

**CITY & COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS**

REQUEST FOR QUALIFICATIONS

for

CONSTRUCTION MANAGEMENT SUPPORT SERVICES

for

MOSCONE EXPANSION PROJECT

DPW ID# FPA14105

Issued: March 14, 2014
Proposals Due: April 4, 2014



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ANNOUNCEMENT

The City and County of San Francisco (City), Department of Public Works (DPW) announces a Request for Qualification (RFQ) seeking qualified Consultants to provide construction management support services for the Moscone Expansion Project. The City will select a Construction Management Support Services Consultant Team (CMSS Consultant), consisting of a Prime Consultant and/or specialty Sub-consultants, to provide support services to DPW. The estimated contract amount is \$3.5 million.

The CMSS Consultant Team will be working under the direction of DPW Project Management, and with selected consultants and City construction management staff. The CMSS Consultant will serve as an extension of city staff, providing construction management support services as requested, including cost estimating, scheduling, constructability review, project controls, and construction administration. The CMSS Consultant team shall have requisite experience in providing services for the pre-construction, construction, project close-out, and post-construction phases of civic building projects.

The highest-ranked firm responding to this RFQ (Proposer) will be selected for negotiations and finalization of scope of services. Award of contract neither guarantees all or a portion of the work described herein, nor does it guarantee that the entire amount of award would be expended. The contract dollar amount awarded does not represent a guaranteed revenue source for the successful Proposers. The City reserves the right to commence, terminate, reduce, or extend the Proposers' scope of services at any time in response to changing needs.

Digital files of the RFQ Package may be downloaded at no cost at: www.sfdpw.org/biddocs. Notices regarding Addenda & other proposal changes will be distributed by email to Plan Holders. It is the responsibility of the Proposer to confirm receipt of any & all addenda issued for this RFQ. Please visit DPW's Contracts, Bid Opportunities & Payments webpage at: www.sfdpw.org for more information.
Pre-Proposal Conference

A Pre-Proposal Conference for Proposer firms/joint ventures will be held on **March 21, 2014 at 10:30AM** at the Bureau of Architecture, Main Conference Room, 30 Van Ness Avenue, Suite 4100, San Francisco, California 94102.

There will be an opportunity for questions and answers during the Pre-Proposal Conference. Questions from interested Proposers will be addressed at this conference, and any new applicable information will be provided at that time. While City staff may provide oral clarifications, explanations, or responses to any inquiries, the City is not bound by any oral representation. If any new and/or substantive information is provided in response to questions raised at the pre-proposal conference, it will be memorialized in a written addendum to this RFQ. Responses to questions that arise at the pre-proposal conference and received by the final date to submit questions will also be answered and incorporated in a written addendum to this RFQ.

All requests for clarification of any ambiguities, discrepancies, inconsistencies, or questions concerning the RFQ, whether submitted before or after the pre-proposal conference, must be in writing and directed to moscone-expansion-project@sfdpw.org no later than **4:00PM on March 25, 2014**.

Substantive replies, clarifications, interpretations, or changes to the RFQ will be made by written addendum, and shall become part of this RFQ. For more information see also Sections 7 and 12. It is the responsibility of the Proposer to confirm receipt of any and all addenda issued for this RFQ.

Selection Process

The selection process for the CMSS Consultant firm will be conducted by a Selection Panel and consists of two sequential stages: 1) Evaluation of Written Submittals, including consideration from reference responses; and 2) Oral Interviews of short-listed Proposers. The Proposers will be evaluated and ranked according to their cumulative performance in both components, as described in this RFQ. The City will negotiate an agreement with the highest-ranked Proposer.

Proposer shall submit their Proposal Package as specified herein **by no later than 4:00 PM on April 4, 2014** Determination of the official time will be made via <http://www.time.gov/>.

City and County of San Francisco
Department of Public Works / Project Management
30 Van Ness Avenue, Suite 4100
San Francisco, CA 94102.
Attn: Brook Mebrahtu

Contract Monitoring Division (CMD) Requirements

The requirements of the Local Business Enterprise Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance") shall apply to this RFQ.

To be eligible for award of this contract, Proposer must agree to comply with the following Local Business Enterprise (LBE) requirements authorized by San Francisco Administrative Code Chapter 12B, Section 12B.4, and Chapter 14B (where applicable), and their implementing Rules and Regulations

For more information regarding the CMD requirements, see also Section 9 and Appendix B.

California Environment Quality Act (CEQA) Conditions

The potential environmental impacts of the proposed Moscone Center Expansion (the Project) must be evaluated through the California Environmental Quality Act (CEQA) review process. The City is in the process of environmental review with Planning Department's consultant, with a current anticipated schedule of completing the Environmental Impact Report (EIR) process by September 2014. The City will consider approval of the Project following completion of the CEQA process. Any construction work would not commence until the CEQA review process is completed, the City approves the Project, and the City notifies the General Contractor that it may begin construction work. If the City does not approve the Project, the construction work will not commence and the Agreement will be terminated. The design and, if the Project proceeds, construction work will need to incorporate any alterations, procedures or alternatives identified and adopted during the CEQA review process, and the Project will not proceed if the City does not approve the Project following completion of CEQA review. The design will evolve and change throughout the CEQA process, and all work must accommodate such changes.

SECTION 1 – INTRODUCTION

The City seeks to engage a consultant firm to provide construction management support services (CMSS) for the Moscone Expansion Project and to assist with the development of the project through the Pre-construction Phase, Construction Phase, Project Close-out Phase, and Post-Construction Phase of the projects. The CMSS Consultant may be an individual firm or a joint venture.

The CMSS Consultant will be working under the direction of the Department of Public Works (DPW). Refer to the organization chart in Appendix F. CMSS Team will report to DPW Construction Manager or Project Manager as outlined in the organizational chart, and will work with the A/E Team and Contractor or CM/GC as required. The CMSS Consultant will be expected to provide, as requested by the DPW Program Manager, all relevant complementary services necessary to ensure the success of the project.

The City's project partner, San Francisco Tourism Improvement District Management Corporation (SFTIDMC), has retained Skidmore Owings & Merrill to provide full Architectural and Engineering services from schematic design through construction documents and contract administration. SFTIDMC has also selected Webcor Builders as their Construction Manager/General Contractor (CM/GC) for the Project.

The scope of services to be performed by the CMSS Consultant will be re-evaluated as deemed necessary by the City at key milestone dates. Award of contract neither guarantees all or a portion of the work described herein, nor does it guarantee that the entire amount of award would be expended.

This RFQ sets forth the minimum qualifications required, describes the anticipated scope of the work, and defines the selection process. Please read these requirements carefully, as the selection of the most qualified team will be based on criteria contained in this document.

The City and County of San Francisco has a Local Business Enterprise Program, under Contract Monitoring Division (CMD) and all qualified firms are encouraged to submit proposals. Proposers are required to engage in good faith efforts to include 15% local certified Local Business Enterprise (LBE) participation. Attendance at a pre-proposal meeting is required as one of the good faith steps.

For further information regarding CMD subcontracting goals contact Selormey Dzikunu at (415) 558-4059 or by email Selormey.Dzikunu@sfdpw.org. For more information also refer to Section 9, Appendix B, or CMD's web page www.sfgov.org/CMD.

It is anticipated that the contract for services will occur in incremental stages over a duration of four and a half (4.5) years. The City expects the selected Proposers to commit to the terms of the resulting agreement for a period of 5 years. Depending on the awarded scope of work, the total contract amount may not exceed \$3.5M. At any time during the contract negotiation and/or during the terms of the contract, the City may at its discretion add or subtract scope, and re-assign work scope among different consultant teams and City staff at any time.

The Moscone Expansion Project and any other contracts that are planned to be advertised/bid in connection with the Project are contingent upon appropriation of funds as required by the City Charter and the San Francisco Administrative Code.

The City accepts no responsibility to any prospective consultant or sub-consultant, financially or otherwise, for the failure of any contingency requiring the postponement or cancellation of this RFQ or any or all contracts within the Moscone Expansion Project.

SECTION 2 – TENTATIVE RFQ SCHEDULE

The following schedule is anticipated for the entire RFQ process of advertisement and selection. Changes to the Pre-Proposal Meeting or Submittal Deadline dates will be issued to all emails on the Pre-Proposal Meeting Sign-in Sheet.

Advertise RFQ	March 14, 2014
Pre-Proposal Conference (10:30 AM local time) 30 Van Ness Avenue, 4th Floor	March 21, 2014
Last Date to Submit Questions on RFQ	March 25, 2014
Last Day to Submit Proposals (4:00PM local time deadline) 30 Van Ness Avenue, Suite 4100	April 4, 2014
References contacted by City Staff	April 7 to April 9, 2014
Invitation for Interview	April 10, 2014
Oral Interviews and Proposer Presentations	April 18, 2014
Notification of Highest-ranked Proposers	April 25, 2014
Contract Negotiation Completed	May 9, 2014

SECTION 3 – PROJECT DESCRIPTION

The Moscone Center Expansion is a capital project managed through a partnership between the San Francisco Tourism Improvement District Management Corporation, a California non-profit corporation (SFTIDMC), in its capacity as owner's association for the Moscone Expansion District ("MED" or "Project Owner") and the City and County of San Francisco ("City"). The SFTIDMC will partner with the City in financing the Project, which is estimated to have a hard cost budget of \$395M. The Project currently contemplates reconfiguring the North and South exhibit halls to create up to 140,000 gross square feet of new exhibit space, for a total of 580,000GSF of contiguous exhibit space (including supporting "pre-function" space), a new 35,000 – 75,000GSF ballroom, and up to 100,000GSF of new meeting space. The Project may include utility relocations, underground excavations, renovations of existing structures, and new aboveground structures.

Expansion of Moscone Center would achieve the primary goal of providing much needed additional space in order to retain current clients and attracting future conventions. An equally important goal of the project is to produce a comprehensive campus with a sense of place that enriches the urban environment, public realm, streetscape within and adjacent to the Moscone Center, and activity of downtown San Francisco.

SECTION 4 – SCOPE OF SERVICES

The City intends to contract with a qualified firm/joint venture to provide construction management support services for the Moscone Expansion Project. The Prime Consultant shall retain full responsibility for all construction management support services provided.

The CMSS Consultant will work under the direction of DPW Project Management. Table 4.1 and Appendix F (Organizational Matrix) describes the *Primary* and *Supplementary* roles for the CMSS Consultant and City staff providing construction management support services. The *Primary* Service Provider shall assume the lead role in providing the corresponding services, with assistance from the *Supplementary* Service Provider. At least **15%** of the work effort must be from meaningful participation from LBE Sub-Consultants providing *Primary* or *Supplementary* services in the core areas of expertise in construction management (Scheduling/ Schedule Control, Budget/ Cost Control, Cost Estimating, Construction Administration/ Document Control)."

Depending on the expertise of the selected CMSS Consultant Team, the City reserves the right to implement a different arrangement of assignments and responsibilities between City staff and the CMSS Consultant. Whenever the City determines that it would be in the best interests of the Project, the City reserves the right to: 1) use qualified City staff or other consultants to provide construction management services; 2) direct the CMSS Consultants to integrate qualified City staff into their team; or 3) add or subtract scope during contract negotiations and the duration of the contract.

Table 4.1: Responsibility Matrix for Construction Management Support Services

P = Primary Service Provider, **S** = Supplementary Service Provider

	DPW-CM	CM/GC	CMSS
Construction Administration/ Project Document Control	P	P	S
Schedule Review	S	P	S
Cost Estimating and Cost Control	P/S	P/S	P

The following tasks describe the construction management support services anticipated for the Moscone Expansion Project. During the course of the Project, additional construction management tasks may be identified as necessary for the successful completion of the Project.

A. CONSTRUCTION ADMINISTRATION/DOCUMENT CONTROL TASKS

- Provide and maintain a Project Construction Controls Systems (PCCS) acceptable to the City. The PCCS will be implemented to facilitate and document communication among the A/E teams, the CM/GC and core subcontractors, the City, and other consultants, and will continue to be used throughout the construction to post-construction phases. PCCS shall include the following minimum features: change order and change order request tracking and management, contract management, project and program dashboard, project reporting, project logs tracking RFIs/submittals, document management and archival, photo management, punch list, and cost management.
- Provide functional integration with City data-based reporting systems and coordination with City staff in the implementation and maintenance of the PCCS.
- Provide access and support services to the PCCS for the A/E Team, general contractor or CM/GC, the City, and other consultants.
- Review and provide input to the City's Construction Procedure Manual that will be utilized during construction, including all forms, documents, logs, and procedures requiring review and approval. The manual shall also include flow charts showing the flow of the forms, documents, and

decision-making procedures as well as the time associated with each task. Forms and procedures include, but not limited to, submittals, information bulletins, change orders, change order requests, proposed change orders, RFIs, schedules, progress payments, inspection program, cost control reports, logs, and commissioning and testing program.

- Maintain and provide records in electronic format of all correspondences throughout the project
- Support City Staff to monitor CM/GC's quality assurance/quality control (QA/QC) program.
- Provide QA/QC on construction or bid documents prepared by the CM/GC, the City or its consultants.
- Review the actual completed work and provide recommendations to the City as they relate to Contractor's payment requests. Assist City Staff in the approval of Contractor's progress payment.
- Assist and coordinate the implementation of the Building System Start-up and Building Commissioning process among the City's Commissioning Authority, A/E Team, and CM/GC, and subcontractors.
- Assist with the training of operation and maintenance of building systems. Providing digital recordings of all such training for record purposes, unless otherwise determined to be performed by the CM/GC, general contractor, or others.
- Provide advice and recommendations on resolving technical and contractual issues and/or disputes that arise during construction between the CM/GC and the A/E Team.
- Review, coordinate and recommend action on all deliverables and submittals from consultants, A/E Team, CM/GC, and key subcontractors on the project.
- Assist the City in ensuring that the CM/GC and subcontractors honor their warranty responsibilities in a timely manner.
- Where advantageous and upon request by the City, make digital video camera records of the work. If this task is included in the specifications as a Contractor's requirement, then the CMSS Consultant shall coordinate and maintain the records.
- Assist the City in preparation for and defending against any legal claim or court suit as needed.
- Establish processes and procedures and roles and responsibilities of the Project Team to ensure the timely resolution of all issues, including but not limited to, RFIs, Submittals, LEED-related Documentations, Proposed Change Orders (PCOs), Change Orders (CO), Change Order Requests (CORs), Correction Notices, Non-conforming Work Reports, etc.
- Assist with the coordination LEED close-out documentation and other close-out activities as outlined in the Contract Documents.
- Develop a system for the tracking of punchlist items. Coordinate with the CM/GC or general contractor, and subcontractors on the timely correction and completion of all punchlist items.
- Coordinate and track the delivery of all spare parts, operation and maintenance manuals, warranty documents, training logs, as-built/record drawings, keys, and any other items necessary to the City.
- Prepare monthly reports to detail preconstruction and construction activities; make recommendations to resolve project risks; and allocate remaining CMSS contract amount towards projected Construction Management tasks.
- Participate in and document trade scope conflicts as a result of clash-detection applications, such as Building Information Modeling (BIM) studies.

B. CONSTRUCTION SCHEDULES/SCHEDULE CONTROL TASKS

- Review and analyze the CM/GC's baseline Critical Path Method (CPM) schedules, schedule updates (monthly or at a City-specified frequency), and construction "look-ahead" schedules. Prepare and submit reports detailing the review and approval of the CPM schedules.
- All construction project schedules will be prepared utilizing the Critical Path Method (CPM) and the Primavera P6.
- Prepare periodic progress status reports.
- Prepare recommendations on how to recover from schedule slippages.

- Analyze impacts to schedule resulting from proposed change orders and pending/approved change orders on the project duration and schedule, including time extension requests and rain delay days.
- Assist with negotiation of change order requests and change orders as they relate to time impact to the construction schedule.
- Provide schedule updates during critical points of the DD and CD phases to assure completion of the design within the baseline schedule timeline. Provide recommendations, as necessary, to ensure that the projects can meet the schedule milestones.

C. BUDGET/COST ESTIMATES/COST CONTROL TASKS

- Review, evaluate, validate, and reconcile construction cost estimates and project cost projections and escalations prepared by A/E Team and CM/GC to facilitate the establishment of a value-targeted budget and scope.
- When requested by the City, prepare independent cost estimates at each major design milestone for all trade packages, as requested, including those for which the core trade subcontractors will submit a price at 95% Construction Documents (CD).
- Provide cost budget, cost forecasts, and cost monitoring management services. Provide cost estimates at key design phase milestones to assure completion of the Project within the cost budgets approved by the City.
- Assist in negotiations of change order requests and change orders for cost and provide appropriate recommendations to the City.
- Prepare construction cost estimates for the major design phases: 100% Design Development (DD), and 50% and 90% Construction Drawings (CD). Participate in cost estimating sessions for reconciliation with the CM/GC's and the A/E Team's cost estimates at each milestone identified herein.
- At 95% CD, the City will request construction bids from pre-selected core trade subcontractors. CMSS will provide an independent cost estimate at 95% Construction Document, which will be the basis for bid evaluation, selection and award of contract to core trade subcontractors. See Core Trade Subcontractor criteria and selection, identified in City Ordinance 178-13 in Appendix L.
- Develop and implement a tracking system to monitor and control the status of construction change orders, change order requests, and proposed change orders. Review and advise the City on change order requests as endorsed by the CM/GC.
- Advise the City on the application of the CM/GC Contingency, as defined in the Agreement between the City and the CM/GC, towards funding cost incurred on Work that are inadvertently omitted from the Project.
- Prepare reports monitoring construction progress and construction budget expenditures.
- Participate in the evaluation and recommendation of Value Engineering measures.
- Provide input on potential impacts and risks of proposed construction measures and review comments by CM/GCs, general contractors, or the design team.
- Review and advise on contractor's and its subcontractors' shop drawings, fabrication drawings, coordination drawings, submittals, and RFIs for compliance with the Contract Documents.

SECTION 5 – TECHNICAL QUALIFICATIONS

The City strongly encourages respondents to engage in positive efforts to utilize diverse, local firms as joint venture partners and/or sub-consultants in this public contract. The ideal CMSS Consultant Team shall consist of a Prime Consultant (or Joint Venture) leading a high level of participation from LBE Sub-consultant firms providing core services in their respective areas of expertise. The Prime Consultant shall be the main point of contact with DPW and maintain quality control and consistency for all construction management services rendered. The Prime Consultant may directly perform construction management support services in its core area(s) of expertise, and shall encourage participation from LBE Sub-consulting firms on providing core specialty services.

Qualifications reflect the anticipated level of responsibility of the disciplines needed for this Program. RFQ responses must include Statements of Qualifications and resumes for each key personnel proposed for the CMSS Consultant Team to document that they meet or exceed the minimum qualifications listed.

1. PRIME CONSULTANT FIRM OR JOINT VENTURE PARTNERS QUALIFICATIONS

The Prime Consultant firm or joint venture partners shall meet the following requirements:

- A minimum of fifteen (15) years in business providing construction management services and the proposed scope of services outlined in this RFQ.
- The prime consultant firm (or JV partners) shall demonstrate relevant and requisite experience, providing construction management services for a large, complex projects similar to the Moscone Expansion Project, including projects with underground spaces, active facility spaces, and construction that includes major utility relocation and coordination with utility companies. Provide specific examples of tools and measures utilized in providing CM support services for a large, complex project similar to Moscone Expansion Project for multiple related projects.
- The prime consultant firm (or JV partners) shall also demonstrate relevant project experience where Leadership in Energy and Environmental Design (LEED) requirements were incorporated into the design and construction with a minimum of LEED Gold certification. The prime consultant shall have at least one (1) LEED Accredited Professional on their staff in a key leadership and management position, as an employee, not as a specialty consultant member of the team.

2. SUB-CONSULTANT FIRM QUALIFICATIONS

The Sub-Consultant firm(s) shall meet the following requirement(s):

- A minimum of ten (10) years experience in the business of, providing construction management support services with emphasis on one or more of the specialties or technical fields required under the proposed scope of services (e.g., field inspection, cost estimating and consulting, schedule consulting, constructability review) for a variety of engineering/construction projects. Demonstrate relevant and requisite experience providing construction management services for a large and complex project similar to the Moscone Expansion Project, including projects with complex underground construction, active facility spaces including utility relocation and coordination.
Note: the Sub-Consultant Firm must have provided specialized construction management services, not solely within the context of serving as the general contractor for particular projects.
- It is highly desirable for each team's Sub-consultant shall have a LEED AP on staff. It is the City's preference to see LEED competency from members of the proposer's various firms, not as a separate specialty consulting participation.

Non-technical Sub-consultants are not required to meet the above Sub-consultant qualifications.

3. KEY PERSONNEL /LEAD TEAM MEMBER QUALIFICATIONS

3A. CMSS CONSTRUCTION MANAGER (LEAD)

To qualify as the Project Manager for this RFP, an individual within the Prime Consultant and/or Joint Venture must possess the following qualifications:

- Minimum of fifteen (15) years of recent experience in construction management relative to large and complex engineering/construction projects. Demonstrate relevant and requisite experience providing construction management services for a complex project similar to the Moscone Expansion Project, including projects with complex underground construction in occupied spaces.
- Relevant experience within the last ten (10) years serving in the capacity as the Construction Manager.
- Possess a baccalaureate degree in Engineering, Construction Management, or relevant discipline from an accredited institution.
- Relevant experience within the last ten (10) years serving as a Construction Manager on building projects of similar scope and size delivered using an IPD (Integrated Project Delivery) method and application of BIM (Building Information Model) is highly desirable.
- The ideal candidate is a Certified Construction Manager (CCM) certified by the Construction Management Association of America – CMAA.
- Current registration as a Professional Engineer or Registered Architect in the State of California, and LEED accreditation from the U.S. Green Building Council is highly desirable.

3B. SCHEDULER

To qualify as a Scheduler for this RFP, an individual within the Prime Consultant or Joint Venture, and/or Sub-Consultant must possess the following qualifications:

- Minimum of ten (10) years of recent experience in scheduling relative to large and complex engineering/construction projects. Demonstrate relevant and requisite experience providing construction management services for a complex project similar to the Moscone Expansion Project, including projects with complex underground construction in occupied spaces.
- Relevant experience within the last five (5) years serving in the capacity as the Lead Scheduler on complex building projects.
- Fully knowledgeable of construction scheduling utilizing the Critical Path Method with resource and cost loading. The proposed scheduling engineer shall also demonstrate experience evaluating and analyzing time and cost impacts as they relate to Contractor's delay claims.
- The scheduling personnel must have recent hands-on experience with the Primavera P6.
- The ideal candidate will possess one or more certifications from the various industry related associates such as the Association for the Advancement of Cost International (AACEI), such as a Certified Cost Engineer/Consultant (CCE/CCC); a certified Planning and Scheduling Professional (PSP), or other similar certifications (e.g. Certified Construction Manager – CCM certified by the Construction Management Association of America – CMAA)

3C. COST ESTIMATOR

To qualify as the Lead Cost Estimator for this RFP, an individual within the Prime Consultant or Joint Venture, and/or Sub-Consultant must possess the following qualifications:

- Minimum of fifteen (15) years of recent experience in cost estimating relative to large and complex building projects. Demonstrate relevant and requisite experience providing construction management services for a complex project similar to the Moscone Expansion Project, including projects with complex underground construction in occupied spaces.
- Relevant experience within the last ten (10) years serving in the capacity as the Lead Cost Estimator on complex building projects.
- Fully knowledgeable of construction cost estimating and development of project budgets, cost models, cost projections, and value engineering analysis; development and analysis of cost estimates based on the A/E contract documents. The cost engineer shall also demonstrate experience evaluating and analyzing time and cost impacts as they relate to Contractor's delay claims and reviewing and negotiating change orders.
- The ideal candidate will possess one or more certifications from the various industry-related associates such as a certified Planning and Scheduling Professional (PSP); a Certified Cost Engineer/Consultant (CCE/CCC) from the Association for the Advancement of Cost International (AACEI), a certified Professional Estimator (CPE) by the American Society of Professional Estimators; or similar certifications from other industry related associations (e.g. Construction Management Association of America – CMAA)

SECTION 6 – SUBMITTAL REQUIREMENTS

6A. INSTRUCTIONS AND GENERAL REQUIREMENTS

Proposal Packages shall be submitted as follow:

I. WRITTEN SUBMITTAL

Subsection 6C (Components of Proposal Package) described in this section below shall be submitted as six (6) copies, on 8½" x 11" format, and one (1) electronic copy in text searchable format.

II. RATES SCHEDULE PROPOSAL

Submit the following in a separately-sealed envelope marked "**RATES SCHEDULE Moscone Expansion Project CMSS RFQ**" with the name of the Proposer (Prime Consultant or Joint Venture Firms):

- One (1) signed original, on 8½" x 11" format, and one (1) electronic copy of the *Rates Schedules* (Appendix D) in a separately sealed envelope. The Rates Schedules must list the billing rate of every personnel proposed for this project, and represent the lowest billing rates offered to each firm's private and public sector clients. Refer to Sub-section J and Appendix D of this RFQ.
- One (1) signed original of all Declaration and Certification Forms (Appendix D1) as part of this envelope.

III. CONTRACT MONITORING DIVISION SUBMITTAL

- Submit one (1) original and two (2) copies of all required CMD forms, including Good Faith Efforts Documentations (if any), separately in a sealed envelope. The sealed envelope shall be titled "CMD FORMS", and include the title of this RFQ, and the name of the Consultant. Refer to Sub-section K below and Appendix B of this RFQ.

All submittal material shall be delivered in a sealed package clearly marked "**Moscone Expansion Project – RFQ for CM Support Services**" with the name of the Proposer to:

Department of Public Works
Project Management Division
30 Van Ness Avenue, Suite 4100
San Francisco, CA 94102
Attn: Brook Mebrahtu, Project Manager

Double-sided printing on recycled paper with 11-point font is encouraged.

Proposals must be received at the Project Management Division by **4:00 pm on April 4, 2014**. Postmarks will not be considered in judging the timeliness of submissions. Proposals submitted by fax or electronic mail will not be accepted.

6B. CLARIFICATION AND QUESTIONS

All requests for clarification of any ambiguities, discrepancies, inconsistencies, or questions concerning the RFQ, whether submitted before or after the pre-proposal conference, must be in writing and directed

to Brook Mebrahtu at moscone-expansion-project@sfdpw.org, at least **eight (8) business days (March 25, 2014)** prior to the deadline for submission of responses. Substantive replies, clarifications, interpretations, or changes to the RFQ will be made by written addendum, and shall become part of this RFQ. Any addendum will be sent to email addresses listed on the attendance sign-in at the Pre-Proposal Conference.

6C. COMPONENTS OF PROPOSAL PACKAGE

The proposal package shall be clear and concise; responsive to all RFQ requirements; and presented in the form of a written report for each of the three packages – Written Submittal, Rates Schedule Proposal, and Human Rights Commission Submittal – separated by tabs into the following subheadings:

- A. Cover Letter
- B. Project Team Organization and Teamwork
- C. Business and Financial Information
- D. Firm's Experience Statement
- E. Firm's Qualification Information
- F. Key/Lead Personnel Qualification Information
- G. Supplemental Information
- H. Project Management and Work Approach
- I. Not Used
- J. Rates Schedule
- K. Contract Monitoring Division Documents

I. WRITTEN SUBMITTAL

The Written Submittal shall be organized to include components A through H described below. Page limits specified define one page as both sides of an 8½" x 11" sheet. Please focus the response on information that fully addresses the qualification criteria enumerated in Sections 5 and 6 of this RFQ. Responses will be evaluated using the Written Submittal Screening Form in Appendix B.

A. COVER LETTER (LIMIT 1 PAGE)

1. Submit a cover letter signed by an individual authorized to obligate the Proposer (Prime Consultant or JV) to confirm commitments contained in the proposal. The letter must include the following: (1) a statement identifying the Prime Consultant (or Lead Proposer if a Joint Venture is responding) to this RFQ; (2) one contact for all communications pertaining to the Proposer's proposal (including telephone number, fax number, e-mail address, and mailing address); (3) a statement of the Proposer's overall ability and qualifications to conduct the work and proposed approach for providing services, as it relates to key requirements of the RFQ response; (4) a statement that the Proposer agrees to comply fully with the terms and conditions of the Agreement; (5) a statement that the Proposer agrees that the Proposer's rates and multiplier listed on the Rates Schedule may be incorporated into the Agreement; (6) a statement that the Proposer agrees to fully comply with all applicable San Francisco laws; and (7) acknowledgement by Proposer that it meets with all requirements for award of Agreements, as outlined in Section 9.

B. PROJECT TEAM ORGANIZATION AND TEAMWORK (LIMIT 5 PAGES)

This section shall describe the Proposer's team organization and expertise it proposes to provide to the project. Please respond to the following points in the narrative:

1. Describe the roles and organization of your proposed team for this project. Indicate the composition and number of project staff, facilities available and experience of your firm/team as it relates to this project. Identify one prime individual as Project Manager empowered by the consulting firms forming the team to represent the entire CMSS Consultant Team, whose responsibility will be to direct, coordinate and control the entire CMSS Consultant Team in its effort towards the successful completion of the City's projects.
2. If the Prime Proposer is a Joint Venture, explain the roles and responsibilities of each joint venture partner. State how much work is being performed by the Primer Proposer (or each JV Partner) and describe how the workload is organized, divided or assigned, and managed. State how much work is being performed by the sub-consultant and describe how their workload is organized, divided or assigned, and managed. Demonstrate that there are no overlaps, duplication, or gaps in services.
3. Provide an Organizational Chart that illustrates the team structure of all Key Personnel and lead team members, including individuals named in Section F above, who will be providing CM services in their Core Areas of Expertise as indicated. Correlate the team members' positions on the Organization Chart to the Scope of Services being provided.
4. Clearly outline the organization and confirm the commitments of the proposed CMSS Team and of Key Personnel. State whether the expected manpower projections will be handled by existing permanent staff or if additional staff will be hired.
5. Indicate if the proposed CMSS Team or portions of the team have worked together before or if any sub-consultants have a track record of successful projects with the prime and any of the consultants listed as part of the A/E Team described in Section 1. Describe the key elements of the team's success on prior projects.
6. Describe how the CMSS Consultant Team will interface with City Staff, the A/E Team, and the CM/GC during each phase of the project. Indicate if this team or portions of this team have previous experience working with City and County of San Francisco Staff in an integrated organization.
7. Indicate those services, if any, which the CMSS Consultant team will not be providing and the reason therewith, thus informing the City of the need to search for other consultants to complete the CM Team.

C. BUSINESS AND FINANCIAL INFORMATION

1. Every Prime Consultant, JV Partner, and Sub-Consultants included as part of the CMSS Team shall complete Form DOCUMENT 1 provided in APPENDIX G of this RFQ.
2. Responses will be evaluated using information provided in Form DOCUMENT 1. Omitting any project, or any information requested relative to any such project, may result in disqualification. The City reserves the right to check any, all, or none of the references submitted. Provide the full name and address of the prime consultant firm and sub-consultant firm(s), or each member firm, if the prime consultant is a joint venture. Prime Consultants or joint ventures shall be Construction Management firms.

D. FIRM'S EXPERIENCE STATEMENT

1. List three (3) to five (5) projects for each firm – Prime consultant, all JV Partners (if applicable) and sub-consultants using the template provided in DOCUMENT 2 (Appendix H).
2. Complete attached Release and Waiver Agreement (DOCUMENT 4 in APPENDIX J) for the Prime consultant, JV partners (if applicable), and every Sub-consultant included as part of the CMSS Team.
3. Responses will be evaluated using information provided in the documents provided. Omitting any project, or any information requested relative to any such project, may result in disqualification. The City reserves the right to verify any, all, or none of the references submitted.

E. FIRM'S QUALIFICATION INFORMATION (Limit 2 Pages)

For each consultant firm – Prime Consultant, JV partners (if applicable), and Sub-consultants – provide sufficient information for the Selection Panel to evaluate the consultant's ability to successfully complete the tasks outlined in the scope of services, including, but not limited to the following:

1. A description and background summary of the firm, including corporate qualifications, commitment, strength, and technical capabilities to successfully accomplish scopes of services to be provided.
2. Discuss how each consultant's experience is relevant to the Moscone Expansion Project. Highlight experience with:
 - Large (\$100+ million) civic building projects;
 - Projects constructed in a highly-congested traffic area, or at a zero lot-line property in an urban setting.
 - Demonstrate relevant and requisite experience providing construction management services for a large and complex building project similar to the Moscone Expansion Project, including projects with complex underground construction in occupied spaces.
 - Sustainably designed and constructed building projects; indicate LEED rating system and certification level if applicable;
 - Program of five or more projects similar or greater in complexity than the Moscone Expansion Project.

F. KEY/LEAD PERSONNEL QUALIFICATION INFORMATION

1. Complete one DOCUMENT 5 (Appendix K) per CMSS Team
 - a. Provide names of key personnel providing services in Core Areas of Expertise. Refer to table below for the required number of Key Personnel expected on the CMSS Team for the Moscone Expansion Project.
 - b. Indicate the Firm associated with each Key Personnel named. Key Personnel within the same Core Area of Expertise may be from the same or different Consulting Firms.
 - c. Optional: Include additional names of Key Personnel, as part of the CMSS Team, who will be contributing in significant and meaningful ways in providing construction management services described in Section 5.

2. Highlight each member's experience working on multistory building projects that is within a fully functional and operating public facility. Clearly indicate the type of project and whether the project(s) were successful. Explain why they were or were not successful.
3. Complete DOCUMENT 3 (Appendix I) for each Key Personnel DOCUMENT 5 and (Appendix K).
 - a. Make additional copies of pages in DOCUMENT 3 as needed.
 - b. Clearly demonstrate that the key/lead personnel proposed by the Proposer meet all the qualification requirements outlined in Section 5.
4. Supplemental Information on Key Personnel (OPTIONAL - LIMIT 1 PAGE per Key Personnel)
Provide additional information that highlights Key Personnel's experience in providing construction management specialty services on complex civic project, essential services buildings, or "green building" projects. Discuss how the Key Personnel will contribute to the successful performance of the work within his or her Core Area of Expertise, and to the overall success of the Moscone Expansion Project.

G. SUPPLEMENTAL INFORMATION ON TEAM (OPTIONAL - LIMIT 2 PAGES)

Provide information regarding other related project experience not necessarily meeting the minimum qualification criteria, but which may illustrate relevant experience of the proposed CMSS Team, the consulting firms, and key personnel. Supplementary information is not required.

H. PROJECT MANAGEMENT AND WORK APPROACH (LIMIT 5 PAGES)

Describe the overall project approach that your team proposes to use to successfully carry out this project, including but not limited to the following:

1. Overall approach for meeting goals and objectives of this RFQ. Discuss how your approach would enhance or add value to the performance of your overall team. Discuss how you have successfully implemented your ideas on past projects.
2. Approach and plan to integrate participation from LBE consultants, contractors, local vendors and suppliers.
3. Plan for coordinating and managing all work activities to meet project milestones and deliverable due dates.
4. Approach for performing design document and constructability review, value engineering analysis, and bid package review. Discuss your approach in managing and tracking these review comments until resolution.
5. Processes/measures for controlling cost and schedule, tracking delivery/performance and maximizing QA/QC. Demonstrate your approach and methodology for managing the cost and budget and providing accurate cost estimates for establishing the project budget and for evaluating the Contractor's change order requests. Describe specific procedures successfully implemented in the past for bringing projects in on time and within budget;
6. Processes for internal and external notification and resolution of technical conflicts and cost/schedule variances.
7. Special expertise to be provided for the various services requested.

8. Describe your role and responsibilities in previous participation in alternative Project Delivery Methods (i.e. CM/GC with Design Assist, CM at Risk, Design Build processes). Were the project(s) successful?
9. Approach in coordinating /managing inspections with all participants (i.e. City, Consultants, CM Team, Special Inspectors, A/E Team, CM/GC, general contractor). Discuss your team's Project Inspection and QA/QC Program (policies and procedures).
10. Approach for monitoring and reporting expended labor hours. Include description (frequency, days after timesheet submittal) of Project Manager's access to reports on staff labor hours and other cost items.

II. RATES SCHEDULE PROPOSAL

J. RATES SCHEDULE

Submit *Rates Schedules* from all participating consultant firms (see Appendix D) and *Declaration and Certification Forms* (see Appendix D1) in a separately sealed envelope. The sealed envelope shall be titled "**RATES SCHEDULE Moscone Expansion Project CMSS RFQ**" and include the name of the Proposer.

III. CONTRACT MONITORING DIVISION SUBMITTAL

K. CONTRACT MONITORING DIVISION DOCUMENTS

Refer to Appendix B of this RFQ for details.

In a separate sealed envelope, submit the following Contract Monitoring Division forms:

Form 2A - CMD Contract Participation

Form 2B - CMD "Good Faith Outreach" Requirements Form and documentations.

Form 3 - CMD Non-Discrimination Affidavit (signed by JV Lead Partner, if applicable)

Form 4 - CMD Joint Venture Form (if applicable)

Form 5 - CMD Employment Form

1. Forms may be downloaded online from the CMD website:
<http://sfgsa.org/modules/showdocument.aspx?documentid=10460> (Download CMD Attachment 2)
2. Questions regarding the Contract Monitoring Division program should be directed to Selormey Dzikunu, the CMD Contract Compliance Officer, via email: [Selormey Dzikunu@sfdpw.org](mailto:Selormey.Dzikunu@sfdpw.org) or by phone: (415) 558 4059.

SECTION 7 – SELECTION PROCESS

By submitting a Response to this RFQ (“Proposal”), the Proposer hereby acknowledges and accepts the general terms and conditions specified in the Standard Agreement. A sample draft Standard Agreement, for reference only, is included in Appendix E. The selection process is described below.

The selection process for the CMSS Consultant Team will be conducted by a Selection Panel and consists of two sequential stages: 1) Evaluation of Written Submittals, including consideration from reference responses; and 2) Oral Interviews of short-listed Proposers. The Proposers will be evaluated and ranked according to their cumulative performance in both components, as described in this RFQ. The City will negotiate agreements with the highest-ranked Proposer.

EVALUATION PROCESS

1. REFERENCES

References for Firms and Key Personnel proposed on the CMSS Team will be contacted by City Staff. Refer to Section 5 for details on submission of References Information. **NOTE: The Proposer should ensure that the listed reference is available for a call from the City inquiring on the listed personnel during the days indicated in the RFQ schedule, shown in Section 2.** A reference may be deemed non-responsive if the Proposer’s information cannot be verified by a reference within seven (7) calendar days of first contact attempt by City staff.

2. WRITTEN SUBMITTAL EVALUATION

- a. City staff will review every Proposal using the *Initial Screening Checklist* (Appendix A) to determine if it is responsive and responsible. Each Proposal will be reviewed for completeness, format requirements, and responsiveness to LBE requirements.
- b. All submittals that are complete and meet the minimum technical qualifications will be forwarded to the Selection Panel. References may be contacted at this stage to verify accuracy of information.
- c. A Selection Panel will review the written submittals based on the *Written Submittal Evaluation Form* (Appendix C1). The panel will short-list up to five (5) firms for oral interviews.
- d. Contract Monitoring Division will review the Proposals for compliance with its requirements. No firm will be recommended for further consideration without CMD approval.
- e. Notification will be sent to the firms that are short-listed and approved by CMD, indicating the time and place of the interviews, documenting any change in Evaluation Criteria for the interviews, and requesting further written information if needed.

3. ORAL INTERVIEW PROCESS

- a. A Selection Panel will interview the short-listed firms through an evaluation process consisting of a presentation followed by standardized interview, and may include follow-up questions if clarification of a consultant’s response is necessary. The same set of interview questions will be used for all consultants.

- b. Each team will be limited to an attendance of seven (7) individuals in the interview, including sub-consultants. The Construction Manager, Lead Cost Estimator, Lead Scheduler, for the proposed CMSS Team, are highly encouraged to participate in the interview.
- c. The content of the presentation shall describe the team's strengths and experience in providing the services required in this RFQ. The team may present examples of their experiences that are relevant to this RFQ.
- d. The Selection Panel will proceed to evaluate each consultant independently based on each of the consultant's presentation, responses to interview questions, and responses from References (contacted prior to the interview).
- e. Evaluation: Based on the oral interviews and responses from References, the Selection Panel will assign a numeric score for each Proposer. The score will again be based on an evaluation criteria matrix provided in Appendix C2.

4. FINAL SELECTION AND CONTRACT NEGOTIATION

- a. The Selection Panel will rank short-listed firms' scores from the Written Submittal Evaluation and the Oral Interview Evaluation, weighted at 65% and 35% respectively to determine the Final Total Score.
- b. CMD Rating Bonus: The evaluation subtotal will be submitted to CMD for application of any appropriate rating bonuses and calculation of the net scores. This action by the CMD will determine the final rankings.
- c. The City will negotiate an agreement with the highest-ranking firm based on a City-determined scope of work and a Rates Schedule acceptable to the City. A copy of the City's sample standard agreement is included in Appendix E. If it is not possible to complete negotiations with the highest-ranking firm, or if within eight (3) weeks of the notice of final ranking, the designated highest-ranking firm does not fulfill all City requirements necessary to enter into a Controller-certified contract, the City may elect to negotiate with the next highest ranked firm in rank order.

5. LBE (Small and/or Micro-LBE) Prime Proposers Rating Bonus

Pursuant to Chapter 14B, the following rating bonus will be in effect for the award of this project for any prime proposers who are certified by CMD as a LBE, or joint venture partners who are certified as a LBE by the proposal due date. Certification applications may be obtained by contacting CMD as indicated on the Websites and Contact Information section. The rating bonus applies at each phase of the selection process and will be added to the score of each firm eligible for a bonus for purposes of determining the highest ranked firm. Refer to CMD Attachment 2 for more details.

The application of the rating bonus is as follows:

- a. A 5% bonus to a joint venture prime proposer with a LBE participation that equals or exceeds 35%, but is under 40%; or
- b. A 7.5% bonus to a joint venture prime proposer with a LBE participation that equals or exceeds 40%.
- c. A 10% bonus to:
 - A LBE prime proposer; or
 - A joint venture among LBE prime proposers.
 - A 2% bonus to an SBA LBE

Prime and Joint Venture Partners

- a. A Joint Venture partner shall not submit a proposal as a partner in another Joint Venture team or as a separate Prime for this RFQ.
- b. A Prime or Joint Venture partner can be a Subconsultant to another team submitting a proposal for this RFQ.

SECTION 8 – CITY RIGHTS AND OPTIONS

- A. The issuance of this RFQ does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:
1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
 2. Reject any or all proposals;
 3. Reissue a Request for Qualifications;
 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 RFQ, or the requirements for contents or format of the proposals;
 5. Procure any materials, equipment or services specified in this RFQ by any other means;
 6. Determine that no project will be pursued or no consultants be retained.
- B. The City reserves the unqualified right to postpone the selection of the Consultant for its own convenience, to withdraw this RFQ at any time without indicating any reason for such rejection, or to negotiate with any, all or none of the Consultants. The City reserves the right to remedy technical errors, clarify the published scope of services and approve or disapprove the use of the sub-consultants.
- C. The City has the right to use any or all ideas or concepts presented in any proposal without restriction and without compensation to the Consultant. As a corollary, the City's selection of a Consultant does not constitute the City's acceptance of all particulars of the Consultant's proposal.
- D. The City reserves the right to check any, all or none of the references submitted.
- E. No person or firm responding to this RFQ shall obtain any claim or right of action against the City by reason of any aspect of the RFQ and defects or abnormalities in the selection process, the rejection of any proposal, the acceptance of any proposal, any statements, representations, acts of omissions of the City, the exercise of any City discretion set forth in or with respect to any of the foregoing, and any and all matters arising out of all or any of the foregoing.
- F. CEQA: The potential environmental impacts of the proposed Moscone Center Expansion (the Project) must be evaluated through the California Environmental Quality Act (CEQA) review process. The City is in the process of environmental review with Planning Department's consultant, with a current anticipated schedule of completing the Environmental Impact Report (EIR) or Mitigated Negative Declaration (MND) process by September 2014. The City will consider approval of the Project following completion of the CEQA process. Any construction work would not commence until the CEQA review process is completed, the City approves the Project, and the City notifies the General Contractor that it may begin construction work. If the City does not approve the Project, the construction work will not commence and the Agreement will be terminated. The design and, if the Project proceeds, construction work will need to incorporate any alterations, procedures or alternatives identified and adopted during the CEQA review process, and the Project will not proceed if the City does not approve the Project following completion of CEQA review. The design will evolve and change throughout the CEQA process, and all work must accommodate such changes.

SECTION 9 – CITY TERMS AND CONDITIONS

The purpose of this section is to outline the general terms and conditions that would be set forth in a contract between the City and the selected Consultant. The City reserves the right to revise or add any terms and conditions beyond those set forth in it.

A. Provision of Equal Benefits

1. Effective June 1, 1997, Chapter 12B of the San Francisco Administrative Code was amended to prohibit the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of employees. All proposing firms must be certified by the San Francisco Contract Monitoring Division (CMD) as being in compliance with Chapter 12B. The CMD has developed rules of procedure and various resource materials explaining the equal benefits program. The materials are available by contacting the CMD Equal Benefits Section as indicated on Websites and Contact Information section.
2. The Consultant shall be compliant and certified with the above Provisions before award of agreement. Consultants that are already 12B compliant and have no changes to the above provisions do not have to fill out the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form CMD-12B-101). All new Consultants, including new Joint Ventures, to the City, or those that have made changes to their company policies, and those that are not current with the 12B compliance status shall complete form CMD-12B-101. Refer to Appendix F for a copy of the form.
3. The completed form and supporting documents shall be submitted with the RFQ, in a separate envelope addressed to:

ATTN: Selormey Dzikunu
General Services Agency
Contract Monitoring Division
30 Van Ness, 5th Floor
San Francisco, California 94102
Phone # (415) 558-4059

B. Local Business Enterprises (LBE) Goals

- a. The Sub consultant participation goal is **15% LBE**. Pursuant to Section 14.B.9 of the Administrative Code, proposers are hereby advised that the availability of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Other Business Enterprises (OBE) to perform Subconsultant work on these contracts is as follows: **8% MBE, 2% WBE, and 5% OBE**. (These are not goals, but are availability advisory only.) Proposers are further advised that they may not discriminate in the selection of subcontractors on the basis of race, gender, or any other basis prohibited by law, and that they shall undertake all required good faith outreach steps in such a manner as to ensure that neither MBEs nor WBEs nor OBEs are unfairly or arbitrarily excluded from the required outreach.
- (1) Proposers may download the CMD Attachment 2 Forms including HRC/CMD Form 2A, Consultant Participation Form, and CMD Form 2B, Good Faith Efforts Form from the following Website:

<http://sfgsa.org/modules/showdocument.aspx?documentid=9812>

- b. The HRC Attachment 2 is a part of the RFQ and is attached as Appendix B. HRC/CMD Certified LBE Proposers may be eligible for up to 15% rating bonus if certain requirements stated in the HRC/CMD Attachment 2, Part II, are met.
- c. The LBE Sub consultant participation goal stated above for this project is the percentage of the total value of the services to be procured. The goal must be met with LBE firms that are certified as LBE firms by the San Francisco Contract Monitoring Division. The CMD website provides a current list of all certified LBE firms. Other firms may be used to meet the Subconsulting goal provided that all firms so used are certified as LBE firms by CMD as of the due date of this proposal. The CMD will review LBE participation for compliance when the billings have reached the following percentages of the contract amount: 30%, 50%, 70%, and 90%.
 - (1) For information concerning currently certified LBE firms to be utilized in meeting the LBE Sub consultant participation goal, please go to the following Website:

<http://sfgsa.org/index.aspx?page=6132>

http://mission.sfgov.org/CMD_certification/
- d. All proposers must meet the Subconsultant goal and meet the good faith outreach requirements. Any proposal that fails to meet the specified LBE participation goal and fails to meet the good faith outreach requirements shall be considered non-responsive and shall be rejected. Refer to CMD Form 2B for more details.
- e. Proposals that do not meet the LBE participation goal will be rejected as non-responsive unless the CMD Director finds that the proposer diligently undertook all the good faith efforts required by this ordinance and that the failure to meet the goal resulted from an excusable error. The contract awarding authority shall require proposers on the contracts to contact an LBE before listing that LBE as a Subconsultant in the proposal. A proposal that fails to comply with this requirement will be rejected as non-responsive.
- f. All proposers shall undertake good faith outreach as set forth in Section 14.B.8C of the ordinance to select sub consultants to meet the LBE goal. The Good Faith Outreach form with the required supporting documentation must be completed and submitted with the proposal even if the LBE Subconsultant goal has been met.
- g. Proposers must identify on CMD Form 2A the particular LBE sub consultants and lower tier sub consultants to be utilized in performing the contract, specifying for each the percentage of participation, the type of work to be performed and such information as the CMD reasonably required to determine the responsiveness of the proposal.
- h. The LBE proposer is also required to comply with the established goal of the RFQ. The LBE proposer, proposing as a joint venture with a non-LBE firm is also required to comply with the established goal. The prime association partner must be of the same or similar discipline in order to be eligible for a rating bonus.
- i. The Contract Monitoring Division recognizes that consultants at the time of award of as-needed contracts may not be able to predict accurately the disciplines required for services on a particular project. After contract award, the CMD may approve written requests by consultants to utilize CMD certified LBEs who are not listed in the consultant's proposal as sub-consultants to meet the LBE goal. A written request must be submitted and approved by the CMD and a written contract modification to the agreement must be executed prior to commencing such work. Failure to submit such requests in a timely manner will result in the

work of the said sub-consultants not being counted toward meeting the LBE participation goals and not being authorized to perform under the Master Agreement.

- j. LBEs identified as sub-consultants must be certified with the San Francisco Contract Monitoring Division by the proposal due date, and must be contacted by the proposer (prime consultant) prior to listing them as sub-consultants in the proposal. Additionally, sub-consultants should not enter into any agreement that limits their ability to be listed or utilized by more than one proposer. Any proposal that does not meet the requirements of this paragraph will be non-responsive.
- k. Proposals submitted in response to this RFQ that fail to comply with the material requirements of the S.F. Administrative Code Chapter 14B and the RFQ will be deemed non-responsive and will be rejected. During the term of the contract, any failure to comply with the level of LBE sub-consultant participation specified in the contract shall be deemed a material breach of contract. Sub-consulting goals can only be met with CMD certified LBEs located in San Francisco.
- l. For questions concerning the CMD Forms, contact the CMD Contract Compliance Officer as indicated on Websites and Contact Information section of this RFQ. The forms will be reviewed and approved by CMD prior to the interview phase. RPD will announce the results of the CMD review prior to scheduling interviews.

C. Insurance Requirements

- 1. Without in any way limiting Consultant's liability pursuant to the "Indemnification" section of this Agreement, Consultant, at its own cost, must maintain in full force and effect, during the full term of the Agreement (unless otherwise noted or as reduced by the agreement of the parties), insurance in the following amounts and coverage, or coverages as required by laws and regulations, whichever is greater, by an insurance company certified by the California Insurance Commissioner with a rating of A-, VIII or better:
 - a. Workers' Compensation, in statutory amounts, including Employers' Liability coverage with limits not less than \$1,000,000.00 each accident, injury, or illness; and with regards to Workers' Compensation, the Consultant hereby agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subconsultants; and
 - b. Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence / \$4,000,000 aggregate. Combined Single Limit 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.
 - d. Professional liability insurance, maintained in force, during the full term of the Agreement and for five years following Substantial Completion of the last project, with limits not less than \$1,000,000 each claim occurrence with respect to

negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

2. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:
 - 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.
3. All policies shall provide thirty (30) days' advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address:

City & County of San Francisco
Department of Public Works
Division of Contract Administration
1155 Market Street, 4th Floor
San Francisco, CA 94103

A sample Certificate of Insurance and an Endorsement to the policy is available (as reference only) on the Office of Contract Administration website
<http://sfgsa.org/index.aspx?page=4762>
(click Insurance Requirements).

4. Should any of the required insurance be provided under a claims-made form, Consultant 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.
5. 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.
6. 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.
7. Before commencing any operations under this Agreement, Consultant shall do the following: (a) 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 coverage set forth above, and (b) furnish complete copies of policies promptly upon City request. Failure to maintain insurance shall constitute a material breach of this Agreement.
8. Approval of the insurance by City shall not relieve or decrease the liability of Consultant hereunder.

9. If a subcontractor will be used to complete any portion of this agreement, the Consultant shall ensure that the sub-consultant shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds. Consultant shall provide such insurance documents to the City on behalf of sub-consultant.
- D. Insurance and other Requirement for Associations/Joint Ventures/ Partnerships¹
IT IS INCUMBENT FOR EACH JOINT VENTURE PARTNER TO ENSURE THAT THEIR WORK IN THE JOINT VENTURE PARTNERSHIP WILL BE COVERED BY EACH OF ITS PROFESSIONAL LIABILITY INSURANCE.
- E. Indemnification
 1. **General.** To the fullest extent permitted by law, Consultant shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Consultant or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise directly or indirectly, in whole or in part, from (a) the services under this Agreement, or any part of such services, and (b) any negligent, reckless, or willful act or omission of the Consultant, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"), subject to the provisions set forth herein.
 2. **Limitations.** No insurance policy covering the Consultant's performance under this Agreement shall operate to limit the Consultant's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Consultant assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the consultants of any Indemnitee. Consultant's indemnification obligations for claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the extent of Consultant's negligence or other breach of duty.
 3. **Copyright infringement.** Consultant shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Consultant's services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.
- F. Conflict of Interest
 1. Consultant shall meet the provisions of Section 8.015 of Charter of the City and County of San Francisco, and Section 87100 et seq. of the Government Code of the State of

¹ Under California Contract Law, an association is given the same standing as Joint Ventures or Partnerships.

California and certify that it does not know of any facts that constitute a violation of any said sections.

2. No officer, member or employee of the City and no member of their governing bodies will have any pecuniary interest, direct or indirect, in this Agreement of the proceeds thereof. No Consultant, nor member of the Consultant's family shall serve on the City board, committee, or hold any such position which either by rule, practice or action nominates, recommends, supervises Consultant's operations or authorizes funding to Consultant.
3. The Consultant shall have no interest and shall not acquire any interest, direct or indirect, which conflicts with the faithful performance of this agreement.
4. In addition to the requirements of the City Charter and the State Government, the City will not permit Consultants to perform oversight on any jobs where there is any conflict of interest between the Consultant and other firms involved in the project.
5. Consultants doing business with the City are prohibited from contributing to Proposers. No person who contracts with the City and County of San Francisco for the rendition of personal services; for the furnishing of any materials, supplies, or equipment to the City; or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or Proposer for such an office, or committee controlled by such an officer, or Proposers for such an office, or committee controlled by such an officer or Proposer at any time between commencement of negotiations and either the completion of, or the termination of negotiations for such contract.

G. Business Tax Registration

In accordance with San Francisco City Ordinance 345-88, all vendors conducting business with the City are required to maintain a valid business tax registration number. Agreements will not be awarded to the successful Proposer unless business tax registration fees are paid in full by the time the agreement is awarded. Consultants can register for a current certificate with the Business Tax Division of the Tax Collector of the City of San Francisco. The telephone number of the Business Tax Division is (415) 554-4426. The address of the Tax Collector's office is located at City Hall, Room #140.

H. Certification of Bidder Regarding Debarment and Suspension

All prime and subconsultants providing services in excess of \$25,000 shall review and submit a Debarment and Suspension Certification form, attached in Appendix F.

I. Compliance with the Americans with Disabilities Act

The Consultant acknowledges that pursuant to the Americans with Disabilities Act (ADA), programs, services, and other activities provided by a public entity to the public, whether directly or through a Consultant, must be accessible to the disabled public. The Consultant shall provide the services specified in this contract in a manner that complies with the ADA and all applicable federal, state, and local disability rights legislation. The Consultant agrees not to discriminate against disabled persons in the provision of services, benefits, or activities provided under any agreement with the City and further agrees that any violation of this prohibition on the part of the Consultant, its employees, agents or assigns shall constitute a material breach of the agreement.

J. Prohibiting Use of City Funds for Political Activity

No funds appropriated by the City and County of San Francisco for any contract, grant agreement or loan agreement may be expended for participating in, supporting, or attempting to influence a political campaign for any Proposer or measure. Recipients of City funds will cooperate in audits conducted by the Controller to verify that no City funds were used for political purposes.

K. Not Used

L. Chapter 12P – Minimum Compensation Ordinance (MCO)

The successful Proposer will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires consultant to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation as well as paid and unpaid time off the meet certain minimum requirements. For contractual requirements of the MCO, see paragraph 43 “Requiring Minimum Compensation for Covered Employees” in the form of Agreement attached in Appendix E.

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

The selected Consultant shall have to comply with, and file along with its proposal a completed copy of the Minimum Compensation Ordinance (MCO) Declaration form in Appendix B.

For more information log on to the website at www.sfgov.org/olse or phone the San Francisco Office of Labor Standards Enforcement at (415) 554-6237.

M. Chapter 12Q – Health Care Accountability Ordinance (HCAO)

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

N. First Source Hiring Program Ordinance (FSHPO)

If the contract is for more than \$50,000, the successful Proposer will be required to agree to comply fully with and be bound by the provisions of the First Source Hiring Program Ordinance (FSHPO), as set forth in the S.F. Administrative Code Chapter 83. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry-level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment. The FSHPO forms are included in Appendix B.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHPO is available on the web at http://sfgov.org/site/moed_page.asp?id=5618.

O. Campaign Reform Ordinance (CRO)

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Code, which states:

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

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

- The officer's re-election campaign;
- A candidate for that officer's office; and
- A committee controlled by the officer or candidate

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

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

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

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

P. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), consultants' bids, responses to RFQ's and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Q. Protest Procedures

1. Protest of Non-Responsiveness Determination

After receipt of bid proposals, the project team will initially review all proposals for

responsiveness, and will notify all non-responsive firms with a Notice of Non-responsiveness. Within five (5) working days of the City's issuance of non-responsiveness, any firm that has submitted a proposal and believed that the City has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth (5th) working day following the City's issuance of the notice 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 protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

2. Protest of Contract Award

As soon as the consultant rankings are finalized (usually within fourteen (14) calendar days of the oral interview), staff will notify short-listed Proposers by E-mail of the selected CMSS Consulting firm. Within five (5) working days of the City's notification, any firm that has submitted a responsive proposal and believes that the City has incorrectly selected another Proposer for award may submit a written notice of protest.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

3. Delivery of Protests

All protests must be received by the due date. If protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to:

Department of Public Works - Project Management Bureau
30 Van Ness Avenue, Suite 4100, San Francisco, CA 94102
Attn: Brook Mebrahtu, Project Manager

Or: moscone-expansion-project@sfdpw.org

R. Construction of this RFQ

All paragraph captions are for reference only and shall not be considered in constructing this RFQ.

S. Useful Websites

Department of Public Works
Office of Contract Administration

sfdpw.org/
sfgov.org/oca

Contract Monitoring Division
City Build/ Office of Economic and Workforce Development
Office of Labor Standards Enforcement
Department of Industrial Relations
San Francisco Ethics Commissions

www.sfgov.org/CMD
www.oewd.org/citybuild.aspx
www.sfgov.org/olse/mco
www.dir.ca.gov/DLSR/PWD
sfgov.org/ethics

T. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 120 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.

U. Revision of 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 the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any proposer.

At any time during the proposal evaluation process, the Department may require a proposer to provide oral or written clarification of its proposal. The Department reserves the right to make an award without further clarifications of proposals received.

V. Errors and Omissions in Proposal

Failure by the Department to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the vendor from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

W. Public Access to Meetings and Records

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

X. Reservations of Rights by the City

The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all proposals;
3. Reissue a Request for Proposals;

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 RFP, or the requirements for contents or format of the proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means; or
6. Determine that no project will be pursued.

Y. No Waiver

No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a proposer to observe any provision of this RFP.

SECTION 10 – FINANCIAL RESPONSIBILITY

- A. This RFQ is subject to fiscal provisions, contracting, and regulatory process of the City, and the terms and provisions of the City's Charter and Administrative Code. Consultant's assumption of risk for possible non-appropriation is part of the consideration for this proposal.
- B. The City accepts no financial responsibility for any costs incurred by a firm in either responding to this Request for Qualifications, participating in oral presentations, or negotiating an agreement with the City. All proposals, statements, and material submittals will become the property of the City and may be used by the City in any way deemed appropriate, unless the Consultant specifically asks in writing for its return, at the time the Consultant submits its RFQ proposal.
- C. The City is not obligated to award a contract (Agreement) under any circumstance, and specifically reserves the right to withdraw this RFQ, or modify any contract let pursuant to this RFQ, at no cost to the City.
- D. The City anticipates that contracting with the selected Construction Management Support Services Consultant will be incremental or phased to best align with funding availability.

SECTION 11 – INTERPRETATION AND ADDENDA

- A. If a Proposer objects on any grounds to any RFQ or legal requirement imposed by this RFQ, the Proposer shall not have more than ten (10) calendar days after this RFQ is advertised to provide written notice to the Department of Public Works 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.
- B. Any interpretation of, or change in this RFQ will be made by written addendum and shall become part of the RFQ and any contract awarded. The City shall be bound only by the written terms of this RFQ and any addenda hereto. The City will not be responsible for any other explanation or interpretation.

SECTION 12 – ERRORS AND OMISSIONS IN RFQ

- A. Proposers are responsible for reviewing all portions of this RFQ. Proposers are to promptly notify the City, in writing, upon discovery of any ambiguity, discrepancy, omission, or other errors in the RFQ. The deadline for submitting questions and requests for clarification is by the due date shown in the Tentative RFQ Schedule Section 2. Modifications and clarifications will be made by addenda. The City is not obligated to issue addenda in response to any request submitted after the deadline. Oral statements shall not be relied upon as legitimate responses and shall not be binding. Notification must be submitted in writing to moscone-expansion-project@sfdpw.org or by mail to:

Department of Public Works,
Project Management Division
30 Van Ness Avenue, Suite 4100
San Francisco, CA 94102
Attn: Brook Mebrahtu, Project Manager

It shall be the responsibility of the Proposer to ensure that the transmission was sent properly.

- B. Failure by the City to object to an error, omission, or deviation in the responses will in no way modify the RFQ or excuse the Proposer from full compliance with the specifications of the RFQ or any contract awarded pursuant to the RFQ.
- C. Should a prospective Proposer object on any ground to any provision or legal requirement set forth in the RFP (including all Appendices and all Addenda), including but not limited to Objections based on allegations that: (i) the RFP is unlawful in whole or in part; (ii) one or more of the requirements of the RFP is onerous, unfair or unclear; (iii) the structure of the RFP does not provide a correct or optimal process for the solicitation of the Services; (iv) the RFP contains one or more ambiguity, conflict, discrepancy or other error; or (v) the RFP unnecessarily precludes alternative solutions to the Services or project at issue, the prospective Proposer must provide timely written notice of Objection as set forth below.
- a) **An Objection must be in writing and must be received by the City no later than 4:00 p.m. on the 8th working date prior to the deadline for proposal submittal (as that deadline may be adjusted by Addenda).** If an Objection is mailed, the prospective Bidder bears the risk of non-delivery within the required time period. Objections should be transmitted by a means that will objectively establish the date of receipt by the City. Objections or notices of Objections delivered orally (e.g., by telephone) will not be considered.
 - b) Objections must be delivered to the Address noted above, in Section 12 (A):.
 - c) The Objection shall state the basis for the Objection, refer to the specific requirement or portion of the RFP at issue, and shall describe the modification to the RFP sought by the prospective Proposer. The Objection shall also include the name, address, telephone number, and email address of the person representing the prospective Proposer.
 - d) The City, at its discretion, may make a determination regarding an Objection without requesting further documents or information from the prospective Proposer who submitted the Objection. Accordingly, the initial Objection must include all grounds of objection and all supporting documentation or evidence reasonably available to the prospective Proposer at the time the Objection is submitted. If the prospective Proposer later raises new grounds or evidence that were not included in the initial Objection, but

which could have been raised at that time, then the City may not consider such new grounds or new evidence.

- e) Upon receipt of a timely and proper Objection, the City will review the Objection and conduct an investigation as it deems appropriate. As part of its investigation, the City may consider information provided by sources other than prospective Proposer. At the completion of its investigation, the City will provide a written determination to the prospective Proposer who submitted the Objection. If required, the City may extend the proposal submittal deadline to allow sufficient time to review and investigate the Objection, and issue Addenda to incorporate any necessary changes to the RFP.
- f) Objections not received within the time and manner specified will not be considered. A Proposer's failure to provide the City with a written Objection as specified above on or before the time specified above shall constitute a complete and irrevocable waiver of the ground(s) of objection and forfeit the Proposer's right to raise such ground(s) of objection later in the procurement process, in a Government Code Claim, or in other legal proceedings.
- g) A Proposer may not rely on an Objection submitted by another Proposer, but must timely pursue its own Objection.

APPENDIX A: INITIAL SCREENING CHECKLIST

(To be completed by City staff)

Name of Proposer: _____

Date of Verification: _____

	YES	NO	Notes:
PACKAGE I: WRITTEN SUBMITTAL			
A. Cover Letter	<input type="checkbox"/>	<input type="checkbox"/>	
B. Project Team Organization and Teamwork <ul style="list-style-type: none"> includes <i>Organization Chart</i> 	<input type="checkbox"/>	<input type="checkbox"/>	
C. Business and Financial Information <ul style="list-style-type: none"> includes <i>Document 1 for every firm</i> 	<input type="checkbox"/>	<input type="checkbox"/>	
D. Firm's Experience Statement <ul style="list-style-type: none"> includes Document 2 and 4 for every firm meets minimum technical qualifications 	<input type="checkbox"/>	<input type="checkbox"/>	
E. Firm's Qualification Information <ul style="list-style-type: none"> meets minimum technical qualifications 	<input type="checkbox"/>	<input type="checkbox"/>	
F. Key/ Lead Personnel Qualification Information <ul style="list-style-type: none"> includes <i>Document 5</i> includes <i>Document 3</i> for each individual meets minimum technical qualifications 	<input type="checkbox"/>	<input type="checkbox"/>	
G. Supplemental Information <ul style="list-style-type: none"> Optional 	<input type="checkbox"/>	<input type="checkbox"/>	
H. Project Management and Work Approach	<input type="checkbox"/>	<input type="checkbox"/>	
PACKAGE II: RATES SCHEDULE PROPOSAL			
Rate Schedules (Appendix D) <ul style="list-style-type: none"> includes Billing rates from every firm for key personnel 	<input type="checkbox"/>	<input type="checkbox"/>	
Declaration and Certification Forms (Appendix D1)	<input type="checkbox"/>	<input type="checkbox"/>	
PACKAGE III: CONTRACT MONITORING DIVISION SUBMITTAL (including all required forms listed in Appendix B)	<input type="checkbox"/>	<input type="checkbox"/>	

APPENDIX B: CONTRACT MONITORING DIVISION DOCUMENTS

- Submit one (1) original and two (2) copies of all required CMD Forms submitted separately in a sealed envelope, (1) electronic copy and delivered with the proposal package.

Note: Fillable forms of CMD Attachment 2 may be downloaded online from the following HRC website: <http://sfgsa.org/index.aspx?page=5365>

APPENDIX C1: WRITTEN SUBMITTAL EVALUATION FORM

<i>CRITERIA:</i>	<i>Maximum Points</i>	<i>SCORE</i>
A. PRIME CONSULTANT OR JOINT VENTURE QUALIFICATIONS AND EXPERIENCE		
Section 5 and Section 6C - Components C, D, E, G	20	
B. SUB-CONSULTANT(S) QUALIFICATIONS AND EXPERIENCE		
Section 5 and Section 6C - Components C, D, E, G	15	
C. KEY/LEAD PERSONNEL QUALIFICATIONS AND EXPERIENCE		
Section 5 and Section 6C - Components F, G	25	
D. PROJECT TEAM ORGANIZATION AND TEAMWORK		
Section 6C – Component B	15	
E. PROJECT MANAGEMENT AND OVERALL APPROACH		
Section 6C – Component H	15	
F. REFERENCE RESPONSE FOR FIRMS AND KEY PERSONNEL		
<ul style="list-style-type: none"> Professional caliber of key personnel, including projects that substantiate their skill and experience Delay claim analysis approach and methodology 	10	
G. EVALUATION SUBTOTAL		
	100	
H. CMD Rating Bonus (if applicable)		
I. TOTAL NET SCORE		

Scoring Bands:

*Significantly Exceeds Expectations (90 - 100); Excellent (75 - 89);
Good (60 - 74); Acceptable (40 - 59); Poor (15 - 39); Non-Responsive (0).*

Written Evaluation submittals will be weighted 65%

APPENDIX C2: ORAL INTERVIEW EVALUATION FORM

<i>CRITERIA:</i>	<i>Maximum Points</i>	<i>SCORE</i>
A. PROJECT TEAM		
<ul style="list-style-type: none"> Clarity of team organization Plan to integrate LBE subconsultants 	10	
B. TEAM EXPERIENCE AND WORK APPROACH		
<ul style="list-style-type: none"> Strengths and experience in providing the scope of services Professional caliber of key personnel (Construction Manager), including projects that substantiate their skill and experience History of team members working integrally with government entities to deliver similar services History of team members working together in similar team settings 	25	
C. CONSTRUCTION MANAGEMENT METHODOLOGY		
<ul style="list-style-type: none"> Construction management approach Construction administration and document control procedures, with emphasis on essential services facilities projects if applicable, including complex project similar to the Moscone Expansion Project, including projects with underground spaces, active facility spaces, and occupied spaces Inspection coordination approach with CM/GC, general contractor, City. 	25	
D. COST CONTROL/ESTIMATING		
<ul style="list-style-type: none"> Professional caliber of key personnel, including projects that substantiate their skill and experience Cost estimating methodology and approach Change order management 	25	
E. SCHEDULE CONTROL/SCHEDULING		
<ul style="list-style-type: none"> Professional caliber of key personnel, including projects that substantiate their skill and experience Delay claim analysis approach and methodology 	15	
F. EVALUATION SUBTOTAL		100
G. CMD Rating Bonus (if applicable)		
H. TOTAL NET SCORE		

Scoring Bands:

*Significantly Exceeds Expectations (90 - 100); Excellent (80 - 89);
Good (65 - 79); Acceptable (50 - 64); Poor (10 - 49); Non-Responsive (0).*

Oral Interview Evaluation will be weighted 35%

APPENDIX D: RATES SCHEDULE

Submit one (1) original copy and one (1) electronic copy of Billing-Rates Schedule for each firm on the CMSS Team, including the Prime Consultant, every JV partner and every sub-consultant listed in *HRC Attachment 2* and/or other sections of the proposal. These Rates Schedules shall be compiled and submitted in a sealed envelope and delivered with the proposal package.

The sealed envelope shall be titled “**RATES SCHEDULE – Moscone Expansion Project CMSS RFQ**” and include the name of the Proposer.

The sealed envelope from a selected firm will be opened after the selection process is completed. The City reserves the right to review the schedule and request for changes during contract negotiations.

All billable staff rates shall be fully burdened to include labor, benefits, taxes, overhead, profit, healthcare benefit surcharges, minimum compensation accountability surcharges, costs for obtaining insurance and bonds, employee fringe benefits, employee paid time off, employee sick pay, employee training, support and administrative services and other ancillary charges.

Rates listed in the Agreement shall be one single rate reflecting 2014 billing rates. The selected Proposer will only be allowed to escalate its 2014 billing rates based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Works. The billing rate for each listed individual may not exceed the lowest rate charged to any other government entity. The City reserves the right to audit material that allows for verification of the accuracy of project invoices (e.g. project billing records, accounting records, time sheets, etc.)

Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in CMD Form 2.

At a minimum, the Billing Rates Schedule from each firm shall include the following information:

1. Name of Consultant Firm
2. Firm Overhead Rate (in %)
3. List of all professional positions within the consultant firm who will be participating on the Moscone Expansion Project.
4. Direct Labor Rate for each Position (\$/hr)
5. Billing Rate for each Position (\$/hr)
6. Indicate the Name(s) of Key Personnel for each Position listed. The Rate Schedules must include, at a minimum, the names of Key Personnel who will be providing construction management services in their respective Core Areas of Expertise as described in Section 5 and 6.

An audited rate is preferred but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for the prime consultant, JV partners, and all sub-consultants:

<i>Services</i>	<i>Rates/Schedule</i>
Sub-consultant work	Cost plus 5% (for a maximum of two tiers of subconsultants)
Meal expenses	Not reimbursable
Lodging	Not reimbursable without prior agreement
Air/taxi/shuttle/rail fares	Not reimbursable without prior agreement
Other direct costs	At cost
Travel	The Internal Revenue Service (IRS) standard mileage rate for business use of an automobile. No markup applies. This rate is subject to change annually. Travel expenses will be reimbursed only when work locations are outside of San Francisco and only with prior approval. Expenses associated with traveling to and from prime consultant's offices and sub-consultants' offices located outside San Francisco to and from work sites within San Francisco are not reimbursable.

The following non-reimbursable items are considered part of the work to provide services. Costs associated are considered to be included in the staff billing rate. They shall remain in effect throughout the term of the contract for the prime consultant and all sub-consultants:

- Office supplies
- Office equipment
- Computers, computer peripherals, and accessories
- Telephones calls
- Cell phone and calls
- Fax
- Cameras
- Photocopies
- Safety equipment and supplies
- Tools

APPENDIX D1: DECLARATION AND CERTIFICATION FORMS

Proposer must complete the following forms and submit one (1) signed original as part of the *Rates Schedule Package* (see Appendix D)

Prime Consultant and each joint venture partner (if any):

- Certification of Bidder Regarding Debarment and Suspension Form
- Minimum Compensation Ordinance (MCO) Declaration Form
- Health Care Accountability Ordinance (HCAO) Declaration Form
- First Source Hiring Agreement for Professional Services
- Chapter 12B Compliance Certification Form

All Subconsultants must complete and submit one (1) signed original of the following forms, included in the same package:

- Certification of Subcontractor, Lower-Tier Subcontractor or Supplier Regarding Debarment and Suspension Form

After the Contract is awarded to the selected teams, all Subcontractors shall complete and submit the following forms:

- Minimum Compensation Ordinance (MCO) Declaration Form
- Health Care Accountability Ordinance (HCAO) Declaration Form

CERTIFICATION OF PROPOSER REGARDING DEBARMENT AND SUSPENSION*

I, _____, by affixing my signature hereto, under penalty of perjury, hereby certify that, except as noted below, that my principals and I:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a government agency;
2. have not within a 3-year period preceding this Cost Proposal been convicted of or had a civil judgment rendered against us for: (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; (ii) violation of federal or state antitrust statutes; or (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in item 2 above; and
4. have not within a 3-year period preceding this Cost Proposal had one or more public transactions (federal, state or local) terminated for cause or default.
5. Where the Proposer is unable to certify to any of the statements in this certification because it currently violates or has previously violated the above conditions 1 to 4, such prospective participant shall provide a description of each instance of violation and attach an explanation to this Cost Proposal. The Proposer declares the following exceptions to the above representations: *(If there are exceptions to this Certification, insert the exceptions in the space provided below.)*

Exceptions will not necessarily result in denial of award of the Contract, but will be considered in determining Proposer responsibility. For each exception noted above, Proposer shall indicate below to whom it applies, name of the government entity and dates of action:

<u>Exception</u>	<u>Person</u>	<u>Government Entity</u>	<u>Dates Inclusive</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Proposer's Name

Name and Title of Signer

Proposer's Street Address

Proposer's City, State, ZIP

Signature of Proposer or Authorized Representative

Proposer's Telephone No.

Date

NOTICE: Providing false information may result in criminal prosecution or administrative sanctions.

*Fulfills requirements of Title 49, CFR, Part 29

GENERAL SERVICES AGENCY

OFFICE OF LABOR STANDARDS ENFORCEMENT

DONNA LEVITT, MANAGER



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 Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated (12 days per year or cash equivalent) and uncompensated time off (10 days 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) 554-6292.

Where to Send this Form. Mail: Vendor File Support, City Hall, Room 484, San Francisco CA 94102. Fax: (415) 554-6261 Email: vendor.file.support@sfgov.org

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

City Vendor Number (if known)

Company Name

() _____
Phone

Federal Employer ID #

GENERAL SERVICES AGENCY

OFFICE OF LABOR STANDARDS ENFORCEMENT

DONNA LEVITT, MANAGER



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, subsidiaries and subcontractors.

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) 554-6237.

Where to Send this Form. Mail: Vendor File Support, City Hall, Room 484, San Francisco CA 94102. Fax: (415) 554-6261 Email: vendor.file.support@sfgov.org

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_____
City Vendor Number (if known)_____
Company Name(_____)_____
Phone_____
Federal Employer ID #

**FIRST SOURCE HIRING AGREEMENT**
FOR PROFESSIONAL SERVICES

City Agency: _____ Contract Number and Name: _____

Contractor Name: _____ Main Contact: _____

Phone: _____ Email: _____

Signature of Authorized Representative*_____
Name of Authorized Representative_____
Date

**By signing the First Source Hiring Agreement, the Contractor agrees to participate and comply with the provisions of the First Source Hiring Program pursuant to San Francisco Administrative Code Chapter 83*

Instructions:

- All proposers must complete, sign and submit a *First Source Hiring Agreement* with the Proposal. All Proposals without a completed and signed *First Source Hiring Agreement* will be rejected.
- In Section 2, list the number of available Entry Level Positions for the Prime Contractor and all subcontractors. The Contractor shall make good faith efforts to hire Trainees referred by the First Source Hiring Program to fulfill all available Entry Level Positions.
- Reference specification section, *First Source Hiring Program* for workforce obligations. Questions and assistance, please contact Ian Fernando: Email: ian.fernando@sfgov.org Tel: (415)701-4852

Section 1: Select all that apply

- | | | |
|---|---|--|
| <input type="checkbox"/> Administrative Services | <input type="checkbox"/> Financial Services | <input type="checkbox"/> Mechanical/Electrical Engineering |
| <input type="checkbox"/> Architecture | <input type="checkbox"/> Geotechnical Engineering | <input type="checkbox"/> Property Management |
| <input type="checkbox"/> Asbestos and Lead | <input type="checkbox"/> Green Building Consulting | <input type="checkbox"/> Real Estate Services |
| <input type="checkbox"/> As-Needed | <input type="checkbox"/> Health/Medical Services | <input type="checkbox"/> Sediment Analysis |
| <input type="checkbox"/> Civil/Structural/Hydraulic Engineering | <input type="checkbox"/> IT/Technical Services | <input type="checkbox"/> Special Inspection and Testing |
| <input type="checkbox"/> Construction Management | <input type="checkbox"/> Landscape Architecture | <input type="checkbox"/> Surveying |
| <input type="checkbox"/> Design Services | <input type="checkbox"/> Will require an office or trailer near the project site | |
| <input type="checkbox"/> Environmental Services | <input type="checkbox"/> I don't see my services (<i>please describe</i>) _____ | |

Section 2: List all available Entry Level Positions

Job Title	Job Description	Number of Positions

CERTIFICATION OF SUBCONTRACTOR, LOWER-TIER SUBCONTRACTOR OR SUPPLIER
REGARDING DEBARMENT AND SUSPENSION*

I, _____, by affixing my signature hereto, under penalty of perjury, hereby certify that, except as noted below, that my principals and I are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any government agency.

Where the subcontractor, lower-tier subcontractor or supplier is unable to certify to any of the statements in this certification because it currently violates or has previously violated the above conditions of the certification, such subcontractor, lower-tier subcontractor or supplier shall provide description of each instance of violation and attach an explanation to this Document. The subcontractor, lower-tier subcontractor or supplier declares the following exceptions to the above representations: *(If there are exceptions to this Certification, insert the exceptions in the space provided below.)*

Exceptions will not necessarily result in denial of award of the Contract, but will be considered in determining Proposer responsibility. For each exception noted above, indicate below to whom it applies, name of the government entity and dates of action:

<u>Exception</u>	<u>Person</u>	<u>Government Entity</u>	<u>Dates Inclusive</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Proposer's Name

Name and Title of Signer

Proposer's Street Address

Proposer's City, State, ZIP

Signature of Proposer or Authorized Representative

Proposer's Telephone No.

Date

NOTICE: Providing false information may result in criminal prosecution or administrative sanctions.

**Fulfills requirements of Title 49, CFR, Part 29 (applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more)*

APPENDIX E: DRAFT AGREEMENT

**City and County of San Francisco
Department of Public Works
1155 Market Street, 4th Floor
San Francisco, California 94103**

Agreement between the City and County of San Francisco and

This Agreement is made this ____ day of ___, 20__, in the City and County of San Francisco, State of California, by and between: ___, hereinafter referred to as “Contractor,” and the City and County of San Francisco, a municipal corporation, hereinafter referred to as “City,” acting by and through its Director of Public Works, hereinafter referred to as “Director” OR its Director of the Office of Contract Administration or the Director’s designated agent, hereinafter referred to as “Purchasing.”

Recitals

WHEREAS, the **Department of Public Works** (“Department”) wishes to provide ___; and issued an award of contract DPW Order # ___ dated effective ___; and,

WHEREAS, a Request for Proposal (“RFP”) was issued on March 14, 2014, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

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

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number ___ on January 6, 2014;

Now, THEREFORE, the parties agree as follows:

Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement and Specifications, it shall have the meaning herein set forth.

AUTHORIZATION Contract Order of the City and County of San Francisco properly executed by the Director, Director of Purchasing, and Director of Administrative Services, and certified by the Controller for the specific funding of this Agreement or any modification thereof.

CITY ADMINISTRATOR City Administrator of the City and County of San Francisco.

CITY City and County of San Francisco, a municipal corporation.

CONTRACTOR

CONTROLLER	Controller of the City and County of San Francisco.
DIRECTOR	Director of Public Works of the City and County of San Francisco.
WORK	The work to be done in providing the services under a CSO as described and specified in Appendix A.

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.

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be ____ days from the date of certification from the Controller.

3. Effective Date of Agreement

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. Services Contractor Agrees to Perform

The Contractor agrees to perform the services generally provided for in Appendix A, "Description of Services," attached hereto and incorporated by reference as though fully set forth herein.

5. Compensation

The City shall compensate the Contractor only for those services performed under authorized CSOs. The Contractor acknowledges and agrees that no minimum compensation is assured under this Agreement.

Compensation shall be made in monthly payments on or before the **10th** day of each month for work, as set forth in Section 4 of this Agreement, that the Director of Public Works OR Director of the Office of Contract Administration OR Purchasing, in his or her sole discretion, concludes has been performed as of the **25th** day of the immediately preceding month. In no event shall the amount of this Agreement exceed \$3,500,000.00 (DOLLARS). The breakdown of costs associated with this Agreement

appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the **Department of Public Works** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Progress Payment Form is provided. Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

6. Guaranteed Maximum Costs

The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. Payment; Invoice Format

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Contractor shall be subject to audit by City. Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (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.

9. Left blank by agreement of the parties. (Disallowance)**10. Taxes**

a. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.

b. Contractor recognizes and understands 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:

(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;

(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.

(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.

(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.

11. Payment Does Not Imply Acceptance of Work

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship 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.

12. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City’s reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City’s request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

➔ **This applies to Sec. 13. The City may be liable+ for monetary penalties under the Occupational Safety and Health Act (OSHA). Under certain circumstances, the City may be cited for injuries to Contractor's employees working for City. The Department should check with the City Attorney's office to help delineate the responsibility for safety of the workplace according to the particulars of this contract.**

13. Responsibility for Equipment

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. Independent Contractor

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 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.

b. Payment of 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, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

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:

- 1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- 2) Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence / \$4,000,000 in aggregate. Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- 3) 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.
- 4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$2,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

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

- 1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
- 2) 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.

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy 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.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

e. 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.

f. 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.

g. 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.

h. Before commencing any operations under this Agreement, 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. Failure to maintain insurance shall constitute a material breach of this Agreement.

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

j. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

16. Indemnification.

1. **General.** To the fullest extent permitted by law, Consultant shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Consultant or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise directly or indirectly, in whole or in part, from (a) the services under this Agreement, or any part of such services, and (b) any negligent, reckless, or willful act or omission of the Consultant, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"), subject to the provisions set forth herein.

2. **Limitations.** No insurance policy covering the Consultant's performance under this Agreement shall operate to limit the Consultant's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Consultant assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the consultants of any Indemnitee. Consultant's indemnification obligations for claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the extent of Consultant's negligence or other breach of duty.

3. **Copyright infringement.** Consultant shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Consultant's services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

17. 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. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

18. Liability of City

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 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.

19. Liquidated Damages – left intentionally blank

20. Default; Remedies.

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

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

- | | |
|---|---------------------------------------|
| 8. Submitting False Claims; Monetary Penalties. | 37. Drug-free workplace policy |
| 10. Taxes | 53. Compliance with laws |
| 15. Insurance | 55. Supervision of minors |
| 24. Proprietary or confidential information of City | 57. Protection of private information |
| 30. Assignment | 58. Graffiti removal |

2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

3) Contractor (a) is generally not paying its debts as they become due, (b) 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, (c) makes an assignment for the benefit of its creditors, (d) 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 (e) takes action for the purpose of any of the foregoing.

4) A court or government authority enters an order (a) 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, (b) 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 (c) ordering the dissolution, winding-up or liquidation of Contractor.

b. 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, 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 all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. 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.

21. Termination for Convenience

a. 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.

b. Upon receipt of the notice, 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:

- (1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.
- (2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- (3) Terminating all existing orders and subcontracts.
- (4) 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.
- (5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- (6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.
- (7) 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.

c. 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:

- (1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work 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 or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(3) 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.

(4) 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.

d. 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 the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on 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 such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

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

22. Rights and Duties upon Termination or Expiration

This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

- | | |
|---|---|
| 8. Submitting false claims | 24. Proprietary or confidential information of City |
| 9. Disallowance | 26. Ownership of Results |
| 10. Taxes | 27. Works for Hire |
| 11. Payment does not imply acceptance of work | 28. Audit and Inspection of Records |
| 13. Responsibility for equipment | 48. Modification of Agreement. |
| 14. Independent Contractor; Payment of Taxes and Other Expenses | 49. Administrative Remedy for Agreement Interpretation. |
| 15. Insurance | 50. Agreement Made in California; Venue |
| 16. Indemnification | 51. Construction |
| 17. Incidental and Consequential Damages | 52. Entire Agreement |
| 18. Liability of City | 56. Severability |
| | 57. Protection of private information |

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and 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. This subsection shall survive termination of this Agreement.

23. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of 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 data.

25. Notices to the Parties

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

To City: Department of Public Works
Division of Contract Administration
 1155 Market Street, 4th Floor
 San Francisco, CA 94103

To Contractor:

Any notice of default must be sent by registered mail.

From time to time, the parties may designate new address information by notice in writing, delivered to the other Party.

The delivery to CONTRACTOR at the legal address listed above, as it may be amended upon written notice, or the depositing in any post office or post office box regularly maintained by the United States Postal Service in a postage paid wrapper directed to CONTRACTOR at such address, of any drawing, notice, letter or other communication shall be deemed legal and sufficient service thereof upon CONTRACTOR.

26. Ownership of Results

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire

If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, 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 are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. 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 work under this Agreement. 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 conferred upon City by this Section.

29. Subcontracting

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. 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 the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. 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.

32. Intentionally Left Blank (Earned Income Credit (EIC) Forms)

33. Local Business Enterprise Utilization; Liquidated Damages

Effective July 1, 2012, the Mayor transferred all of the duties and functions of the Human Rights Commission (“HRC”) and the Director of the HRC under Administrative Code Chapter 14B, with the exception of the authority of the Director of the HRC set forth in Section 14B.9(D) and 14B.17(F), and administration of the Chapter 12B Equal Benefits Ordinance from the HRC to the Contract Monitoring Division of the Office of the City Administrator. Until Chapter 14B is amended to reflect the transfer, all references in the Ordinance and implementing Rules and Regulations to the “Director” shall refer to the Director of the CMD, and all references to the Human Rights Commission shall refer to the City Administrator.

a. The LBE Ordinance

Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the “LBE Ordinance”), provided such amendments do not materially increase Contractor’s obligations or liabilities, or materially diminish Contractor’s rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor’s willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor’s obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance and Enforcement

1) Enforcement

If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor’s net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City’s Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the “Director of HRC”) may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor’s LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination

or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

2) **Subcontracting Goals**

The LBE subcontracting participation goal for this contract is **15 %**. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in the HRC Progress Payment Form and the HRC Payment Affidavit. Failure to provide the HRC Progress Payment Form and the HRC Payment Affidavit with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until the HRC Payment Form and the HRC Subcontractor Payment Affidavit are provided by Contractor. Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the LBE Ordinance, for any purpose inconsistent with the provisions of the LBE Ordinance, its implementing rules and regulations, or this Section.

3) **Subcontract Language Requirements**

Contractor shall incorporate the LBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors. Contractor shall include in all subcontracts with LBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any LBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the LBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of HRC and contract awarding authority to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction. Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of HRC or the Controller upon request.

4) **Payment of Subcontractors**

Contractor shall pay its subcontractors within three working days after receiving payment from the City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount. Contractor further agrees, within ten working days following receipt of payment from the City, to file the HRC Payment Affidavit with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code §14B.17.

34. Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate

In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments

or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits

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 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.

d. Condition to Contract

As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

36. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

38. Resource Conservation

Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

39. Compliance with Americans with Disabilities Act

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

40. Sunshine Ordinance

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records

If the Contractor 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 San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

42. Limitations on Contributions

Through execution of 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. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that 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. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

44. Requiring Health Benefits for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. 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.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

➔ 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 §45 should read "Left blank by agreement of the parties. (First source hiring program)" If the contract amount is more than \$50,000, then you must call the First Source Hiring Administrator (401-4960) to review whether Chapter 83 will apply to the contract. If it does, then insert §45. If the First Source Hiring

Administrator grants a waiver, then §45 should read “Left blank by agreement of the parties. (First source hiring program)” **NOTE: IF USING THIS TEMPLATE FOR INFORMAL CONSTRUCTION SERVICES, §45 WOULD NOT APPLY BECAUSE INFORMAL CONTRACT THRESHOLDS ARE LESS THAN \$114,000 WHILE THE FSH CONSTRUCTION THRESHOLD IS \$350,000 OR MORE**

➔ **This applies to Sec. 45, First Source Hiring Program. If this is a PROFESSIONAL SERVICE (AS-NEEDED, FORMAL, INFORMAL, etc.) contract, then use the first version of Section 46 (which has no subsections) and delete the second version (which has subsections a through f). Please use the First Source Hiring Form “First Source Hiring Agreement for Professional Services”.**

45. First Source Hiring Program

This Section incorporates the requirements of the First Source Hiring Program pursuant to San Francisco Administrative Code Chapter 83 (entitled “First Source Hiring Program”). Contractor agrees to participate and comply with the provisions of the First Source Hiring Program. As part of the Contractor’s Agreement with the City, the Contractor shall incorporate provisions of the First Source Hiring Program into any Joint Venture Partnership and shall require subcontractors to do the same.

The Mayor’s Office of Economic and Workforce Development is the Contractor’s main contact for the First Source Hiring Program.

DEFINITIONS

1. **Entry Level Position:** Any non-managerial position that requires either: (a) no education above a high school diploma or certified equivalency; or (b) less than two years training or specific preparation; and (c) shall include temporary positions and paid internships.
2. **Trainee:** A economically disadvantaged worker identified by the First Source Hiring Program as having the appropriate training, employment background and skill set for an available Entry Level Position specified by the Contractor.

FIRST SOURCE HIRING GOALS

1. Over the life of the contract, the Contractor shall make good faith efforts to hire a minimum number of Trainees referred by the First Source Hiring Program to fulfill all available Entry Level Positions. Contractor may decline to hire a Trainee if the Contractor considers the Trainee in good faith and deems the Trainee is not qualified. The final decision to hire a Trainee shall be made by the Contractor. The number of Trainees to be hired is based on the Contractor Fee Schedule below:

Contractor Fee Schedule	Number of Trainees to be Hired (over the life of the contract)
\$0 – \$499,999	0
\$500,000 – \$899,999	1
\$900,000 – \$1,999,999	2
\$2,000,000 – \$4,999,999	3
\$5,000,000 – \$7,999,999	4

\$8,000,000 – \$10,999,999	5
\$11,000,000 – \$13,999,999	6
(> = \$14M, for each additional \$3 million in Contractor fees, add one additional Trainee)	

2. The Contractor shall hire the Trainee on a full-time basis for at least 12 months or on part-time basis for 24 months.
3. Trainees must be obtained through the First Source Hiring Program and the Contractor must consider all Trainees fairly and equally and comply with the non-discrimination provisions pursuant to local, state and federal laws. No existing employee may count toward the total number of Trainees hired.

DOCUMENT REQUIREMENTS

Contractor will complete, sign and submit a First Source Hiring Agreement with the Contractor's bid or proposal. Failure to submit a completed and signed First Source Hiring Agreement with the Contractor's bid or proposal will result in a rejected bid or proposal.

PROCEDURES

1. Within 30 days of award of contract, the Contractor will email the First Source Hiring Program and schedule to meet with staff from the First Source Hiring Program. At the meeting, the Contractor will provide information on Entry Level Positions, number of Trainees to be hired, job description, start date and rate of pay. If the Contractor cannot quantify the numbers of Trainees to be hired, the Contractor must still meet with the First Source Hiring Program and present a workforce plan of good faith efforts towards the First Source Hiring Goals.
2. Contractors are required to notify the First Source Hiring Program of all available Entry Level Positions.
3. Contractor will designate a representative to monitor all employment related activity and be the main contact for the First Source Hiring Program.
4. Contractor will maintain documentation and records supporting good faith efforts toward the First Source Hiring Program.

AS-NEEDED CONTRACTS

Contractors awarded As-Needed contracts shall follow the provisions of the First Source Hiring Program. However, the First Source Hiring Goals will not be based on each individual Contract Service Order (CSO) but rather from the total number of CSOs issued to the Contractor. Since a Contractor does not know when or how many CSOs will be issued, the Contractor shall hire Trainees only if the increase in CSOs creates entry-level employment opportunities.

NONCOMPLIANCE

Failure to meet the criteria of the First Source Hiring Program does not impute bad faith but rather will trigger a review for compliance. If the City deems a Contractor is noncompliant and acted in bad

faith towards the First Source Hiring Program, then the City may withhold progress payments and assess liquidated damages as defined in San Francisco Administrative Code Chapter 83.

TERM

The obligations of the Contractor will remain in effect until completion of all services to be performed by the Contractor under the terms and conditions of this Agreement.

46. Prohibition on Political Activity with City Funds

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, “Political Activity”) in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City’s Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor’s use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of HRC 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% (HRC Contract Modification Form).

49. Administrative Remedy for Agreement Interpretation

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

50. 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.

51. Construction

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

52. Entire Agreement

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement."

53. Compliance with Laws

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances 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.

54. 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.

55. Supervision of Minors – intentionally left blank

56. 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.

57. Protection of Private Information

Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

58. Graffiti Removal

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) 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; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

59. Food Service Waste Reduction Requirements.

Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

60. Slavery Era Disclosure – internally left blank

61. Electronic Contract Modification Approval Processing

Contract Modifications (Mods) will be processed and approved electronically utilizing the Microsoft SharePoint© software. Participating contractors and consultants agree to execute Mods

electronically after, 1) executing a Confidentiality Agreement provided by the City on behalf of its company, 2) having all authorized company representatives that will execute Mods complete training on using this electronic approval system (training to be provided by the City at no expense to contractors and consultants), and 3) submitting a completed executed User Access Setup form for each company representative using the electronic Modification approval system. Contractors and consultants shall also agree to immediately notify the City of any changes to authorized users of this Mod approval system.

62. Cooperative Drafting.

This Agreement has been drafted through a cooperative effort of both parties, 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.

63. Dispute Resolution Procedure.

A Dispute Resolution Procedure is attached under the Appendix **[enter the appendix letter]** to address issues that have not been resolved administratively by other departmental remedies.

64. Automated Clearing House (ACH) “electronic” payments

The City will issue payments to Contractor through the City's electronic payment system called PayMode-X®. Contractor acknowledges and agrees to receive payment electronically through this system. Contractor shall not be entitled to any additional cost or charge under this Contract for using or failing to use the electronic payment system. Nor shall Contractor be entitled to any additional cost or charge for delays or failures of the electronic payment system to complete a payment transaction.

THIS SECTION INTENTIONALLY LEFT BLANK

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

CITY**CONTRACTOR**

Recommended by:

_____, Contract Manager

Name

_____, Division Manager

Address

Edgar Lopez, City Architect and Deputy Director

City

State

Zip

Approved as to Form:

Dennis J. Herrera

City Attorney

I have read and understood Sec. 31, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

By

Deputy City Attorney

Approved:

By

Mohammed Nuru, Director of Public Works

Signature

Approved:

Name

Title

Jaci Fong

Director of Office of Contract
Administration/Purchaser

Area Code

Phone Number

Appendices

Federal Employer Number

A: Services to be provided by Contractor

B: Calculation of Charges

[If you obtained an insurance waiver from the Risk Manager, then list Appendix C here:]

[C: Insurance Waiver]

Appendix A

Services to be provided by Contractor

1. Description of Services

[This section should refer to any proposal submitted by Contractor in response to a City request for proposals, if applicable, as follows:]

Contractor agrees to perform the following services:

[If there is no response to a Request for Proposals to refer to, or where the final negotiated scope is in any way different from the response to a Request for Proposals, insert or attach a detailed description of services to be provided by Contractor. The description should be adequate to allow objective measurement of the Contractor's progress on the services to be provided, such as a detailed narrative of the goals of the contract, measurable tasks or deliverables, milestones or timelines. In completing this section, attempt to answer the following questions:

1. Who is providing the services? Include the legal name of organization or individual. Is there more than one service provider?
2. When will the services be provided? Dates, times, how frequently (e.g., thrice per week) if on an on-going basis.
3. What is the service provider providing? Use concrete description.
4. How will the Services be evaluated?
 - * Will project manager monitor and log in that Consultant performed said Service?
 - * Project end report?
 - * Analysis report by the Consultant?
5. Where will the Services be provided?

List sites/other places the services will take place.]

2. 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.

3. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the Department of Public Works will be .

4. Prevailing Wages

a. The City's Labor Standards Enforcement Officer may determine that some of services to be performed by Contractor under this Agreement involve the performance of trade work covered by the provisions of Section 6.22(E) [Prevailing Wages] of the San Francisco Administrative Code (collectively, "Covered Services"). If the Labor Standards Enforcement Officer so determines, then 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 Covered Services performed by Contractor and its subcontractors.

b. 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 SFPUC Contract Administration Bureau, 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:

- 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 general prevailing rate of wages determined as set forth herein.

- As required by Section 6.22(E)(6) of the Administrative Code, Contractor shall keep or cause to be kept complete and accurate payroll records showing the name, place or residence, occupation, and per diem pay, of each person engaged in the execution of Covered Services, and every subcontractor who shall undertake the performance of any part of the Covered Services shall keep a like record of each person engaged in the execution of the subcontract. All such records shall at all times be available for inspection of and examination by the City and its authorized representatives.

- The City will not process monthly progress payments which include payment for Covered Services until Contractor submits weekly certified payrolls to the City for the applicable time period. Certified payrolls shall be prepared pursuant to Administrative Code Section 6.22(E)(6) for the period involved for all employees, including those of subcontractors, who performed labor in connection with Covered Services. Contractor shall submit certified payrolls to the City electronically via the Project Reporting System ("PRS") selected by the City, an Internet-based system accessible on the World Wide Web through a web browser. 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.

- 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 agrees to take the specific steps and actions as required by Section 6.22(E)(7) of the Administrative Code.

c. 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, to the City back wages due plus the penal sum of \$50 per day for each worker employed for each calendar day or portion thereof, while they shall be so employed in connection with Covered Services and paid less than the general prevailing rate of wages. 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.

Appendix B Calculation of Charges

[List, as applicable:]

Personnel or Hourly Rate

Flat rate for specified period (e.g., monthly)

Rate for use of Contractor's equipment, if applicable

Rates for faxes (sending only), mileage, etc.

Actual costs for contractor meals, accommodations, long distance and cellular phone charges, postage, vehicle rental, etc., subject to the approval of City.

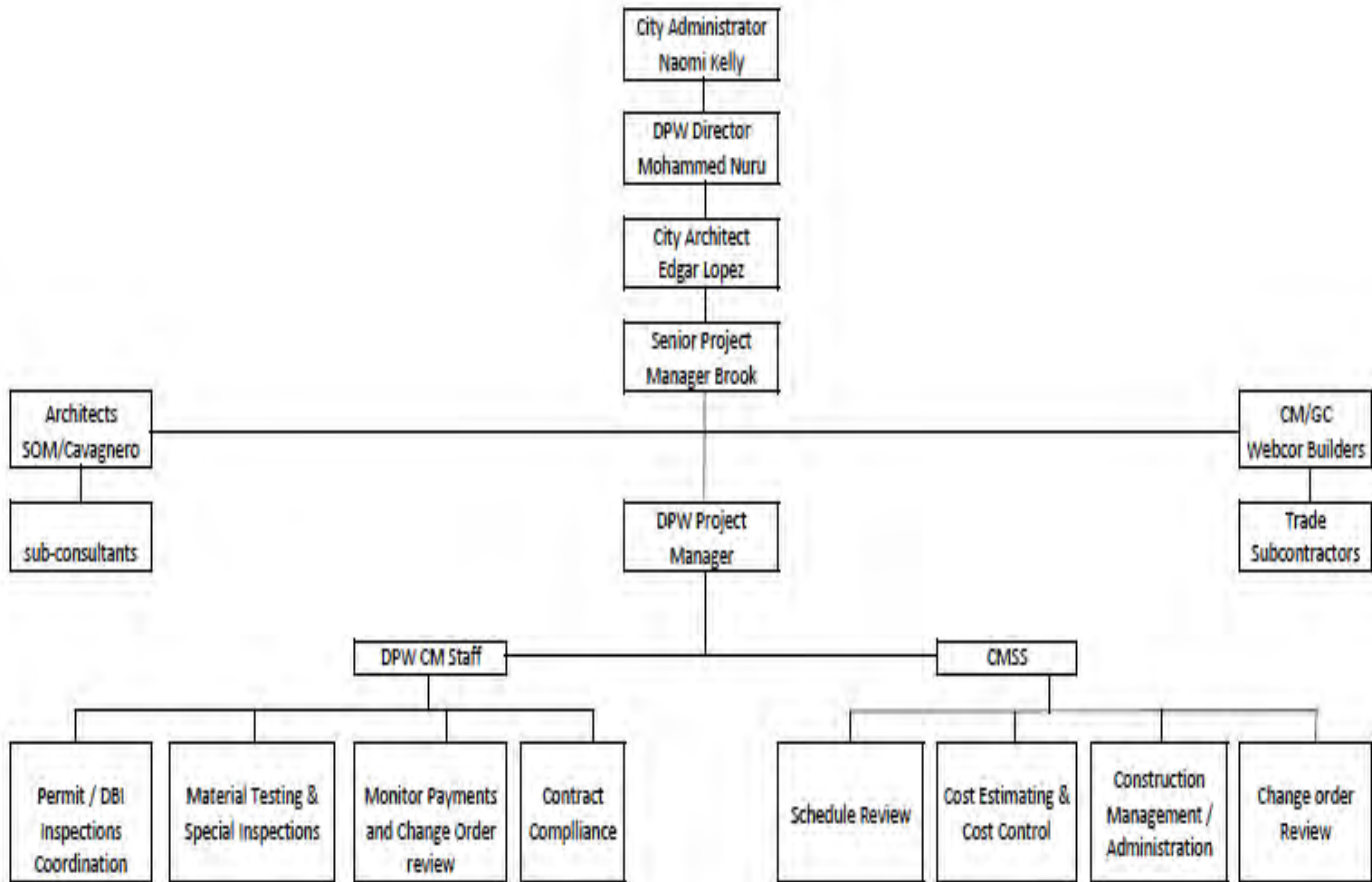
Any other applicable rates or charges under the Agreement.

Appendix C
Insurance Waiver

[Use as appropriate and only if an insurance waiver has been signed and granted by the Risk Manager.]

SAMPLE

APPENDIX F: ORGANIZATION CHART



APPENDIX G: DOCUMENT 1 – STATEMENT OF BUSINESS AND FINANCIAL QUALIFICATIONS (page 1 of 2)

(page 1 of 2)

Firm Name / Business Address:	Year Present Firm Established:	Date Prepared:
	Specify type of ownership:	
	Specify HRC Certification, if any:	
Specify proposed position on project & % involvement: <input type="checkbox"/> Single Prime (100%) <input type="checkbox"/> Joint Venture Partner _____% <input type="checkbox"/> Sub-Consultant		
Name of Parent Company, if any: _____ Former Parent Company Name(s), if any, and Year(s) Established: _____		
Names of not more than Two Principals to Contact: Name / Title / Telephone 		
Present Offices: City / State / Telephone 	Number of Employees (Include all personnel: Executive / Technical / Administrative/ others): 	
Area(s) of Expertise: 		

Summary of Professional Services Fees Received in Last 5 Years:	
---	--

		2013	2012	2011	2010	2009
Direct City Contracts	Design Phase	\$	\$	\$	\$	\$
	Construction Phase	\$	\$	\$	\$	\$
	Total Number of Contracts					
Other Public Sector Contracts	Design Phase	\$	\$	\$	\$	\$
	Construction Phase	\$	\$	\$	\$	\$
	Total Number of Contracts					
Private Sector Contracts	Design Phase	\$	\$	\$	\$	\$
	Construction Phase	\$	\$	\$	\$	\$
	Total Number of Contracts					

Summary of Firm's Litigation Experience (attach additional sheets as needed):

List any liability claims which the firm is involved in, initiated either by or against the firm

Date Filed	Amount Claimed	General Description	Status	Resulting Settlement / Judgement (Amount & Ruling)
------------	----------------	---------------------	--------	--

The foregoing is a statement of facts:

Date:

Signature: _____ Typed Name and Title: _____

Signature: _____ Typed Name and Title: _____

PLEASE PROVIDE PROJECT INFORMATION AS REQUESTED IN SECTION 7.C. SPECIFY WHICH FIRM IS BEING ASSIGNED CREDIT FOR THE PROJECT.

NAME OF FIRM: _____

PROPOSED ROLE AS CMSS Consultant: ☐ PRIME CONSULTANT ☐ SUB-CONSULTANT

NAME OF PROJECT: _____

LOCATION: _____

CLIENT: _____

DESCRIBE CONTRACT METHOD: _____

(LUMP SUM, NEGOTIATED, DESIGN BUILD, MULTIPLE PRIME, MULTIPLE TRADE BIDS, FAST TRACK, CM AT RISK, CM AS AGENT, CM / GC, PUBLIC BID, PHASED, GMP, ETC.)

STATUS: ☐ DESIGN ☐ PERMIT APPRV'L ☐ BID ☐ CONSTRUCTION ☐ COMPLETE

COMPLETION DATE / % COMPLETE: _____ GROSS SQUARE FEET: _____

OCCUPANCY CLASS: _____ CONSTRUCTION TYPE: _____

PERMIT AGENCIES INVOLVED: _____ LICENSING AGENCIES INVOLVED: _____

NEW CONSTRUCTION COST: _____ REMODEL COST: _____

DEMOLITION COST: _____ HAZARDOUS MATERIALS COST: _____

FF&E COST: _____ MEDICAL EQUIPMENT COST: _____

BID COST: _____ COMPLETION COST (OR CURRENT): _____

COMMENT: _____

SUMMARY DESCRIPTION OF PROJECT: _____

DESCRIBE SERVICES:

ROLE OF FIRM ON THIS PROJECT (INCLUDE NAME OF PRIME IF SUB-CONSULTANT, NAME OF ANY ASSOCIATED FIRMS OR JOINT VENTURES, NAME OF FIRM IF OTHER THAN CURRENT, OR IF PROJECT WAS COMPLETED BY A SUBSIDIARY, BRANCH, OR DIVISION OTHER THAN PROPOSED FOR ESER):

LIST PRE-CONSTRUCTION PHASES SERVICES PROVIDED FOR THIS PROJECT: _____

LIST CONSTRUCTION PHASE SERVICES PROVIDED FOR THIS PROJECT: _____

LIST FIRM'S KEY PERSONNEL PROVIDED FOR THIS PROJECT: _____

DESCRIBE HOW THIS PROJECT IS RELEVANT TO THE MOSCONE EXPANSION PROJECT:

PROJECT TEAM MEMBERS & CONTACTS / REFERENCES; *SPECIAL NOTE: The Proposer should ensure that the listed reference is available for a call from the City inquiring on the listed personnel during the week indicated in the project schedule.*

OWNER: _____

CONTACT NAME / ROLE ON PROJECT: _____

CURRENT TITLE / PHONE #: _____

ARCHITECT: _____

CONTACT NAME / ROLE ON PROJECT: _____

CURRENT TITLE / PHONE #: _____

GENERAL CONTRACTOR: _____

CONTACT NAME / ROLE ON PROJECT: _____

CURRENT TITLE / PHONE #: _____

OTHER (OPTIONAL): _____

CONTACT NAME / ROLE ON PROJECT: _____

CURRENT TITLE / PHONE #: _____

APPENDIX I: DOCUMENT 3 – KEY PERSONNEL INFORMATION AND EXPERIENCE

(page 1 of 4)

PLEASE PROVIDE INFORMATION FOR EACH INDIVIDUAL PROPOSED AS KEY PERSONNEL. REFERENCE SECTION 6D. *SPECIAL NOTE: The Proposer should ensure that the listed reference is available for a call from the City inquiring on the listed personnel during the week indicated in the project schedule.*

NAME / CURRENT TITLE: _____

CURRENT JOB DESCRIPTION: _____

DESCRIBE ROLE PROPOSED FOR THIS PROJECT: _____

NAME OF FIRM ASSOCIATED WITH: _____

☐ PRIME CONSULTANT ☐ SUB-CONSULTANT

YEARS OF EXPERIENCE WITH THIS FIRM: _____

YEARS OF EXPERIENCE IN THIS FIELD / DISCIPLINE: _____

PREVIOUS FIRMS EMPLOYED WITH:

NAME OF FIRM / DATES EMPLOYED: _____

CONTACT / PHONE #: _____

JOB DESCRIPTION: _____

NAME OF FIRM / DATES EMPLOYED: _____

CONTACT / PHONE #: _____

JOB DESCRIPTION: _____

NAME OF FIRM / DATES EMPLOYED: _____

CONTACT / PHONE #: _____

JOB DESCRIPTION: _____

NAME OF FIRM / DATES EMPLOYED: _____

CONTACT / PHONE #: _____

JOB DESCRIPTION: _____

DEGREES, REGISTRATIONS, and ACCREDITATIONS (include specialization and year of certificate issuance):

DESCRIBE HOW THIS PERSON'S EXPERIENCE IS RELEVANT TO THEIR ROLE ON THE MOSCONE EXPANSION PROJECT

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

DISCUSS THIS PERSON'S CURRENT WORKLOAD (ACTIVE PROJECTS) AND THEIR AVAILABILITY THROUGH THE TERM OF THE CONTRACT:

DOCUMENT 3

Copy Additional Sheets as needed – Refer to Section 5

(page 3 of 4)

RELEVANT PROJECT EXPERIENCE

NAME OF PROJECT: _____

LOCATION: _____

NAME OF FIRM IF OTHER THAN CURRENT: _____

OWNER: _____

OWNER'S REPRESENTATIVE: _____

CURRENT TITLE / PHONE #: _____

DESCRIBE CONTRACT METHOD: _____

(LUMP SUM, NEGOTIATED, DESIGN BUILD, MULTIPLE PRIME, MULTIPLE TRADE BIDS, FAST TRACK, CM AT RISK, CM AS AGENT, CM / GC, PUBLIC BID, PHASED, GMP, ETC.)

COMPLETION DATE / % COMPLETE: _____ GROSS SQUARE FEET: _____

OCCUPANCY CLASS: _____ CONSTRUCTION TYPE: _____

PERMIT AGENCIES INVOLVED: _____ LICENSING AGENCIES INVOLVED: _____

NEW CONSTRUCTION COST: _____ REMODEL COST: _____

DEMOLITION COST: _____ HAZARDOUS MATERIALS COST: _____

FF&E COST: _____ MEDICAL EQUIPMENT COST: _____

BID COST: _____ COMPLETION COST (OR CURRENT): _____

COMMENT: _____

ROLE ON PROJECT (INCLUDE FIRM NAME IF OTHER THAN CURRENT): _____

SERVICES / TASKS COMPLETED (DISTINGUISH BETWEEN DESIGN PHASE & CONSTRUCTION PHASE):

DOCUMENT 3

Copy Additional Sheets as needed – Refer to Section 5

(page 4 of 4)

REFERENCES

REFERENCE #_____:

NAME: _____

CURRENT TITLE: _____

NAME OF FIRM: _____

EMAIL ADDRESS: _____

PHONE #: _____

COMMON PROJECT / YEAR: _____

REFERENCE #_____:

NAME: _____

CURRENT TITLE: _____

NAME OF FIRM: _____

EMAIL ADDRESS: _____

PHONE #: _____

COMMON PROJECT / YEAR: _____

REFERENCE #_____:

NAME: _____

CURRENT TITLE: _____

NAME OF FIRM: _____

EMAIL ADDRESS: _____

PHONE #: _____

COMMON PROJECT / YEAR: _____

APPENDIX J: DOCUMENT 4 – RELEASE AND WAIVER AGREEMENT

This Release and Waiver of Liability (hereinafter the “Release”) is entered into between the City and County of San Francisco through its Department of Public Works and _____, a construction management support services provider firm (hereinafter “Consultant”).

RECITALS

1. The City and County of San Francisco through its Department of Public Works has issued a Request for Qualification to select a Consultant qualified to provide specialized construction management support services.
2. Consultant has submitted a response to DPW’s Request for Qualification and has submitted projects and owners as references for its qualifications.
3. The City seeks candid comments on the Consultant performance on the listed projects from the owners and the owners’ representatives.

RELEASE AND WAIVER

Consultant hereby fully and forever releases, exonerates, discharges, indemnifies and covenants not to sue the City, its commissions and boards, officers and employees, and all individuals and entities furnishing comments on Consultant’s performance from and for any and all claims, causes of action, demands, damages and any and all other liabilities of any kind or description, in law, equity, or otherwise arising out of information furnished about Consultant’s performance on the projects.

INTENDED BENEFICIARIES

The City, its commissions and boards, officers and employees and all individuals and entities furnishing any information relating to Consultant’s qualifications are intended beneficiaries of this Release and Waiver and are entitled to enforce its terms.

Consultant Firm
Authorized Representative

Date

APPENDIX K: DOCUMENT 5 – KEY PERSONNEL INFORMATION

CM Support Service Area of Expertise	Name	Consultant Firm (Prime or Sub-)	Anticipated Participation within Area of Expertise (%)
Construction Manager	1.		
Cost Estimator	1.		
	2.		
	3.		
Project Scheduler	1.		
	2.		
	3.		
Other (Please Specify)			

APPENDIX L: CITY ORDINANCE 178-13

FILE NO. 130616

ORDINANCE NO. *178-13*

[Alternative Bid Process to Award Contracts to Certain Core Trade Subcontractors to Perform Pre-Construction Design-Assist Services - Moscone Expansion Project]

Ordinance authorizing the San Francisco Department of Public Works to implement an alternative bid process to award contracts to certain Core Trade Subcontractors to provide pre-construction design-assist services for the proposed Moscone Expansion Project.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

A. On February 5, 2013, the Board of Supervisors ("Board") of the City and County of San Francisco ("City") adopted Resolution No. 26-13 (File No. 101051) (the "Resolution"), which Resolution was signed by the Mayor on February 11, 2013, to establish a business-based business improvement district designated as the "Moscone Expansion District" ("MED"). In the Resolution, the Board authorized a system of assessments to be paid by defined tourist hotel businesses within the MED to pay for the improvements, services and activities to be provided within the MED.

B. In the Resolution, the Board also determined that the improvements, services and activities within the MED will be administered and implemented by the San Francisco Tourism Improvement District Management Corporation ("SFTIDMC") pursuant to a management agreement to be approved by the Board.

Mayor Lee
BOARD OF SUPERVISORS

Page 1
6/14/2013

1 C. In the Resolution, the Board also ratified, approved and confirmed its prior
2 approval of the Moscone Expansion District Management District Plan (including all
3 Appendices) dated September 25, 2012 as updated November 14, 2012 and again updated
4 January 29, 2013 (collectively, the "Plan") on file with the Clerk of the Board in File No.
5 130043. The Plan provides that a portion of the assessment revenues will be used to help
6 fund the design, engineering, planning, entitlements, and construction of the proposed
7 expansion of the Moscone Convention Center (referred to as the "Moscone Expansion
8 Project" or the "MEP"), currently estimated to cost up to \$500 million. The Plan further
9 provides that the MEP will be built using an alternative project delivery method called
10 Construction Manager/General Contractor ("CM/GC"). The MED will select the CM/GC with
11 input from the City, and also fund the cost of the CM/GC. The City will procure, pursuant to
12 the City's contracting rules, trade subcontractors and pay for those trade subcontractors. The
13 CM/GC will oversee the trade subcontractors.

14 D. Consistent with the Plan, in the Resolution, the Board approved the use of
15 assessment revenues for, among other things, the planning, design, engineering, entitlement,
16 construction, project management, and related services for the MEP. Further, in the
17 Resolution, the Board determined and declared that the City will issue or execute City
18 Obligations in an aggregate principal amount not to exceed \$507,880,000 to finance a portion
19 of the costs of the MEP. The Board further determined that the Office of Economic and
20 Workforce Development ("OEWD") shall be the City agency responsible for overseeing the
21 management agreement between the City and the SFTIDMC for the purpose of administering
22 and implementing the MED; will be responsible for coordinating the entitlement and
23 environmental review process for the MED; and will oversee expenditures related to that
24 process. The Board further determined that the Department of Public Works ("DPW") has
25 direct fiscal oversight and primary responsibility for overseeing the expenditures of MED funds

1 for construction and support services; will provide oversight of MED funds spent on
2 development and renovation activities of the Moscone Center; and, will review all Request for
3 Proposals for project design and construction that are issued by the SFTIDMC.

4 E. On February 12, 2013, the Board, by Ordinance No. 26-13 (File No. 130016),
5 which ordinance was signed by the Mayor on February 15, 2013, authorized the execution
6 and delivery of Certificates of Participation representing an aggregate principal amount of not
7 to exceed \$507,880,000 to finance the costs of additions and improvements to the Moscone
8 Center. The Board further determined that its approval of Ordinance No. 26-13 was not to be
9 construed as approval of the MEP; that the City will conduct an environmental review of the
10 proposed expansion project following further design development and study; and that the City
11 retained the absolute discretion to approve, reject, or modify the proposed expansion project.

12 F. In June 2012, the SFTIDMC, with input from and working closely with the City,
13 issued a combined Request for Qualifications/Request for Proposals to qualify and select an
14 architect/engineer to design and engineer the proposed expansion. After receiving and
15 evaluating, with input from the City, proposals from five of the seven qualified proposers, the
16 SFTIDMC awarded the design/engineering contract to the firm of Skidmore, Owings & Merrill
17 LLP ("SOM"). Further, in December 2012, the SFTIDMC, with input from and working closely
18 with the City, issued a combined Request for Qualifications/Request for Proposals to qualify
19 and select a CM/GC, who will review and provide comments as to the constructability of the
20 architect/engineer's design and, if the proposed expansion is approved, build the project. After
21 receiving and evaluating, with input from the City, proposals from five qualified proposers, the
22 SFTIDMC awarded the CM/GC contract to the firm of Webcor Builders ("Webcor"). The MED
23 will pay for all of SOM's and Webcor's services from assessment revenues.

1 G. Because of the size and complexity of the proposed expansion and the
2 challenges created by the project because work on the Convention Center will be performed
3 while the Center is in continuous revenue generating operation, the DPW, in conjunction with
4 the MED, has devised an approach that is intended to augment the design-assist role that the
5 CM/GC plays during the design phase of the project, that modifies the otherwise applicable
6 bidding and contracting requirements of Administrative Code section 6.68 for selected core
7 trade subcontractors who will be performing a design-assist role, and that the DPW has
8 determined to be in the best interest of the City. This approach is known as Core Trade
9 Subcontractor Design Assist whereby the City retains, through a competitive process,
10 subcontractors from selected core trades (referred to as the "Core Trade Subcontractors")
11 early in the design phase of the project who, assigned to the CM/GC, will review and provide
12 design assist including comments as to the constructability, completeness, and accuracy of
13 the architect's design. The DPW believes that Core Trade Subcontractor Design Assist will
14 promote better coordination and collaboration between the design and construction teams and
15 reduce the project delivery schedule by:

- 16 1. substantially reducing field and/or implementation errors, conflicts, and
17 duplication;
- 18 2. identifying opportunities to relocate, expand, salvage or reuse building systems
19 and materials;
- 20 3. allowing the design-assist work to take place concurrent with the project design
21 work; and,
- 22 4. making design recommendations for cost effective electrical, lighting, heating,
23 cooling, plumbing, audio visual, security, fire protection, structural and curtain wall
24 coordination, sizing, routing and other logistics.

1 H. By this Ordinance, the Board of Supervisors authorizes the DPW to take all
2 steps necessary to retain the services of specified Core Trade Subcontractors to provide
3 design assist services for the MEP in conformance with the provisions of this Ordinance and
4 approves all actions by the DPW to date which are consistent with this Ordinance.

5 Section 2. Core Trade Subcontractor Design Assist Contracting Procedure

6 A. Identity of Core Trade Subcontractors Performing Design-Assist.

7 The DPW, in consultation with the MED and the CM/GC, has determined that
8 the proposed expansion project would benefit from the early participation of Core Trade
9 Subcontractors from the following trades/disciplines: Electrical, Mechanical, Plumbing, Fire
10 Protection & Life Safety, Low Voltage, Structural Steel, and Curtain Wall. The CM/GC and
11 Core Trade Subcontractors will provide design assist services during the design phase, i.e.,
12 from schematic design through construction documents. The design phase is anticipated to
13 take approximately 18 months to complete.

14 B. Procurement of Core Trade Subcontractors to Perform Design Assist.

15 1. The DPW will procure the Core Trade Subcontractors in a two-step process.
16 First, issue a Request for Qualifications (RFQ) to qualify firms based on technical
17 qualifications, bonding capacity, relevant experience, safety record, claims history, and
18 commitment to meet the City's local hiring goals and Local Business Enterprise (LBE)
19 participation, consistent with the process and criteria set out in Administrative Code section
20 6.68 (C). Second, issue a Request for Proposals (RFP) only to the pre-qualified firms.

21 2. The DPW will convene a scoring panel to review and evaluate the RFPs and
22 select the Core Trade Subcontractors based on the following process and criteria:

23 a. Cost for a defined scope and set of deliverables will constitute 65% of the
24 overall evaluation;
25

1 b. A blended rate of hourly fees for additional services will constitute 10% of
2 the overall evaluation;

3 c. Non-cost criteria will constitute 25% of the evaluation and will be
4 evaluated based on the following:

5 i. Demonstrated results and experience on projects of similar size
6 and complexity;

7 ii. Experience with building large complex public works projects in a
8 dense urban setting and working in occupied spaces;

9 iii. Experience with integrated project delivery methodology utilizing
10 design-assist services that incorporate innovative and sustainable building systems and
11 technologies;

12 iv. Demonstrated experience working collaboratively and
13 cooperatively with design teams and general contractors to deliver large complex projects of
14 outstanding quality on time and on budget;

15 v. Experience providing innovative design solution recommendations,
16 quality assurance and value engineering during the design-assist phase; and,

17 vi. Experience that depicts organization, management practices,
18 virtual building design, construction capabilities that maximizes benefit to project owner,
19 minimizes potential claims; and implements best practices for efficiently realizing project
20 objectives.

21 3. The procurement process for the Core Trade Subcontractors as described
22 above, only applies to the initial contract for design-assist services.

23 Section 3. Trade Subcontractor Contracting Procedure for Construction

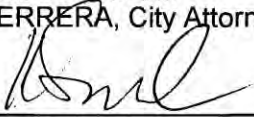
24 A. The City, in consultation with the architect and CM/GC and pursuant to the City's
25 public work contracting requirements, shall bid out all trade packages for all work to be

1 performed on the expansion project that the City does not award directly to a Core Trade
2 Subcontractor pursuant to the process described in B., below.

3 B. After the design is complete, and as soon as is practical, the Core Trade
4 Subcontractors shall furnish the City with firm prices for their respective trade work. The City
5 will retain the services of independent cost estimators who shall provide the City with cost
6 estimates of the work to be performed by the Core Trade Subcontractors. If the City, with the
7 help of the independent cost estimators, determines that the price submitted by a Core Trade
8 Subcontractor is no greater than 3% of the estimated cost for that work, the City shall award
9 the trade subcontract to that Core Trade Subcontractor. If the City, with the help of the
10 independent cost estimators, determines that the price submitted by a Core Trade
11 Subcontractor is more than 3% but not greater than 5% of the estimated cost for that work,
12 the City may, in its discretion, award the trade subcontract to that Core Trade Subcontractor
13 or solicit bids for that work from no less than three pre-qualified subcontractors. If the City,
14 with the help of the independent cost estimators, determines that the price submitted by a
15 Core Trade Subcontractor is greater than 5% of the estimated cost for that work, the City shall
16 solicit bids for that work from no less than three pre-qualified subcontractors. The new lowest
17 responsible responsive subcontractor shall be awarded a contract at the bid price, which shall
18 not be higher than the original Core Trade Subcontractor's price.

19
20
21 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

22
23 By:


24 Joseph Sandoval, Jr.
Deputy City Attorney

25 n:\constr\as2013\9690058\00849571.doc

Mayor Lee
BOARD OF SUPERVISORS



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130616

Date Passed: July 30, 2013

Ordinance authorizing the San Francisco Department of Public Works to implement an alternative bid process to award contracts to certain Core Trade Subcontractors to provide pre-construction design-assist services for the proposed Moscone Expansion Project.

July 17, 2013 Budget and Finance Sub-Committee - RECOMMENDED

July 23, 2013 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

July 30, 2013 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 130616

**I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
7/30/2013 by the Board of Supervisors of the
City and County of San Francisco.**

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board

A handwritten signature in black ink, appearing to read "Ed Lee".
Mayor

A handwritten date in black ink, "8/7/2013".

Date Approved