores (if applicable) will then be tabulated and Proposers will be assigned scores.

B. Anticipated Contract Term

A contract awarded pursuant to this Solicitation shall be non-exclusive with an original term of three (3) years. The City at its sole, absolute discretion, shall have the option to extend the term for two (2) additional years for a total of five (5) years.

C. Anticipated Contract Not to Exceed Amount

The not to exceed (“NTE”) amount for a contract awarded pursuant to this Solicitation cannot be anticipated at the time of this Solicitation but shall be based on the selected Proposal. Should the contract be extended, the NTE may proportionally increase as well.

D. Indefinite Quantity, As-Needed Contract

A contract awarded pursuant to this Solicitation will result in a term, indefinite quantities, as-needed contract. There is no guarantee of a minimum amount of goods or services for any of the Proposers selected for contract negotiations or for the awarded Proposer(s). Unless otherwise specified herein, deliveries and services will be required in quantities and at times as ordered during the period of the contract. Estimated quantities, if any, stated in this Solicitation are approximations only. City, in its sole discretion, may purchase any greater or lesser quantity. City may also make purchases of items awarded pursuant to this Solicitation from other suppliers when City determines, in its sole discretion, that it is in the best interest of the City to do so.

E. Cooperative Agreement

Any other City department, public entity or non-profit made up of multiple public entities, may use the results of this Solicitation to obtain some or all of the commodities or services to be provided by Proposer under the same terms and conditions of any contract awarded pursuant to this Solicitation.

F. Public Disclosure

All documents under this solicitation process are subject to public disclosure per the California Public Records Act (California Government Code Section §6250 et. Seq) and the San Francisco Sunshine Ordinance (San Francisco Administrative Code Chapter 67). Contracts, Proposals, responses, and all other records of communications between the City and Proposers shall be open to inspection immediately after a contract has been awarded. Nothing in this Administrative Code provision requires the disclosure of a private person's 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.

If the City receives a Public Records Request ("Request") pertaining to this solicitation, City will use its best efforts to notify the affected Proposer(s) of the Request and to provide the Proposer with a description of the material that the City deems responsive and the due date for disclosure ("Response Date"). If the Proposer asserts that some or all of the material requested contains or reveals valuable trade secret or other information belonging to the Proposer that is exempt from disclosure and directs the City in writing to withhold such material from production ("Withholding Directive"), then the City will comply with the Withholding Directive on the condition that the Proposer seeks judicial relief on or before the Response Date. Should Proposer fail to seek judicial relief on or before the Response Date, the City shall proceed with the disclosure of responsive documents.

G. Limitation on Communications During Solicitation

From the date this Solicitation is issued until the date the competitive process of this Solicitation is completed (either by cancelation or final Award), Proposers and their subcontractors, vendors, representatives and/or other parties under Proposer's control, shall communicate solely with the Contract Administrator whose name appears in this Solicitation. Any attempt to communicate with any party other than the Contract Administrator whose name appears in this Solicitation – including any City official, representative or employee – is strictly prohibited. Failure to comply with this communications protocol may, at the sole discretion of City, result in the disqualification of the Proposer or potential Proposer from the competitive process. This protocol does not apply to communications with the City regarding business not related to this Solicitation.

H. Solicitation Schedule

The anticipated schedule for this Solicitation is set forth below. These dates are tentative and subject to change. It is the responsibility of the Proposer to check for any Addenda to this Solicitation or other pertinent information posted in the City's Supplier Portal.

Proposal Phase	Tentative Date
Request for Proposals Issued	Wednesday, July 6, 2022, 5:00 PM Pacific Daylight Time
Deadline for Written Questions	Wednesday, August 3, 2022, 5:00 PM Pacific Daylight Time
Deadline to Submit Proposals	Friday, August 5, 2022, 5:00 PM Pacific Daylight Time
Notice of Intent to Award	Monday, August 15, 2022, 5:00 PM Pacific Daylight Time
Period for Protesting Notice of Intent to Award	Within three (3) business days of the City's issuance of a Notice of Intent to Award.
Final Award	Thursday, August 18, 2022
The Pre-Proposal Conference Details: The Pre-Proposal Conference will begin at the time specified. Proposers' representatives are urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Failure to attend the Pre-Proposal Conference shall not excuse the awarded Proposer from any obligations of a contract awarded pursuant to this Solicitation. Any change or addition to the requirements contained in this Solicitation as a result of the Pre-Proposal Conference will be executed by a written Addendum to this Solicitation. It is the responsibility of the Proposer to check for any Addendum to this Solicitation or other pertinent information posted on the City's Supplier Portal: https://sfcitypartner.sfgov.org/pages/index.aspx .	

I. How to Register as a City Supplier

The following requirements pertain only to Proposers not currently registered with the City as a Supplier.

Step 1: Register as a BIDDER at City's Supplier Portal:

<https://sfcitypartner.sfgov.org/pages/index.aspx>

Step 2: Follow instructions for converting your BIDDER ID to a SUPPLIER ID. This will require you to register with the City Tax Collector's Office and submit Chapter 12B and 12C forms through the Supplier portal. Once these forms have been completed, submitted, and processed, you will be notified via email with your organization's new Supplier ID. That email will also provide instructions for completing your Supplier registration.

- **City Business Tax Registration Inquiries:** For questions regarding business tax registration procedures and requirements, contact the Tax Collector's Office at (415) 554-4400 or, if calling from within the City and County of San Francisco, 311.
- **Chapter 12(B) and 12(C) Inquiries:** For questions concerning the City's Chapter 12(B) and 12(C) Equal Benefits and Non-Discrimination in Contracting requirements, go to: www.sfgov.org/cmd.

J. Proposal Questions and Submissions

1. Proposer Questions and Requests for Clarification

Proposers shall address any questions regarding this Solicitation to the Contract Administrator whose name and contact information appears on the cover page of this Solicitation. Proposers who fail to submit questions concerning this Solicitation and its requirements will waive all further rights to protest based on the specifications and conditions herein. **Questions must be submitted by email to the Contract Administrator whose name and contact information appears on the cover page of this Solicitation no later than the deadline for submission of written questions or requests for clarification.** A written Addendum will be executed addressing each question and answer and posted publicly. It is the responsibility of the Proposer to check for any Addenda and other updates that will be posted on the City's Supplier Portal: <https://sfcitypartner.sfgov.org/pages/Events-BS3/event-search.aspx>.

2. Proposal Format

Proposals must be created using a word processing software (e.g. Microsoft Word or Excel) and typed in a serif font (e.g.-Times New Roman). The document must have page margins of at least .5" on all sides. Information must be provided at a level of detail that enables effective evaluation and comparison between Proposals. Failure to follow formatting, submission, or content requirements, as well as page limit restrictions (if any), may negatively impact the evaluation of your Proposal.

3. Time and Place for Submission of Proposals

Prior to the Proposal submission deadline, Proposers must email their complete Proposals to the Contract Administrator whose name and contact information appears on the cover page of this Solicitation and request confirmation of receipt. Late submissions will not be considered. Each original Proposal received will be screened to ensure that all content required by this Solicitation is included. Partial or complete omission of any required content may disqualify Proposals from further consideration. Late Proposal submissions will not be considered and failure to adhere to the above requirements may result in the complete rejection of your Proposal.

Proposers are encouraged to email their Proposals to the Contract Administrator as early as possible to address any technical issues that may arise during the submission process.

K. Proposal Selection

The acceptance and/or selection of any Proposal(s) shall not imply acceptance by the City of all terms of the Proposal(s), which may be subject to further approvals before the City may be legally bound thereby.

L. Contract Terms and Negotiations

The successful Proposer will be required to enter into one or both of the Agreements attached hereto as Attachment 1 (Chapter 21 contract and/or Chapter 6 contract), City's Proposed Agreement Terms, depending on the art service category for which they qualify. **City's Proposed Agreement Terms are not subject to negotiation.** Failure to timely execute the Proposed Agreement, or to furnish any and all insurance certificates and policy endorsements, surety bonds or other materials required in the Proposed Agreement, shall be deemed an abandonment of the Proposal and City, in its sole discretion, may select another Proposer and proceed against the original selectee for damages.

M. Protest Procedures

1. Protest of Non-Responsiveness Determination

Within three (3) business days of the City's issuance of a Notice of Non-Responsiveness, a Proposer may submit a written Notice of Protest of Non-Responsiveness. The Notice of Protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The Notice of Protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or Solicitation provision on which the protest is based. In addition, the Notice of Protest must specify facts and evidence sufficient for the City to determine the validity of the protest.

2. Protest of Non-Responsible Determination

Within three (3) business days of the City's issuance of a Notice of Non-Responsibility, a Proposer may submit a written Notice of Protest of Non-Responsibility. The Notice of Protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The Notice of Protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or Solicitation provision on which the protest is based. In addition, the Notice of Protest must specify facts and evidence sufficient for the City to determine the validity of the protest.

3. Protest of Contract Award

Within three (3) business days of the City's issuance of a Notice of Intent to Award, a Proposer may submit a written Notice of Protest of Contract Award. The Notice of Protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The Notice of Protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or Solicitation provision on which the protest is based. In addition, the Notice of Protest must specify facts and evidence sufficient for the City to determine the validity of the protest.

4. Delivery of Protests

A Notice of Protest must be written. Protests made orally (e.g., by telephone) will not be considered. A Notice of Protest must be delivered by mail or email to the Contract Administrator whose name and contact information appears on the cover page to this Solicitation and received by the due dates stated above. A Notice of Protest shall be transmitted by a means that will objectively establish the date the City received the Notice of Protest. If a Notice of Protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein.

II. CITY'S SOCIAL POLICY REQUIREMENTS

The San Francisco Municipal Code establishes a number of requirements for people seeking to do business with the City ("Social Policy Requirements"). These Social Policy Requirements can be found in Attachment 1, City's Proposed Agreement Terms. The Social Policy Requirements set forth below are NOT intended to be a complete list of all Social Policy Requirements applicable to this Solicitation and any contracts awarded from it. Proposers are encouraged to carefully review the Social Policy Requirements applicable to this Solicitation contained in Attachment 1, City's Proposed Agreement Terms.

A. Proposers Unable to do Business with the City

1. Generally

Proposers that do not comply with laws set forth in San Francisco's Municipal Codes may be unable to enter into a contract with the City. Laws applicable to this Solicitation are set forth below and in Attachment 1, City's Proposed Agreement Terms.

2. Administrative Code Chapter 12X

Subject to certain exceptions, Proposers are advised that this Solicitation is subject to the requirements of Administrative Code Chapter 12X, which prohibits the City from entering into a contract with a Proposer that (a) has its headquarters in a state that has enacted a law that perpetuates discrimination against LGBT people and/or has enacted a law that prohibits abortion prior to the viability of the fetus, or (b) will perform any or all of the work on the contract in such a state. Chapter 12X requires the City Administrator to maintain a list of such states, defined as “Covered States” under Administrative Code Sections 12X.2 and 12X.12. The list of Covered States is available on the website of the City Administrator (<https://sfgsa.org/chapter-12x-state-ban-list>). Proposers will be required to certify compliance with Chapter 12X as part of their Proposal, unless the City determines that a statutory exception applies. *Refer to Attachment 1, City’s Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.*

3. Administrative Code Chapter 12B

A Proposer selected pursuant to this Solicitation may not, during the term of the Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code. *Refer to Attachment 1, City’s Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.*

B. Prevailing Wage Ordinance

Services to be performed by a Proposer selected pursuant to this Solicitation may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the Administrative Code or Section 21C [Miscellaneous Prevailing Wage Requirements] (collectively, “Covered Services”). The provisions of Section 6.22(e) and 21C of the Administrative Code are incorporated as provisions of the Agreement awarded as part of this Solicitation as though fully set forth therein and will apply to any Covered Services performed by the awarded Proposer and its subcontractors. *Refer to Attachment 1, City’s Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.*

C. Health Care Accountability Ordinance

A Proposer selected pursuant to this Solicitation shall comply with the requirements of Chapter 12Q. For each Covered Employee, an awarded Proposer shall provide the appropriate health benefit set forth in Section 12Q.3 of the Health Care Accountability Ordinance (HCAO). If a Proposer selected pursuant to this Solicitation chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission. Information about and the text of the Chapter 12Q and the Health Commission’s minimum standards are available at <http://sfgov.org/olse/hcao>. Any Subcontract entered into by Proposer shall also be required to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this section. *Refer to Attachment 1, City’s*

Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.

D. Minimum Compensation Ordinance

A Proposer selected pursuant to this Solicitation shall comply with Administrative Code Chapter 12P. A Proposer selected pursuant to this Solicitation shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P, including a minimum hourly gross compensation, compensated time off, and uncompensated time off. A Proposer selected pursuant to this Solicitation is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at <http://sfgov.org/olse/mco>. *Refer to Attachment 1, City's Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.*

E. First Source Hiring Program

A Proposer selected pursuant to this Solicitation shall comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code that apply to this Agreement and an awarded Proposer is subject to the enforcement and penalty provisions in Chapter 83. *Refer to Attachment 1, City's Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.*

F. Reserved (Sweatfree Procurement)

G. Other Social Policy Provisions

Attachment 1, City's Proposed Agreement Terms, identifies the City's applicable social policy provisions related to a contract awarded pursuant to this Solicitation. Proposers are encouraged to carefully review these terms and ensure they are able to comply with them.

III. LOCAL BUSINESS ENTERPRISE (LBE) PROGRAM REQUIREMENTS

A. Application of LBE Bid Discounts and Rating Bonuses

LBE Bid Discounts/Rating Bonuses shall be applicable to each phase of the Solicitation evaluation and selection process, in accordance with the values shown below.

1. **Reserved (Commodities)**
2. **General and Professional Services**

Estimated Contract Value	Small/Micro LBEs Rating Bonus	SBA LBEs Rating Bonus
Greater than \$10,000 but less than or equal to \$400,000.	10%	0%
Greater than \$400,000 but less than or equal to \$10,000,000.	10%	5% <i>So long as it does not adversely affect a Small or Micro-LBE Proposer or a JV with LBE Subcontracting.</i>
Greater than \$10,000,000 but less than or equal to \$20,000,000.	2%	2%

3. General and Professional Services by Joint Ventures

Estimated Contract Value	Small/Micro LBE Subcontracting Level	Rating Bonus
Greater than \$10,000 but less than or equal to \$10,000,000.	Equals or exceeds 35%, but less than 40%	5%
	Equals or exceeds 40%, but less than 100%	7.5%
	100%	10%
If applying for an LBE rating discount as a Joint Venture (JV), the Micro and /or Small-LBE must be an active partner in the JV and perform work, manage the job and take financial risks in proportion to the required level of participation stated in the Proposal, and must be responsible for a clearly defined portion of the work to be performed and share in the ownership, control, management responsibilities, risks, and profits of the JV. The portion of the Micro and/or Small-LBE JV's work shall be set forth in detail separately from the work to be performed by the non-LBE JV. The Micro and/or Small-LBE JV's portion of the contract must be assigned a commercially useful function.		

B. LBE Subcontracting Requirements

1. LBE Subcontracting Participation Requirements

There shall be no LBE Subcontracting Requirement for any Contract awarded pursuant to this Solicitation.

2. LBE Subcontracting and Good Faith Outreach Forms

LBE Subcontracting and Good Faith Outreach Forms (Attachment 4) are not required, unless Proposer is seeking a rating bonus. Proposers responding to this Solicitation seeking a rating bonus must submit response packages that include the LBE Subcontracting Forms included in Attachment 4. The applicable forms are:

- (a) **CMD Form 2A:** LBE Subcontracting Form
- (b) **CMD Form 4:** Joint Venture Form (if applicable)

3. CMD Compliance Officer

The CMD Compliance Officer (CCO) for this Solicitation and any Contract awarded pursuant to this Solicitation is:

Regina Chan
Contract Monitoring Division
City and County of San Francisco
Tel: 415-581-2324
Email: regina.chan@sfgov.org
Website: www.sfgov.org/cmd.

4. LBE Payment and Utilization Tracking

If LBE Subcontracting Participation Requirements apply to a Contract awarded pursuant to this Solicitation, the Awarded Contractor shall agree to:

- (a) Within three (3) business days of City's payment of any invoice to Contractor, pay LBE subcontractors as provided under Chapter 14B.7(H)(9); and

- (b) Within ten (10) business days of City's payment of any invoice to Contractor, confirm its payment to subcontractors using the City's Supplier Portal Payment Module, unless instructed otherwise by CMD.

Failure to submit all required payment information to the City's Supplier Portal Payment Module with each payment request may result in the withholding of 20% of subsequent payments due. Self-Service Training is located at this link: <https://sfcitypartnersfgov.org/pages/training.aspx>.

IV. GOODS AND SERVICES REQUESTED

A. Goods and/or Services Requested

This Solicitation is being issued by the Arts Commission. The Arts Commission is seeking qualified Proposers to provide Proposals for art technicians, providers of fine arts services, conservators, fine art installers that are both licensed and unlicensed contractors with experience and expertise in the installation, moving and restoration of monuments and artworks, with the intent of identifying firms able to perform a variety of services necessary for the care and maintenance of the City's art collection.

The City and County of San Francisco has a collection of over 4,000 artworks under its jurisdiction. Represented in the collection are both historical and contemporary artworks in nearly every media, including but not limited to historical monuments, sculptures, paintings, murals, photography, works on paper and electronic media. Works in the collection range from the small and portable artworks hung in City offices to monumental sculptures and civic monuments.

By City Charter, the Arts Commission is charged with the duty to document, catalogue, and maintain these works. Additionally, the Arts Commission has a robust public art program that commissions between 10-20 public artworks a year that are installed in public facilities throughout the City. The Commission's acquisition and collections responsibilities regularly require the Arts Commission to install, de-install, transport and store large scale artwork as well as to frame smaller works, and to provide didactic signage. To better fulfill this charge, we are seeking art care technicians, art handlers, contractors, conservators, printers and framers who can provide a wide variety of services.

The Arts Commission will identify a number of firms within one or more art service categories, each of which require different qualifications and experience. The art service categories are as follows:

1. Art Services Contractors to install and de-install large-scale works of public art
2. Fine Art and Cultural Artifact and Properties Conservators
3. Art Care Technicians and Installers
4. Fine Art Transportation and Storage
5. Art Photography, Digital Imaging, Printmaking and Sign makers
6. Fine Art Framing Services
7. Fine Art Appraisers

Firms may apply for qualification in one or more categories. Firms do not have to apply for all categories.

The Arts Commission shall order goods and/or services covered by the awarded contract(s) through the issuance of individual Purchase Orders and/or Task Orders which shall be released against the awarded contract(s) during the contract term.

1. **Service Area 1: Art Services Contractors to install and de-install large-scale works of public art**

Sample Services: Installing, de-installing, transporting large to monumental size works of art, historic monuments and artifacts, and artwork integrated into architecture. Repair and/or replacement of complex mechanical, electrical, or plumbing systems associated with more complex installations, or repair/re-fabrication of associated features such as foundations, sculptural bases, or hardscape. Work may include subcontracting with other firms to provide entire scope of services needed for a particular project. Sample subcontracts might include conservators, structural engineers, electrical work, masons, plumbing and fountain specialists, welders, rigging, and other trades. Provide lifts, scaffolding, and other equipment as necessary.

The Arts Commission is also looking for technicians to maintain specialty media like neon, digital, and electronic media.

Qualifications:

- a. Some (but not all) projects may require a California General Contractor's License (or equivalent specialty contractor license) for contracts qualifying as a "Public Work" under Chapter 6 of the City's Administrative Code. If you or your firm carry a license, evidence that Proposer has a California General Contractor's License (or equivalent specialty contractor license) must be provided.
- b. Five (5) years' experience performing the work described above.
- c. Ability to provide qualified personnel with substantial experience in installing and moving large scale works of art.
- d. Demonstrated sensitivity to the artistic integrity and cultural impact of historic monuments and artworks.

2. **Service Area 2: Fine Art and Cultural Artifact and Properties Conservators**

Sample Services: Ability to provide full conservation and restoration services in the media of the Conservator's specialization. Typical needs include providing a wide variety of services for the care and maintenance of the City's art collection, cultural artifacts and properties under the Arts Commission's jurisdiction. Typical projects include providing specialized consulting, performing material investigations on the condition of artworks in the collection, and providing the City with reports and recommendations; preparing conservation/restoration work project specifications; on-site cleaning, graffiti removal, conservation and restoration of the City's monuments and sculptures in various media, cleaning and conservation of paintings, murals; conservation of photographs, prints, and other works on paper. Repair and /or replacement of missing or damaged portions of sculptures and monuments. Work may include subcontracting with other firms to provide entire scope of services needed for a particular project. Sample subcontracts might include structural engineers, electrical work, masons, plumbing and fountain specialists, welders, rigging, and other trades. Provide lifts, scaffolding, and other equipment as necessary.

Qualifications:

- a. Some (but not all) projects may require a California General Contractor's License (or equivalent specialty contractor license) for contracts qualifying as a "Public Work" under Chapter 6 of the City's Administrative Code. If you or your firm carry a license, evidence that Proposer has a California General Contractor's License (or equivalent specialty contractor license) must be provided.
- b. Team Lead Conservator for conservation projects must hold a degree from a recognized Conservation Program identified by the American

Institute for Conservation and Cultural Properties (AIC) and must adhere to the AIC Code of Ethics and Guidelines of Practice.

- c. Five (5) years' experience performing the work described above.
- d. Ability to provide full conservation and restoration services in the media of the Conservator's specialization.
- e. Conservator must have a minimum of five (5) years professional conservation experience specializing in objects conservation with direct experience with the media of the sculpture to be restored.
- f. Demonstrated sensitivity to the artistic integrity and cultural impact of historic monuments and artworks.

3. **Service Area 3: Art Care Technicians and Installers**

Sample Services: Surface cleaning, waxing and applying anti-graffiti coatings on sculptures and monuments, graffiti removal and minor repairs of contemporary artworks in a variety of media. Work may include installing and de-installing paintings and small to medium size sculptures. Must be able to provide lifts, scaffolding, equipment and other subcontractors as necessary.

The Arts Commission is also looking for technicians to maintain specialty media like neon, digital, and electronic media.

Qualifications:

- a. Five (5) years of experience in the field. Past experience and qualifications may include course work in subjects related to care and conservation of artwork at a recognized college or university; work in a foundry or working as an assistant to a conservator or museum preparator or other related experience.
- b. Demonstrated background in working with media maintenance for material specialization in lighting/media.
- c. Adherence to the American Institute of Conservators (AIC) Code of Ethics.
- d. Demonstrated sensitivity to the artistic integrity and cultural impact of historic monuments and artworks.

4. **Service Area 4: Fine Art Transportation and Storage**

Sample Services: Secure climate and non-climate storage areas; domestic and international transportation; including blanket-wrap and soft-packing services and specialty crates. May act as shipping agent; make courier arrangements, administer bills of lading, provide proper documentation and additional insurance as-needed. Provide air-ride, secure, climate-controlled vehicles and oversized lift gates and other equipment as needed.

Qualifications:

- a. Five (5) years of experience providing the services listed above. Past experience and qualifications may include course work in subjects related to care and conservation of artwork at a recognized college or university; work in a foundry or working as an assistant to a conservator or museum preparator or other related experience.
- b. Ability to provide secure storage site with climate control if required.
- c. Ability to provide experienced and qualified personnel.

- d. Demonstrated sensitivity to the artistic integrity and cultural impact of historic monuments and artworks.

5. Service Area 5: Art Photographer, Digital Imaging, Printmaking and Sign makers

Sample Services: Photography, design, color correction, typography and fine art reproductions in multiple formats. Photography services may include photographing and providing images in multiple formats, including the ability to provide color corrections. Sign makers scope of work may incorporate digital images and may include digital file production, typography and design services as well as the fabrication and installation of integral hardware, pedestals, and plaques in different materials and media, some that may require special engineering and review by building permits when any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code. All will provide their own equipment, transportation, and may be asked to scout locations and conditions of artworks sited indoors and outdoors, previous to commencing work. Work may include subcontracting with other firms to provide entire scope of services needed for a particular or large-scale project. Sample subcontracts might include structural engineers, electrical work, welders, rigging, and other trades. Provide lifts, scaffolding, and other equipment as necessary.

Qualifications:

- a. Some (but not all) projects may require a California General Contractor's License (or equivalent specialty contractor license) for contracts qualifying as a "Public Work" under Chapter 6 of the City's Administrative Code. If you or your firm carry a license, evidence that Proposer has a California General Contractor's License (or equivalent specialty contractor license) must be provided.
- b. Five (5) years of experience providing the services listed above.
- c. Ability to provide experienced and qualified personnel.
- d. Demonstrated sensitivity to the artistic integrity and cultural impact of historic artworks.

6. Fine Art Framing Services

Sample Services: Full range of professional framing services and archival materials with the capacity for managing high volume projects including the delivery, packing and storing of artworks.

Qualifications:

- a. Five (5) years of experience providing the services listed above.
- b. Ability to provide experienced and qualified personnel.
- c. Demonstrated sensitivity to the artistic integrity and cultural impact of historic artworks.

7. Fine Art Appraisers

Sample Services: Services may include onsite examination, in-depth market research, objective and unbiased market analyses, and detailed, substantiated reports explaining and supporting the valuation conclusion. Should have particular expertise in the valuation of site-specific and installation-based work, murals, large-scale inventories and archives, and the art of California. Reports will be written in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and certified accordingly.

Qualifications:

- a. Five (5) years of experience providing the services listed above.
- b. Is a current and Certified Member of the Appraisers Association of America, The American Society of Appraisers, or International Society of Appraisers.
- c. Ability to provide independent and unbiased appraisals and to avoid conflicts of interest. Does not buy, sell or broker works of art, nor do they represent any artist(s) or artist(s) estates.
- d. Demonstrated sensitivity to the artistic integrity and cultural impact of historic artworks.

B. Reserved (Regulatory and Compliance Requirements Specific to the Goods/Services Solicited)

C. Reserved (Articles Furnished)

D. Reserved (Alternates)

E. Reserved (Samples)

F. Reserved (Freight on Board and Shipping Costs)

G. Green Purchasing Requirements

In preparation for any Proposal submitted in response to this Solicitation, Proposers are required to review the City [Mandatory Green Purchasing Requirements](#) to ensure all goods and services offered to the City in response to this Solicitation comply with the City's Green Purchasing Requirements. In addition, Proposers are encouraged to refer to Attachment 1, City's Proposed Agreement Terms, for additional details related to the Green Purchasing Requirements applicable to any contract awarded pursuant to this Solicitation.

V. PROPOSAL EVALUATION CRITERIA

Evaluation Categories	Evaluation Criteria	Points Possible
I. Minimum Qualifications	a) Minimum (5) years of experience in the field (MQ1)	Pass/Fail
	b) Meets required qualifications as described in RFP for specific art service category for which they are applying. (MQ2, MQ3, MQ4)	Pass/Fail
II. Demonstrated Experience	a) EXECUTIVE SUMMARY - Demonstrated sensitivity to the artistic integrity and cultural impact of historic artworks.	20 pts.
	b) PROJECT TEAM - Demonstrated recent experience of individual or team working with media they claim expertise.	30 pts.

	c) PAST PROJECTS - Quality of recently completed projects, including evidence of care to maintain the integrity of the artwork, adherence to the AIC Code of Ethics (where applicable) and adherence to schedules, deadlines and budgets.	30 pts.
	d) PAST PROJECTS - Evidence of experience as an Art Service Provider and relative scale and complexity of projects completed.	20 pts.
III. Reasonable Fee Structure	a) Proposed fees are set within industry standard.	Pass/Fail
	TOTAL	100 pts.

VI. REQUIRED SUPPORTING DOCUMENTATION

Proposers must provide each Required Supporting Documentation (“RSD”) identified below with their Proposal. Failure to do so may result in the Proposal being deemed Non Responsive.

RSD1	Evidence that Proposer is 12B compliant or likely to become compliant within 30 days.
RSD2	Completed Proposal Attachments: <input type="checkbox"/> Attachment 2: Proposer Questionnaire and References <input type="checkbox"/> Attachment 3: CMD Form 3 <input type="checkbox"/> Attachment 4: LBE Participation and Good Faith Outreach Forms (For Proposers Seeking Rating Bonus)
RSD3	Signed copies of all Solicitation Addenda, if any.
RSD4	Non Profit Entities: 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 and 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 and disposition 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. If no such complaints were filed, the Proposer shall include a statement to that effect. <i>Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in Proposer’s Chapter 12L submissions shall be grounds for rejection of the Proposal and/or termination of any subsequent Agreement reached on the basis of the Proposal.</i>

VII. MINIMUM QUALIFICATIONS DOCUMENTATION (PASS/FAIL)

Proposers must provide documentation that clearly demonstrates each Minimum Qualification (MQ) listed below has been met. Minimum Qualification documentation should be

clearly marked as “MQ1”, MQ2”, etc.... to indicate which MQ it supports. Each Proposal will be reviewed for initial determination on whether Proposer meets the MQs referenced in this section. **This screening is a pass or fail determination and a Proposal that fails to meet the Minimum Qualifications will not be eligible for further consideration in the evaluation process.** The City reserves the right to request clarifications from Proposers prior to rejecting a Proposal for failure to meet the Minimum Qualifications.

MQ #	Description
MQ1	Evidence that Proposer has five (5) years of experience within the last five (5) years in the sale of goods and/or services requested by this Solicitation.
MQ2	For contracts qualifying as a “Public Work” under Chapter 6 of the City’s Administrative Code, Evidence that Proposer has a California General Contractor’s License (or equivalent specialty contractor license). This applies to category #1. Art Services Contractors to install and de-install large-scale works of public art; and #2. Fine Art and Cultural Artifact and Properties Conservation; and #5. Sign Makers.
MQ3	Evidence that Proposer’s Team Lead Conservator for conservation projects holds a degree from a recognized Conservation Program identified by the American Institute for Conservation and Cultural Properties (AIC) and must adhere to the AIC Code of Ethics and Guidelines of Practice. This applies to category #2. Fine Art and Cultural Artifact and Properties Conservation.
MQ4	Evidence that Proposer is a current and Certified Member of the Appraisers Association of America, The American Society of Appraisers, or International Society of Appraisers. This applies to category #7. Fine Art Appraisers.

VIII. PRICE PROPOSAL

Proposers shall submit a Pricing Narrative in response to this Solicitation. The pricing narrative should, at a minimum, address the following points:

- (a) Unit pricing by service or product line, manufacturer, etc. including how the pricing will be determined and adjusted over the contract term (e.g. fixed price adjusted annually, X% off of list, X% mark up, etc.). This should include the hourly rate for principals and any staff or employees most likely to work on Arts Commission projects, including and if applicable the prevailing wage rate for on-site work. Also include firm overhead rate or mark-up rate, if applicable, and equipment rental.
- (b) Indicate if any further discounts are offered, i.e. volume, quantity, prompt payment etc.
- (c) Discuss why the Proposer believes pricing is fair and reasonable and how it relates to most favored customer pricing.

Proposer’s pricing narrative, including any proposed price list discounts or markups, must remain firm during the term of the contract unless stated otherwise. Submission of the Pricing Narrative will be evaluated on a Pass/Fail basis.

A. Price Proposal Evaluation Period

The City will attempt to evaluate Proposals within thirty (30) days after receipt of Proposals. If City requires additional evaluation time, all Proposers will be notified in writing of the new expected award date.

B. Price Discrepancies

Where applicable, if there is a discrepancy between the Price Proposal and pricing entered by Proposer into the Supplier Portal, the Price Proposal pricing will prevail. In the event of a discrepancy between the unit price and the extended price, the unit price will prevail.

C. Price Lists

If a Price Proposal is based on prices from a catalog or price list, Proposer shall furnish copies of the catalog or price list in electronic format. Proposer shall furnish additional price lists as required. Proposer's pricing narrative, including any proposed price list discounts or markups, must remain firm during the term of the contract.

D. Reserved (Proposing on Separate Items or in Aggregate(s))

E. Application of Discounts for Evaluating Lowest Responsive Proposer

1. LBE Bid Discount/Rating Bonus

Where price is a factor in City's evaluation process, Proposer's price shall be reduced by an amount equal to the applicable LBE Bid Discounts/Rating Bonus. The discount shall be applied solely for the purpose of determining the lowest responsive Price Proposal and shall be in addition to any other discounts, preferences, or adjustments required by City law.

2. Prompt Payment Discounts

Prompt Payment discount (discount for prompt payment) will not be taken into consideration in determining the Lowest Responsive Proposal.

3. Reserved (Anticipated Local Tax Revenue (Admin Code Section 21.32) Discount)

4. Sample Discount Calculation

Evaluations are performed on a pre-tax basis except in rare instances, where tax may be a factor (i.e. One vendor bundles the commodities and services in such a way that the entire amount must be taxed, while another vendor clearly separates commodities and services). Below is an example of how bid discounts and/or rating bonuses are applied to a Price Proposal for commodities and services.

ABC Firm Price Proposal Attributes <ul style="list-style-type: none">• Certified Small or Micro LBE• SF Presence as defined by Admin Code 21.32	Offered Price Proposal (Pre-Tax)	14B LBE Bid Discount (10%)	Evaluated Price when determining Lowest Responsive Proposed Price
Commodities	\$2,000	(\$200)	\$1,735
Services	\$1,000	(\$100)	\$880
Total	\$3,000	(\$300)	\$2,615

IX. WRITTEN PROPOSAL

In addition to submitting documents supporting each Minimum Qualification as required by this Solicitation, Proposers shall also submit a complete Proposal consisting of each item set forth below. *The content of all Proposals must consist of the information specified below, in the order outlined below, in order to be deemed responsive.*

A. Introduction and Executive Summary (up to 2 pages) – 20 Points

Proposer shall provide a letter of introduction and executive summary of your experience and qualifications. The letter must be signed by a person authorized by your firm to obligate your firm to enter into contractual obligations. Submission of the letter will constitute a representation by your firm that your firm is willing and able to enter into an agreement with the San Francisco Arts Commission.

B. Project Team – 30 Points

1. **Team Members.** Provide the role, responsibilities, qualifications, and company affiliation of every individual on the Proposer team who will perform the services outlined in this Solicitation. Discuss each team member's background and experience in order to demonstrate a strong ability to successfully perform the work.

2. **Key/Lead Team Members.** Identify and provide resumes for all staff who will serve as the Key/Lead Team Members so that the Evaluation Panel can evaluate the ability of each team member to successfully fulfill their project roles and complete the scope of services.

C. Past Projects – 50 Points

Proposer must describe at minimum three (3) recent projects previously managed by the Proposer within the last 10 years.

1. **Similar Size and Scope:** Each project must be of the type and scope of services that require the same experience and expertise described under the qualifications listed for each of the Art Services categories.

2. **Project Details:** The descriptions shall include each item listed below.

- a. Project name;
- b. Project scope summary;
- c. Dates when the project was performed;
- d. Project costs;
- e. Proposer's role and responsibilities in the project;
- f. Proposer's performance on delivering the project on schedule and on budget;
- g. Proposer staff members who worked on the project; and
- h. Client name, reference, and contact info.

X. Reserved (ORAL INTERVIEWS)

XI. INSURANCE AND BONDS

A. Insurance

Prior to award, the successful Proposer(s) will be required to furnish evidence of insurance as outlined in Attachment 1, City's Proposed Agreement Terms.

- B. Reserved (Performance Bond)**
- C. Reserved (Fidelity Bond)**
- D. Failure to Provide Insurance and/or Bonds**

Unless otherwise stated, within ten business days of the receipt of a notice of award of a Contract, the Proposer to whom the contract is awarded shall deliver the required bond documents and/or specified insurance certificates and policy endorsements to City. If the Proposer fails or refuses to furnish the required bond and/or insurance within ten days after receiving notice to award a Contract, City may, at its option, determine that the Proposer has abandoned its Proposal. Thereupon the tentative award of said contract to this Proposer shall be canceled and City shall notify the Proposer's surety and collect on the Proposer's bond (or the check accompanying its Proposal shall be deposited with the Treasurer of the City and County of San Francisco for collection) and the proceeds thereof shall be retained by City as partial liquidated damages for failure of such Proposer to properly file the bonds and insurance herein required. The foregoing in no way limits the damages which are recoverable by City whether or not defined elsewhere in the contract documents.

XII. TERMS AND CONDITIONS FOR RECEIPT OF PROPOSALS

A. Cybersecurity Risk Assessment

As part of City's evaluation process, City may engage in Cybersecurity Risk Assessment (CRA). CRA may be performed for each entity manufacturing the product, performing technical functions related to the product's performance, and/or accessing City's networks and systems. Where a prime contractor or reseller plays an active role in each of these activities, CRA may also be required for the prime contractor or reseller.

To conduct a CRA, City may collect as part of this Solicitation process one of the following two reports:

1. **SOC-2 Type 2 Report:** Report on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality or Privacy; or
2. **City's Cyber Risk Assessment Questionnaire:** Proposer's responses to a City's Cyber Risk Assessment Questionnaire.

The above reports may be requested at such time City has selected or is considering a potential Proposer. The reports will be evaluated by the soliciting Department and the City's Department of Technology to identify existing or potential cyber risks to City. Should such risks be identified, City may shall afford a potential Proposer an opportunity to cure such risk within a period of time deemed reasonable to City. Such remediation and continuing compliance shall be subject to City's on-going review and audit through industry-standard methodologies, including but not limited to: on-site visits, review of the entities' cybersecurity program, penetration testing, and/or code reviews.

B. Solicitation Errors and Omissions

Proposers are responsible for reviewing all portions of this Solicitation. Proposers are to promptly notify the City, in writing and to the Solicitation contact person if the Proposer discovers any ambiguity, discrepancy, omission, or other error in the Solicitation. Any such notification should be directed to the City promptly after discovery, but in no event later than the deadline for questions. Modifications and clarifications will be made by Addenda as provided below.

C. Objections to Solicitation Terms

Should a Proposer object on any ground to any provision or legal requirement set forth in this Solicitation, the Proposer must, no later than the deadline for questions, provide written notice to the City setting forth with specificity the grounds for the objection. 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.

D. Solicitation Addenda

The City may modify this Solicitation, prior to the Proposal due date, by issuing an Addendum to the Solicitation, which will be posted on the San Francisco Supplier Portal. Every Addendum will create a new version of the Sourcing Event and Proposers must monitor the event for new versions. **The Proposer shall be responsible for ensuring that its Proposal reflects any and all Solicitation Addenda issued by the City prior to the Proposal due date regardless of when the Proposal is submitted.** Therefore, the City recommends that the Proposer consult the website frequently, including shortly before the Proposal due date, to determine if the Proposer has downloaded all Solicitation Addenda. It is the responsibility of the Proposer to check for any Addenda, Questions and Answers documents, and updates, which may be posted to the subject Solicitation.

THE SUBMITTAL OF A RESPONSE TO THIS SOLICITATION SHALL EXPLICITLY STIPULATE ACCEPTANCE BY THE PROPOSERS OF THE TERMS FOUND IN THIS SOLICITATION, ANY AND ALL ADDENDA ISSUED TO THIS SOLICITATION, AND THE PROPOSED CONTRACT TERMS.

E. Proposal Term

Submission of a Proposal signifies that the proposed products, services and prices are valid for 180 calendar days from the Proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity. At Proposer's election, the Proposal may remain valid beyond the 180-day period in the circumstance of extended negotiations.

F. Revision to Proposal

A Proposer may revise a Proposal on the Proposer's own initiative at any time before the deadline for submission of Proposals. The Proposer must submit the revised Proposal in the same manner as the original. A revised Proposal must be received on or before, but no later than the Proposal due date and time. In no case will a statement of intent to submit a revised Proposal, or commencement of a revision process, extend the Proposal deadline for any Proposer. At any time during the Proposal evaluation process, the City may require a Proposer to provide oral or written clarification of its Proposal. The City reserves the right to make an award without further clarifications of Proposals received.

G. Proposal Errors and Omissions

Failure by the City to object to an error, omission, or deviation in the Proposal will in no way modify the Solicitation or excuse the Proposer from full compliance with the specifications of this Solicitation or any contract awarded pursuant to this Solicitation.

H. Financial Responsibility

The City accepts no financial responsibility for any costs incurred by a Proposer in responding to this Solicitation. Proposers acknowledge and agree that their submissions in

response to this Solicitation will become the property of the City and may be used by the City in any way deemed appropriate.

I. Proposer's Obligations under the Campaign Reform Ordinance

If a contract awarded pursuant to this Solicitation has (A) a value of \$100,000 or more in a fiscal year and (B) requires the approval of an elected City official, Proposers are hereby advised:

1. Submission of a Proposal in response to this Solicitation may subject the Proposers to restrictions under Campaign and Governmental Conduct Code Section 1.126, which prohibits City contractors, Proposers, and their affiliates from making political contributions to certain City elective officers and candidates; and
2. Before submitting a Proposal in response to this Solicitation, Proposers are required to notify their affiliates and subcontractors listed in the awarded contract or Proposal of the political contribution restrictions set forth in Campaign and Governmental Conduct Code section 1.126.

This restriction applies to the party seeking the contract, the party's board of directors, chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest greater than ten percent, and any political committees controlled or sponsored by the party, as well as any subcontractors listed in the awarded contract or Proposal. The law both prohibits the donor from giving contributions and prohibits the elected official from soliciting or accepting them.

The people and entities listed in the preceding paragraph may not make a campaign contribution to the elected official at any time from the submission of a Proposal for a contract until either: (1) negotiations are terminated and no contract is awarded; or (2) twelve months have elapsed since the award of the contract.

A violation of Section 1.126 may result in criminal, civil, or administrative penalties. For further information, Proposers should contact the San Francisco Ethics Commission at [\(415\) 252-3100](tel:4152523100) or go to <https://sfethics.org/compliance/city-officers/city-contracts/city-departments/notifying-bidders-and-potential-bidders>.

J. Reservations of Rights by the City

The issuance of this Solicitation does not constitute a guarantee by the City that a contract will be awarded or executed by the City. The City expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, Proposal, or Proposal procedure;
2. Reject any or all Proposals;
3. Reissue the Solicitation;
4. Prior to submission deadline for Proposals, 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 Solicitation, or the requirements for contents or format of the Proposals;
5. Procure any materials, equipment or services specified in this Solicitation by any other means; or

6. Determine that the subject goods or services are no longer necessary.

K. No Waiver

No waiver by the City of any provision of this Solicitation shall be implied from the City's failure to recognize or take action on account of a Proposer's failure to comply with this Solicitation.

L. Other

1. The City may make such investigation, as it deems necessary, prior to the award of this contract to determine the conditions under which the goods are to be delivered or the work is to be performed. Factors considered by the City shall include, but not be limited to:

- a. Any condition set forth in this Solicitation;
- b. Adequacy of Proposer's plant facilities and/or equipment, location and personnel location to properly perform all services called for under the Purchase Order; and
- c. Delivery time(s).

2. City reserves the right to inspect an awarded Proposer's place of business prior to award of and/or at any time during the contract term (or any extension thereof) to aid City in determining an awarded Proposer's capabilities and qualifications.

3. Failure to timely execute a contract, or to furnish any and all insurance certificates and policy endorsements, 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 Proposer and may proceed against the original selectee for damages.

4. City reserves the right to reject any Proposal on which the information submitted by Proposer fails to satisfy City and/or if Proposer is unable to supply the information and documentation required by this Solicitation within the period of time requested.

5. Any false statements made by a Proposer or any related communication/clarification may result in the disqualification of its Proposal from receiving further evaluation and a contract award.

Sourcing Event 0000007216
Attachment 1
City's Proposed Agreement Terms

**City and County of San Francisco
Arts Commission
401 Van Ness, Suite 325
San Francisco, California 94102-4685**

**Agreement between the City and County of San Francisco and
[Insert name of contractor]**

This Agreement is made this [insert day] day of [insert month], [insert year], in the City and County of San Francisco (“City”), State of California, by and between [name and address of Contractor] (“Contractor”) and City.

Recitals

WHEREAS, the Arts Commission (“Department”) wishes the Contractor to perform [Insert a description of the services] services, as requested by the Arts Commission for the Civic Art Collection and in accordance with Appendix A; and,

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through [specify the procurement vehicle such as RFP or RFQ (if RFQ, convert all references to RFP to RFQ) and date issued, or state the exception to competitive procurement and date granted] a Request for Proposal (“RFP”) issued on [insert date], in which City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, the Local Business Enterprise (“LBE”) subcontracting participation requirement for this Agreement is [insert LBE subcontracting percentage number] %; and

WHEREAS, there is no Local Business Enterprise (“LBE”) subcontracting participation requirement for this Agreement; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the Services required by City as set forth under this Agreement; and

WHEREAS, the Arts Commission has authorized the Director of Cultural of Affairs to enter into the agreement as per Resolution #0507-12-142; and

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number 4077-12/13 on MARCH 4, 2013, and as modified on July 21, 2014, and July, 18, 2016, June 29, 2021; and

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

1.1 “Agreement” means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements specifically incorporated into this Agreement by reference as provided herein.

1.2 “City” or “the City” means the City and County of San Francisco, a municipal corporation, acting by and through both its Director of the Office of Contract Administration or the Director’s designated agent, hereinafter referred to as “Purchasing” and Arts Commission”

1.3 “City Data” means that data as described in Article 13 of this Agreement which includes, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of the City in connection with this Agreement. City Data includes, without limitation, Confidential Information.

1.4 “CMD” means the Contract Monitoring Division of the City.

1.5 “Confidential Information” means confidential City information including, but not limited to, personally-identifiable information (“PII”), protected health information (“PHI”), or individual financial information (collectively, “Proprietary or Confidential Information”) that is subject to local, state or federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M).

1.6 “Contractor” or “Consultant” means [\[insert name and address of contractor\]](#).

1.7 “Deliverables” means Contractor’s work product resulting from the Services provided by Contractor to City during the course of Contractor’s performance of the Agreement, including without limitation, the work product described in the “Scope of Services” attached as Appendix A.

1.8 “Mandatory City Requirements” means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws that impose specific duties and obligations upon Contractor.

1.9 “Party” and “Parties” means the City and Contractor either collectively or individually.

1.10 “Services” means the work performed by Contractor under this Agreement as specifically described in the “Scope of Services” attached as Appendix A, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

Article 2 Term of the Agreement

2.1 The term of this Agreement shall commence on [insert Contractor's start date] and expire on [insert expiration date], unless earlier terminated as otherwise provided herein.

2.2 The City has [number of options] options to renew the Agreement for a period of [one year or other time span] each. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

Article 3 Financial Matters

3.1 **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.** This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3.2 **Guaranteed Maximum Costs.** The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 Compensation.

3.3.1 **Calculation of Charges.** Contractor shall provide an invoice to the City on a monthly basis for goods delivered and/or Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for goods and/or Services identified in the invoice that the City, in his or her sole discretion, concludes has been satisfactorily performed. In no event shall the amount of this Agreement exceed [insert whole dollar amount in numbers and words -- no

pennies and no “.00”]. The breakdown of charges associated with this Agreement appears in Appendix B, “Calculation of Charges.” A portion of payment may be withheld until conclusion of the Agreement if agreed to by both Parties as retainage, described in Appendix B. In no event shall City be liable for interest or late charges for any late payments. City will not honor minimum service order charges for any services covered by this Agreement.

3.3.2 Payment Limited to Satisfactory Services and Delivery of Goods.

Contractor is not entitled to any payments from City until City approves the goods and/or Services delivered pursuant to this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory delivery of goods and/or Services even if the unsatisfactory character may not have been apparent or detected at the time such payment was made. Goods and/or Services delivered pursuant to this Agreement that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay at no cost to the City.

3.3.3 Withhold Payments. If Contractor fails to provide goods and/or Services in accordance with Contractor’s obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City’s withholding of payments as provided herein.

3.3.4 Invoice Format. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City and include a unique invoice number and a specific invoice date. Payment shall be made by City as specified in Section 3.3.7, or in such alternate manner as the Parties have mutually agreed upon in writing. All invoices must show the PeopleSoft Purchase Order ID Number, PeopleSoft Supplier Name and ID, Item numbers (if applicable), complete description of goods delivered or Services performed, sales/use tax (if applicable), contract payment terms and contract price. Invoices that do not include all required information or contain inaccurate information will not be processed for payment.

3.3.5 Payment Terms.

(a) **Payment Due Date:** Unless City notifies the Contractor that a dispute exists, Payment shall be made within [Enter number of days, generally ≥ 30] calendar days, measured from (1) the delivery of goods and/or the rendering of services or (2) the date of receipt of the invoice, whichever is later. Payment is deemed to be made on the date on which City has issued a check to Contractor or, if Contractor has agreed to electronic payment, the date on which City has posted electronic payment to Contractor.

(b) **Reserved. (Payment Discount Terms)**

(c) No additional charge shall accrue against City in the event City does not make payment within any time specified by Contractor.

3.3.6 Reserved. (LBE Payment and Utilization Tracking System)

3.3.7 Getting paid by the City for Goods and/or Services.

(a) The City and County of San Francisco utilizes the Paymode-X® service offered by Bank of America Merrill Lynch to pay City contractors. Contractor must

sign up to receive electronic payments to be paid under this Agreement. To sign up for electronic payments, visit http://portal.paymode.com/city_countyofsanfrancisco.

(b) At the option of the City, Contractor may be required to submit invoices directly in the City's financial and procurement system (PeopleSoft) via eSettlement. Refer to <https://sfcitypartner.sfgov.org/pages/training.aspx> for more information on eSettlement. For access to PeopleSoft eSettlement, submit a request through sfemployeeportalsupport@sfgov.org.

3.3.8 Grant Funded Contracts.

(a) **Disallowance.** If Contractor requests or receives payment from City for Services, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other agreement between Contractor and City.

(b) **Grant Terms.** The funding for this Agreement is provided in full or in part by a Federal or State Grant to the City. As part of the terms of receiving the funds, the City is required to incorporate some of the terms into this Agreement. The incorporated terms may be found in Appendix [choose C/D/E etc.], "Grant Terms." To the extent that any Grant Term is inconsistent with any other provisions of this Agreement such that Contractor is unable to comply with both the Grant Term and the other provision(s), the Grant Term shall apply.

(c) Contractor shall insert each Grant Term into each lower tier subcontract. Contractor is responsible for compliance with the Grant Terms by any subcontractor, lower-tier subcontractor or service provider.

3.4 Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.5 Submitting False Claims. The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false

claim to the City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.6 Payment of Prevailing Wages

3.6.1 Covered Services. Services to be performed by Contractor under this Agreement may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the Administrative Code or Section 21C [Miscellaneous Prevailing Wage Requirements] (collectively, “Covered Services”). The provisions of Section 6.22(e) and 21C of the Administrative Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Contractor and its subcontractors.

3.6.2 Wage Rates. The latest prevailing wage rates for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations, as such prevailing wage rates may be changed during the term of this Agreement, are hereby incorporated as provisions of this Agreement. Copies of the prevailing wage rates as fixed and determined by the Board of Supervisors are available from the Office of Labor Standards and Enforcement (“OLSE”) and on the Internet at <http://www.dir.ca.gov/DLSR/PWD> and <http://sfgov.org/olse/prevailing-wage>. Contractor agrees that it shall pay not less than the prevailing wage rates, as fixed and determined by the Board, to all workers employed by Contractor who perform Covered Services under this Agreement.

3.6.3 Subcontract Requirements. As required by Section 6.22(e)(5) of the Administrative Code, Contractor shall insert in every subcontract or other arrangement, which it may make for the performance of Covered Services under this Agreement, a provision that said subcontractor shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.

3.6.4 Posted Notices. As required by Section 1771.4 of the California Labor Code, Contractor shall post job site notices prescribed by the California Department of Industrial Relations (“DIR”) at all job sites where services covered by Chapter 6.22 are to be performed.

3.6.5 Payroll Records. As required by Section 6.22(e)(6) of the Administrative Code and Section 1776 of the California Labor Code, Contractor shall keep or cause to be kept complete and accurate payroll records for all trade workers performing Covered Services. Such

records shall include the name, address and social security number of each worker who provided Covered Services on the project, including apprentices, his or her classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract. All such records shall at all times be available for inspection of and examination by the City and its authorized representatives and the DIR.

3.6.6 Certified Payrolls. Certified payrolls shall be prepared pursuant to Administrative Code Section 6.22(e)(6) and California Labor Code Section 1776 for the period involved for all employees, including those of subcontractors, who performed labor in connection with Covered Services. Contractor and each subcontractor performing Covered Services shall submit certified payrolls to the City and to the DIR electronically. Contractor shall submit payrolls to the City via the reporting system selected by the City. The DIR will specify how to submit certified payrolls to it. The City will provide basic training in the use of the reporting system at a scheduled training session. Contractor and all subcontractors that will perform Covered Services must attend the training session. Contractor and applicable subcontractors shall comply with electronic certified payroll requirements (including training) at no additional cost to the City.

3.6.7 Compliance Monitoring. Covered Services to be performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the DIR and /or the OLSE. Contractor and any subcontractors performing Covered Services will cooperate fully with the DIR and/or the OLSE and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements, and agrees to take the specific steps and actions as required by Section 6.22(e)(7) of the Administrative Code. Steps and actions include but are not limited to requirements that: (i) the Contractor will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on Public Works Contractor by the Charter and Chapter 6 of the San Francisco Administrative Code; (ii) the Contractor agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, employee time sheets, inspection logs, payroll records and employee paychecks; (iii) the contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (iv) the Contractor shall prominently post at each job-site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (v) that the Labor Standards Enforcement Officer may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Prevailing Wage and other labor standards imposed by the Charter and this Chapter on Public Works Contractors. Failure to comply with these requirements may

result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(g), as amended from time to time.

3.6.8 Remedies. Should Contractor, or any subcontractor who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Contract, subcontract or other arrangement for the Covered Services, the general prevailing rate of wages as herein specified, Contractor shall forfeit, and in the case of any subcontractor so failing or neglecting to pay said wage, Contractor and the subcontractor shall jointly and severally forfeit, back wages due plus the penalties set forth in Administrative Code Section 6.22 (e) and/or California Labor Code Section 1775. The City, when certifying any payment which may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture.

Article 4 Services and Resources

4.1 Services Contractor Agrees to Perform. Contractor agrees to perform the Services stated in Appendix A, "Scope of Services." Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 Qualified Personnel. Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.3 Subcontracting.

4.3.1 Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

4.3.2 City's execution of this Agreement constitutes its approval of the subcontractors listed below.

[Insert names of desired approved subcontractors here]

4.4 Independent Contractor; Payment of Employment Taxes and Other Expenses.

4.4.1 Independent Contractor. For the purposes of this Section 4.4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or

employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this Section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

4.4.2 Payment of Employment Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to this Section 4.4 shall be solely limited to the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all

claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this Section.

4.5 Assignment. The Services to be performed by Contractor are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Contractor, or, where the Contractor is a joint venture, a joint venture partner, (collectively referred to as an "Assignment") unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The City's approval of any such Assignment is subject to the Contractor demonstrating to City's reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise, of performing each of Contractor's obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Contractor or a sale or transfer of substantially all of the assets of Contractor shall be deemed an Assignment for purposes of this Agreement. Contractor shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.

4.6 Warranty. Contractor warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

4.7 Liquidated Damages. By entering into this Agreement, Contractor agrees that in the event the Services are delayed beyond the scheduled milestones and timelines as provided in Appendix A, City will suffer actual damages that will be impractical or extremely difficult to determine. Contractor agrees that the sum of **[insert whole dollar amount in words and numbers -- no pennies and no ".00"]** per calendar day for each day of delay beyond scheduled milestones and timelines is not a penalty, but is a reasonable estimate of the loss that City will incur based on the delay, established in light of the circumstances existing at the time this Agreement was awarded. City may deduct a sum representing the liquidated damages from any money due to Contractor under this Agreement or any other contract between City and Contractor. Such deductions shall not be considered a penalty, but rather agreed upon monetary damages sustained by City because of Contractor's failure to furnish deliverables to City within the time fixed or such extensions of time permitted in writing by City.

4.8 Bonding Requirements. The Contractor is required to furnish a performance bond on the form in a form acceptable to the City, in a sum of not less than **[insert bonding level]** of the annual amount of the contract to guarantee the faithful performance of this contract. The bond must be approved as to sufficiency and qualifications of the surety by the Controller.

Article 5 Insurance and Indemnity

5.1 Insurance.

5.1.1 **Required Coverages.** Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. **Policy must include Abuse and Molestation coverage.**

(b) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(c) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than **\$1,000,000** each accident, injury, or illness.

(d) Professional Liability Insurance, applicable to Contractor's profession, with limits not less than **\$1,000,000** for each claim with respect to negligent acts, errors or omissions in connection with the Services.

(e) Reserved. (Technology Errors and Omissions Coverage)

(f) Reserved. (Cyber and Privacy Coverage)

(g) Pollution Liability Insurance applicable to Contractor's activities and responsibilities under this Agreement with limits not less than **\$X,000,000** each occurrence combined single limit, including coverage for on-site third party claims for bodily injury and property damage.

(h) Risk of Loss Insurance, as requested.

5.1.2 Additional Insured Endorsements

(a) The Commercial General Liability policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) The Commercial Automobile Liability Insurance policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(c) The Commercial Automobile Liability Insurance policy must be endorsed to include (i) Auto Pollution Additional Insured Endorsement naming as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees; and (ii) Form MCS-90 for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980.

5.1.3 Waiver of Subrogation Endorsements

(a) The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

5.1.4 Primary Insurance Endorsements

(a) The Commercial General Liability policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

(b) The Commercial Automobile Liability Insurance policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

(c) The Pollution Liability Insurance policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

5.1.5 Other Insurance Requirements

(a) Thirty (30) days' advance written notice shall be provided to the City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment for which no less than ten (10) days' notice shall be provided to City. Notices shall be sent to the City address set forth in Section 11.1 entitled "Notices to the Parties."

(b) Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

(c) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(d) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(e) Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above.

Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

(f) If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as additional insureds.

5.2 Indemnification. Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors, or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

Article 6 Liability of the Parties

6.1 Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS

BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

6.2 Liability for Use of Equipment. City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

6.3 Liability for Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions.

Article 7 Payment of Taxes

7.1 Contractor to Pay All Taxes. Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor agrees to promptly provide information requested by the City to verify Contractor's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

7.2 Possessory Interest Taxes. Contractor acknowledges that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

7.2.1 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.

7.2.2 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code Section 480.5, as amended from time to time, and any successor provision.

7.2.3 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code Section 64, as amended from time to time). Contractor accordingly agrees on behalf

of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

7.2.4 Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

7.3 **Withholding.** Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

Article 8 Termination and Default

8.1 Termination for Convenience

8.1.1 City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions may include any or all of the following, without limitation:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.

(f) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

8.1.3 Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(a) The reasonable cost to Contractor, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for Services. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(d) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the Services or other work.

8.1.4 In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically listed in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under Section 8.1.3.

8.1.5 In arriving at the amount due to Contractor under this Section, City may deduct: (i) all payments previously made by City for Services covered by Contractor's final invoice; (ii) any claim which City may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

8.1.6 City's payment obligation under this Section shall survive termination of this Agreement.

8.2 Termination for Default; Remedies.

8.2.1 Each of the following shall constitute an immediate event of default (“Event of Default”) under this Agreement:

(a) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

3.5	Submitting False Claims.	10.10	Alcohol and Drug-Free Workplace
4.5	Assignment	10.13	Working with Minors
Article 5	Insurance and Indemnity	11.10	Compliance with Laws
Article 7	Payment of Taxes	Article 13	Data and Security

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default is not cured within ten days after written notice thereof from City to Contractor. If Contractor defaults a second time in the same manner as a prior default cured by Contractor, City may in its sole discretion immediately terminate the Agreement for default or grant an additional period not to exceed five days for Contractor to cure the default.

(c) Contractor (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors’ relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor’s property; or (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor’s property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors’ relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Contractor.

8.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from

any amounts due to Contractor under this Agreement or any other agreement between City and Contractor: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City. This Section 8.2.2 shall survive termination of this Agreement.

8.2.3 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

8.3 **Non-Waiver of Rights.** The omission by either Party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other Party at the time designated, shall not be a waiver of any such default or right to which the Party is entitled, nor shall it in any way affect the right of the Party to enforce such provisions thereafter.

8.4 **Rights and Duties upon Termination or Expiration.**

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
3.3.7(a)	Grant Funded Contracts – Disallowance	9.2	Works for Hire
3.4	Audit and Inspection of Records	11.6	Dispute Resolution Procedure
3.5	Submitting False Claims	11.7	Agreement Made in California; Venue
Article 5	Insurance and Indemnity	11.8	Construction
6.1	Liability of City	11.9	Entire Agreement
6.3	Liability for Incidental and Consequential Damages	11.10	Compliance with Laws
Article 7	Payment of Taxes	11.11	Severability
8.1.6	Payment Obligation	Article 13	Data and Security

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in

progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City.

Article 9 Rights In Deliverables

9.1 Ownership of Results. Any interest of Contractor or its subcontractors, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors for the purposes of this Agreement, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

9.2 Works for Hire. If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 10 Additional Requirements Incorporated by Reference

10.1 Laws Incorporated by Reference. The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco_ca/ .

10.2 Conflict of Interest. By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

10.3 Prohibition on Use of Public Funds for Political Activity. In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

10.4 Consideration of Salary History. Contractor shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or “Pay Parity Act.” Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee’s salary history without that employee’s authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Contractor is required to comply with all of the applicable provisions of 12K, irrespective of the listing of obligations in this Section.

10.5 Nondiscrimination Requirements.

10.5.1 Nondiscrimination in Contracts. Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

10.5.2 Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Contractor does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance. Contractor shall comply with all applicable provisions of Chapter 14B (“LBE Ordinance”). Contractor is subject to the enforcement and penalty provisions in Chapter 14B.

10.7 Minimum Compensation Ordinance. If Administrative Code Chapter 12P applies to this contract, Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P, including a minimum hourly gross compensation, compensated time off, and uncompensated time off.

Contractor is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at <http://sfgov.org/olse/mco>. Contractor is required to comply with all of the applicable provisions of 12P, irrespective of the listing of obligations in this Section. By signing and executing this Agreement, Contractor certifies that it complies with Chapter 12P.

10.8 Health Care Accountability Ordinance. If Administrative Code Chapter 12Q applies to this contract, Contractor shall comply with the requirements of Chapter 12Q. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission. Information about and the text of the Chapter 12Q, as well as the Health Commission's minimum standards, is available on the web at <http://sfgov.org/olse/hcao>. Contractor is subject to the enforcement and penalty provisions in Chapter 12Q. Any Subcontract entered into by Contractor shall require any Subcontractor with 20 or more employees to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section.

10.9 First Source Hiring Program. Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

10.10 Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

Contractor agrees in the performance of this Agreement to maintain a drug-free workplace by notifying employees that unlawful drug use is prohibited and specifying what actions will be taken against employees for violations; establishing an on-going drug-free awareness program that includes employee notification and, as appropriate, rehabilitation. Contractor can comply with this requirement by implementing a drug-free workplace program that complies with the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. § 701) [\[or California Drug-Free Workplace Act of 1990 Cal. Gov. Code, § 8350 et seq., if state funds involved\]](#).

10.11 Limitations on Contributions. By executing this Agreement, Contractor acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or

loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

10.12 Slavery Era Disclosure. Contractor shall comply with San Francisco Administrative Code Chapter 12Y, San Francisco Slavery Era Disclosure Ordinance, including but not limited to Contractor's affirmative duty to research and disclose evidence of Contractor, its parent or subsidiary entity, or its Predecessor Company's Participation in the Slave Trade or receipt of Profits from the Slave Trade. Contractor is subject to the enforcement and penalty provisions in Chapter 12Y.

10.13 Working with Minors. In accordance with California Public Resources Code Section 5164, if Contractor, or any subcontractor, is providing services at a City park, playground, recreational center or beach, Contractor shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position in a position having supervisory or disciplinary authority over a minor if that person has been convicted of any offense listed in Public Resources Code Section 5164. In addition, if Contractor, or any subcontractor, is providing services to the City involving the supervision or discipline of minors or where Contractor, or any subcontractor, will be working with minors in an unaccompanied setting on more than an incidental or occasional basis, Contractor and any subcontractor shall comply with any and all applicable requirements under federal or state law mandating criminal history screening for such positions and/or prohibiting employment of certain persons including but not limited to California Penal Code Section 290.95. In the event of a conflict between this Section and Section 10.14, "Consideration of Criminal History in Hiring and Employment Decisions," of this Agreement, this Section shall control.

10.14 Consideration of Criminal History in Hiring and Employment Decisions.

10.14.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web

at <http://sfgov.org/olse/fco>. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.14.2 The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

10.15 **Reserved. (Public Access to Nonprofit Records and Meetings)**

10.16 **Reserved. (Food Service Waste Reduction Requirements)**

10.17 **Reserved. (Distribution of Beverages and Water)**

10.18 **Tropical Hardwood and Virgin Redwood Ban.** Pursuant to San Francisco Environment Code Section 804(b), the City urges Contractor not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

10.18.1 Contractor shall comply with San Francisco Environment Code Chapter 8, which provides that except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Contractor shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products. Contractor is subject to the penalty and enforcement provisions of Chapter 8.

10.19 **Preservative Treated Wood Products.** Contractor shall comply with the provisions of San Francisco Environment Code Chapter 13, which requires that each Contractor purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department of the Environment pursuant to Section 1302 of Chapter 13, unless otherwise granted an exemption by the terms of that Chapter.

Article 11 General Provisions

11.1 **Notices to the Parties.** Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: San Francisco Arts Commission
Attn: Jenn Doyle Crane, Project Manager
401 Van Ness, Suite 325

San Francisco, CA 94102
Email: jennifer.crane@sfgov.org

To Contractor: **[insert name of contractor, mailing address, and e-mail address]**

Any notice of default must be sent by registered mail or other trackable overnight mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 Compliance with Americans with Disabilities Act. Contractor shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 Incorporation of Recitals. The matters recited above are hereby incorporated into and made part of this Agreement.

11.4 Sunshine Ordinance. Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

11.5 Modification of this Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement. **[If the contract amount is \$50,000 or more then add the following sentence:]** Contractor shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

11.6 Dispute Resolution Procedure.

11.6.1 Negotiation; Alternative Dispute Resolution. The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Contractor may submit to the Contracting Officer a written request for administrative review and documentation of the Contractor's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the Parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the

performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this Section.

11.6.2 Government Code Claim Requirement. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

11.7 Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

11.8 Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

11.9 Entire Agreement. This contract sets forth the entire Agreement between the Parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, "Modification of this Agreement."

11.10 Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

11.11 Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (i) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (ii) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable.

11.12 Cooperative Drafting. This Agreement has been drafted through a cooperative effort of City and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

11.13 Order of Precedence. Contractor agrees to perform the services described below in accordance with the terms and conditions of this Agreement, implementing task orders, the RFP, and Contractor's proposal dated [\[Insert Date of Proposal\]](#). The RFP and Contractor's proposal are incorporated by reference as though fully set forth herein. Should there be a conflict of terms or conditions, this Agreement and any implementing task orders shall control

over the RFP and the Contractor's proposal. If the Appendices to this Agreement include any standard printed terms from the Contractor, Contractor agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the City's terms and Contractor's printed terms attached, the City's terms shall take precedence, followed by the procurement issued by the department, Contractor's proposal, and Contractor's printed terms, respectively.

11.14 Notification of Legal Requests. Contractor shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("Legal Requests") related to all data given to Contractor by City in the performance of this Agreement ("City Data" or "Data"), or which in any way might reasonably require access to City's Data, and in no event later than 24 hours after it receives the request. Contractor shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve City Data in accordance with the City's instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored.

Article 12 Department Specific Terms

12.1 Reserved.

Article 13 Data and Security

13.1 Nondisclosure of Private, Proprietary or Confidential Information.

13.1.1 Protection of Private Information. If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

13.1.2 Confidential Information. In the performance of Services, Contractor may have access to, or collect on City's behalf, City's proprietary or Confidential Information, the disclosure of which to third parties may damage City. If City discloses proprietary or Confidential Information to Contractor, or Contractor collects such information on City's behalf, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or Confidential Information.

13.2 Payment Card Industry ("PCI") Requirements. Contractors providing services and products that handle, transmit or store cardholder data, are subject to the following requirements:

13.2.1 Applications shall be compliant with the Payment Application Data Security Standard (PA-DSS) and validated by a Payment Application Qualified Security Assessor (PA-QSA). A Contractor whose application has achieved PA-DSS certification must then be listed on the PCI Councils list of PA-DSS approved and validated payment applications.

13.2.2 Gateway providers shall have appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as service providers (<https://www.pcisecuritystandards.org/index.shtml>). Compliance with the PCI DSS shall be achieved through a third party audit process. The Contractor shall comply with Visa Cardholder Information Security Program (CISP) and MasterCard Site Data Protection (SDP) programs.

13.2.3 For any Contractor that processes PIN Debit Cards, payment card devices supplied by Contractor shall be validated against the PCI Council PIN Transaction Security (PTS) program.

13.2.4 For items 13.2.1 to 13.2.3 above, Contractor shall provide a letter from their qualified security assessor (QSA) affirming their compliance and current PCI or PTS compliance certificate.

13.2.5 Contractor shall be responsible for furnishing City with an updated PCI compliance certificate 30 calendar days prior to its expiration.

13.2.6 Bank Accounts. Collections that represent funds belonging to the City and County of San Francisco shall be deposited, without detour to a third party's bank account, into a City and County of San Francisco bank account designated by the Office of the Treasurer and Tax Collector.

13.3 Reserved. (Business Associate Agreement)

13.4 **Ownership of City Data.** The Parties agree that as between them, all rights, including all intellectual property rights, in and to the City Data and any derivative works of the City Data is the exclusive property of the City.

13.5 Management of City Data and Confidential Information.

13.5.1 **Use of City Data and Confidential Information.** Contractor agrees to hold City's Data received from, or collected on behalf of, the City, in strictest confidence. Contractor shall not use or disclose City's Data except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City's Data outside the United States is subject to prior written authorization by the City. Access to City's Data must be strictly controlled and limited to Contractor's staff assigned to this project on a need-to-know basis only. Contractor is provided a limited non-exclusive license to use the City Data solely for performing its obligations under the Agreement and not for Contractor's own purposes or later use. Nothing herein shall be construed to confer any license or right to the City Data or Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data by Contractor, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for commercial purposes,

advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

13.5.2 Disposition of Confidential Information. Upon request of City or termination or expiration of this Agreement, and pursuant to any document retention period required by this Agreement, Contractor shall promptly, but in no event later than thirty (30) calendar days, return all data given to or collected by Contractor on City's behalf, which includes all original media. Once Contractor has received written confirmation from City that City's Data has been successfully transferred to City, Contractor shall within ten (10) business days clear or purge all City Data from its servers, any hosted environment Contractor has used in performance of this Agreement, including its subcontractors environment(s), work stations that were used to process the data or for production of the data, and any other work files stored by Contractor in whatever medium. Contractor shall provide City with written certification that such purge occurred within five (5) business days of the purge. Secure disposal shall be accomplished by "clearing," "purging" or "physical destruction," in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88 or most current industry standard.

Article 14 MacBride And Signature

14.1 MacBride Principles - Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

[company name]

Ralph Remington
Director of Cultural Affairs
San Francisco Arts Commission

[name of authorized representative]
[title]
[optional: address]
[optional: city, state, ZIP]

Approved as to Form:

City Supplier Number: [Supplier Number]

David Chiu
City Attorney

By: _____
Lauren Curry
Deputy City Attorney

Approval:

[Note: No signature required from Office of Contract Administration/Purchaser per S.F. Admin. Code Section 21.04(a) (Direct Purchasing Authority of Departments) for "Purchases of works of art or artifacts for museums or to display in public areas, specialized art restoration, insuring, transport, storage, curation and conservation services."]

Appendices

- A: Scope of Services
- B: Calculation of Charges

Appendix A Scope of Services

1. Scope of Services

- A. General: Contractor shall provide the following fine art conservation and technician services for Artworks being commissioned and acquired by and in the care of the City and County of San Francisco on an as needed basis as requested by the Commission and defined in Chapter 21 of the San Francisco Administrative Code. Services might include, but are not limited to: providing specialized consulting, performing scientific investigations on the condition of artworks; providing reports and recommendations in preparing conservation/restoration work project specifications; on-site cleaning, graffiti removal, conservation and restoration of the City's monuments and sculptures in various media, cleaning and conservation of paintings, murals; conservation of photographs, prints, and other works on paper; repair and /or replace missing or damaged portions of sculptures and monuments; surface cleaning, waxing and applying anti-graffiti coatings on sculptures and monuments, installation and de-installation of artwork; design and fabrication of pedestals and cases and other artwork elements. In addition to historical conservation projects, consulting for new artwork commissions, condition assessments, and conservation treatment for various types of artworks, as necessary. All or some of the work may include the use of equipment such as ladders, lifts and scaffolding. Site visits may be necessary for Work estimates and proposals. Services defined as a Public Work or Improvement under Section 6.1 of the S.F. Administrative Code are subject to a separate agreement.

Contractor shall not perform any Work unless requested and authorized by the Commission, and Commission has approved in writing the Contractor's written Proposal for the Work prior to the Contractor commencing Work.

Because services will be requested by the Commission on an as-needed basis, Contractor shall submit a written Proposal for the requested Work. The Proposal shall include:

1. Scope of Services describing the proposed activities, number of personnel and any materials and/or equipment used for the Work.
2. Proposed Budget with line item costs for all items listed in the scope of Work. The proposed budget represents the guaranteed maximum cost for the Work.
3. Schedule for the Work indicating start date, end date and number of working days.

Changes to the approved Proposal must be submitted in writing as a Change Order Request to the Commission including the rationale for the requested change and detailed additional scope of Work, additional cost and/or change in schedule. Change Order Requests must be approved in writing by the Commission prior to the Contractor commencing with the proposed Change Order Work.

Approved Proposals and Change Orders are hereby incorporated into this Agreement by reference, and work is subject to all requirements herein.

Final Approval of the work conducted will be contingent upon a Final Inspection by the Commission unless noted otherwise.

- B. Contractor shall perform work in accordance with sensitivity to the artistic integrity and cultural impact of artwork, and in accordance with any design or Construction Documents relative to the work.
- C. Transportation: Contractor shall deliver prepare and protect artwork for transportation in accordance with industry standards and provide a written list of workers, vehicles, and equipment that will be involved in the transportation of the Artwork. Evidence of insurance of the Artwork during transportation must be provided by the Contractor or the individual hired to transport the Artwork.
- D. Installation or de-installation: Contractor shall deliver a Work Plan for installation or de-installation indicating the staging and sequence of all aspects of installation or work. The plan must include a detailed description of the estimated duration of the work, the equipment to be used, and all workers who will be on site to assist. Liability Insurance must be provided for all persons contracted by the Contractor or his subcontractor to perform any work on site.
- E. The project engineer will verify in writing that all required inspections were conducted, ensuring the preparation of the artwork attachment or mounting system for installation was implemented by Contractor in accordance with the signed stamped structural engineering drawings. Contractor will comply with such requirements and allow for and coordinate the scheduling of any and all required inspection(s) and provide additional documentation as required by the project engineer, the site engineer of record or Arts Commission.
- F. Contractor shall not transport Artwork or equipment until access to the Site has been approved and scheduled by the Commission in coordination with the Client. Contractor shall prepare the Artwork for transportation in accordance with customary industry standards for the transportation of Artwork.
- G. Contractor shall consult with the Commission, other city representatives and contractors during installation or de-installation of the Artwork. Contractor shall coordinate Contractor's activities on site with the Commission staff and will include, as necessary: the Coordination of Permits from Department of Public Works ("DPW"); and site logistics with Recreation and Parks Department ("RPD").
- H. Contractor shall deliver subcontracts of all or any Work pursuant to Paragraph 29, as well as documentation establishing that all employees, subcontractors and suppliers have been paid in a timely manner (collectively, "Subcontracts and Documentation").

- I. Contractor is responsible for providing scaffolding, forklift, and any and all equipment needed for installation, de-installation, or other required work relative to the artwork.. Equipment must not exceed tolerance of floor.. Contractor shall supply all hardware and authorized personnel necessary for installation.
- J. Contractor is responsible for repairing or paying for the repair of any damage to the Site, the Artwork, or the work of other Contractors to the extent such damage is caused by Contractor, Contractor's agents, employees, subcontractors or Contractors.
- K. Contractor shall clean the site of debris at the end of each work day and at the completion of the work, Contractor shall clean and restore the Site and the work area to the condition it was in at the beginning of the Contractor's work on the site.
- L. Approval of Site: The preparation of the Site for installation of the Artwork shall be the responsibility of the General Contractor in accordance with a separate written agreement between City and the General Contractor. Where Contractor's Work is associated with that of the General Contractor, or any other Contractor engaged by the City to do work on the Site, Contractor shall examine the work of such other Contractor and report in writing to the Commission any visible defect or condition preventing the proper execution of Contractor's Work. If Contractor proceeds without giving notice, the Contractor shall be held to have approved the work or material and the existing conditions, and shall be responsible for any defects in Contractor's own Work consequent thereon, and shall not be relieved of any obligation or any guarantee because of any such condition or imperfection. To the extent that any part of the Contractor's Work is to interface with work performed or installed by the General Contractor or other Contractor engaged by City to perform work on the Site, Contractor shall inspect and measure the in-place work and promptly report to the City any defect in such in-place work that will impede or increase the cost of Contractor's interface unless corrected. City and/or its authorized representatives will require the party responsible for the defective work to make corrections so as to conform to its contract requirements, or if the defect is the result of a default or omission in the contract documents, may issue a change order. If Contractor fails to measure, inspect and/or report defects that are reasonably discoverable, all costs of accomplishing the interface shall be borne by Contractor. The forgoing does not apply to latent defects. Contractor shall report to City any latent defects in another Contractor's work at any time such defects become known. City or its authorized representatives shall promptly thereafter take such steps as may be appropriate. Any difference or conflict that may arise between Contractor and the General Contractor, or other Contractors engaged by City to perform work on the Site, shall be adjusted as determined by City, its agents, or its authorized representatives when necessary to facilitate the work of Contractor and/or other Contractors or workers. No damages or claims by Contractor will be allowed other than an extension of time for the completion of Work. Such an extension will be for the period of time City shall consider Contractor to have been delayed in the completion of Work by reason of the work of other Contractors or workers.

M. Approved Subcontractors and corresponding insurance requirements: The Arts Commission must approve the Contractor's subcontracts; subcontractors are subject to the same insurance requirements as listed in Section 15 of the Agreement unless waived by the City Risk Manager.

N. Storage: Contractor shall provide museum quality fine art storage with climate control, if required.

O. Licensed Professionals: For large scale installations, Contractor may be required to provide signed, stamped drawings and calculations from licensed design professionals, such as architects and structural engineers professionals licensed in the State of California, as required by the California Uniform Building Code and any San Francisco amendments to the Building Code. Such professionals must provide proof of professional liability insurance as specified in Section 15.

2. Reports. Contractor shall submit written reports as requested by the San Francisco Arts Commission. Format for the content of such reports shall be determined by the San Francisco Arts Commission. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible. Final payments for projects will be contingent on receiving such reports.

3. Department Liaison

In performing the Services provided for in this Agreement, Contractor's liaison with the San Francisco Arts Commission will be Jenn Doyle Crane, Project Manager:
Jennifer.Crane@sfgov.org, p.415-252-2224.

Appendix B
Contractors Approved Rate Sheet

[INSERT RATE SHEET]

*No invoices for Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

**City and County of San Francisco
San Francisco Arts Commission
401 Van Ness Avenue, Suite 325
San Francisco, California 94102**

As Needed Agreement between the City and County of San Francisco and

**[Insert name of contractor]
[Insert agreement number and/or contract title (if applicable)]**

This Agreement is made this [insert day] day of [insert month], [insert year], in the City and County of San Francisco ("City"), State of California, by and between [name and address of Contractor] ("Contractor") and City.

Recitals

WHEREAS, the Arts Commission ("Department") wishes the Contractor to perform fine art services which may include the development, fabrication, maintenance, conservation, removal, and/or installation of art work; and,

WHEREAS, a Request for Qualifications ("RFQ") was issued on [insert date] and City selected Contractor as a qualified respondent; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the Services required by City as set forth under this Agreement; and

WHEREAS, the Arts Commission has authorized the Director of Cultural Affairs to enter into the agreement as per Resolution [insert Resolution number]; and

➔ Insert additional WHEREAS clauses as appropriate. For example, identify the Commission and/or Board approval action if applicable (e.g., contracts subject to award by a Commission, contracts subject to approval under Charter section 9.118, etc.).

Now, THEREFORE, the parties agree as follows:

Article 15 Definitions

The following definitions apply to this Agreement:

15.1 "Agreement" or "Contract Documents" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements which are specifically incorporated into this Agreement by reference as provided herein, the drawings, specification and all addenda thereto, and change orders issued after execution of the Agreement.

15.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through the Arts Commission.

15.3 "CMD" means the Contract Monitoring Division of the City.

15.4 "Contractor" or "Consultant" means [insert name and address of contractor].

15.5 "Contract Service Order" or "CSO" means the authorization by the Director of Cultural Affairs to perform specified Work within a specified time under this Agreement.

15.6 "Deliverables" means Contractor's work product resulting from the Services that are provided by Contractor to City during the course of Contractor's performance of the Agreement, including without limitation, the work described in the "Scope of Services" attached as Appendix A.

15.7 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

15.8 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, that impose specific duties and obligations upon Contractor.

15.9 "Party" and "Parties" mean the City and Contractor either collectively or individually.

15.10 "Services" means the performance by Contractor of all its responsibilities and obligations set forth under this Agreement as specifically described in the "Scope of Services" attached as Appendix A and as issued through Contract Service Orders, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

15.11 "Work" means the work or Services to be performed under a Contract Service Order as further described in Appendix A.

Article 16 Term of the Agreement

16.1 The term of this Agreement shall commence on the latter of: (i) [insert Contractor's start date]; or (ii) the Effective Date and expire on [insert expiration date – no later than 3 years], unless earlier terminated as otherwise provided herein.

16.2 The term for an individual Contract Service Order begins with the issuance of the Contract Service Order Notice to Proceed and expires on the date indicated on the Contract Service Order Notice to Proceed plus any extensions thereof allowed.

Article 17 Financial Matters

17.1 Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has

no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

17.2 Guaranteed Maximum Costs. The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

17.3 Compensation.

17.3.1 Payment. Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Cultural Affairs, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed [insert whole dollar amount in numbers and words -- no pennies and no ".00"]. The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments, except as set forth in Administrative Code Section 6.22(j).

17.3.2 Contract Service Order Prices. Contractor and the City agree that, upon performance and fulfillment of the mutual covenants set forth in the Contract Documents, the City will, in the manner provided by law and as set forth in the Contract Documents, pay or cause to be paid to Contractor the lump sum Contract Service Order price for all Contract Service Order Work, as may be modified by any Contract Service Order amendmend.

17.3.3 Payment Limited to Satisfactory Services. Contractor is not entitled to any payments from City until Arts Commission approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay at no cost to the City.

17.3.4 Withhold Payments. If Contractor fails to provide Services in accordance with Contractor's obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City's withholding of payments as provided herein.

17.3.5 Invoice Format. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City to Contractor at the address specified in Section 11.1, "Notices to the Parties, or in such alternate manner as the Parties have mutually agreed upon in writing.

➔If the Agreement requires the use of LBE subcontractors, then include the following paragraph. If not, delete body text and replace with "Reserved. (LBE Payment and Utilization Tracking System.)"

17.3.6 LBE Payment and Utilization Tracking System. Contractor must submit all required payment information using the City's online financial and procurement system as required by CMD to enable the City to monitor Contractor's compliance with the LBE subcontracting commitments in this Agreement. Contractor shall pay its LBE subcontractors within three working days after receiving payment from the City, except as otherwise authorized by the LBE Ordinance. The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of all required CMD payment information. Failure to submit all required payment information in the financial and procurement system with each payment request may result in the Controller withholding 20% of the payment due pursuant to that invoice until the required payment information is provided. Following City's payment of an invoice, Contractor has ten calendar days to acknowledge that all subcontractors have been paid.

17.3.7 Getting paid for goods and/or services from the City.

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through Paymode-X the City's third party service that provides Automated Clearing House (ACH) payments. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit www.sfgov.org/ach.

(b) The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

➔If the Agreement is not funded with State or federal funds, then delete this section 3.3.8.

17.3.8 Grant Funded Contracts.

(a) **Disallowance.** If Contractor requests or receives payment from City for Services, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon

City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement between Contractor and City.

(b) **Grant Terms.** The funding for this Agreement is provided in full or in part by a Federal or State Grant to the City. As part of the terms of receiving the funds, the City is required to incorporate some of the terms into this Agreement. The incorporated terms may be found in Appendix [choose C/D/E etc.], "Grant Terms."

17.4 Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

17.5 Submitting False Claims; Remedies. Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. A contractor, subcontractor, supplier, consultant or subconsultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, supplier, consultant or subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

17.6 Prevailing Wages

17.6.1 Services to be performed by Contractor under this Agreement may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the Administrative Code (collectively, "Covered Services"). The provisions of Section 6.22(e) of the Administrative Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Contractor and its subcontractors.

17.6.2 The latest prevailing wage rates for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations, as such prevailing wage rates may be changed during the term

of this Agreement, are hereby incorporated as provisions of this Agreement. Copies of the prevailing wage rates as fixed and determined by the Board of Supervisors are available from the Department and are also available on the Internet at <http://www.dir.ca.gov/DLSR/PWD>. Contractor agrees that it shall pay not less than the prevailing wage rates, as fixed and determined by the Board, to all workers employed by Contractor who perform Covered Services under this Agreement. Contractor further agrees as follows:

- (a) As required by Section 6.22(e)(5) of the Administrative Code, Contractor shall insert in every subcontract or other arrangement, which it may make for the performance of Covered Services under this Agreement, a provision that said subcontractor shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.
- (b) As required by Section 1771.4 of the Code, Contractor shall post job site notices prescribed by the California Department of Industrial Relations ("DIR") at all job sites where Covered Services are to be performed.
- (c) As required by Section 6.22(e)(6) of the Administrative Code and Section 1776 of the Labor Code, Contractor shall keep or cause to be kept complete and accurate payroll records for all trade workers performing Covered Services. Such records shall include the name, address and social security number of each worker who provided Covered Services on the project, including apprentices, his or her classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract. All such records shall at all times be available for inspection of and examination by the City and its authorized representatives and the DIR.
- (d) The City will not process monthly progress payments which include payment for Covered Services until Contractor and each subcontractor performing Covered Services submits weekly certified payrolls to the City for the applicable time period. (Unless directed by the DIR to do so before then, effective January 2016, Contractor and each subcontractor performing Covered Services must also submit weekly certified payrolls directly to the DIR before the City will process monthly progress payments.) Certified payrolls shall be prepared pursuant to Administrative Code Section 6.22(e)(6) and Labor Code Section 1776 for the period involved for all employees, including those of subcontractors, who performed labor in connection with Covered Services. Contractor and each subcontractor performing Covered Services shall submit certified payrolls to the City (and, when applicable, to the DIR) electronically. Contractor shall submit payrolls to the City via the Project Reporting System ("PRS") system selected by the City, an Internet-based system accessible on the World Wide Web through a web browser.. (The DIR will specify how to submit certified payrolls to it.) The Contractor and each subcontractor that will perform Covered Services will be

assigned a log-on identification and password to access the PRS. Use of the PRS may require Contractor and applicable subcontractors to enter additional data relating to weekly payroll information including, but not limited to, employee identification, labor classification, total hours worked and hours worked on this project, and wage and benefit rates paid. Contractor's payroll and accounting software may be capable of generating a "comma delimited file" that will interface with the PRS software. The City will provide basic training in the use of the PRS at a scheduled training session. Contractor and all Subcontractors that will perform Covered Services must attend the PRS training session. Contractor and applicable Subcontractors shall comply with electronic certified payroll requirements (including training) at no additional cost to the City.

(e) Covered Services to be performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the DIR and /or the Office of Labor Standards Enforcement. Contractor and any subcontractors performing Covered Services will cooperate fully with the DIR and/or the Office of Labor Standards Enforcement and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements, and agrees to take the specific steps and actions as required by Section 6.22(e)(7) of the Administrative Code.

17.6.3 Should Contractor, or any subcontractor who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Contract, subcontract or other arrangement for the Covered Services, the general prevailing rate of wages as herein specified, Contractor shall forfeit, and in the case of any subcontractor so failing or neglecting to pay said wage, Contractor and the subcontractor shall jointly and severally forfeit, back wages due plus the penalties set forth in Administrative Code Section 6.22 (e) and/or California Labor Code Section 1775. The City, when certifying any payment which may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture or forfeitures as so certified.

Article 18 Services and Resources

18.1

18.2 Services Contractor Agrees to Perform; Contract Service Order. Contractor acknowledges and agrees that the specific scope of Work for this Agreement will be finalized and authorized incrementally through individual Contract Service Orders. The services provided for in Appendix A, "Scope of Services" are intended as summary descriptions of the types of services that Contractor may perform as part of the CSO Work. Contractor acknowledges and agrees that this Agreement does not guarantee Contractor any work. The Contractor acknowledges and agrees that once the Department issues a CSO under this Agreement, the scope of work, time, and price as set forth in the CSO shall be binding on Contractor as though fully incorporated into this Agreement. Officers and employees of the City are not authorized to

request, and the City is not required to reimburse the Contractor for, Services beyond the Scope of Services listed in each CSO.

18.3 Qualified Personnel. Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

18.4 Subcontracting. Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

18.5 Independent Contractor; Payment of Employment Taxes and Other Expenses.

18.5.1 Independent Contractor. For the purposes of this Article 4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of

Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

18.5.2 Payment of Employment Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

18.6 Assignment. The Services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

18.7 Warranty. Contractor warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

18.8 Liquidated Damages. By entering into this Agreement, Contractor agrees that time is of the essence in all matters relating to the Contract Documents and that in the event the Services are delayed beyond the scheduled milestones and timelines as provided each CSO, City will suffer actual damages that will be impractical or extremely difficult to determine. Accordingly, Contractor agrees that as liquidated damages for delay, but not as a penalty, Contractor shall pay the City the amounts set forth in each CSO for each calendar day that expires after the CSO Time and the Work remains incomplete. City may deduct a sum representing the liquidated damages from any money due to Contractor under this Agreement or any other contract between City and Contractor. Such deductions shall not be considered a penalty, but rather agreed upon monetary damages sustained by City because of Contractor's failure to furnish deliverables to City within the time fixed or such extensions of time permitted in writing by City.

18.9 Bonding Requirements. For projects \$25,000 or more, the Contractor is required to furnish a performance and payment bond in a form acceptable to the City as follows:

18.9.1 Contractor shall always have bonds in a total amount equal to or greater than the total dollar value of all CSOs for special services performed under this Agreement.

→ **Section 4.9.2 is optional.**

18.9.2 Prior to commencing any work under this Agreement, Contractor shall provide an initial Performance Bond in the amount of not less than fifty percent (50%) of the amount of the agreement as awarded or \$50,000, whichever is lower and a Payment (Labor and Materials) Bond in the amount not less than fifty percent (50%) of the amount of the agreement as awarded or \$50,000, whichever is lower. The Contractor may alternatively provide Performance and Payment bonds covering 100% of the total possible compensation amount under Section 3.3.1 of this Agreement. The Contractor shall increase the penal sum of the bonds in accordance with this Section 4.9 in increments of not less than \$50,000, when the total amount of contracted construction activity for all CSOs approaches or equals \$50,000.

18.9.3 The City will provide forms for bonding. Sureties shall conform to the standards set forth by the City's Risk Manager under San Francisco Administrative Code section 6.22. No work shall commence without the verification of valid Performance and Payment bonds. The City will require Bonds from the entity named in the Agreement and may not accept Bonds from subcontractors.

Article 19 Insurance and Indemnity

19.1 Insurance.

19.1.1 **Required Coverages.** Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and 2,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

19.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

19.1.3 All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

19.1.4 Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

19.1.5 Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

19.1.6 Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

19.1.7 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

19.1.8 If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as additional insureds.

➔ **You can insert the following subparagraph 5.1.10 only AFTER a waiver has been granted by the Risk Manager.**

19.1.9 Notwithstanding the foregoing, the following insurance requirements are waived or modified in accordance with the terms and conditions stated in [Appendix G](#). Insurance.

19.2 Indemnification. Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable

to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Contractor’s performance of this Agreement, including, but not limited to, Contractor’s use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors, or either’s agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City’s costs of investigating any claims against the City.

In addition to Contractor’s obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys’ fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

Article 20 Liability of the Parties

20.1 Liability of City. CITY’S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, “PAYMENT,” OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

20.2 Liability for Use of Equipment. City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

20.3 Liability for Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor’s acts or omissions.

Article 21 Payment of Taxes

21.1 Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor

agrees to promptly provide information requested by the City to verify Contractor's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

21.2 Contractor acknowledges that this Agreement may create a “possessory interest” for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

21.2.1 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.

21.2.2 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a “change in ownership” for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

21.2.3 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

21.2.4 Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

Article 22 Termination and Default

22.1 Termination for Convenience

22.1.1 City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

22.1.2 Upon receipt of the notice of termination, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.

(f) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

22.1.3 Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(a) The reasonable cost to Contractor, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for Services. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(d) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the Services or other work.

22.1.4 In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under Section 8.1.3.

22.1.5 In arriving at the amount due to Contractor under this Section, City may deduct: (i) all payments previously made by City for Services covered by Contractor's final invoice; (ii) any claim which City may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service

performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

22.1.6 City's payment obligation under this Section shall survive termination of this Agreement.

22.2 Termination for Default; Remedies.

22.2.1 Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

(a) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

➔ **Prior to finalization, confirm that the numbers in the table properly correspond to their location in this document.**

3.5	Submitting False Claims.	10.4	Nondisclosure of Private, Proprietary or Confidential Information
4.5	Assignment	10.10	Alcohol and Drug-Free Workplace
Article 5	Insurance and Indemnity		
Article 7	Payment of Taxes	11.9	Compliance with Laws

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(c) Contractor (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property; or (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Contractor.

22.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable,

City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

22.2.3 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

22.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

22.3 **Non-Waiver of Rights.** The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

22.4 **Rights and Duties upon Termination or Expiration.**

22.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

➔ **Prior to finalization, confirm that the numbers in the table properly correspond to their location in this document.**

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
3.3.7(a)	Grant Funded Contracts – Disallowance	9.2	Works for Hire
3.4	Audit and Inspection of Records	10.4	Nondisclosure of Private, Proprietary or Confidential Information
3.5	Submitting False Claims		
Article 5	Insurance and Indemnity	11.7	Construction
6.1	Liability of City	11.8	Entire Agreement
6.3	Liability for Incidental and Consequential Damages	11.9	Compliance with Laws
Article 7	Payment of Taxes	11.10	Severability
8.1.6	Payment Obligation		

22.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City.

Article 23 Rights In Deliverables

23.1 Ownership of Results. Any interest of Contractor or its subcontractors, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

23.2 Works for Hire. If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 24 Additional Requirements Incorporated by Reference

24.1 Laws Incorporated by Reference. The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at www.sfgov.org under "Government."

24.2 Conflict of Interest. By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

24.3 Prohibition on Use of Public Funds for Political Activity. In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate

in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

24.4 Nondisclosure of Private, Proprietary or Confidential Information.

24.4.1 If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

24.4.2 In the performance of Services, Contractor may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Contractor, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

24.5 Nondiscrimination Requirements.

24.5.1 **Non Discrimination in Contracts.** Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

24.5.2 **Nondiscrimination in the Provision of Employee Benefits.** San Francisco Administrative Code 12B.2. Contractor does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

➔ **The following section applies only to contracts with CMD subcontracting goals. If there are no subcontracting goals, delete the final two sentences ("Contractor shall utilize LBE"... "Contractor's LBE subcontracting commitments") of the section.**

24.6 **Local Business Enterprise and Non-Discrimination in Contracting Ordinance.** Contractor shall comply with all applicable provisions of Chapter 14B ("LBE Ordinance"). Contractor is subject to the enforcement and penalty provisions in Chapter 14B. Contractor shall utilize LBE Subcontractors for at least [enter percentage] of the Services except as otherwise authorized in writing by the Director of CMD. Contractor shall incorporate the requirements of the LBE Ordinance in each subcontract made in the fulfillment of Contractor's LBE subcontracting commitments.

24.7 **Minimum Compensation Ordinance.** Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter

12P. Contractor is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Contractor certifies that it is in compliance with Chapter 12P.

24.8 Health Care Accountability Ordinance. Contractor shall comply with San Francisco Administrative Code Chapter 12Q. Contractor shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Contractor is subject to the enforcement and penalty provisions in Chapter 12Q.

➔**The requirements of Chapter 83 apply to: (a) entry level positions for work performed by a contractor in the City; (b) entry level positions for work performed on the contract in Alameda, San Francisco or San Mateo counties; (c) entry level positions for work performed on the contract on property owned by the City; and (d) entry level positions for work done under a permit authorization on a development project in the City. If the contract amount is \$50,000 or less, then §10.9 should read “Reserved. (First Source Hiring Program.)” If the contract amount is more than \$50,000, then you must call the First Source Hiring Administrator (415-701-4857) to review whether Chapter 83 will apply to the contract or is waived.**

24.9 First Source Hiring Program. Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

24.10 Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

24.11 Limitations on Contributions. By executing this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is

sponsored or controlled by Contractor. Contractor must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

24.12 Reserved (Slavery Era Disclosure).

24.13 Consideration of Criminal History in Hiring and Employment Decisions.

24.13.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, “City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions,” of the San Francisco Administrative Code (“Chapter 12T”), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of Contractor’s obligations under Chapter 12T is set forth in this Section. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

24.13.2 The requirements of Chapter 12T shall only apply to a Contractor’s or Subcontractor’s operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

24.14 Food Service Waste Reduction Requirements. Contractor shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

24.15 Reserved. (Sugar-Sweetened Beverage Prohibition.)

→ In all Agreements include section 10.18, in Agreements involving wood or wood products, also include section 10.18.1, otherwise delete 10.18.1.

24.16 Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Environment Code Section 804(b), the City urges Contractor not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

24.16.1 Contractor shall comply with San Francisco Environment Code Chapter 8, which provides that except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Contractor shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products. Contractor is subject to the penalty and enforcement provisions of Chapter 8.

24.17 Preservative Treated Wood Products. Contractor shall comply with the provisions of San Francisco Environment Code Chapter 13, which requires that each Contractor

purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department of the Environment pursuant to Section 1302 of Chapter 13, unless otherwise granted an exemption by the terms of that Chapter.

Article 25 General Provisions

25.1 Notices to the Parties. Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: **[insert name or title of department contact person, name of department, mailing address, and e-mail address]**

To Contractor: **[insert name of contractor, mailing address, and e-mail address]**

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

25.2 Compliance with Americans with Disabilities Act. Contractor shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

25.3 Reserved. (Payment Card Industry ("PCI" Requirements)).

25.4 Sunshine Ordinance. Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

25.5 Modification of this Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement.

25.5.1 Government Code Claim Requirement. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

25.6 Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

25.7 Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

25.8 **Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, “Modification of this Agreement.”

25.9 **Compliance with Laws.** Contractor shall keep itself fully informed of the City’s Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

25.10 **Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

25.11 **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

Article 26 MacBride And Signature

26.1 **MacBride Principles - Northern Ireland.** The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

➔ **[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

[company name]

Tom DeCaigny
Director of Cultural Affairs
Arts Commission

[name of authorized representative]
[title]
[optional: address]
[optional: city, state, ZIP]

Approved as to Form:

City vendor number: [vendor number]

Dennis J. Herrera
City Attorney

By: _____
Lauren Curry
Deputy City Attorney

Appendices

- A: Scope of Services
- B: Rate Sheet
- C: Sample Contract Service Order
- D: Sample Performance and Payment Bond Form
- E: Sample Subcontractor List
- F: Sample Final Completion Notice

➔ If you obtained an insurance waiver from the Risk Manager, or have other reason to include additional appendices, note here.

G: Insurance Waiver [or other Appendix title]

➔ In the footer, the page number should match the “of” number, such as “23 of 23.”

Appendix A

Scope of Services

1. Description of Services

Contractor agrees to perform the following Services:

All written Deliverables, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

2. **Services Provided by Attorneys.** Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

If the Agreement does not include Deliverables that are tangible and instead result in reports, include the following reports paragraph. If the deliverables are items that are measurable without a report, and a report is not required, do not include the following paragraph.

3. **Reports.** Contractor shall submit written reports as requested by the [insert name of department]. Format for the content of such reports shall be determined by the [insert name of department]. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

4. Department Liaison

In performing the Services provided for in this Agreement, Contractor's liaison with the [insert name of department] will be [insert name of contact person in department].

In drafting the Scope of Services, the following format may be helpful in drafting:

A. Project Background

B. Project Definitions

C. Project Deliverables

The Contractor shall provide each of the following deliverables in writing to the City for review and approval to achieve the project objectives.

C.1. <Title>

Deliverable 1

C.2 <Title>

Deliverable 2

C.3. <Title>

Deliverable 3

C.4 <Title>

Deliverable 4

Appendix B Rate Sheet

No invoices for Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

In drafting the Calculation of Charges, the following format may be helpful in drafting:

Deliverable	Target Completion Dates	Cost
<Title>		
<u>Deliverable 1:</u>		
<Title>		
<u>Deliverable 2:</u>		
<Title>		
<u>Deliverable 3:</u>		
Total Cost		

Sourcing Event 0000007216
Attachment 2
Proposer Questionnaire and References

Part I
Proposer Information

Name of Firm:	
Headquarter Address:	
Phone No.:	
Contact Name & Title:	
E-mail:	
Website:	
SF Supplier ID:	
Federal Tax ID:	
CA General Contractor's Lic. No.:	

Fine Art Services Categories for Pre-Qualification (Check all that apply):

<input type="checkbox"/>	A) Art Services Contractors to install and de-install large-scale works of public art	<input type="checkbox"/>	E) Art Photography, Digital Imaging, Printmaking and Sign makers
<input type="checkbox"/>	B) Fine Art and Cultural Artifact and Properties Conservators	<input type="checkbox"/>	F) Fine Art Framing Services
<input type="checkbox"/>	C) Art Care Technicians and Installers	<input type="checkbox"/>	G) Fine Art Appraisers
<input type="checkbox"/>	D) Fine Art Transportation and Storage		

Part II
Proposer Questionnaire

Question	Yes	No
1. Do you certify that you have complied and will continue to comply with Section I (G) of this Solicitation entitled “Limitation on Communications during Solicitation”?		
2. Have you registered as a Bidder or Supplier, through the Supplier Portal (https://sfcitypartner.sfgov.org/)? If yes, what is your Bidder ID or Supplier ID? _____		
3. Has your company enrolled with Paymode-X to receive electronic payments from the City? https://www.paymode.com/city_countyofsanfrancisco		
4. Have you registered your business with the San Francisco Treasurer & Tax Collector as required prior to submission of any Proposal? If you reply NO, please explain. <i>Enter your Business Tax Registration ID here:</i> _____		
5. Are you claiming LBE preference on this solicitation per Chapter 14B? If you responded YES, check appropriate line below: <input type="checkbox"/> <i>We are currently certified. CMD has issued us Certification No:</i> _____ <input type="checkbox"/> <i>We submitted LBE Certification Application to the CMD on:</i> _____ If you responded YES, list below all LBE categories for which you have been or will be deemed certified by the Solicitation proposal submission deadline: 1. _____ 2. _____ 3. _____ 4. _____ 5. _____		
6. Can you comply with the terms set forth in Attachment 1, City’s Proposed Agreement Terms?		
7. Have you submitted with your Proposal all the <u>Required Supporting Documentation</u> outlined in the accompanying solicitation document? If you reply NO to any document, please explain.		
8. Have you submitted with your Proposal all the <u>Minimum Qualification Documentation</u> outlined in the accompanying solicitation document? If you reply NO to any document, please explain.		
9. Have you submitted with your Proposal a <u>Price Proposal</u> that complies with the requirements of the accompanying solicitation document? If you reply NO to any document, please explain.		
10. Have you submitted with your Proposal a <u>Written Proposal</u> that complies with the requirements of the accompanying solicitation document? If you reply NO to any document, please explain.		

Part III
Proposer References

All proposers must provide references for at least three (3) recent clients (preferably other public agencies) or organizations of the approximate size and volume comparable to services described in this Solicitation. Upon request, successful proposer(s) may also be required to submit a letter of reference from each reference listed within five (5) days of notification. Failure to do so may result in rejection of proposal.

1. Name of Company	
Address (street, city, state, zip)	
Contact Name	
Phone No.	
Email	
Number of Years Providing Service	
2. Name of Company	
Address (street, city, state, zip)	
Contact Name	
Phone No.	
Email	
Number of Years Providing Service	
3. Name of Company	
Address (street, city, state, zip)	
Contact Name	
Phone No.	
Email	
Number of Years Providing Service	

Part IV
Proposer Release of Liability for References

The undersigned hereby fully and forever release, exonerate, discharge and covenant not to sue the City, its commissions and boards, officers and employees, and all individuals, entities and firms providing information, comments, or conclusions ("Reference Information") in response to inquiries that the City may make regarding the qualifications or experience of a Prime proposer, proposed joint venture partner, proposed subconsultant or proposed key/lead team member in connection with the selection process for **[INSERT NUMBER AND TITLE OF SOLICITATION]** from and for any and all claims, causes of action, demands, damages, and any and all liabilities of any kind or description, in law, equity, or otherwise arising out of the provision of said Reference Information. This Release and Waiver 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.

Company Name

Signature of Authorized Representative of Company

Date

Print Name and Title

Part V.
Proposer Certification of Truth, Accuracy, and Completeness

I certify that based on information and belief formed after reasonable inquiry, the statements and information contained in this document are true, accurate, and complete.

Company Name

Signature of Authorized Representative of Company

Date

Print Name and Title

Sourcing Event 0000007216
Attachment 3
CMD Form 3



CMD FORM 3: NON-DISCRIMINATION AFFIDAVIT

1. I will ensure that my firm complies fully with the provisions of Chapter 14B of the San Francisco Administrative Code and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
2. Upon request, I will provide the CMD with copies of contracts, subcontract agreements, certified payroll records and other documents requested so the CMD may investigate claims of discrimination or non-compliance with either Chapter 12B or Chapter 14B.
3. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the Contract Monitoring Division shall be payable to the City and County of San Francisco upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any contract with the City and County of San Francisco.
4. I declare and swear under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

Signature of Owner/Authorized Representative:	
Owner/Authorized Representative (Print)	
Name of Firm (Print)	
Title and Position	
Address, City, ZIP	
Federal Employer Identification Number (FEIN):	
Date:	

Sourcing Event 0000007216
Attachment 4
CMD LBE Forms

Instructions to Proposers

Proposer shall comply with all requirements of San Francisco Administrative Code Chapter 14B, Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance by completing each form in this Attachment 4 to the Solicitation and meeting all requirements set forth herein. Please contact the Contract Compliance Officer whose name appears in the Solicitation with questions or assistance related to these forms.

LBE Subcontracting Guidelines:

1. Proposed LBE subconsultants must be certified by CMD for the specific scope of services for which that LBE is being utilized. It is the Proposer's responsibility to verify each LBE subconsultant's certification status, which can be done at the following link: <https://sfgov.org/cmd>.
2. Proposed LBE subconsultants must be certified by CMD by the Proposal Due Date to receive LBE participation credit.

**FORM 2A: CMD CONTRACT PARTICIPATION FORM**

Section 1: This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Proposer, each Joint Venture partner, Subconsultants, Vendors, and lower sub tiers must be listed on this form. The RFP/RFQ will state which LBE size category (e.g., Micro, Small, and/or SBA-LBE) can be used to meet the LBE sub participation requirement(s). All LBE Proposers/JVs with LBE participation must meet the LBE sub participation requirement(s). Any LBE Proposer/JV with LBE participation may not count its participation towards meeting the LBE sub participation requirement(s). Be sure to check the appropriate box for Rating Bonus under Section 2. If more space is needed for Section 1, attach additional copies of this form.

Contract No.:		
Contract Title:		LBE SUBPARTICIPATION REQUIREMENT(S)
Firm:		<input type="checkbox"/> Micro and Small-LBE Sub Requirement - ____%
Contact Person:		<input type="checkbox"/> Micro, Small, SBA-LBE Sub Requirement - ____%
Address:		<input type="checkbox"/> Micro-LBE Sub Requirement - ____%
City/ZIP:		<input type="checkbox"/> Small-LBE Sub Requirement - ____%
Phone, Email:		<input type="checkbox"/> SBA-LBE Sub Requirement - ____%

*Type: Identify if Prime (P), JV partner (J), Subconsultant (S), or Vendor (V)

TYPE *	Firm	Portion of Work (Describe Scope(s) of Work)	% of Work	Indicate LBE or Non-LBE. If LBE, identify MBE, WBE, or OBE; AND Micro, Small, or SBA.	% of LBE Subwork (Carry-Over from % OF Work Column)		
					Micro	Small	SBA
			%		%	%	%
			%		%	%	%
			%		%	%	%
			%		%	%	%
		Total % of Work:	100%	Total LBE Sub Participation:	%	%	%

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above Consultants for the portions of work and amounts as reflected in the proposal for this Contract.

Owner/Authorized Representative (Signature): _____ Date: _____

Print Name and Title: _____

** MBE = Minority Business Enterprise, WBE = Women Business Enterprise, OBE = Other Business Enterprise.
See CMD website: <http://www.sfgov.org/cmd> for each firm's status



Section 2. Rating Bonus

Check applicable boxes.

- A. ☐ **NO Rating Bonus Requested 0%**
- B. **Contracts with an Estimated Cost in Excess of \$400,000 and Less Than or Equal to \$10,000,000.** See instructions in Sections 2.01 and 2.02.
- ☐ **Micro or Small-LBE 10%**
- ☐ **Joint Venture 7.5%**
- ☐ **Joint Venture 5%**
- ☐ **Joint Venture (Micro or Small-LBEs only) 10%**
- ☐ **SBA-LBE 5%**
- C. **Contracts with an Estimated Cost in Excess of \$10,000 and Less Than or Equal to \$10,000,000.** The below rating bonuses DO NOT apply to Chapter 21 contracts and only apply to Chapter 6 contracts, including Chapter 6.40. See instructions in Section 2.01 for details. This Neighborhood/Zip Code LBE Program shall apply to projects located within the jurisdictional boundary of San Francisco. The program shall not apply to Job Order Contracts (JOC), As-Needed contracts, or other contracts where no specific project location is specified at the time of proposal. The RFP/RFQ will clearly state whether the Pilot Neighborhood/Zip Code LBE Program is applicable to the specific project. A Proposer may receive up to a maximum rating bonus of 13% depending on the particular application.

Prime Neighborhood/Zip Code LBE rating bonus:

☐ **Prime Neighborhood LBE (or a JV where the Neighborhood LBE JV partner(s)' participation is at least 40%) 1%**

OR

☐ **Prime Zip Code LBE (or a JV where the Prime Zip Code LBE JV partner(s)' participation is at least 40%) 1.5%**

Subconsulting Neighborhood/Zip Code LBE rating bonus:

☐ **Sub Neighborhood LBE 0.5%**

OR

☐ **Sub Zip Code LBE 1.5%**

- D. **Contracts in Excess of \$10,000,000 and Less Than or Equal to \$20,000,000.** See instructions in Section 2.01.
- ☐ **Micro, Small, or SBA-LBE 2%**
- E. **Mentor-Protégé Program Bid Discount/Rating Bonus.** The Mentor Protégé rating bonus is not applicable to professional services contracts. However, for this CMD Attachment 2, the Mentor Protégé rating bonus/bid discount is applicable for Design-Build and/or CM/GC projects only. See instructions in Section 2.01.
- ☐ **Mentors of the Mentor-Protégé Program 1%**



Section 3. Proposer, Joint Venture Partners, Subconsultant, and Vendor Information

Provide information for each firm listed in Section 1 of this form. Firms which have previously worked on City contracts may already have a vendor number. Vendor numbers of LBE firms are located on the CMD LBE website at <http://www.sfgov.org/cmd>. Use additional sheets if necessary.

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____		

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____		

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____		

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____		

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____		

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____		



FORM 4: CMD JOINT VENTURE FORM

This form must be submitted ONLY if the Proposer is requesting a Joint Venture partnership with a Small and/or Micro- LBE firm for the rating bonus. The Joint Venture partners must submit a Joint Venture agreement and management plan with the proposal. All work must be accounted for including subconsulting work.

1. Name of Contract or Project: _____

2. Name of all JV partners: (Check LBE if applicable)

	LBE <input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

3. Attach a copy of Joint Venture Agreement and Management plans.

4. The management plan must include the following information:

- Describe in detail how decisions will be made for work distribution and compliance of Small and/or Micro-LBE Joint Venture participation.
- Provide each Joint Venture partner's specific duties and responsibilities (include organizational chart).
- Identify the Location of Joint Venture Office.
- Provide in detail how decision will be made for work distribution to LBE subconsultants and/or vendors.
- Submit copies of bank signature cards with authorized names, titles, and address/city of the bank (required after award of Contract.)

5. Calculation of the Rating Bonus. See §2.02(D) of CMD Attachment 2 for an example.

If the Joint Venture partners are dividing the work according to a different formula than that described below, please contact CMD staff and describe the arrangement in detail prior to submittal of proposal.

Joint venture partners are encouraged to meet with CMD regarding their Joint Venture prior to submitting their proposal.

The rating bonus is awarded based on the Small and/or Micro-LBE JV partner tasks calculated as a percentage of the total JV partner tasks.

Joint Venture partners may be in different industries provided that each Joint Venture partner meets the minimum qualifications in the Bid or proposal, and each is acting as a prime. The LBE Joint Venture partner must perform Prime Level Work and be CMD certified for the scope of work they are proposing to perform in order to be eligible for the rating bonus. "Prime Level Work" means any portion of work that is listed in the prime's minimum qualification section in the RFQ/RFP. Joint Ventures receive rating bonuses depending upon the LBE percentage of prime level participation as set forth in Section 14B.7(F) of the Ordinance. Note that any supportive/subconsulting level work will not be counted towards the eligibility for the Joint Venture rating bonus.

Step 1. Calculate total JV partner tasks.

Total Contract Tasks	=	100%
Percentage of Total Work to be Performed by Subconsultants	-	%
Percentage of JV partner tasks	=	%

Step 2. Calculate Small and/or Micro-LBE JV partner prime level task(s):

	A	B	C
Description of JV Partner Scopes of Work (Specific Details of Work)	JV Partners' Work as a % of the Total Project	% of Task by Non-LBE JV Partner	% of Task by Small and/or Micro-LBE JV Partner
	%	%	%
	%	%	%
	%	%	%
	%	%	%
	%	%	%
TOTAL JV %	%	%	%

Step 3. Calculate Small and/or Micro-LBE JV partner work as a percentage of the total JV partner work for the rating bonus.

Total Small and/or Micro-LBE JV Partner %		÷	Total JV %		=	%
------------------------------------------------------	--	----------	-------------------	--	----------	----------

JOINT VENTURE PARTNERS MUST SIGN THIS FORM

Owner/Authorized Representative (Signature)

Owner/Authorized Representative (Signature)

Name (Print) Title

Name (Print) Title

Firm Name

Firm Name

Telephone Email Telephone Email Date

Telephone Email Telephone Email Date

Sourcing Event 0000007216
Attachment 5
Reserved (Written Proposal Template)

Sourcing Event 0000007216
Attachment 6
Reserved (Price Proposal Template)

Sourcing Event 0000007216
Attachment 7
First Source Hiring Form



SAN FRANCISCO
OFFICE OF ECONOMIC &
WORKFORCE DEVELOPMENT

FIRST SOURCE
HIRING
WORKFORCE PROJECTION FORM

This form will be required from Proposers upon award of any contract to the Prequalified Pool. It is not required with your submission to the Request for Qualifications.

Business Name:

Contract ID (If applicable):

Phone:

Date:

Main Contact:

Supplier ID (If applicable):

Email:

Signature: _____

Name of Authorized Representative:

** By signing this form, the company agrees to participate in the San Francisco Workforce Development System established by the City and County of San Francisco, and comply with the provisions of the First Source Hiring Program pursuant to Chapter 83 of the San Francisco Administrative Code*

Instructions:

- This form must be submitted via email to the Office of Economic and Workforce Development at business.services@sfgov.org with the subject line First Source Hiring Workforce Projection Form
- If an entry level position becomes available at any time during the term of the lease and/or contract, the company must notify the First Source Hiring Program Administrator at business.services@sfgov.org

Section 1: Select your Industry:

- | | | | |
|-------------------------------------------------------|----------------------------------------------|---------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Admin/Support/Waste Services | <input type="checkbox"/> Food Services | <input type="checkbox"/> Mgmt/Enterprises | <input type="checkbox"/> Transport/Warehouse |
| <input type="checkbox"/> Agri/Forestry/Fish/Hunt | <input type="checkbox"/> Government | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Health Care | <input type="checkbox"/> Real Estate/Rental | <input type="checkbox"/> Wholesale Trade |
| <input type="checkbox"/> Educational Services | <input type="checkbox"/> Info/Tech/Prof | <input type="checkbox"/> Retail Trade | <input type="checkbox"/> Other |
| <input type="checkbox"/> Finance/Insurance | <input type="checkbox"/> Leisure/Hospitality | <input type="checkbox"/> Social Services | _____ |

Section 2: Indicate Industry NAICS code if known: _____

Section 3: Provide information on all Entry Level Positions:

Entry level Position Title	Job Description	Number of New Hires	Projected Hiring Date

Section 4: Select the type of First Source Project:

- | | |
|-------------------------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> Contractor | <input type="checkbox"/> Scene in San Francisco Rebate Applicant |
| <input type="checkbox"/> Subcontractor | <input type="checkbox"/> City Contract (Department) _____ |
| <input type="checkbox"/> City of San Francisco Tenant | <input type="checkbox"/> Cannabis |
| <input type="checkbox"/> Subtenant | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Developer | |

One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103



(415)701-4848 (415)701-4897 oewd.org
workforce.development@sfgov.org



First Source Hiring Program Fact Sheet

What is the First Source Hiring Program?

The First Source Hiring Program (First Source) was enacted in 1998 under Chapter 83 of the City's Administrative Code and is administered by the Office of Economic and Workforce Development (OEWD). The First Source Hiring Program requires that developers, contractors, and employers use good-faith efforts to hire economically disadvantaged San Franciscan residents for new entry level positions.

The First Source Hiring Program provides a ready supply of qualified workers to employers with employment needs, and it gives economically disadvantaged individuals the first opportunity to apply for entry level positions in San Francisco. Entry level positions are defined as those requiring less than two years of training or specific preparation and includes temporary and permanent jobs.

How can the First Source Hiring Program help your business at no cost?

- Promote job announcements to over 2,000 recipients in the San Francisco community
- Connect you with a pool of qualified, pre-screened candidates
- Refer graduates of OEWD-funded industry sector training programs
- Coordinate customized recruitment and hiring events
- Provide access to City-wide recruitment facilities and events

Which Businesses are required to comply with the First Source Hiring Program?

- Businesses who have leases with the City on City Property
- Businesses with City contracts for goods, services, grants or loans in excess of \$50,000
- Businesses with City-issued construction contracts in excess of \$350,000
- Developers with building permits for residential projects over 10 units and all employers engaged in commercial activity to be conducted in said development project, including residential services
- Any building permit application for a commercial activity over 25,000 square feet and involving new construction, an addition, or alteration which results in the expansion of entry and apprentice level positions for a commercial activity
- Cannabis-related businesses
- Special projects required by the Board of Supervisors and administered by OEWD

I need to comply with the First Source Hiring Program, where do I start?

Step #1: Contact the Business Services Team at the Office of Economic and Workforce Development (OEWD) by emailing to business.services@sfgov.org. You can also call 415-701-4848 and ask to speak with a First Source Hiring Program Specialist.

Step #2: The Business Services Team will assist you with registering your business in the OEWD's data system.

Step #3: Once you have registered with the OEWD's data system, the Business Services Team will assist you with recruitment for your open positions.

What are the penalties for non-compliance with the First Source Hiring Program?

- Liquidated damages up to \$5,000 can be assessed for each entry level job improperly withheld from the First Source Hiring Program process

Thank you for your interest in San Francisco's First Source Hiring Program. For more information, please visit us online at www.oewd.org/firstsource, email us at business.services@sfgov.org, or call us at 415-701-4848 and ask to speak with a First Source Hiring Program Specialist.



Sourcing Event 0000007216
Attachment 8
Health Care Accountability Ordinance (HCAO) &
Minimum Compensation Ordinance (MCO) Declaration Forms



Health Care Accountability Ordinance (HCAO) Declaration

What the Ordinance Requires. The Health Care Accountability Ordinance (HCAO), which became effective July 1, 2001, requires Contractors that provide services to the City or enter into certain leases with the City, and certain Subcontractors, Subtenants and parties providing services to Tenants and Subtenants on City property, to provide health plan benefits to Covered Employees, or make payments to the City for use by the Department of Public Health (DPH), or, under limited circumstances, make payments directly to Employees.

The HCAO applies only to Contractors with at least \$25,000 (\$50,000 for non-profit organizations) in cumulative annual business with a City department(s) and have more than 20 Employees (50 Employees for non-profit organizations) including Employees of any parent or subsidiaries.

The City may require Contractors to submit reports on the number of Employees affected by the HCAO.

Effect on City Contracting. For contracts and amendments signed on or after July 1, 2001, the HCAO requires the following:

- Each contract must include terms ensuring that the Contractor will agree to abide by the HCAO and either to provide its employees with health plan benefits meeting the Minimum Standards set forth by the Director of Health or to make the payments required by the HCAO;
- All City Contractors must agree to comply with the requirements of the HCAO unless the Contracting Department has obtained an approved exemption or waiver under the HCAO from the Office of Labor Standards (OLSE).
- Contractors must require any Subcontractors subject to the HCAO to comply with the HCAO:

The Purpose of This Declaration. By submitting this declaration, you are providing assurances to the City that, beginning with the first City contract or amendment you receive after July 1, 2001 and until further notice, you will either provide the health plan benefits meeting the Minimum Standards to your covered employees or make the payments required by the HCAO, and will ensure that your Subcontractors also abide by these requirements. **If you cannot provide this assurance, do not return this form.**

To obtain more information regarding the HCAO, Visit our website, which includes links to the complete text of the HCAO, at www.sfgov.org/olse/hcao; send an e-mail to HCAO@sfgov.org; or call (415) 554-7903.

Where to Send this Form. Submit this form via San Francisco's centralized vendor portal sfcitypartnersupport@sfgov.org or call the Supplier Support Desk at 415-944-2442, Ext 1

Declaration

In order to be a certified vendor with the City and County of San Francisco, the company named below will either provide, if applicable, health benefits specified in the HCAO to our covered employees or make the payments required by the HCAO, and will ensure that our subcontractors that are subject to the HCAO also comply with these requirements, until further notice. The company named below will provide such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Bidder/Supplier # - if known

Company Name

() _____
Phone

Federal Employer ID #



Minimum Compensation Ordinance (MCO) Declaration

What the Ordinance does. The Minimum Compensation Ordinance (MCO) became effective October 8, 2000, and was later amended by the Board of Supervisors, with an effective date for the amendments of October 14, 2007. The MCO requires City contractors and subcontractors to pay Covered Employees a minimum hourly wage and to provide 12 compensated and 10 uncompensated days off per year. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements.

The MCO applies only if you have at least \$25,000 in cumulative annual business with a City department or departments and have more than 5 employees, including employees of any parent, subsidiaries and subcontractors.

The City may require contractors to submit reports on the number of employees affected by the MCO.

Effect on City contracting. For contracts and amendments signed on or after October 8, 2000 the MCO will have the following effect:

- In each contract, the contractor will agree to abide by the MCO and to provide its employees the minimum benefits the MCO requires, and to require its subcontractors subject to MCO to do the same.
- If a contractor does not agree to provide the MCO's minimum benefits, the City will award a contract to that contractor **only if** the contractor has received an approved exemption or waiver under MCO from the Office of Labor Standards Enforcement (OLSE) through the contracting Department. The contract will not contain the agreement to abide by the MCO if there is an exemption or waiver on file.

What this form does. If you can assure the City now that, beginning with the first City contract or amendment you receive after October 8, 2000 and until further notice, you will provide the minimum benefit levels specified in the MCO to your covered employees, and will ensure that your subcontractors also subject to the MCO do the same, this will help the City's contracting process.

If you cannot make this assurance now, please do not return this form.

For more information, (1) see our Website, including the complete text of the ordinance: www.sfgov.org/olse, (2) e-mail us at: MCO@sfgov.org, (3) Phone us at (415) 554-7903.

Where to Send this Form. Submit this form via San Francisco's centralized vendor portal sfcitypartnersupport@sfgov.org or call the Supplier Support Desk at 415-944-2442, Ext 1

Declaration

In order to be a certified vendor with the City and County of San Francisco, this company will provide, if applicable, the minimum benefit levels specified in the MCO to our Covered Employees, and will ensure that our subcontractors also subject to the MCO do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Bidder/Supplier # - if known

Company Name

(_____) _____
Phone

Federal Employer ID #