

City and County of San Francisco

Sourcing Event ID 0000007885 | Dept Contract ID: 2023-02-06

Request for Qualifications for: PROVISION OF REAL ESTATE ADVISORY SERVICES - BROKER

This RFQ can be viewed on the City's Supplier Portal at:
<https://sfcitypartner.sfgov.org/pages/index.aspx>
and at the Real Estate Division's webpage at: www.sf.gov/red.

Request for Qualifications Issuance	February 6, 2023
Pre-Proposal Conference	February 13, 2023 25 Van Ness, Suite 610 S.F., CA 94102 10:00 a.m.
Deadline for Questions	February 21, 2023
Deadline to Submit Proposals	March 6, 2023
Notice of Intent to Establish Prequalified Pool	March 13, 2023
Period for Protesting Notice of Intent to Establish Prequalified Pool	Within three (3) business days of the City's issuance of a Notice of Intent to Award.
Pool Administrator:	Claudia J. Gorham Deputy Managing Director Real Estate Division 25 Van Ness, Suite 400,

San Francisco, CA 94102
415.554.9850
Email: realestateadmin@sfgov.org

Table of Contents

I. Introduction	1
A. General	1
B. Creation and Duration of the Prequalified Pool	1
C. Resulting Contracts Awarded to Contractors Selected from the Prequalified Pool	2
D. Cooperative Agreement	2
E. RFQ Schedule	2
II. Goods and Services Requested	3
A. Goods and/or Services Requested	3
B. Reserved (Regulatory and Compliance Requirements Specific to the Goods/Services Solicited).	5
C. Green Purchasing Requirements	5
III. Local Business Enterprise (LBE) Program Requirements	5
A. CMD Compliance Officer	5
B. Application of LBE Rating Bonuses and/or Bid Discounts	5
C. LBE Sub-consulting Participation Requirements	6
IV. Minimum Qualifications Documentation Required with Proposal (Pass/Fail)	6
V. Written Proposal	7
VI. Proposal Evaluation Criteria (100 Points)	8
VII. Reserved (Price Proposal EVALUATION CRITERIA).	9
VIII. Oral Interviews (Pass/Fail)	9
IX. Supporting Documentation Required Prior to Contract Execution	9
X. City's Social and Economic Policy Requirements	9
A. Proposers Unable to do Business with the City	9
B. Reserved (Prevailing Wage Ordinance).	10
C. Health Care Accountability Ordinance	10
D. Minimum Compensation Ordinance	10
E. First Source Hiring Program	10
F. Reserved (Sweatfree Procurement).	11
XI. Terms and Conditions for Receipt of Proposals	11
A. How to Register as a City Supplier	11
B. Proposal Questions and Submissions	11
C. Proposal Addenda	12
D. Public Disclosure	13
E. Limitation on Communications During Solicitation	13
F. Proposal Selection Shall Not Imply Acceptance	13
G. Cybersecurity Risk Assessment	13
H. Solicitation Errors and Omissions	14
I. Objections to Solicitation Terms	14
J. Protest Procedures	14
K. Proposal Term	15
L. Revision to Proposal	15
M. Proposal Errors and Omissions	15
N. Financial Responsibility	15
O. Proposer's Obligations under the Campaign Reform Ordinance	16

P.	Reservations of Rights by the City	16
Q.	No Waiver	17
R.	Other	17

Attachments

Attachment 1: Proposer Questionnaire and References

Attachment 2: DRAFT - Agreement for Advisory Service (Broker)

I. INTRODUCTION

A. General

This Request for Qualifications (hereinafter “RFQ” or “Solicitation”) is being issued by the Real Estate Division of the City Administrator’s Office (hereinafter, “RED” or “City”). RED is seeking qualified suppliers (“Proposers”) to provide proposals (“Proposal”) for qualified and licensed real estate advisors to advise the City in connection with various types of real estate transactions that the City may undertake between the date of this Request for Qualifications and (5) years (the “Pool Period”) as qualified below. Services sought may include, but are not limited to: strategic planning for the City’s space needs; portfolio analysis and strategy recommendations; site location, market analysis, and lease negotiation in support of the City as landlord or City as tenant; acquisition or disposition of property and air rights; sales of transferable development rights; and the proposal, analysis, and implementation of a variety of real estate based financial transactions including public/private partnerships, joint ventures, sales or lease/leasebacks, and concession leasing.

The City shall evaluate Proposals to create a Prequalified Pool of Proposers (“Prequalified Pool”). Proposers prequalified under this RFQ are not guaranteed a contract. The City may use the Prequalified Pool, at its sole and absolute discretion, on an as-needed basis.

B. Creation and Duration of the Prequalified Pool

This RFQ describes the scope of services the City may seek from selected respondents during the Pool Period, the City’s terms and conditions under which those services will be performed, and prescribes the form and content of responses to be submitted by interested firms. The City will establish a pool of real estate advisors (“Brokers”) to be used in connection with various types of transactions. The purpose of the pool is to provide the City with access to real estate advisors/Brokers that have been pre-qualified by the City in order to mitigate future time constraints and reduce overhead costs of the City. If and when various real estate advisory services within the scope of services described in this RFQ are needed during the Pool Period, the Director of Property will select a pool member and enter into a contract with that pool member to provide the requested service. **The duration of the Pool Period for this pool will be five (5) years.** Selection may be made from the pool based on qualifications alone in a targeted manner, or the City may reach out to multiple pool members for availability and other factors before selecting a member of the pool in any instance. Selections from the pool will be made in a fair and nondiscriminatory manner. The City reserves the right, at its sole discretion, to select real estate advisors/Brokers for future real estate transactions or related projects through alternative means or requests for proposals.

Firms within the pool may be retained as real estate advisors by the Real Estate Division in connection with real estate transaction services on behalf of any City division or other public entity located in the City including, but not limited to, the Airport Commission, Mayor’s Office of Housing and Community Development, Office of Economic and Workforce Development, Municipal Transportation Agency, Port Commission, Public Utilities Commission, Office of Community Investment and Infrastructure, Department of Public Health, Recreation and Parks Department, Community College District, Public Library System, Department of Public Works, Fine Arts, and Treasure Island Development Authority. However, nothing contained herein is intended to prevent the City or any other public entity located in the City from issuing subsequent

requests for proposals for specific real estate transactions or for general real estate consulting services.

Please note that the City has created separate pools for real estate appraisal services and for Title Insurance Services, and therefore those services will not be requested as part of this pool.

C. Resulting Contracts Awarded to Contractors Selected from the Prequalified Pool

1. Selection of Contractors from the Prequalified Pool

Pursuant to Section 21.4 of the San Francisco Administrative Code, City shall select contractors from the Prequalified Pool for Resulting Contracts as described below. Selections must be made prior to Pool expiration. City may request quotes or proposals from the Prequalified Pool. Chapter 14B LBE Rating Bonuses shall apply when evaluating quotes and proposals received from the Prequalified Pool. The LBE sub-participation requirement is waived for the Resulting Contracts.

2. Notice of Intent to Award a Resulting Contract to the Prequalified Pool

City shall issue a Notice of Intent to Award a Resulting Contract to all contractors in the Prequalified Pool upon selecting a contractor from the Prequalified Pool. The City's award of a Resulting Contract to a contractor from the Prequalified Pool is final and not subject to further review.

3. Anticipated Term of Resulting Contracts

A Resulting Contract awarded to the Prequalified Pool shall be non-exclusive, with an original term to be determined at the time of Contract award based on the awarding Department's business needs, but shall not exceed five (5) years.

4. Anticipated Not to Exceed Amount of Resulting Contracts

The Not-to-Exceed (NTE) amount of a Resulting Contract awarded to the Prequalified Pool shall be determined at the time of Contract award based on the awarding Department's business needs.

D. Cooperative Agreement

Any other City department, public entity or non-profit made up of multiple public entities, may use the results of this RFQ to select Contractors from the Prequalified Pool under the same terms and conditions of this RFQ.

E. RFQ Schedule

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

Proposal Phase	Tentative Date
Request for Qualifications Issued	February 6, 2023
Pre-Proposal Conference	February 13, 2023, 10:00 a.m. 25 Van Ness, Suite 610 San Francisco, CA 94102

Deadline for Written Questions	February 21, 2023
Deadline to Submit Proposals	March 6, 2023
Notice of Intent to Establish Prequalified Pool	March 13, 2023
Period for Protesting Notice of Intent to Award	Within three (3) business days of the City's issuance of a Notice of Intent to Award.
The Pre-Proposal Conference Details: The Pre-Proposal Conference will begin at the time specified. Proposers' representatives are urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Failure to attend the Pre-Proposal Conference shall not excuse the awarded Proposer from any obligations of a Resulting Contract awarded pursuant to this RFQ. Any change or addition to the requirements contained in this RFQ as a result of the Pre-Proposal Conference will be executed by a written Addendum to this RFQ. It is the responsibility of the Proposer to check for any Addendum to this RFQ or other pertinent information posted on the City's Supplier Portal https://sfcitypartner.sfgov.org/pages/index.aspx and RED's webpage at: www.sf.gov/red.	

II. GOODS AND SERVICES REQUESTED

A. Goods and/or Services Requested

This RFQ is being issued to create a Prequalified Pool of suppliers to provide real estate/broker services and any other services necessary to produce a financially sound and cost-effective real estate transaction, study, plan, or other work product as requested by the City. The selected real estate advisors/brokers shall provide qualified personnel for services which may include, but are not limited to, the following:

i. Strategic planning for the City's space needs

The City may require real estate advisory services to develop a strategic plan for the City's space needs, including leased and owned real property. Such services may include: projection of current and future space needs, opportunities for cost savings and/or revenue enhancement, recommendations to increase operational efficiency, asset evaluation and positioning, acquisition and disposition strategies, and identification of industry best practices related to space planning.

ii. Portfolio analysis, planning, and strategy recommendations

The City may request real estate advisory services in a collaborative effort to develop strategic objectives for its real estate portfolio. This may include identifying priorities, processes, and

targets for various types of real estate holdings and the identification of industry best practices related to real estate portfolio planning.

iii. Site location, market research and analysis, marketing, and lease negotiation in support of the City-as-landlord or City-as-tenant

The City, at its option, may request real estate advisers to: define space needs, review availability of existing space and new space, develop advertisements for space, provide expertise related to retail leasing, research the market for appropriate space that meets City client needs, review and analyze lease proposals for value to the City, prepare a market survey (including asking price and business terms of the lease, evaluation of all comparable sites, market, any known violations or hazardous conditions, discounted cash flow analysis of projected rents and expenses, and recommendation), provide information on landlord performance and compliance, negotiate new leases and renewals, manage execution of leases, provide emergency lease support in case of a catastrophic event that requires immediate relocation.

iv. Acquisition or disposition of property and air rights

The City, at its option, may request real estate advisory services in connection with the acquisition or disposition of property, including air rights, with services that include but are not limited to valuation, development of marketing/bid packages, advertising/distribution to appropriate bidders, financial analysis, negotiation, and documentation.

v. Sales of Transferable Development Rights

Under the authority granted in Planning Code Section 128, the City may engage in sales of transferable development rights from eligible, City-owned properties and may seek real estate advisory services, including provision of brokers' estimates of fair market value and negotiation support, for such transactions.

vi. Financial Services

The City may consider a variety of alternative finance mechanisms to meet the capital needs of City-owned facilities. To the extent the City may consider using real estate assets as a means to address those needs, the City may seek real estate advisory services to propose, analyze, and implement a variety of real estate-based transactions, including economic analyses, fiscal impact analyses, economic multiplier studies, public/private partnerships, joint ventures, sale or lease/leasebacks, concession leasing, etc.

vii. Other Services

1. Provide information, judgments, and forecasts regarding general economic and real estate market conditions. Assist in conducting surveys of the real estate activities of other major metropolitan cities and counties and the State of California. Upon request, provide the City with a review or special study of any real estate related financial products or techniques, such as concession leasing, which may be proposed to City staff.

2. Make available qualified personnel for consultations and conferences with City officials, staff members of the City, community groups, as well as for other meetings on an as needed basis.
3. Perform other real estate advisory specialty services as may be required from time to time.
4. The City may need to solicit brokers with expertise in the seven counties where the SFPUC has real estate. From time to time the SFPUC may need to purchase or sell agricultural property in Tuolumne County and in the unincorporated Sunol area of Alameda County.

The SFPUC may also want to purchase residential real property in flood-prone areas. The selected broker must have residential property expertise or can associate with residential real estate brokers to represent the SFPUC.

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

C. Green Purchasing Requirements

In preparation for any Proposal submitted in response to this Solicitation, Proposers are required to review the City [Mandatory Green Purchasing Requirements](#) to ensure all goods and services offered to City in response to this Solicitation comply with the City's Green Purchasing Requirements.

III. LOCAL BUSINESS ENTERPRISE (LBE) PROGRAM REQUIREMENTS

A. CMD Compliance Officer

The CMD Compliance Officer (CCO) for this Solicitation and any Contract awarded to a Contractor selected from the resulting Prequalified Pool is:

Sheila Tagle
CMD Compliance Officer
Contract Monitoring Division
City and County of San Francisco
Tel: 415.581-2315
Email: sheila.tagle@sfgov.org
Website: www.sfgov.org/cmd.

B. Application of LBE Rating Bonuses and/or Bid Discounts

LBE Rating Bonuses shall be applicable at each phase of the RFQ evaluation and selection process. During the bidding process, a 10% rating bonus shall apply to any Proposal from a Small-LBE or Micro-LBE Contractor.

If after the application of the rating bonus specified above to any Proposal from Small-LBE or Micro-LBE the apparent low bidder is not a Small-LBE or Micro-LBE, a 5% rating bonus may

apply to any Proposal from a SBA-LBE. The 5% rating bonus for SBA-LBEs shall not be applied if it would adversely affect a Small-LBE or Micro-LBE.

Please submit the following CMD form with the RFQ Package:

FORM 3: CMD Compliance Affidavit.

CMD 3 Form is contained in CMD Attachment 2 for Architecture, Engineering & Professional Services Contract available at this link: <https://sfgov.org/cmd/file/2089>

LBE Rating Bonus shall also be applicable when selecting a Contractor from the resulting Prequalified Pool.

C. LBE Sub-consulting Participation Requirements

The LBE Sub-consulting Participation Requirement for Resulting Contracts is waived.

IV. MINIMUM QUALIFICATIONS DOCUMENTATION REQUIRED WITH PROPOSAL (PASS/FAIL)

Proposers must provide documentation that clearly demonstrates each Minimum Qualification (MQ) listed below has been met. Minimum Qualification documentation should be clearly marked as “MQ1”, MQ2”, MQ3” to indicate which MQ it supports.

Each Proposal will be reviewed for initial determination on whether Proposer meets the MQs referenced in this section. **This screening is a pass or fail determination and a Proposal that fails to meet the Minimum Qualifications will not be eligible for further consideration in the evaluation process.** The City reserves the right to request clarifications from Proposers prior to rejecting a Proposal for failure to meet the Minimum Qualifications.

MQ #	Description
MQ 1	Completed Attachment 1, Proposer Questionnaire and References.
MQ 2	Submit proof of the following: Must have at least ten (10) years of commercial real estate experience, three (3) years of which must include working with public sector clients.
MQ 3	Submit proof of the following: Licensed and certified to conduct business in the State of California pursuant to §10000-10035 of the Business and Professions Code and, if selected, respondent must maintain that license in good standing for no less than five (5) years.

V. WRITTEN PROPOSAL

In addition to submitting documents supporting each Minimum Qualification as required by this Solicitation, Proposers shall also submit a “Written Proposal” containing responses and required supporting information and documents to the requested information listed below. In the response, Respondents may indicate “N.A.” if the state is not applicable.

1. Response cover letter signed by an owner or officer of the proposing firm identifying the contact person and key personnel. If a joint venture, identify the roles of the partnering organizations and have an owner or officer of the joint venture sign the cover letter.

2. Describe the services and activities which your firm is qualified to provide to the Real Estate Division and City and how those services meet the defined scope of work. Include as a minimum the following information:

a. Overall services that the firm is qualified to provide

b. Details as to how your firm’s list of services satisfies the scope of work outlined in this RFQ

3. Provide a resume of the proposer’s experience and other factors relevant to the services described in this RFQ. Provide resumes of key staff or job descriptions/minimum requirements for key positions.

4. Provide a statement listing similar contracts (both public and private) relevant to services solicited that have been completed during the last three (3) years. The statement must also list any failure or refusal to complete a contract, including details and dates.

5. Describe any arrangements, formal or informal, that the firm has with any party that might conflict with or interfere with the firm’s ability to provide independent and unbiased services under this RFQ.

6. Describe any litigation, administrative proceeding, or investigation (actual or pending) in which the firm is involved or to which it is subject that might have an adverse effect on its ability to fulfill any engagements resulting from this RFQ, or of which the City should be aware in evaluating the firm’s capacity to undertake future engagements.

7. Fees for Real Estate Advisory Services

The City intends to select pool members primarily based upon the City’s assessment of qualifications and which firm will provide the best overall array of real estate advisory services to the City. The City will negotiate fees for each separate contract or engagement taking into account all of the fee proposals it receives under the RFQ and market conditions.

PLEASE NOTE that fees for certain transaction-related real estate advisory services under this RFQ will be paid from funds generated by the transaction on a contingency basis only. Accordingly, the fees payable to real estate advisors are contingent upon the successful closing of the transaction. Advisors will be expected to perform necessary work in order to conduct a

transaction, without regard to the amount of time spent. Respondents are required to indicate whether they will work on a contingent fee basis and briefly describe under what circumstances the firm would the firm not undertake an assignment on a contingent fee basis.

In cases where there is no closing or where a contingency fee may not apply, the City will compensate the financial advisors on an hourly basis up to a maximum amount to be negotiated for each engagement. Accordingly, please list the hourly billing rates for each employee that you anticipate being involved in any of the City's transactions; if a CPI or other annual increase is expected, please state in the response.

The primary personnel from the project team are expected to attend working group meetings, conference calls; rating agency and general public presentations; pricings; and closings.

PLEASE FURTHER NOTE that the City does NOT reimburse its financial advisors for any travel costs incurred in the regular course of a City transaction, including but not limited to, mileage, parking, airfare, taxi, Lyft, Uber or rental car expenses, nor does the City regard travel time to or from such meetings as noted above, to be billable.

PLEASE FURTHER NOTE that the city does not anticipate nay out-of-area travel to meet with rating agencies, insurers, or investors. Any such arrangements will be subsequently negotiated on an actual cost basis, if needed.

8. Any relevant addenda which the respondent wishes to submit.

VI. PROPOSAL EVALUATION CRITERIA (100 POINTS)

Evaluation Phase	Maximum Points
Minimum Qualifications	Pass/Fail
Written Proposal	100 Points

A review panel of parties with expertise in various types of real estate transactions will evaluate the Written Proposals. The City intends to evaluate the Written Proposals generally in accordance with the criteria itemized below.

1. Demonstrated Experience of Respondent (50 points)
 - a. Demonstrated and verifiable experience of successfully providing real estate advisory services.
 - b. Proven ability to successfully meet the proposed scope of work outlined in this RFQ.
 - c. Organization, clarity, cohesiveness, quality and completeness of response.
2. Expertise/Skills of Assigned Staff (40 points)
 - a. Experience of staff to be assigned to this contract.
 - b. Professional qualifications, education and skill set of assigned staff.
 - c. Staff availability, accessibility and workload.

3. Competitiveness of Proposed Expenses and Fees (10 points)
 - a. Proposed fees are 1) commensurate with the experience and skill level of assigned staff and 2) within market rates.
 - b. Reasonableness and appropriateness of proposed reimbursable expenses.

VII. RESERVED (PRICE PROPOSAL EVALUATION CRITERIA).

VIII. ORAL INTERVIEWS (PASS/FAIL)

The Evaluation Panel may hold oral interviews with Proposers that have met the Minimum Qualifications and whose Written and Price Proposals received the highest scores. Prior to Oral interviews, the City will send a letter to each invited Proposer regarding the format and general rules of the interview. The City reserves the right to limit participation in the panel interviews to Proposers' key/lead team members and to exclude, for example, sub-consultants on multiple teams. The interview evaluation process may include (and be scored based on) a presentation by the Proposer and/or interview questions from the Evaluation Panel. Those questions may include and be related to Proposers' and key/lead team members' qualifications, their work approach, project task descriptions, team organization, and any questions which seek to clarify Proposal components. Proposers may also be scored on follow-up questions if clarification of Proposer's responses is necessary. The same set of interview questions will be used for all Proposers and shall be presented to Proposers at least one week prior to the date of interview to allow Proposers sufficient time to prepare their responses. The Evaluation Panel may ask follow-up questions if clarification of Proposer's responses is necessary. The Evaluation Panel will proceed to evaluate each Proposer based on each Proposer's presentation and responses.

IX. SUPPORTING DOCUMENTATION REQUIRED PRIOR TO CONTRACT EXECUTION

Proposers must provide the following Required Supporting Documentation ("RSD") prior to Award. Failure to do so may result in the Proposal being deemed Non-Responsive.

RSD #1	Evidence that Proposer is 12B compliant or likely to become compliant within 30 calendar days of the Proposal Due Date.
---------------	---

X. CITY'S SOCIAL AND ECONOMIC POLICY REQUIREMENTS

The San Francisco Municipal Code establishes a number of requirements for people seeking to do business with the City ("Social and Economic Policy Requirements"). The Social and Economic Policy Requirements set forth below are not intended to be a complete list of all Social Policy Requirements applicable to this Solicitation and any contracts awarded from it.

A. Proposers Unable to do Business with the City

1. Generally

Proposers that do not comply with laws set forth in San Francisco's Municipal Codes may be unable to enter into a contract with the City.

2. Contractor Vaccination Policy Attestation Form

If awarded a Resulting Contract when selected from the Prequalified Pool, Proposer must agree to comply with the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency (“Emergency Declaration”), dated February 25, 2020, and the Contractor Vaccination Policy for City Contractors issued by the City Administrator (“Contractor Vaccination Policy”), as those documents may be amended from time to time. A copy of the Contractor Vaccination Policy can be found here: <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>.

3. Administrative Code Chapter 12X

If awarded a Resulting Contract when selected from the Prequalified Pool, Proposer may be subject to the requirements of [Administrative Code Chapter 12X](#), which prohibits the City from entering into a contract with a Proposer that has its headquarters in a state with laws that perpetuate discrimination against LGBTQ people; restrict abortion prior to the viability of the fetus; or suppress voting rights. The list of Covered States is available [here](#). When permitted, City, in its sole and absolute discretion, may elect to obtain a waiver to the requirements of Chapter 12X based on one or more exceptions permitted thereunder.

4. Administrative Code Chapter 12B

If awarded a Resulting Contract when selected from the Prequalified Pool, Proposer may not, during the term of the Contract, 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.

B. Reserved (Prevailing Wage Ordinance).

C. Health Care Accountability Ordinance

If awarded a Resulting Contract when selected from the Prequalified Pool, Proposer may be required to comply with the requirements of Chapter 12Q. For more information, visit: <http://sfgov.org/olse/hcao>.

D. Minimum Compensation Ordinance

If awarded a Resulting Contract when selected from the Prequalified Pool, Proposer may be required to comply with Administrative Code Chapter 12P. For more information, visit: <http://sfgov.org/olse/mco>.

E. First Source Hiring Program

If awarded a Resulting Contract when selected from the Prequalified Pool, Proposer may be required to comply with all of the applicable provisions of the First Source Hiring Program,

Chapter 83 of the San Francisco Administrative Code. For more information, visit <https://oewd.org/first-source>

F. Reserved (Sweatfree Procurement).

XI. TERMS AND CONDITIONS FOR RECEIPT OF PROPOSALS

A. How to Register as a City Supplier

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

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

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

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

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

B. Proposal Questions and Submissions

1. Proposer Questions and Requests for Clarification

Proposers shall address any questions regarding this Solicitation to the Contract Administrator whose name and contact information appears on the cover page of this Solicitation. Proposers who fail to submit questions concerning this Solicitation and its requirements will waive all further rights to protest based on the specifications and conditions herein.

Questions must be submitted by email to the Contract Administrator whose name and contact information appears on the cover page of this Solicitation no later than Written Questions Due Date.

A written Addendum will be executed addressing each question and answer and posted publicly. It is the responsibility of the Proposer to check for any Addenda and other updates that will be posted on the City's Supplier Portal: <https://sfcitypartner.sfgov.org/pages/Events-BS3/event-search.aspx> and on RED's webpage at: www.sf.gov/red.

2. Proposal Format

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

3. Time and Place for Submission of Proposals

Prior to the Proposal submission deadline, Proposers must submit their proposals one of the following ways:

- (a) **Mailed to:**
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Re: RED Brokers RFQ, #2023-2-6
- (b) **Emailed to:**
realestateadmin@sfgov.org
Title of email must reflect the following:
Your company's name – RE: RED Brokers RFQ, Sourcing
Event#0000007885

Late submissions will not be considered. Each original Proposal received will be screened to ensure that all content required by this Solicitation is included. Partial or complete omission of any required content may disqualify Proposals from further consideration. Late Proposal submissions will not be considered and failure to adhere to the above requirements may result in the complete rejection of your Proposal.

C. Proposal Addenda

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

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

D. Public Disclosure

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

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

E. Limitation on Communications During Solicitation

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

F. Proposal Selection Shall Not Imply Acceptance

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

G. Cybersecurity Risk Assessment

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

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

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

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

H. Solicitation Errors and Omissions

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

I. Objections to Solicitation Terms

Should a Proposer object on any ground to any provision or legal requirement set forth in this Solicitation, the Proposer must, no later than the deadline for questions, provide written notice to the City setting forth with specificity the grounds for the objection. The failure of a Proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

J. Protest Procedures

1. Protest of Non-Responsiveness Determination

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

2. Protest of Non-Responsible Determination

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

based. In addition, the Notice of Protest must specify facts and evidence sufficient for the City to determine the validity of the protest.

3. Protest of Prequalified Pool Creation

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

4. Delivery of Protests

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

K. Proposal Term

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

L. Revision to Proposal

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

M. Proposal Errors and Omissions

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

N. Financial Responsibility

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

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

O. Proposer's Obligations under the Campaign Reform Ordinance

If a Resulting Contract awarded to a Contractor from the Prequalified Pool has (A) a value of \$100,000 or more in a fiscal year and (B) requires the approval of an elected City official, Proposers are hereby advised:

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

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

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

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

P. Reservations of Rights by the City

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

1. Waive or correct any defect or informality in any response, Proposal, or Proposal procedure;
2. Reject any or all Proposals;
3. Reissue the Solicitation;
4. Prior to submission deadline for Proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or

requirements for any materials, equipment or services to be provided under this Solicitation, or the requirements for contents or format of the Proposals;

5. Procure any materials, equipment or services specified in this Solicitation by any other means; or

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

Q. No Waiver

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

R. Other

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

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

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

3. Failure to timely execute a contract, or to furnish any and all insurance certificates and policy endorsements, surety bonds or other materials required in the contract, shall be deemed an abandonment of a contract offer. The City, in its sole discretion, may select another Proposer and may proceed against the original selectee for damages.

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

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

Attachment 1

Proposer Questionnaire and References

Part I

Proposer Information

Name of Firm:

Headquarter
Address:

Phone No.:

Contact Name &
Title:

Telephone:

Mobile Phone No.:

E-mail:

SF Supplier ID:

Federal Tax ID:

Person Preparing
Bid:

Local Representative
Name and Number:

Part II

Proposer Questionnaire

Question	Yes	No
1. Do you certify that you have complied and will continue to comply with Section II (E) of this Solicitation entitled “Limitation on Communications during Solicitation”?		
2. Have you registered as a Bidder or Supplier, through the Supplier Portal (https://sfcitypartner.sfgov.org/)? If yes, what is your Bidder ID or Supplier ID? _____		
3. Has your company enrolled with Paymode-X to receive electronic payments from the City? https://www.paymode.com/city_countyofsanfrancisco		
4. Have you registered your business with the San Francisco Treasurer & Tax Collector as required prior to submission of any Proposal? <i>Enter your Business Tax Registration ID here:</i> _____		
5. Are you claiming LBE preference on this solicitation per Chapter 14B? Note: To claim LBE preference for this solicitation, you must be certified in the following LBE certification categories by the Proposal Due Date: • Small-LBE or Micro-LBE Contractor. • SBA-LBE.		
6. Have you submitted with your Proposal all the <u>Required Supporting Documentation</u> outlined in the accompanying solicitation document? If you reply NO to any document, please explain.		
7. Have you submitted with your Proposal all the <u>Minimum Qualification Documentation</u> outlined in the accompanying solicitation document? If you reply NO to any document, please explain.		
8. Have you submitted with your Proposal a <u>Written Proposal</u> that complies with the requirements of the accompanying solicitation document? If you reply NO to any document, please explain.		

Part III

Proposer References

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

1. Name of Company

Address (street, city, state, zip)

Contact Name

Phone No.

Email

Number of Years Providing Service

2. Name of Company

Address (street, city, state, zip)

Contact Name

Phone No.

Email

Number of Years Providing Service

3. Name of Company

Address (street, city, state, zip)

Contact Name

Phone No.

Email

Number of Years Providing Service

Part IV

Proposer Release of Liability for References

The undersigned hereby fully and forever release, exonerate, discharge and covenant not to sue the City, its commissions and boards, officers and employees, and all individuals, entities and firms providing information, comments, or conclusions ("Reference Information") in response to inquiries that the City may make regarding the qualifications or experience of a Prime proposer, proposed joint venture partner, proposed subconsultant or proposed key/lead team member in connection with the selection process for RFP for Provision of Real Estate Advisory Services [Broker] #2023-2-6 from and for any and all claims, causes of action, demands, damages, and any and all liabilities of any kind or description, in law, equity, or otherwise arising out of the provision of said Reference Information. This Release and Waiver is freely given and will be applicable whether or not the responses by said individuals, entities or firms are accurate or not, or made willfully or negligently.

Company Name

Signature of Authorized Representative of Company

Date

Print Name and Title

Part V

Proposer Certification of Truth, Accuracy, and Completeness

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

Company Name

Signature of Authorized Representative of Company

Date

Print Name and Title

ATTACHMENT 2

Draft Agreement for Advisory Service – Broker

DRAFT
FOR INFORMATIONAL
PURPOSES ONLY

AGREEMENT FOR ADVISORY SERVICES (BROKER)

Property:

Broker:

Date:

TABLE OF CONTENTS

	<u>Page</u>
1. Employment of Appraiser.....	1
2. Scope of Work	1
3. Purpose of Appraisal.....	1
4. Compensation	2
5. Method of Payment.....	2
6. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.....	2
7. Effective Date of Agreement; Term	2
8. Qualifications of Appraiser.....	2
9. Personnel.....	3
10. Incomplete Work	3
11. Ownership of Documents	3
12. Changes in Scope of Work	3
13. Termination.....	3
14. Bankruptcy.....	3
15. Indemnification.....	4
16. Incidental and Consequential Damages.....	4
17. Liability of City.....	4
18. Insurance.....	4
19. Assignment	6
20. Independent Contractor; Payment of Taxes and Other Expenses.....	6
21. Conflicts of Interest.....	7
22. Proprietary or Confidential Information of City.....	7
23. Copyright	7
24. Audit and Inspection of Records.....	7
25. Appraisal Coordination.....	7
26. Nondiscrimination; Penalties.....	8
27. Local Business Enterprise (LBE) Ordinance.....	8
28. MacBride Principles - Northern Ireland	9
29. Tropical Hardwoods and Virgin Redwood Ban.....	9

30.	Drug-Free Workplace Policy	9
31.	Resource Conservation Liquidated Damages	9
32.	Sunshine Ordinance	9
33.	Taxes	9
34.	Notification of Limitations on Contributions	9
35.	Requiring Minimum Compensation for Covered Employees	10
36.	Requiring Health Benefits for Covered Employees.....	11
37.	Notices	13
38.	Consideration of Criminal History in Hiring and Employment Decisions.....	13
39.	Submitting False Claims; Monetary Penalties.....	14
40.	Food Service and Packaging Waste Reduction Ordinance.....	14
41.	Protection of Private Information	15
42.	Severability	15
43.	Cooperative Drafting	15
44.	Sugar-Sweetened Beverages Prohibition.....	15
45.	Contractor Vaccination Requirements.....	16
46.	General Provisions	16

LIST OF EXHIBITS

Exhibit A – Description of Property
Exhibit B – Summary of Scope of Work
Exhibit C – Certifications

ATTACHMENTS

Attachment 1: Covered Employees Granted Exemptions
Attachment 2: Contractor Vaccination Attestation Form Updated December 2 2021

AGREEMENT FOR ADVISORY SERVICE

This Agreement for Independent Advisory Service - Broker (this "Agreement"), dated for reference purposes as of _____, is between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and _____, ("Broker" or "Contractor").

The parties hereto agree as follows:

1. Employment of Broker

In connection with the Real Estate Division's Broker panel program, City agrees to engage Broker, and Broker agrees to perform the services and work hereinafter described, on the terms and conditions set forth below.

2. Scope of Work

The scope of work to be performed by Broker under this Agreement is as follows:

DESCRIPTION

(a) **Inspection of Property.** Broker shall make a personal inspection of the property, as more particularly described in Exhibit A attached hereto (the "Property"), for the purpose of providing the analysis. Broker shall contact Andrico Penick before entering the Property to perform any work.

(b) **Analysis.** Broker shall use methodologies generally recognized by Brokers as necessary to produce credible analysis and shall take into account any covenants, conditions and restrictions or easements benefiting or burdening the Property and any unusual characteristics of the Property. If pertinent, the values ascribed, if any, shall be based on the value of fee title to the Property and shall address the highest fair market value of the site based on its highest and best use. Peer review of any Economic Impact Analysis shall be as outlined in Exhibit "B" – Scope of Work.

(c) **Reports.** Broker shall prepare a written report on or before _____, following the complete execution of this agreement as follows: Broker shall provide the Director of Property with at least one (1) hard copy and an electronic version of a certified narrative analysis report (the "Analysis Report"). The Analysis Report shall include the items noted in the Summary of Scope in Exhibit "B". The Analysis Report shall contain all pertinent information supporting the conclusions, including comparable sales data, photographs, area and property data, maps, plans, and other similar or pertinent documentation, as well as a clear and detailed description of the assumptions and any limiting conditions, qualifications or omissions, and of the method of analysis used in reaching the conclusions. The Analysis Report shall be delivered in a format mutually satisfactory to City and Broker.

(d) **Standards.** Broker shall complete the analysis in accordance with the appropriate and relevant standards guiding such production of information from a recognized brokerage firm.

3. Purpose of Analysis

The purpose of the analysis and Analysis Report to be performed pursuant to this Agreement is to provide the City's Real Estate Division with the information outlined in Exhibit "B." Broker understands and agrees that City will rely fully on the analysis for the purposes of determining *SET FORTH PURPOSE OF SERVICE AGREEMENT*. The City intends to use the Analysis Report in connection with existing or future real estate negotiations, and Broker agrees

to keep the Analysis Report and work product under this Agreement confidential, and not to release the Analysis Report or work product to any person other than the City, except to the extent required by applicable law.

4. Compensation

(a) **Fees.** Broker shall receive _____ as full compensation for the work performed hereunder, payable after acceptance by the Director of Property of the Analysis Report in accordance with the terms of this Agreement. The above amount includes all of Broker's allowable costs and profits for the work to be performed hereunder. The above amount also includes the initial consultation, phone consultations during the preparation of the Analysis Report and a final consultation upon completion of the Analysis Report with the Director of Property or his designee.

(b) **Approval of Work.** City shall not incur any charges under this Agreement for the work nor shall any payments become due to Broker for the work until the Director of Property receives the Analysis Report required under this Agreement and approves it as being in accordance with this Agreement.

(c) **No Interest or Late Charges.** In no event shall City be liable for interest or late charges for any late payments.

(d) **Independent Opinion.** The compensation to be paid to Broker for the performance of the work contemplated under this Agreement is not in any way contingent upon the opinions or conclusions of Broker. Furthermore, Broker is specifically directed by City not to deliver any opinions other than its own independently determined opinions produced by its own investigation, using acceptable professional standards.

5. Method of Payment

Invoices furnished by Broker under this Agreement must be in a form acceptable to the City's Controller (the "Controller"). All amounts paid by City to Broker shall be subject to audit by City. Payment shall be made by City to Broker at the address for notices stated herein, or at such other address as Broker shall provide City with written notice of no less than fifteen days in advance.

6. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation

This Agreement is subject to the budgetary and fiscal provisions of the City's Charter. Charges will accrue only after the Controller has certified the availability of funds for payment under this Agreement. Any amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and the period stated in such advance certification.

7. Effective Date of Agreement; Term

This Agreement shall become effective when the parties have fully executed and delivered this Agreement and the Controller has certified to the availability of funds. The term of this Agreement shall continue until Broker completes all work required hereunder or this Agreement is sooner terminated as provided herein.

8. Qualifications of Broker

Broker represents and warrants to City that Broker is qualified to make the independent analysis of the Property contemplated hereunder and that it is familiar with recognized analysis practices and with the standards required for same.

9. Personnel

a. All work performed under this Agreement shall be performed only by personnel under the supervision and in the employment of Broker. All personnel engaged in the work shall be fully qualified and shall be authorized, licensed and certified under State and local law to perform such work if authorization, licensing or certification is required.

b. The responsible personnel for Broker shall be _____. Any change in the responsible personnel must have the prior written approval of the Director of Property.

c. Broker shall not subcontract any work to be performed under this Agreement unless Broker first obtains the written approval of the Director of Property.

10. Incomplete Work

Neither the performance of any work by Broker nor City's acceptance of the Analysis Report shall relieve Broker from the obligation to correct any inaccurate or incomplete work. Broker shall promptly remedy all inaccurate or incomplete work, on demand, without cost to City.

11. Ownership of Documents

All documents and reports prepared by Broker pursuant to this Agreement, including the Analysis Report, shall be and remain the property of City and shall be delivered by Broker to City upon completion of the work hereunder. Broker may retain and use copies of such reports for reference and as documentation of its experience and capabilities.

12. Changes in Scope of Work

City may, from time to time, require changes in the scope of the work to be performed by Broker hereunder. Such changes, including any increases or decreases in the amount of Broker's compensation that City and Broker may mutually agree to and shall be set forth in written amendments to this Agreement, are subject to the provisions of the City's Charter.

13. Termination

(a) City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause. Termination shall be effective immediately upon Broker's receipt of written notice of termination, and thereupon Broker shall have no further rights under this Agreement. In the event of such termination, Broker shall be paid for any work under this Agreement that has been performed to the satisfaction of the Director of Property, up to the effective date of termination. Any such payment shall be based upon the percentage of work completed multiplied by the total contract price.

(b) Upon termination of this Agreement, Broker shall submit an invoice to City for an amount which it believes to be due and owing to it based upon the formula set forth in subsection (a) above. Upon City's request, Broker shall provide any additional back-up information or documentation to support such invoice. Upon City's approval and payment of the invoice, City shall be under no further obligation to Broker monetarily or otherwise.

14. Bankruptcy

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to,

any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force or effect, and any property or rights of such other party, tangible or otherwise, shall be immediately returned to it.

15. Indemnification

Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except to the extent that such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

16. Incidental and Consequential Damages

Broker shall be responsible for incidental and consequential damages resulting in whole or in part from Broker's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights which City may have under applicable law.

17. Liability of City

CITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 4 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.

18. Insurance

(a) 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:

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

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

(iii) 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; and

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

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

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

(ii) 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) All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages and shall be mailed to the following addresses:

Director of Property
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

Risk Management
General Services Agency
City and County of San Francisco
25 Van Ness Avenue, Suite 750
San Francisco, California 94102

(d) 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 (3) 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.

(e) 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.

(f) Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are

satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

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

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

19. Assignment

The services to be performed by Broker hereunder are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by Broker, unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

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

(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, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorney's fees, arising from this section.

21. Conflicts of Interest

Through its execution of this Agreement, Broker acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute 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.

22. 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.

23. Copyright

No reports or other documents produced in whole or in part under this Agreement shall be the subject of any application for copyright by or on behalf of Broker.

24. 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.

25. Analysis Coordination

Broker shall coordinate its work hereunder with the Director of Property or any other agents or contractors of City.

26. 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 CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly '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.

27. Local Business Enterprise (LBE) Ordinance

If Broker proposes to subcontract any of the work under this Agreement and the Director of Property approves any such subcontracting, Broker shall comply with 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 (the "LBE Ordinance"). Failure to comply with the LBE Ordinance as and when required shall be a material default under this Agreement.

28. MacBride Principles - Northern Ireland

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

29. Tropical Hardwoods and Virgin Redwood Ban

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwoods, tropical hardwoods wood product, virgin redwood or virgin redwood wood product except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

30. Drug-Free Workplace Policy

Broker 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 property. Broker agrees that any violation of this prohibition by Broker, its employees, agents or assigns will be deemed a material breach of this Agreement.

31. Resource Conservation Liquidated Damages

Chapter 5 of the San Francisco Environment Code is incorporated herein by reference. Failure by Broker to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

In the event Broker fails to comply in good faith with any of the provisions of Chapter 5, Broker will be liable for liquidated damages in an amount equal to Broker's net profit under this Agreement, or five percent (5%) of the total contract amount, whichever is greater. Broker acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be offset against any monies due to Broker from any contract with City.

32. Sunshine Ordinance

In accordance with San Francisco Administrative Code Section 67.24(e), contracts, contractors' bids, responses to requests for proposals 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's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this Section will be made available to the public upon request.

33. Taxes

Payment of any taxes, including California Sales and Use Taxes, levied upon this Agreement or the services delivered pursuant hereto, shall be the obligation of Broker.

34. Notification of Prohibition on Contributions

Through its execution of this Agreement, Broker acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, or for the

furnishing of any materials, supplies, or equipment, or for selling or leasing of any land or building to or from any department of the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or twelve (12) months after the date the contract is approved. Broker 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 \$100,000 or more. Broker further acknowledges that the (i) prohibition on contributions applies to each Broker; each member of Broker's board of directors, and Broker's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Broker; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Broker; and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department with whom Broker is contracting is obligated to submit to the Ethics Commission the parties to the contract and any subcontractor. Additionally, Broker certifies that Broker has informed each of the persons described in the preceding sentence of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

35. Requiring Minimum Compensation for Covered Employees

(a) Broker 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 Broker's obligations under the MCO is set forth in this Section. Broker is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(b) The MCO requires Broker to pay Broker'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 Broker is obligated to keep informed of the then-current requirements. Any subcontract entered into by Broker 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 Broker'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 Broker.

(c) Broker 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 ninety (90) days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

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

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

(f) Broker'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 Broker fails to comply with these requirements. Broker 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 Broker's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) Broker 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 thirty (30) days after receiving written notice of a breach of this Agreement for violating the MCO, Broker fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Broker 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) Broker 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 Broker 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 Broker later enters into an agreement or agreements that cause Broker to exceed that amount in a fiscal year, Broker 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 Broker and this department to exceed \$25,000 in the fiscal year.

36. Requiring Health Benefits for Covered Employees

Unless exempt, Broker 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 Chapter 12Q are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. 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, Broker shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Broker 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 Broker is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with subsection (a) above.

(c) Broker's failure to comply with the HCAO shall constitute a material breach of this Agreement. City shall notify Broker if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Broker fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Broker 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 Section 12Q.5(f)(1-5). 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 Broker 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. Broker 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 Broker 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 Broker based on the Subcontractor's failure to comply, provided that City has first provided Broker with notice and an opportunity to obtain a cure of the violation.

(e) Broker shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Broker's compliance or anticipated compliance 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) Broker 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) Broker 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) Broker shall keep itself informed of the current requirements of the HCAO.

(i) Broker 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) Broker 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 (10) business days to respond.

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

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

(m) If Broker is exempt from the HCAO when this Agreement is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000), but Broker later enters into an agreement or agreements that cause Broker's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$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 Broker and the City to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

37. Notices

Except as otherwise expressly provided herein, any notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person, by sending it first-class mail or certified mail with a return receipt requested, postage prepaid, or overnight courier, addressed as follows:

City: Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: [Insert Property Address]

Broker: [Insert Broker Company Name]
[Address]

Notices herein shall be deemed given two (2) days after the date when it shall have been mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is made.

38. Consideration of Criminal History in Hiring and Employment Decisions

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

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

(c) Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, 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.

(d) Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2)

participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(e) Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection 32(d), above. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(f) Contractor or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Contractor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(g) Contractor and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Contractor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

(h) Contractor understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

39. Submitting False Claims; Monetary Penalties

Broker acknowledges and agrees that it is a "contractor" under and is subject to San Francisco Administrative Code Section 21.35. Under such Section 21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of 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 City; (c) conspires to defraud City by getting a false claim allowed or paid by 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 City; or (e) is a beneficiary of an inadvertent submission of a false claim to City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to City within a reasonable time after discovery of the false claim.

40. Food Service and Packaging Waste Reduction Ordinance

Broker agrees to comply fully with and be bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided, and implementing guidelines and rules. This ordinance prohibits the use of polystyrene foam disposable food service ware and requires the use of compostable or recyclable food service ware by anyone serving food in San Francisco. 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, Broker agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Broker agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a 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 amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Broker's failure to comply with this provision.

41. 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.

42. Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

43. 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.

44. Sugar-Sweetened Beverages Prohibition

Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

45. Contractor Vaccination Requirements

Contractor acknowledges that it has read the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency ("Emergency Declaration"), dated February 25, 2020, and the Contractor Vaccination Policy for City Contractors issued by the City Administrator ("Contractor Vaccination Policy"), as those documents may be amended from time to time. A copy of the Contractor Vaccination Policy can be found at: <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>. Any

undefined, initially-capitalized term used in this Section has the meaning given to that term in the Contractor Vaccination Policy.

A Contract as defined in the Emergency Declaration is an agreement between the City and any other entity or individual and any subcontract under such agreement, where Covered Employees of the contractor or subcontractor work in-person with City employees at a facility owned, leased, or controlled by the City. A Contract includes such agreements currently in place or entered into during the term of the Emergency Declaration. A Contract does not include an agreement with a state or federal governmental entity or agreements that does not involve the City paying or receiving funds.

Contractor has read the Contractor Vaccination Policy. In accordance with the Emergency Declaration, if this Agreement is (or becomes) a Contract as defined in the Contractor Vaccination Policy, Contractor agrees that:

(1) Contractor shall ensure it complies with the requirements of the Contractor Vaccination Policy pertaining to Covered Employees, as they are defined under the Emergency Declaration and the Contractor Vaccination Policy, and insure such Covered Employees are fully vaccinated for COVID-19 or obtain an exemption based on medical or religious grounds; and

(2) If Contractor grants Covered Employees an exemption based on medical or religious grounds, Contractor will promptly notify City by completing and submitting the Covered Employees Granted Exemptions Form ("Exemptions Form"), which can be found at <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors> (navigate to "Exemptions" to download the form).

46. General Provisions

(a) This Agreement may be amended or modified only by a writing signed by City and Broker. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer of other authorized representative, and only to the extent expressly provided in such written waiver. (c) All approvals and determinations of City requested, required or permitted hereunder may be made in the sole and absolute discretion of the Director of Property, the Director's designated agent or other authorized City official. (d) This instrument (including the exhibits hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (f) Time is of the essence. (g) This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. (h) This Agreement shall be governed by California law and City's Charter. (i) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, City and Broker have executed this Agreement as of the date first above written.

BROKER:

[BROKER COMPANY NAME]
a California limited liability company

By: [NAME OF PERSON CONDUCTING
ANALYSIS]
Its: Owner

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
ANDRICO PENICK
Director of Property

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By _____
[NAME OF DEPUTY] Deputy City Attorney

EXHIBIT A
Description of Property

DRAFT

EXHIBIT B
Scope of work

1. Introduction
 - A. Title Page
 - B. Table of Contents
 - C. Letter of Transmittal
2. Summary
 - A. Purpose of Analysis
 - B. Property
 - D. Summary of Important Facts and Conclusions
3. Factual Data
 - A. Legal Description
 - B. Area, City and Neighborhood Data
 - C. Property or Rental/Sale Data
 - * Description of Site
 - * Description of Improvements
 - * Description of Equipment
 - * History
 - * Assessed Value
 - * Utilities
 - * Zoning
 - * Amenities
4. Analysis and Conclusions
 - A. Analysis
 - B. Interpretation and Correlation of Value Estimates
 - D. Statement of Limiting Conditions and Assumptions
 - E. Certificate of Broker
 - F. Qualifications of Broker
5. Attachments
 - A. Details of Supporting Data
 - B. Photographs
 - C. Maps
 - D. Plot Plan
 - E. Floor Plans
 - F. Other Pertinent Documentation

EXHIBIT C

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the owner and duly authorized representative of the firm of _____ whose address is _____ and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement;

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; or

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) and fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement;

except as here expressly stated (if any): N/A

[NOTE: IF FEDERAL AID HIGHWAY FUNDS ARE INVOLVED, THEN ADD THE FOLLOWING PARAGRAPH

I acknowledge that this certificate is to be furnished to the State Department of Transportation in connection with this agreement involving participation of Federal Aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.]

(Date)

(Signature)

ATTACHMENT 1

Covered Employees Granted Exemptions

DRAFT



**Contractor Attestation Affirming Compliance with San Francisco's Covid-19 Contractor
Vaccination Policy**

Attachment A: Identification of Covered Employees Granted Exemptions

City Department: _____

Contractor (Company name): _____

Contract name/number: _____

Under the Contractor Vaccination Policy, a Contractor or Subcontractor on a Covered Contract may grant an exemption from the vaccination requirement to a Covered Employee for Qualifying Medical Reasons or Religious Beliefs. If the Contractor or Subcontractor grants such exemptions, the City department must determine whether the exempt Covered Employees can be reasonably accommodated with appropriate safety precautions consistent with those the City affords to City employees in the work setting. The Department may request a meeting with Contractor to seek additional information to determine whether the employee(s) identified below can be safely accommodated. The Contractor or Subcontractor may not allow the Covered Employees to work at the work setting until the City has made a determination.

Identify below Covered Employees, if any, for whom Contractor or Subcontract has granted an exemption:

Employer (name of contractor or sub)	Employee's title	Employee's job duties	Employee's work location

ATTACHMENT 2

Contractor Vaccination Attestation Form Updated December 2 2021

DRAFT



Contractor Attestation Affirming Compliance With San Francisco's Covid-19 Contractor Vaccination Policy

City Department: _____

Contractor (Company name): _____

Contract name/number: _____

Background

On October 8, 2021, Mayor London Breed issued the Thirty-Eighth Supplement to the Proclamation of Local Emergency concerning the COVID-19 pandemic.

This Supplement mandates that City contractors with employees who work with City employees at City worksites be fully vaccinated against COVID-19 or obtain a valid medical or religious exemption from the vaccination requirement.

Under Mayor Breed's order and the resulting City Contractor Vaccination Policy, contractors under "Covered Contracts" are being asked to affirm that they intend to comply with the Vaccination Policy.

A "Covered Contract" is a City contract where employees of the contractor or subcontractor work in-person with City employees at a City owned, leased, or controlled facility, provided at least one of the contractor's or subcontractor's employees meet the definition of Covered Employee.

A "Covered Employee" is a person that either:

- (a) works in an indoor office workspace where City employees regularly work, or
- (b) otherwise regularly works within six feet of one or more City employees, for more than 4 cumulative hours in a day, more than 15 cumulative hours in a 7-day period, or more than 20 cumulative hours in a 14-day period.

All City contractors must complete an Attestation respecting their intention to comply with the Contractor Vaccination Policy. Please complete one of the following two attestations.

Attestation 1: No Covered Employees.

As the authorized representative of Contractor, I affirm that:

- (1) I have read the Contractor Vaccination Policy pertaining to the obligations of City Contractors to ensure all Covered Employees are fully vaccinated for COVID-19 or obtain an exemption based on medical or religious grounds,
- (2) to my knowledge, there are no Covered Employees working on the above-referenced contract, and
- (3) if Covered Employees perform work under this contract in the future, they will be fully vaccinated for COVID-19 or granted an exemption based on medical or religious grounds.

Your name: _____

Title: _____

Signature: _____

Date: _____

OR:

Attestation 2: Covered Employees

As the authorized representative of Contractor, I affirm that:

- (1) I have read the Contractor Vaccination Policy pertaining to the obligations of City Contractors to ensure all Covered Employees are fully vaccinated for COVID-19 or obtain an exemption based on medical or religious grounds, and
- (2) to my knowledge, Contractor currently complies with, and will continue to comply with, the Contractor Vaccination Policy during the term of the Contract.

Attachment A lists all Covered Employees who have been granted an exemption on medical or religious grounds, if any. We will update Attachment A, and provide the same to the City, if and when any additional Covered Employees are granted an exemption on medical or religious grounds.

I further affirm that the Contractor Vaccination Policy permits the City to request records from Contractor to confirm compliance.

Your name: _____

Title: _____

Signature: _____

Date: _____