OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

450-0182021-002

Agenda Item **No. 8(a)**
Meeting of May 18, 2021

INFORMATIONAL MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Sally Oerth, Interim Executive Director

SUBJECT: Intention to issue a Request for Proposals to select a consultant to provide environmental technical services, for Hunters Point Shipyard Phase 1 and Phase 2 Projects on an as-needed basis; Hunters Point Shipyard Redevelopment Project Area

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EXECUTIVE SUMMARY

This informational memorandum is to inform the Commission of staff's intention to issue a Request for Proposals ("RFP") on May 19, 2021 to select a consultant to provide environmental technical services to the Office of Community Investment and Infrastructure ("OCII"), on an as-needed basis, for the Hunters Point Shipyard ("HPS") Phase 1 and Phase 2 Projects.

OCII along with the City and County of San Francisco ("City") through the Department of Public Health ("SFDPH") and City Attorney's Office monitor the Navy's environmental remediation activities on HPS Phase 2 to ensure that remediation standards are met, and the site is safe for development pursuant to the Hunters Point Shipyard Redevelopment Plan ("Redevelopment Plan"). In addition, OCII monitors developers' compliance with required environmental mitigation measures at HPS Phase 1. To fulfill these roles, the services of outside consultants with relevant expertise are required.

OCII currently has a contract with Langan, which expires on July 31, 2021, after a six-year term. Therefore, staff recommends issuing a Request for Proposals seeking the services of an environmental technical consultant for a variety of assignments related to the Hunters Point Shipyard. After evaluation of the proposals, staff will seek approval from the Commission for a Personal Services Contract with a recommended applicant for an initial term of three years, with three additional one-year extensions, for a total contract term of up to six years.

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www.sfocii.org

BACKGROUND

In 1974 the U.S. Navy closed operations at the Hunters Point Shipyard (“Shipyard”), and in 1989 the U.S. Environmental Protection Agency (“US EPA”) placed the Shipyard on the National Priorities List established under the federal Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). Following the Shipyard’s designation as a superfund (“Superfund”) site under CERCLA, in 1992 the Navy entered into a Federal Facilities Agreement (“FFA”) with the USEPA, California Department of Toxic Substances Control (“DTSC”), and the Bay Area Regional Water Quality Control Board, collectively the "Environmental Regulators"). The FFA establishes a procedural framework and schedule for developing, implementing, and monitoring appropriate remediation actions at the Shipyard in accordance with CERCLA and other applicable state and federal laws. Under a conveyance agreement entered between OCII and the Navy, after the Navy and the Regulators have concurred to a Finding of Suitability to Transfer (“FOST”) for a land parcel within the Shipyard, the Navy will offer the property to OCII.

OCII and the City and County of San Francisco (“City”) through the Department of Public Health (“SFDPH”) and City Attorney’s Office monitor the Navy's environmental remediation activities to ensure that remediation standards are met, and the site is safe for development pursuant to the Hunters Point Shipyard Redevelopment Plan (“Redevelopment Plan”). On issues where specific technical expertise is required and is not available through City or OCII staff, outside expert consultants are used.

To facilitate the remediation and transfer of land at the Shipyard, the Navy has divided the Shipyard into lettered parcels. Currently there are a total of 12 parcels (A-1, A-2, B-1, B-2, C, D-1, D-2, E, E-2, F, G, and IR7-18) and three utility corridors (UC-1, UC-2, and UC-3). These parcels cover approximately 492 land acres located along the southeastern waterfront in San Francisco. The Shipyard also includes 437 water acres offshore, known as Parcel F, which will not be transferred to OCII. The Navy defined its parcels based on their environmental characteristics and remedial actions needed. To date, the land in HPS Phase 1, Parcels A-1 and A-2, and three parcels in HPS Phase 2 (Parcels D-2, UC-1, and UC-2) have been transferred from the Navy to OCII.

In 1995, the Navy determined, and the Environmental Regulators and the SF DPH agreed, that HPS Phase 1 (which consisted of soldiers’ barracks and accessory activities during active base use) posed no threat to human health or the environment and required no further action, and in 1999, the US EPA removed HPS Phase 1 from the National Priorities (Superfund) List and confirmed that the site was safe for its intended use as a residential community. In 2004, the Navy transferred to OCII the land now making up HPS Phase 1. Phase 1 is not part of the HPS Superfund site and is not subject to CERCLA. The Navy remains responsible for any remediation and CERCLA activities required at HPS Phase 2.

In 2016, the Navy and the US EPA became aware of anomalies in data provided by one of the Navy's contractors working at HPS Phase 2. The Navy determined that the Phase 2 data was not reliable and that portions of HPS Phase 2 where the contractor had worked would require retesting. Although the unreliable data and the retesting activities were limited to HPS Phase 2, in July through November of 2018, in response to public concerns and at the request of the City and County of San Francisco City and Speaker Nancy Pelosi, the California Department of Public Health ("CDPH") performed a radiological survey to assess the health and safety of the public and the environment at HPS Phase 1. CDPH completed its Final Reports for Phase 1 on February 5, 2019 (Parcel A-1) and April 24, 2019 (Parcel A-2), which concluded that no residents, workers or visitors are being exposed to radiological health and safety hazards.

To address continued concerns and questions from the community regarding the testing conducted at the Shipyard, Mayor Breed, City Attorney Herrera, and SF District 10 Supervisor, Shamann Walton, asked experts from UC San Francisco and UC Berkeley to conduct an impartial analysis of CDPH's procedures. The report concluded that CDPH's health and safety scan was appropriate as a health and safety survey.

DISCUSSION

OCII is seeking to contract with an environmental consultant to provide technical consulting services related to HPS Phase 1 and Phase 2. Staff intends to negotiate a Personal Services Contract with the selected environmental consultant. On an as needed basis, OCII will assign work requiring technical review, assessment, and opinions.

Schedule

The following outlines the proposed schedule for the selection of a panel of environmental consultants:

RFP available online at: www.sfocii.org	May 19, 2021
Deadline for questions and requests for additional information	June 2, 2021 (4pm)
Submission deadline for Proposals	Friday, June 18, 2021
Applicant selection (interviews may be conducted)	June – July 2021
OCII Commission consideration	July 2021

Scope of Work

Generally, the consultant will provide OCII with services to support OCII's understanding of the technical aspects of the Navy's environmental remediation at the Shipyard, which will include review of ongoing re-testing and remediation activities conducted at HPS Phase 2, conduct, draft and/or review environmental assessment studies and other documents, provide technical opinions and participate in meetings including public meetings, as may be needed. The consultant may also be asked to provide on-going monitoring activities related to hazardous substances and waste management and to provide services associated with environmental clean-up, oversight, and re-testing work associated with the HPS projects. From time to time, and possibly on an on-going regular basis, the consultant will be required to work with the San Francisco Department of Public Health to ensure that all environmental assessment and cleanup issues will be addressed for OCII sites. In addition, the consultant may be asked to review and support OCII on HPS Phase 1 related matters. The consultant will also be required to:

- Monitor removal and cleanup activities;
- Review reports prepared by independent third parties and prepare miscellaneous reports;
- Attend meetings as directed by OCII staff;
- Recommend appropriate strategies/approaches to solving environmental issues;
- Attend meetings with OCII staff at environmental regulatory agencies; and
- Provide Agency staff with other as needed environmental assessment/cleanup expertise.

Distribution

As required under OCII's Purchasing Policy and Procedures, the RFP will be advertised via the following media:

- The Agency's website;
- The City's "Bids and Contracts" weekly newsletter and website; and
- Local Publication reaching San Francisco's many diverse populations.

Evaluation Criteria

An evaluation panel composed of OCII staff will evaluate all submittals on the completeness of their response to the RFP. Those submittals considered responsive will be judged on the following criteria:

- Experience;
- Demonstrated familiarity and expertise with military and/or base closure projects, CERCLA, and HPS and SF Bayview Hunters Point area;
- Public sector experience and work with citizens committees and oversight/regulatory commissions/bodies;

- Overall cost and the experience of the proposed staff and efficiency of the budget for providing the requested services;
- Compliance with Agency policies; and
- Insurance and indemnification requirements.

(Originated by: Kasheica McKinney, Assistant Project Manager)

DocuSigned by:

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Sally Oerth
Interim Executive Director

Attachment: 1. Environmental Consulting Services RFP 2021

OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCURE

Request for Proposals

ENVIRONMENTAL TECHNICAL SUPPORT SERVICES FOR HUNTERS POINT SHIPYARD

RFP Available
May 19, 2021

Deadline for Submission
June 18, 2021

Issued by:
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Contact: Kasheica McKinney
kasheica.mckinney@sfgov.org

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I. SUMMARY

The Office of Community Investment and Infrastructure ("OCII"), Successor Agency to the former San Francisco Redevelopment Agency ("SFRA") is seeking proposals from qualified consultants or consulting teams to provide certain services for OCII's Hunters Point Shipyard project (the "Shipyard"), the key elements of which include:

1) Reviewing and analyzing technical documents produced primarily by the U.S. Department of the Navy ("Navy"), as well as the U.S. Environmental Protection Agency ("EPA"), and the State of California, acting through the California Department of Toxic Substances Control ("DTSC") and Regional Water Quality Control Board ("Water Board") (the EPA and the State, collectively, the "Regulators") relating to the environmental contaminants on and remediation of the Shipyard; and

2) Making recommendations and advising OCII in its role as the local reuse authority for and redeveloper of the Shipyard, including at OCII's request, the San Francisco Department of Public Health ("DPH") and the Office of the City Attorney (collectively, the "City/Shipyard Team")

At the conclusion of this RFP process OCII staff will recommend an applicant for the Commission on Community Investment and Infrastructure's ("Commission") consideration of a Personal Services Contract ("PSC"). Staff's recommendation will be based on the evaluation criteria set forth below in this RFP. The Commission may act in its sole and absolute discretion, and recommendation by staff does not guaranty that the Commission will approve any PSC or any recommended applicant. This opportunity is open to all businesses, both for-profit and non-profit. Applicants are advised that OCII is committed to vigorous equal opportunity employment.

PROJECT OVERVIEW

Although the State dissolved SFRA in 2012, the State determined finally and conclusively that the Hunters Point Shipyard and Candlestick Point Projects are enforceable obligations under Redevelopment Dissolution Law.

The Hunters Point Shipyard ("Shipyard"), a former naval base, is a master-planned community of approximately 500 acres located along the southeastern waterfront of San Francisco. The Board of Supervisors originally adopted the Hunters Point Shipyard Redevelopment Plan in 1997, with later amendments in 2010, 2017 and 2018. The Redevelopment Plan calls for redevelopment of the Shipyard in two phases – "HPS Phase 1" and "HPS Phase 2". Both Phases are within the scope of this RFP.

In 1995, the Navy determined, and the US EPA, the State of California and San Francisco Department of Public Health agreed, that HPS Phase 1 (which consisted of soldiers' barracks and accessory activities during active base use) posed no threat to human health or the environment and required no further action, and in 1999, the US EPA removed HPS Phase 1 from the National Priorities (Superfund) List and confirmed that the site was safe for its intended use as a residential community. In 2004, the Navy transferred to OCII the land now making up HPS Phase 1. Phase 1 is not part of the HPS superfund site and is not subject to CERCLA.

The remaining portion of the Shipyard, HPS Phase 2, is primarily controlled by the Navy, and the Navy remains responsible for any remediation and CERCLA-compliance activities prior to transfer.

Pursuant to Disposition and Development Agreement ("Phase 1 DDA") between SFRA, now OCII, and the master developer Lennar/BVHP (now HPS Development Co., LP, an affiliate of Lennar Communities, "HPS 1 Developer"), HPS 1 Developer is currently completing the construction and infrastructure for HPS Phase 1, which will ultimately include 1,428 new residential units, approximately 29% of which will be affordable, 26 acres of open space and up to 20,000 square feet of commercial/community space.

Pursuant to a Disposition and Development Agreement for Candlestick Point and Hunters Point Shipyard Phase 2 ("CP/HPS2 DDA") with master developer CP Development Co., LLC (an affiliate of FivePoint Holdings ("HPS2 Developer"), HPS Phase 2 will be developed upon completion of all required remediation and transfer to OCII. The Shipyard Phase 2 development program under the CP/HPS2 DDA provides for up to 3,454 new housing units and approximately 5.1 million square feet of commercial space, with attendant infrastructure, parks and open space. Additional details on the development program and other project background documents are available on the Hunters Point Shipyard page of OCII's website: sfocii.org.

Services sought under this RFP will be include both the Phase 1 and Phase 2 project areas.

II. IMPORTANT DATES AND SUBMISSION PROCESS

A. Important Dates

Proposals are due by 4:00 p.m., **Friday, June 18, 2021**.

RFP available online at www.sfocii.org	**May 19, 2021**
Deadline for questions and requests for additional information	**June 2, 2021 (4pm)**
Submission deadline for Proposals	**Friday, June 18, 2021 (4pm)**
Applicant recommendation (interviews may be conducted)	**June – July 2021**
OCII Commission consideration	**July 2021**

***All dates subject to change**

B. Pre-Submission Meeting

OCII will host a virtual pre-submittal meeting on **Thursday, May 27, 2021 at 11am.** To participate in the pre-submittal meeting interested parties must send an email request to receive an invite to**:** **kasheica.mckinney@sfgov.org**, no later than Thursday May 27, 2021 by 10:30am Requests received after 10:30am on May 27 2021 will not receive a response and will not be added to the meeting. The pre-submittal meeting will be hosted through the Microsoft Teams meeting platform. Participants are strongly encouraged to download the Microsoft Teams application in advance of the meeting.

C. Questions and Requests for Additional Information

All questions and requests for additional information regarding this RFP must be received in writing by OCII, by e-mail on or before the date and time as shown in Section II. A. **All addendums, responses and additional information will be posted online, by June 9, 2021**, on OCII website (www.sfocii.org), under the "RFPs, RFQs, and Bids" section. OCII reserves the sole right to determine the timing and content of the response, if any, to all questions and requests for additional information. Questions and information requests should be submitted to:

Kasheica McKinney
Office of Community Investment and Infrastructure (OCII)
Email: Kasheica.mckinney@sfgov.org
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

D. Registration

It is not necessary to register to submit a Proposal.

E. Submission Time, Place, Date, Contact

Proposals must submitted electronically and be received by OCII:

June 18, 2021 at **4:00 p.m.**
to
Office of Community Investment and Infrastructure
Attn: **Kasheica McKinney**
kasheica.mckinney@sfgov.org

III. BACKGROUND

Due to the presence of hazardous materials on the Shipyard released by the activities of the Navy and its contractors and tenants, the EPA placed the Shipyard on the National Priorities List (commonly known as the "Superfund List") created under the Federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") in 1989.

Pursuant to CERCLA, the Navy and the Regulators executed a Federal Facilities Agreement (the "FFA") in 1992, which requires the Navy to investigate and remediate hazardous materials at the Shipyard according to a specified process and schedule. In the original FFA, the Shipyard was divided into six parcels designated A through G, roughly corresponding to the Navy's anticipated remediation schedule.

In 1997, the federal government passed legislation authorizing the transfer of the Shipyard from the Navy to the City or its designated local reuse authority, which is OCII. The full environmental remediation of the Shipyard is currently being performed by the Navy. This remediation effort includes the production of numerous technical documents. It is in the interest of OCII and the City to review and provide feedback on these documents to ensure that the Navy will remediate the Shipyard in a manner that is protective of public health and the environment and is consistent with the proposed reuse plans and applicable law.

A. Enforceable Obligation of OCII

OCII is obligated under Section 20 of the Phase 1 DDA to monitor the Shipyard's developer for compliance with the Phase 1 DDA's Mitigation Measures including DPH's Article 31. In addition, Article 2 of the Conveyance Agreement between the Navy and OCII requires OCII, through a "Collaborative Partnership" with the Navy to "share information and communicate… explore opportunities for integrating development with cleanup…develop strategies for characterizing the site and resolving remediation issues…explore conveyance and contracting mechanisms that expedite cleanup and conveyance…and jointly present characterization, remediation, contracting and conveyance plans to regulators and community groups." Finally, Section 5.2.6 of the CP/HPS2 DDA commits OCII to accept properties from the Navy once those properties have achieved a certain level of environmental remediation. To fulfill these roles, OCII requires the services of outside experts with relevant experience.

On December 14, 2012, the California State Department of Finance issued a Final and Conclusive Determination under California Health and Safety Code § 34177.5 (i), that the Phase 1 DDA and the Phase 2 DDA are enforceable obligations that survived the dissolution of the Redevelopment Agency.

Below is a detailed description of how the development is structured and who the key parties are for HPS Phase 1 and Phase 2 :

PARTY	ROLE IN DEVELOPMENT
OCII	Facilitate overall implementation of the redevelopment plans having authority, rights, powers and duties over land use, financing, plan documents, and the adopting and amending thereof.
San Francisco Department of Public Health ("DPH")	Monitoring the Navy clean up and the regulators oversight at the Shipyard Phase 2. Administers San Francisco Health Code Article 31, which requires permitting post-transfer construction work at the Shipyard for compliance with institutional controls on the property.
U.S. Navy	Investigate and remediate hazardous substances within the Shipyard, in accordance with specified processes and schedules, for phased transfer of the lands to OCII.
Regulators (USEPA, DTSC, and Water Board)	Oversee the Navy's environmental remediation of the Shipyard Phase 2 in accordance with the terms of the Federal Facilities Agreement ("FFA").
Developer	Master Developers (parties to the Phase 1 and CP/HPS2 DDAs) are responsible for developing and implementing the development.
Hunters Point Shipyard Citizens Advisory Committee ("CAC")	Provide community input on OCII and the Developer's efforts on the Project and advise the Commission.

IV. TERM OF SERVICES

OCII is seeking to enter a PSC for an initial term of three (3) years, with three (3), one-year options to review, for a total PSC contract term of up to six (6) years.

V. SCOPE OF SERVICES

The Scope of Services are provided below for both HPS Phase 1 and HPS Phase 2.

A. Scope related to the HPS Phase 1

1. As directed, review testing results and/or reports prepared regarding HPS Phase 1, monitor Developers' compliance with environmental mitigation measures and compliance with Article 31, collect and/or review samples, and provide information and recommendations about HPS Phase 1 work to various city departments, officials, and advisory committees.

2. As directed evaluate or prepare air monitoring results.

3. If needed, attend Environmental Team meetings and attend/assist in presentations for other technical and non-technical meetings scheduled by OCII, City, Navy, regulatory agencies, developer, Mayor's Shipyard Citizen Advisory Committee or community groups.

4. If needed, provide community relations support services and advise on community relations communications.

5. Obtain radiological review services from radiological experts as needed.

6. Assist in development of presentations and graphics

7. If needed, write environmental White Paper(s) and environmental opinion letters.

8. If needed, assist with developing technical scopes and review of technical scopes related to environmental work.

B. Scope related to the Phase 2 DDA

1) Attend Base Closure Team ("BCT") meetings, as needed.

2) Review and evaluate the environmental work and documents produced by the Navy including continued and ongoing review and comment on remediation and radiological rework issues and groundwater monitoring. As directed collect and/or review samples, if needed. As directed; review, evaluate and provide comments on documents such as:

    a) Parcel B-1 documents including: Installation Restoration Site 10 documents, including Remedial Action Work Plan ("RAWP") for Building 123; Remedial Action Completion Report ("RACR"); and Annual Operation and Maintenance Summary Reports;

    b) Parcel B-2 Installation Restoration Site 26 documents including: RACR; Operation and Maintenance Plan; Finding of Suitability for Transfer ("FOST"); and Annual Operation and Maintenance Summary Reports;

c) Parcel B Radiological Program documents including: Radiological ("RAD") Removal Action Construction Summary Report ("RACSR") for buildings and soil rework. Parcel B documents related to Finding of Suitability for Transfer ("FOST"), and Annual O&M Summary Reports;

d) For Installation Restoration Sites 7 and 18: Annual Operation and Maintenance Summary Reports;

e) Parcel C Radiological Program documents including RAD RACSR fir buildings 253/211 and soil rework. Parcel C documents including: RACSRs and Remedial Action Monitoring Reports ("RAMRs"), Work Plan and technical memorandum for RU-C4 Deep Fractured Water Bearing Zone Investigation. Other documents including: Remedial RAWPs; RACSRs; O&M Plan; FOST; and Annual O&M Summary Reports;;

f) Parcels D-1 Radiological documents including: Revised Land Use Control Remedial Design Document ("LUC RD"); Explanations of Significant Differences ('ESD") to the Record of Decision ("ROD"); RAD Rework Plan, RAD RACSR for rework. Other Parcel D-1 documents including: O&M Plan; RACR, FOST, Annual O&M Summary Reports; and Radiological Closeout Reports;

g) Parcel G Radiological Program documents including RACSRs for Buildings and Soil Rework. Other Parcel G documents including FOST and Annual O&M Summary Reports.

h) Parcels E Radiological Program documents including: RAD RACSR for sanitary sewer/storm drain; and RAD RACSR for Buildings and Soil Rework. Other Parcel E documents including: RAWP Addendum for Remedial Action; RACSRs for Remedial Actions; and FOST; Remedial Design Package Reports including Design Basis Report, Remedial Action Monitoring Plan, Land Use Control Remedial Design, Operation and Maintenance Plan, and Cost Opinion, and Soil Vapor Sampling Documents; RAWPs; and Petroleum Hydrocarbon CAPs and Site Closeout Reports;

i) Parcels E-2 documents including: Landfill Gas Monitoring Reports; Removal Action reports; RAWPs; Post-Construction Remedial Action Performance Study Report; RACSR; O&M Plan, Annual O&M Summary Reports and wetlands related documents;

j) Parcel F Radiological Program documents including: Submarine Pen scoping Survey Report; Characterization Survey Report; and Radiological RACSR. Other Parcel F documents including: ROD; Remedial Design Package Reports including Design Basis Report, Remedial Action Monitoring Plan, Land Use Control Remedial Design, Operation and Maintenance Plan, Cost Opinion, and RAWPs; and Pre-Remedial Action Sediment Characterization Report;

k) Parcels UC-1 and UC-2 documents including: Annual O&M Summary Reports;

l) Parcels D-2, UC-1, UC-2, and UC-3 Radiological Program documents including: RAD RACSR for rework; and other documents including FOST;

m) Federal Facilities Agreement ("FFA") schedules;

n) Other technical documents related to soil, soil gas, and groundwater contamination at Hunters Point Shipyard; geotechnical investigation documents; Dust Control Plans; documents related to potential real estate documents (Finding of Suitability to Lease ("FOSLs"), Lease in Furtherance of Conveyance ("LIFOCs"), licenses, leases, and easements) documents related to Risk Management Plan ("RMP") compliance, and related to Community Development Blocks;

o) Five Year Reviews; and

p) Community Involvement Plans.

3) Assist with updating, distributing, and tracking progress on schedule for transfer tasks related to the Navy's Shipyard parcels. Support the on-going negotiations between OCII and the Navy for parcel transfer. As directed, provide information and recommendations to OCII (including HPS CAC, OCII Commission and OCII Oversight Board), and if requested by OCII, to various city departments, officials, and advisory committees (e.g., Planning Commission, Board of Supervisors, Health Commission, etc.). If needed, attend property transfer coordination meetings as scheduled by OCII, City, Navy, regulatory agencies, developer or community groups.

4) Obtain radiological review services from radiological experts as needed.

5) Advise OCII on potential updates to Article 31 of the San Francisco Health Code.

6) Assist in development of presentations and graphics.

7) For the transfers of Parcels B-1, B-2, C, D-1, G, E, and E-2:

a) Edit drafts of environmental White Paper(s) including writing new sections as directed;

b) If needed, write environmental opinion letter(s) on parcel transfer;

c) Prepare Phase I Environmental Site Assessments prior to transfer;

d) Assist with the development of Risk Management Plans;

e) Assist, as needed, with environmental aspects of transfer documents such as deeds, Covenants to Restrict Use of Property, property surveys, etc.;

f) Assist OCII in negotiating the terms and scope of services for potential contracts between OCII and the Navy for transfer of some or all of the Navy's long term CERCLA obligations (including operation and maintenance ("O&M") services and institutional control monitoring and annual reporting);

g) Assist OCII in developing a technical scope and contract for subcontracting out and fulfilling all long-term obligations that are transferred from the Navy (including O&M services and institutional control monitoring and annual reporting) per the negotiated contracts/agreements between Navy and OCII (except for Parcel D-2);

h) Assist OCII in developing a technical scope and contract for subcontracting out environmental services (e.g., Article 31 related) for Community Development Blocks and Agency Affordable Housing Lots; and

i) If needed, assist OCII in meetings and communications with Community Developers.

8) Attend environmental meetings/conference calls with OCII. As directed, coordinate environmental review efforts with developer when the interests of OCII and the developer are the same. As requested, attend meetings with developer.

9) If needed, review and evaluate the environmental work and documents produced by the developer(s), including environmental investigations (e.g., soil vapor investigations), activity specific work plans, and RMP compliance summaries prepared for development activities.

10) Prepare Technical Memoranda in Support of Residential Land Use for Parcel C and Parcel D-1.

11) If needed, attend and assist in presentations for other technical and non-technical meetings as scheduled by OCII, City, Navy, regulatory agencies, developer, Mayor's Shipyard Citizens Advisory Committee, and other community groups.

12) As needed, provide community relations support services which may include periodic brief email summaries of ongoing Navy work.

13) Update and maintain the report review schedule and the HPS environmental document library and Access database.

VI. SELECTION PROCESS AND CRITERIA

A. <u>Selection Process</u>

1) Submissions of proposals by applicants wishing to be considered by OCII to provide these services will be accepted until the date and time shown in Section II.A**.**

2) Submissions must be submitted electronically to kasheica.mckinney@sfgov.org , to be considered. No submissions will be accepted by fax. OCII staff will evaluate all submissions for completeness and minimum qualifications. If OCII staff determines that a submission is not complete or that an applicant does not meet the minimum qualifications, then the submission may not be subject to further review or scoring. Applicants may use the Submission Checklist **(Attachment #9)** as an aid in preparing the Proposal. Please note that the Checklist is merely an aid. Each Applicant is solely responsible for ensuring that all information requested in Section VII. Submission Requirements is submitted even if it does not appear on the Checklist.

3) OCII staff may contact references.

4) All or some of the applicants who have submitted complete and responsive proposals may be interviewed. Interviews are scheduled to be held, if at all, on the date(s) shown in Section II. A. ***These dates are subject to change***. Interviews, if needed, will be conducted using a web-based meeting platform (ex: Web-Ex, Zoom, Microsoft Teams).

5) Further written material regarding qualifications or submittals may be requested prior to or following interviews.

6) OCII staff will make a recommendation to the Commission based on the written proposals and, if applicable, the interviews and reference checks. The successful applicant will be obligated to comply with OCII's Equal Opportunity Program (e.g., Nondiscrimination in Contracts and Benefits Policy, Minimum Compensation Policy, Health Care Accountability policy, including the Small Business Enterprise Program or "SBE"), as well as the other requirements set forth in the attached form of PSC.

7) The recommendation of an applicant shall not imply acceptance by OCII of all terms of the proposal, which may be subject to further negotiations and will be subject to the approval of the Commission. If a satisfactory Contract cannot be negotiated in a reasonable time, then OCII Director may, in her sole discretion, terminate negotiations with the recommended proposer and begin negotiations with the next highest ranked proposer or choose instead to select a environmental services consultant through some other method.

8) After the staff recommended applicant has agreed to the proposed PSC, the Commission will either approve or reject the applicant and the PSC. If the Commission does not approve the proposed PSC, it may instead select another applicant for the proposed contract or award the contract through some other means or decide not to award any contract.

9) OCII will not consider an applicant's public statements on matters of public concern, that are protected under the First Amendment to the United States Constitution and unrelated to the contract, in the evaluation and selection of the applicant for the contract.

B. <u>Selection Criteria</u>

OCII will make the selection of the contractor based on the following factors:

1. Overall expertise and strength of the applicant's qualifications regarding the proposed tasks in the scope of services **(40 points max)**:

   a) Minimum of 10 years recent experience of providing services as set forth in the Scope of Services;

   b) Professional technical qualifications;

   c) Ability to work well in high-pressure and dynamic environments and meet deadlines, and remain courteous and professional;

   d) Ability to cost-effectively and promptly provide requested services in a useful manner;

   e) Ability to communicate and translate expertise into effective work product; and

2. Ability to comply with OCII's policies, including but not limited to nondiscrimination, equal benefits, minimum compensation, healthcare accountability, small business enterprise requirements (if applicable), and insurance. Demonstrated familiarity and expertise with military and/or base closure projects, the Federal Comprehensive Environmental Response, Compensation, and Liability Act requirements and related environmental laws generally. Demonstrated familiarity with matters specific to HPS and Bayview Hunters Point Area. **(20 points max)**

3. Public Sector experience and ability to interact courteously and professionally with staff and the public, demonstrated ability to work effectively with diverse populations, and experience working with citizen committees and oversight/regulatory commissions/bodies. **(10 points max)**

4. Overall cost of the proposed staff and efficiency of the budget for providing the requested services, giving an hourly rate breakdown. **(30 points max)**

TOTAL: 100 POINTS POSSIBLE.

VII. SUBMISSION REQUIREMENTS

A. <u>Submission of Proposals</u>

The Proposal must contain all of the following information:

1) **Narrative**: Submit a description of no more than five (5) pages describing qualifications in any relevant areas of specialty and professional capabilities.

2) **General**:

   a) provide a description of relevant experience and professional qualifications, and

   b) the applicant's familiarity with the military properties and/or base closure remediation sites generally, and the Hunters Point Shipyard the Bayview Hunters Point area specifically.

3) **Writing and Presentation Materials**: Submit copies of the following:

   a) Up to a maximum of five (5) example original comment letters on a variety of Navy or other military base cleanup documents listed in the Scope of Services. Please submit only your original work – if the comment letters were revised by a Client or combined with comments from other reviewers please submit only the draft comments that were written by the personnel that are being proposed for work on this contract.

   b) An example of an original opinion letter produced by the personnel that are being proposed for work on this contract. The opinion letter should discuss environmental contamination and current or proposed land uses of a project based on at least three years of review of Navy or other military base cleanup documents similar to ones listed in the Scope of Services.

   c) Up to a maximum of three (3) original tables, spreadsheets or graphs presenting analytical environmental data from a military base or similar property. These need to have been produced by the personnel that are being proposed for work on this contract.

   d) Up to a maximum of five (5) original drawings, figures or maps of a military base or other property similar to the Shipyard showing information about the site. The base map used for the figures can be borrowed from other sources as long as the symbols, legends, data, construction details, illustrations, etc. were produced by the personnel that are being proposed for work on this contract.

   e) Up to a maximum of three (3) presentations (i.e., power point, spreadsheet, slides) prepared by personnel that are being proposed for work on this contract. Presentation topic should be about environmental contamination, cleanup and/or the transfer process at a military base similar to the Shipyard. Presentations could have been reviewed and edited by Client or other reviewers as long as the personnel that are being proposed for work on this contract could be reasonably said to have significantly contributed to the final product.

4) **Comparable Experience Listing**: provide a detailed description of a maximum of three (3) projects performed in the last five (5) years that are of a similar or related nature to this RFP's scope of services, providing the client name, a description of the work performed and when, the approximate number of hours worked on the project (on an annual basis or

overall) and contact information for each client.

5) **Staffing List**: Names of key employees who will be involved in this project, including title, a resume, and a description of the type of work to be performed by or the responsibilities of the employee.

6) **Budget**: Provide an overall annual budget for the entire three-year term that includes all costs associated with the Contract, including but not limited to a listing of the proposed employees and their proposed hourly rates. The budget must be broken down by line item and category so that the OCII can evaluate the types of costs that are being proposed. Budgets may not to exceed $320,000 per year. Include a cost proposal for the Additional Services listed in the Phase 1 Scope of Services (all cost proposals and budgets are subject to negotiation).

7) **Recommendations and References**: If available, up to three (3) letters of recommendation from former client organization representatives. Letters must include client contact information. References may be contacted.

8) A signed Small Business Enterprise Agreement **(Attachment #1).**

9) A signed Declaration of Nondiscrimination in Contracts and Benefits **(Attachment #2)**.

10) A signed Minimum Compensation Policy Declaration **(Attachment #3)**.

11) A signed Health Care Accountability Declaration **(Attachment #4)**.

12) Complete responses to all Disclosure Questions in **Attachment #5**.

13) A signed Statement of Compliance with OCII Policies & Certification of Applicant **(Attachment #6)**.

14) Evidence of Compliance with the minimum OCII insurance requirements. A typical way is to provide this evidence is by providing a certificate of insurance.

15) A list of all current/past contracts and clients on the Project (do not submit this for non-Project related work) so that a Duty of Loyalty review can be conducted. If the Applicant has, or has had, a contract/client on the Project, that contract's scope of services may be in conflict with this RFP's scope of services and the Applicant may not be eligible for a contract under this RFP. See more on Duty of Loyalty below under Section VII.B.

<u>Notes</u>:

1) Applicants must notify OCII in writing within ten days of any change in the employment status of key employees identified in its submittal.

2) Inability to comply with OCII's policies, including but not limited to nondiscrimination, equal benefits, minimum compensation, healthcare accountability, small business enterprise requirements (if applicable), and insurance may result in disqualification from this RFP process.

3) A submission checklist is provided as **Attachment #9** to ensure that the applicant's submittal is complete. Please use this sheet when completing your submittal. OCII may disqualify from consideration any Proposal received with insufficient copies or lacking all or part of any required submission element.

4) Applicants may submit a Proposal at any time prior to the submission deadline.

Proposals and all required submission materials must be submitted to OCII no later than 4:00 p.m. **June 4, 2021**. Proposals must be submitted electronically with the subject line: **"Environmental Technical Support Services"**, to kasheica.mckinney@sfgov.org

During the COVID-19 pandemic, hard copy submission of proposals will not be accepted. If Applicant does not have the capability to submit a proposal digitally via email, please contact the person listed on the cover page of this RFP before the due date for Deadline for Questions and Requests for Additional Information specified in Section II.A. above to request an alternative submission method (subject to OCII approval).

OCII may reject or disqualify from consideration any Proposal received lacking all or part of any required submission element.

Applicants may submit a Proposal at any time prior to the submission deadline.

A submission checklist is provided as **Attachment #9** to ensure that the Applicant's submittal is complete. Please use this sheet when completing your submittal.

OCII will disqualify from consideration any Proposals received lacking all or part of any required submission element.

Applicants may submit a Proposal at any time prior to the submission deadline.

VIII. AGREEMENT TO COMPLY WITH OCII POLICIES

Each applicant shall acknowledge receipt and understanding of the following OCII's contracting requirements and policies and state its ability and willingness to comply with each of them:

A. Small Business Enterprise Program

OCII's Small Business Enterprise ("SBE") Program provides first consideration in awarding contracts in the following order: (1) Project Area SBEs, (2) Local SBEs (outside an OCII project or survey area, but within San Francisco), and (3) all other SBEs (outside of San Francisco). Non-local SBEs should be used to satisfy participation goals only if Project Area SBEs or Local SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-local SBEs. **(See SBE Agreement, Attachment #1.).** The Contractor must make good faith efforts to achieve the goals of the SBE Program, which are 50% SBE participation for professional, personal services, and construction contracts. This goal also applies to OCII when it is contracting directly for goods and services. SBEs must be certified with OCII. Further information on the criteria for determining eligibility is in

Attachment #1. For any questions, please contact Yvonne Kyrimis, of OCII's Contract Compliance Department, at yvonne.kyrimis@sfgov.org

B. Applicant's Duty of Loyalty

Applicant for itself and its subcontractors, if any, agrees to abide by OCII's duty of loyalty, which appears at Section IX.H. (Prohibited Activities of Present and Former Employees, Commissioners and Consultants) of OCII's Personnel Policy and which states in part the following: "Unless approved in advance in writing by OCII, no present or former employee, Commissioner or consultant of OCII shall knowingly act for anyone other than OCII in connection with any particular matter in which OCII is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an OCII employee, Commissioner or consultant whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, consultant or Commissioner may, in the case of an employee or consultant, be grounds for discharge or termination of the consultant contract, and in the case of a Commissioner, be considered misconduct in office pursuant of California Health and Safety Code Section 33115."

C. Limitations on Contributions

Through execution of this Agreement, Applicant acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code and related regulations, which prohibits any person who contracts with OCII for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder 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 six months after the date the contract is approved. Applicant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Applicant further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Applicant's board of directors; Applicant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Applicant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Applicant. Additionally, Applicant acknowledges that Applicant must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Applicant agrees to provide to OCII the names of each member of Applicant's board of directors; Applicant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Applicant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Applicant.

D. Nondiscrimination in Contracts and Benefits

OCII has established a policy prohibiting discrimination in contracting, which includes a prohibition on discrimination in providing benefits between employees with spouses and employees with domestic partners.

The applicant shall complete **Attachment #2**. Entities that have received certification from the San Francisco Human Rights Commission regarding their compliance with the Equal Benefits Ordinance of the City and County of San Francisco will be deemed in compliance with OCII's policy. For further information, see instructions contained in **Attachment #2** or contact Yvonne Kyrimis, with OCII's Contract Compliance Department at yvonne.kyrimis@sfgov.org.

E. Minimum Compensation Policy and Health Care Accountability Policy

OCII's Minimum Compensation Policy ("MCP") for all contractors under personal services contracts requires the payment of a minimum level of compensation to employees (**Attachment #3**). In addition, the Health Care Accountability Policy ("HCAP") requires that contractors offer certain health plan benefits to their employees or participate in a health benefits program developed by the City's Department of Public Health or make a payment in lieu of such benefits to the City's Department of Public Health **(Attachment #4)**.

The applicant shall either submit a completed MCP Declaration Form and HCAP Declaration Form or state its intent to comply with these OCII policies.

F. Insurance

The selected applicant must procure and maintain insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work under OCII contract by the contractor, its agents, representatives, employees or subcontractors.

Unless otherwise approved by OCII, the selected applicant must maintain insurance with an insurance company that has an A.M. Best rating of A: VII with the following coverages and limits:

- General Liability: $2,000,000 per occurrence;

- Automobile Liability: $1,000,000 per accident for bodily injury and property damage;

- Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of $1,000,000 for bodily injury by accident and $1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees); and

- Professional Liability: $4,000,000 per occurrence.

The insurance requirements may be modified by OCII's Risk Manager in his/her sole discretion.

G. Indemnity

The selected applicant shall defend, hold harmless and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of OCII contract and any of the contractor's operations or activities related thereto, excluding the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

H. Disclosure Questions

Each consultant shall Complete **Attachment #5**, Disclosure Questions, and submit the completed form as part of its Statement of Qualifications.

I. Certification of Applicant

The selected applicant shall certify under penalty of perjury under the laws of the State of California that all the information provided in the Proposal is true and correct **(Attachment #6)**.

IX. ADDITIONAL TERMS AND CONDITIONS

A. Personal Services Contract

The selected applicant will be required to enter a Personal Services Contract with OCII **(Attachment #7)**. The contractor will be required to comply with all of the provisions of the personal services contract, including, but not limited to, OCII's policies and provisions regarding indemnification, insurance, small business enterprise requirements, and non-discrimination in employee benefits and hiring.

B. Contractor Expenses

Applicants responding to this RFP do so at their own expense. OCII will not consider any contractor costs related to this RFP or to negotiating a Personal Services Contract as reimbursable or as eligible costs under the contract.

C. OCII Right to Modify or Suspend RFP

OCII, through its Executive Director, reserves the right at any time and from time to time, and for its own convenience, in its sole and absolute discretion, to modify or suspend any and all aspects of the selection process, including, but not limited to this RFP, and all or any portion of the contractor selection process in or subsequent to the RFP; to obtain further information from any contractor, to waive any defects as to form or content of the RFP or any other step in the selection process; to reject any and all responses submitted; to reissue the RFP; procure the desired services by any other means or not proceed in procuring the services; to negotiate with any, all, or none of the respondents to this RFP as to fees, scope of services, or any other aspect of the RFP or services; to negotiate and modify any and all terms of an agreement; and to accept or reject any applicant for entry into a Personal Services Contract.

D. Claims Against OCII

Should an actual or potential proposer object on any ground to any provision or requirement of this RFP, that person or entity must, not more than ten calendar days after this RFP is issued, provide written notice to OCII setting forth with specificity the grounds for the objection. The failure of a potential proposer to object as set forth above shall constitute a complete and irrevocable waiver of any such objection.

Each applicant by responding to this RFP, waives any claim, liability or expense whatsoever against OCII and its respective officers, commissioners, employees and agents by reason of any or all of the following: any aspect of this RFP, the selection process or any part thereof, any informalities or defects in the selection process, the failure to enter into any agreement, any statements, representations, acts or omissions of OCII, the exercise of any discretion set forth or concerning any of the foregoing, and any other matters arising out of all or any of the foregoing.

E. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 120 calendar days from the proposal due date and that the prices are genuine and not the result of collusion or any other anti-competitive activity.

X. ATTACHMENTS

Attachment #1:	Small Business Enterprise Agreement
Attachment #2:	Declaration of Nondiscrimination in Contracts and Benefits and Instructions
Attachment #3:	Minimum Compensation Policy Declaration
Attachment #4:	Health Care Accountability Policy Declaration
Attachment #5:	Disclosure Questions
Attachment #6:	Statement of Compliance with OCII Policies & Certification of Applicant
Attachment #7:	Form of Personal Services Contract
Attachment #8:	RFP Registration Form
Attachment #9:	Submission Checklist Sheet

office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE
OCII

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

SMALL BUSINESS ENTERPRISE POLICY

Adopted:	November 16, 2004
Amended and Restated:	July 21, 2009
Second Amendment:	July 7, 2015

Table of Contents

I. INTRODUCTION

The Agency is acutely aware of the many challenges that small businesses face when contracting with public entities. The mission of the Agency includes economic development in Project Areas and accordingly this Small Business Enterprise Policy ("**SBE Policy**") is to establish a set of Small Business Enterprise participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in Office of Community Investment and Infrastructure ("**OCII**" or "**Agency**") assisted projects. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco- based SBEs before looking outside of San Francisco.

II. APPLICATION

This SBE Policy applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract as that term is defined in Article III - Definitions.

All Agency-Assisted Contracts, including contracts with both for profit and non-profit developers, shall contain a requirement that the developer and its general contractor and all subcontractors (regardless of tier) comply with this SBE Policy.

III. DEFINITIONS

"**Small Business Enterprise (SBE)**" means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	$20,000,000
Specialty Construction Contractors	$14,000,000
Suppliers (goods/materials/ equipment and general services)	$10,000,000
Professional Services	$2,500,000
Trucking	$3,500,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for

Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

"**Affiliates**" means an affiliation with another business concern based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

"**Agency-Assisted Contract**" means Development and Disposition Agreements, Land Disposition Agreements, Leases, Loan and Grant Agreements, and other similar contracts and agreements that the Agency executes with for-profit or non-profit entities.

"**Agency Contract**" means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

"**Amendment to a Pre-existing Contract**" means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy ("SBE Policy") takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

"**Annual Receipts**" means "total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

"**Association**" (as the term is used in the SBE Program) means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section IV.E below and be subject to OCII approval.

"**Commercially Useful Function**" means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco ("City") as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary employment services are required and sought by the Agency.

"**Joint Venture**" (as the term is used in the SBE Program) means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by OCII, as Section IV.E below and be subject to OCII approval.

"**Office**" or "**Offices**" means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an "office" under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an "office." The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an "as needed" basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

"**Person**" means one or more individuals, partnerships, associations, organizations, corporations, and cooperatives.

"**Project Area Small Business Enterprise**" means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms' location in a Project Area or Survey Area.

"**Project Area**" means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

"**San Francisco-based Small Business Enterprise**" means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of the City; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

"**Specialty Construction Contractor**" means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

"**Survey Area**" means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include Bayview Hunters Point Redevelopment Survey Area C.

IV. SMALL BUSINESS ENTERPRISES CONTRACTING GOAL

A. In order to meet the mission of the Agency and promote economic development in Project Areas, the Agency intends to establish targets for SBE participation in Agency and Agency-Assisted Contracts. It also intends to provide Project Area Small Businesses with First Consideration to contracting opportunities with the Agency or through the prime contractors for Agency-Assisted Contracts.

B. The Agency's overall SBE participation goals (for prime contracts) shall be set at 50%. This means that the Agency or Agency-Assisted Contractor shall use its best efforts to award at least 50% of all Agency-Assisted Contracts covered by this policy to SBEs. The ability of the Agency or Agency-Assisted Contractor to meet this goal will depend, in part, on 1) the availability of qualified SBEs capable of providing the goods or services required by the contract; and 2) the availability of SBEs who provide price quotes that are reasonable and do not exceed competitive levels beyond amounts that can be attributed to the increased costs faced by small local businesses. Accordingly, the Agency may, at its discretion, change the participation goals, on a contract-by-contract basis, in its own contracts or in Agency-Assisted Contracts.

C. **Agency SBE Prime Contract Participation Goals are**:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

D. **First Consideration**: will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: 1) Project Area SBEs, 2) San Francisco-based SBEs (outside an Agency Project or Survey Area), and 3) All other SBEs. Non San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non San Francisco-based SBEs.

E. **Associations and Joint Ventures (JV)**: OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;

- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

F. **Certification**: Only firms certified as SBEs will be counted toward meeting the participation goals described above. The SBE firm must be certified by OCII or another governmental entity pursuant to the SBE Certification Criteria set forth in Exhibit I.

G. **Good Faith Efforts - Agency**: The goals established in Article IV.C above of this SBE Policy are targets the Agency or Agency-Assisted Contractor will make a good faith effort to achieve for prime contracts. Accordingly, good faith efforts must be taken to assure that these firms are utilized when possible as sources of supplies, equipment, construction, and services. Good faith efforts shall include the following:

1. Contract Size. Where appropriate, the Agency or Agency-Assisted Contractor will divide the work in order to encourage maximum SBE participation or, alternatively, SBEs will be encouraged to joint venture. Each responsible staff person, developer or prime contractor/consultant shall identify specific items of each contract that may be performed by subcontractors and, if necessary, provide a list of prospective SBEs for the bidder(s).

2. Advertise. For contracts procured using the Competitive Sealed Bids-Public Contract Code Procedure or the RFP/RFQ Procedure, unless there are special circumstances, the Agency or Agency-Assisted Contractor will advertise for 30 days prior to the opening of bids or proposals in media focused on small businesses including the Bid and Contract Opportunities website through the City's Purchasing Department and the Procurement Opportunities section of local publications.

3. Prepare List of SBEs. Each responsible staff person, developer or prime contractor/consultant shall request the Contract Compliance Office to assemble a list of all known SBEs in the pertinent field(s). This list will be made available to the public upon request. Compliance Staff will consult with other redevelopment agencies and government agencies to identify small businesses, particularly those in Project and Survey Areas, that have expertise in areas used by the Agency; the Contract Compliance Office will continue its present practice of regularly updating a variety of lists.

4. Public Solicitation. The Agency or Agency-Assisted Contractor will mail Requests for Qualifications (RFQs) or Requests for Proposals (RFPs) to SBEs. It will follow up initial solicitations of interest by contacting SBEs to

determine with certainty whether they are interested in performing specific items in a project. The Agency will also make contacts with SBE contractor associations or development centers, or any agencies that disseminate bid and contract information and provide technical assistance to SBEs.

5. Convene Pre-Bid or Pre-Solicitation Meetings. On consulting contracts that are $5,000 or more and construction contracts estimated to cost $5,000 or more, procured using the Competitive Sealed Bids ûPublic Contract Code Procedure or the RFP/RFQ Procedure, the Agency or Agency-Assisted Contractor will send written invitations to potential SBE candidates to attend pre-bid or pre-solicitation meetings for the purpose of answering questions about the process and the specifications and requirements. Representatives of the Contract Compliance Office will also participate.

6. Outreach and Other Assistance. The Agency or Agency-Assisted Contractor will a) provide SBEs with plans, specifications and requirements for all or part of the project; b) make contacts with SBE contractor associations or development centers, or any agencies that disseminate bid and contract information and provide technical assistance to SBEs; and c) follow up initial solicitations of interest by contacting SBE firms to determine with certainty whether they are interested in performing specific items in a project.

7. Insurance and Bonding. Where lines of credit, insurance and bonding are potential problems for small businesses, the Agency or Agency-Assisted contractor should contact staff to explain the Agency's insurance and bonding requirements, answer questions about them, and be prepared to suggest avenues of assistance.

8. Focused Meetings. The Agency or Agency-Assisted contractor shall participate in meetings convened by staff for SBEs focusing on opportunities for particular industries, e.g., a joint meeting of housing sponsors and small architectural firms based in a Project Area.

9. Monitoring. The Agency or Agency-Assisted Contractor will keep track of the date that each response, proposal or bid was received from SBEs, including the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the responsible staff person or bidder/proposer asserts that there were reasons other than the respective amounts bid for not awarding the contract to or selecting an SBE, he or she must be prepared to provide valid reasons(s) for any rejections.

V. SUBCONTRACTING - BY PRIME CONTRACTORS

A. **Subcontracting Goal** The Agency intends to establish a subcontracting participation goal for SBEs at 50%, but recognizes that this goal may vary depending on the extent of subcontracting opportunities presented by the contract and the availability of SBE subcontractors capable of providing goods or services required by the contract. Accordingly, the Agency, at its discretion, may change the participation goals on a contract-by-contract basis.

B. **First Consideration** will be given in the following order: 1) Project Area SBEs, 2) San Francisco-based SBEs (outside an Agency Project or Survey Area), and 3) All other SBEs.

C. **Good Faith Efforts - Subcontracting**. The Agency will continue its efforts to maximize the involvement of SBE subcontractors by having each responsible staff person:

1. Request the Contract Compliance Office to assemble for the prime, a list of all known SBEs, particularly those in Project or Survey Areas, in the pertinent field(s). This list will be made available to the public upon request.

2. Identify specific items of each contract that may be performed by subcontractors and, if necessary, provide a list of prospective SBEs for the bidder(s).

3. Send notices to appropriate organizations of the opportunities of SBEs to obtain subcontracts with the Agency.

4. Advise SBEs of its insurance requirements and offer SBEs advice on meeting the requirements.

D. **Contract Provision Requiring Good Faith Efforts**. Agency staff shall include in prime contracts provisions that require prospective contractors that will be utilizing subcontractors to make the following good faith efforts to subcontract to SBEs:

1. Consult with the Agency and other agencies, including government agencies to identify small businesses that have expertise in areas needed by the Agency.

2. Document efforts undertaken to encourage subbidder(s) to obtain SBE participation at a lower tier including identifying specific items of the contract that may be performed by SBE subcontractors and prospective SBEs to perform such items.

3. Make contacts with SBEs, associations or development centers, or any agencies, which disseminate bid and contract information to SBEs. Follow

up initial solicitations of interest by contacting small business enterprises to determine with certainty whether they are interested in performing specific items in a project. This provision includes making direct written solicitation with a complete scope of work to all Agency certified SBEs that provide any subcontract portion of the proposed work.

4. Keep track of the date that each response, proposal or bid was received from SBEs, including the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the bidder/proposer asserts that there were reasons other than the respective amounts bid for not awarding the contract to or selecting an SBE, he or she must be prepared to provide valid reasons(s) for any rejections.

5. Assist SBEs relative to obtaining and explaining plans, specifications and contract requirements.

6. Assist SBEs with respect to bonding, lines of credit, etc.

7. Extend negotiation efforts to SBEs or be prepared to explain the reasons for not negotiating with SBEs.

8. Prepare a report which shows for each private project and each public project (without an SBE Program) undertaken by the consultant in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars that were awarded to SBEs.

9. Document any other efforts undertaken to encourage participation by SBE.

E. **Technical Assistance**. As appropriate, Agency staff shall suggest various sources of assistance to SBEs such as U.S. Small Business Administration ("**SBA**"), U.S. Minority Business Development Agency, San Francisco Renaissance, SCORE (Service Corps of Retired Executives), Urban Solutions, as well as other local community based economic development organizations.

F. **Aid to Unsuccessful Bidders**. As an aid to unsuccessful bidders the Agency will make available upon reasonable request the following information within a reasonable time (usually within 30 days) after the selection of a contractor/consultant:

For construction contractors:

1. A summary of unit prices taken from the bid documents.
2. A list of subcontractors, nature of work, and bid dollar amount from the bid documents.

For professional consultants:

1. All submissions received in response to RFQs or RFPs and, upon request, an explanation of the Agency's insurance and bonding requirements, and brochures that describe any bonding program in effect.

VI. CONSTRUCTION CONTRACTORS

A. Construction contracts and subcontracts awarded for $5,000 or more shall contain a provision that requires contractors and subcontractors to comply with the Agency's Construction Work Force, Prevailing Wage Provision/Labor Standards, and Small Business Enterprise Program.

B. **Compliance with Prompt Payment Statute**:

1. Construction contracts and subcontracts awarded for $5,000 or more shall contain the following provision:

   i) "Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, in accordance with California Business and Professions Code Section 7108.5 et seq. Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity."

2. In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 et seq.), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

VII. SUBMISSION OF ELECTRONIC CERTIFIED PAYROLLS

A. For any contract which requires the submission of certified payroll reports, each Contractor (which herein includes subcontractors regardless of tier) shall comply with the Agency's Construction Work Force and Prevailing Wage Provision/Labor Standards reporting requirements. Contractors are advised that the Agency will not be liable for interest, charges or costs arising out of or relating to any delay in making progress payments due to Contractor's failure to make a timely and accurate submittal of weekly certified payrolls.

B. In addition to the above, Contractor shall comply with the requirements of California Labor Code Section 1776, or as amended from time to time, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its Subcontractors of all tiers.

C. The Contractor shall make the payroll records available to for inspection at all reasonable hours at the job site office of Contractor.

D. Contractor is solely responsible for compliance with Labor Code Section 1776 or this SBE Policy. The Agency shall not be liable for Contractor's failure to make timely or accurate submittals of certified payrolls.

VIII. AUTHORIZATION

A. When staff seeks contract authorization staff shall document and report to the Executive Director and/or the Commission:

1. Whether the Contract Compliance Office provided a list of potential SBEs to be invited for the scope of work being considered.

2. Where appropriate, how the potential work was divided into small contracts to ensure that the scope of work was not too large for an SBE to bid or submit a proposal or how potential SBEs were encouraged to joint venture.

3. That specific items of the contract that may be performed by SBE subcontractors were identified and prospective SBEs were identified for the bidder(s).

4. On consulting service contracts that are $5,000 or more and construction contracts estimated to cost $5,000 or more, that prospective SBEs were invited to a pre-bid and/or pre-solicitation meeting for the purpose of answering questions about the process, the bonding and insurance requirements, the specifications and other requirements.

5. All outreach efforts including advertisements or notifications to trade associations or other groups that were made as part of attempts to reach potential SBE candidates.

IX. APPEALS

Any bidder or proposer wishing to appeal a staff recommendation for awarding a contract will be notified of the proposed action and will have an opportunity to be heard by the full Commission when the item comes up on the Agenda.

X. WAIVER

Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price. All waivers involving Agency contracts shall be reported to the Commission.

XI. SEVERABILITY

The provisions of this SBE Policy are declared to be separate and severable. The invalidity or unenforceability of one or more provisions of this SBE Policy shall in no way affect the validity of the remainder.

EXHIBIT I

SBE CERTIFICATION CRITERIA

A. The Agency will consider the certifications or denials of the Contract Monitoring Division (CMD) of the City and County of San Francisco and will accept those certifications or denials from CMD and other governmental entities that are consistent with the standards of the Agency.

B. The Agency shall make efforts to enter into reciprocal agreements with other agencies that have similar certification standards and policies.

C. In order to be certified as an SBE the business must meet all of the requirements contained in the SBE Policy, as applicable, and in this SBE Certification Criteria.

D. In order for a joint venture or association to be recognized as an SBE, the joint venture or association must be organized pursuant to the Agency's SBE Policy and be approved by the Agency.

E. The Agency will not recognize a subcontractor as an SBE if it sub-contracts more than 50 percent of its subcontract amount to non-SBEs.

F. A contractor may substitute the amount of a purchase order to a SBE supplier for up to 15 percent of the SBE subcontractor goals. In order to be recognized, a supplier must perform a commercially useful function in the supply process. However, if the supplier is acting as a mere conduit such as a manufacturer's representative or broker then only the amount of the commission or three percent (3%), whichever is greater, will be credited towards meeting the SBE goals. If none of the work is to be subcontracted, SBE suppliers may be utilized without limitation.

G. If a firm contends that it is an SBE, the owner must submit to the Agency an Application for Certification (Small Business Enterprise Affidavit) under penalty of perjury that swearing to the truth and accuracy of all statements made and material submitted to the Agency, including additional information. If certified by the HRC, a copy of a current HRC certification shall be submitted.

H. An eligible SBE shall be an independent business. In determining whether a business is independent, the Agency shall examine the adequacy of the business's resources for the scope of work under a proposed contract, its financial independence, the extent of its equipment leasing, and its relationships with non-SBEs. Relationships with non-SBE firms will be scrutinized as to whether the SBE firm:

   1. Is known in the industry or trade to be operated by a non-SBE;

   2. Is operated in tandem with a non-SBE;

3. Has multiple licenses, some of which are affiliated with non-SBEs;

4. Itself owns the equipment or trucks that are to be used on the job;

5. Is listed in the telephone book, preferably in the Yellow Pages under the class for which it is seeking Agency recognition;

6. Subcontracts back to, leases from, or is back-contracted or joint venturer(s) in an amount unrelated to shared risks and profits. Back contracting includes any agreement or other arrangement between a prime contractor and its subcontractor where the prime contractor performs or secures the performance of the subcontract in such a fashion and/or under such terms and conditions that the prime contractor enjoys the financial benefit of the subcontract. Said agreement or other arrangement includes, but is not limited to, situations where either a contractor or subcontractor agrees that any term, condition or obligation imposed upon the subcontractor by the subcontract shall be performed by or be the responsibility of the prime contractor.

7. Maintains a permanent office separate from that of its sources of vehicles, subcontractors, the general contractor or from any joint venturer(s); and

8. In the case of a supplier, carries the material being supplied as a regular part of its inventory.

I. A SBE firm shall not have any formal or informal restrictions which limit the customary discretion of the owner. The owner should have the authority to perform all of the below functions:

1. Manage either the marketing or production aspects of the business;

2. Be authorized to sign on all bank accounts, to draw against letters of credit, and to secure surety bonds and insurance; and

3. Control the profit sharing, pensions or stock option plans.

J. In order to be considered a Project Area SBE, the business must meet the definition of Project Area Small Business Enterprise in Article III, Definitions.

K. In order to be considered a San Francisco-based SBE, the business must meet the definition of San Francisco-based SBE in Article III, Definitions.

L. License Qualification Essential: If state or local law requires a person to have a particular license or other credential in order to own and/or control a certain type of firm, then the person(s) who owns and controls an SBE applicant firm of that type must possess the required license or credential. An owner of an SBE applicant firm who is employed by a non-SBE in a similar line of business of the applicant firm and who is used to qualify a professional business as an SBE does not meet the Agency's SBE requirements of having management and control of the business. Likewise, an owner of an SBE applicant firm who is employed by a non-SBE construction firm and who is used to qualify a construction business as an SBE cannot meet the Agency's SBE requirements of having management and control of the business. An owner who is certified by the Agency for one profession, e.g., electrical engineering, cannot attribute that certification to another profession, e.g., mechanical engineering, unless he or she is registered for more than one professional license. By extension a certified SBE plumbing business must also be certified to perform electrical work to be an eligible SBE electrical contractor. For businesses that do not require a license, the managing owner must have training, education and work experience in that type of business.

M. A business requesting to be certified as an SBE shall supply the Agency with all such additional information as the Agency may deem relevant in order to make a determination of such status. If such information is not supplied within 45 days of it being requested, the Agency may consider the Application for certification withdrawn.

N. A change in ownership of a firm will be carefully scrutinized. The following factors shall be considered:

1. The reason of the timing of the change in ownership of the business relative to the time that bids are opened or proposals are considered;

2. Whether the interest of a non-disadvantaged firm conflicts with the ownership and control requirements of this SBE Policy.

3. Whether an employee-owner who had previous or continuing employee-employer relationship between or among present owners has management responsibilities and capabilities.

O. Grandfather clause: Firms that were certified as Disadvantaged Minority-owned Business Enterprises (MBE) and Woman-owned Business Enterprises (WBE) in 2004 were automatically deemed certified as SBEs on the effective date of this policy so long as they continue to meet the economic and other standards for SBEs described in this SBE Policy.

P. In its sole and absolute discretion, the Agency, in interpreting the provisions of this SBE Policy, may rely on the provisions, rules, standards, and other guidance under the Local Business Enterprise Program of the City and County of San Francisco, S.F. Administrative Code Chapter 14B, to the extent that those provisions, rules, standards, and guidance are consistent with this SBE Policy.

Q. The SBE Agreement executed by the developer and/or contractor is the implementation document for the SBE Policy.

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE
(SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY)
INSTRUCTIONS FOR DECLARATION FORM
Nondiscrimination in Contracts and Benefits

A. What is the Nondiscrimination in Contracts Policy?

The Office of Community Investment and Infrastructure (successor agency to the San Francisco Redevelopment Agency) ("Agency") has adopted a Nondiscrimination in Contracts Policy ("Policy") which requires companies or organizations providing products or services to, or leasing a real property from, the Agency to agree not to discriminate against groups who are protected from discrimination under the Policy, and to include a similar provision in subcontracts and other agreements. Those provisions are the subjects of this form. The Policy is posted on the Web at: www.sfredevelopment.org/index.aspx?page=126.

If you do not comply with the Policy, the Agency cannot do business with you, except under certain very limited circumstances.

B. What Agency contracts are covered by the Policy?

- Contracts or purchase orders where the Agency purchases products, services or construction with contractors/vendors whose total amount of business with the Agency exceeds a cumulative amount of $5,000 in a 12-month period.
- Leases of property owned by the Agency for a term of 30 days or more. In these cases, the Agency is the landlord. The Policy also applies to leases for a term of 30 days or more where the Agency is the tenant.

C. What are the groups protected from discrimination under the Policy?

You may not discriminate against:

- your employees
- an applicant for employment
- any employee of the Agency or the City and County of San Francisco
- a member of the public having contact with you.

D. What are prohibited types of discrimination?

You may not discriminate against the specified groups for the following reasons (see Question 1a on the declaration form).

- race
- creed
- ancestry
- age
- sexual orientation
- marital status
- disability
- color
- religion
- national origin
- sex
- gender identity
- domestic partner status
- AIDS/HIV status

In the provision of benefits, you also may not discriminate between employees with spouses and employees with domestic partners, or between the spouses and domestic partners of employees, subject to the conditions listed in F.2 below.

E. How are subcontracts affected?

For any subcontract, sublease, or other subordinate agreement you enter into which is related to a contract you have with the Agency, you must include a nondiscrimination provision (See Question 1b on the Declaration Form). The subcontracting provision need not include nondiscrimination in benefits as part of the nondiscrimination requirements. If you're unsure whether a contract qualifies as a subcontract, contact the Agency division administering your contract with the Agency. "Subcontract" also includes any subcontract of your subcontractor for performance of 10% or more of the subcontract.

Instructions for Declaration Form
Nondiscrimination in Contracts and Benefits

F. Nondiscrimination in benefits for spouses and domestic partners

1. Who are domestic partners?

If your employee and another person are currently registered as domestic partners with a state, county or city that authorizes such registration, then those two people are domestic partners. It doesn't matter where the domestic partners now live or whether they are a same-sex couple or an opposite sex couple. A company/organization may also institute its own domestic partnership registry (contact the Agency for more information).

2. What is nondiscrimination in benefits?

You must provide the same benefits to employees with spouses and employees with domestic partners, and to spouses and domestic partners of employees, subject to the following qualifications (See Question 2c on the Declaration Form).

- If your cost of providing a benefit for an employee with a domestic partner exceeds that of providing it for an employee with a spouse, or vice versa, you may require the employee to pay the excess cost.
- If you are unable to provide the same benefits, despite taking all reasonable measures to do so, you must provide the employee with a cash equivalent. This qualification is intended to address situations where your benefits provider will not provide equal benefits and you are unable to find an alternative source or state or federal law prohibit the provision of equal benefits. (See Question 2d on the Declaration form).
- The Policy does not require any benefits be offered to spouses or domestic partners. It does require, however, that whatever benefits are offered to spouses be offered equally to domestic partners, and vice versa.

3. Examples of benefits

The law is intended to apply to all benefits offered to employees with spouses and employees with domestic partners. A sample list appears in Question 2c on the Declaration Form.

G. Form required

Complete the Declaration Form to tell the Agency whether you comply with the Policy. All parties to a Joint Venture must submit separate Declarations.

Please submit an original of the Declaration Form and keep a copy for your records. If an Agency division should ask you to complete the form again, you may submit a copy of the form you originally submitted (if the information has not changed), unless you are advised otherwise.

H. Attachments

If you provide equal benefits, as indicated by your answers to Question 2c on the Declaration form, **YOU MUST ATTACH DOCUMENTATION TO THIS FORM,** unless such documentation does not exist. See item 3, "Documentation for Nondiscrimination in Benefits." If documentation does not exist, attach an explanation (e.g., some of your policies are unwritten).

I. If your answers change

If, after you submit the Declaration, your company/organization's nondiscrimination policy or benefits change such that the information you provided to the Agency is no longer accurate, you must advise the Agency promptly by submitting a new Declaration.

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

(SUCCESSOR AGENCY TO THE SAN FRANCISCO REDEVELOPMENT AGENCY)

AMENDED MINIMUM COMPENSATION POLICY

SEC. 1. FINDINGS AND DECLARATIONS

(a) The Office of Community Investment and Infrastructure (successor agency to the Redevelopment Agency of the City and County of San Francisco) (the "Agency") enters into many contracts, including, but not limited to, service contracts, loan and grant agreements, and property agreements, in furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq., the "Law") in the interest of the health, safety and general welfare of the City of San Francisco's (the "City") residents.

(b) These contracts and agreements have at times involved compensation to the contracting parties' or their subcontractors' employees that is at or only slightly above the minimum wage levels required by federal and state laws. The compensation paid by some Agency contractors and their subcontractors fails to provide employees with sufficient resources to afford life in the City. Requiring these contracting parties and their subcontractors to provide a minimum level of compensation to their employees will improve the health, safety and general welfare of San Francisco's residents, by, among other things, decreasing poverty and invigorating neighborhood businesses through increased consumer income.

SEC. 2. DEFINITIONS

As used in this Policy the following capitalized terms shall have the following meanings:

2.1 "Agency" shall mean the Office of Community Investment and Infrastructure (successor agency to the Redevelopment Agency of the City and County of San Francisco).

2.2 "Agency Property" means real property that is owned by the Agency or which the Agency has exclusive use. "Exclusive use" means the right to use or occupy real property to the exclusion of all others, subject to the rights reserved by the party granting such exclusive use.

2.3 "City" shall mean the City and County of San Francisco.

2.4 "Contract" shall mean an agreement or portion of an agreement that provides for services to be purchased at the expense of the Agency or out of funds established by ordinance, MOU or otherwise controlled by the Agency. The term "Contract" shall include, without limitation, Property Agreements, Included Subcontracts and agreements such as grant agreements, pursuant to which agreements the Agency grants funds to a Contractor for services (including, without limitation, cultural activities, performances or exhibitions) to be rendered to all or any portion of the public rather than to Agency, Notwithstanding the foregoing, the term "Contract" shall exclude:

(a) Excluded Subcontracts;

(b) any agreement with a Contractor that, together with the Employees of any Included Subcontractor and of any entity that is owned or controlled by the Contractor or which owns or controls the Contractor, would have twenty (20) or fewer Employees;

(c) agreements for the purchase or lease of goods or for guarantees, warranties, shipping, delivery or initial installation of such goods;

(d) agreements entered into pursuant to settlement of legal proceedings;

(e) agreements for urgent or specialized litigation requirements where the Agency General Counsel finds that it would be in the best interests of the Agency not to include the requirements of this Policy;

(f) agreements with any person or entity in which the cumulative amount of compensation payable to such person or entity under all agreements with the Agency is less than twenty five thousand dollars ($25,000), or fifty thousand dollars ($50,000) in the case of Nonprofit Corporations, in any fiscal year, provided that the agreement in question shall be deemed a Contract on and after the effective date of any instrument which causes such cumulative compensation under all agreements with the Agency to exceed twenty-five thousand dollars ($25,000), or fifty thousand ($50,000) in the case of Nonprofit Corporations;

(g) agreements for the investment, management or use of trust assets where compliance with this Policy would violate the fiduciary duties of the trustee;

(h) agreements entered into prior to the Effective Date (unless and until a Contract Amendment is entered into);

(i) agreements entered into after the Effective Date (unless and until a Contract Amendment is entered into) pursuant to, and within the scope of, bid packages or requests for proposals advertised and made available to the public prior to the Effective Date, which bid packages or requests for proposals were not amended on or after the Effective Date;

(j) agreements involving the expenditure by the Agency of grant or special funds to the extent the application of this Policy would violate or be inconsistent with the terms or conditions of the applicable grant agreement, or with the rules, regulations or instructions of the public agency administering such grant agreement, which terms or conditions or rules, regulations or instructions provide for compensation lower than the Minimum Compensation and/or (B) to the extent that application of this Policy would require the Agency to use Agency monies to supplement the grants, special funds or other non-General Fund revenues to maintain the current level of services;

(k) agreements with a Contractor that is a public entity;

(l) agreements for employee benefits to be provided to Agency employees, where the Executive Director finds that no entity is willing to comply with this Policy and is capable of providing the required employee benefits;

(m) agreements that require the Contractor to pay no less than the "prevailing rate of wage" in accordance with state or federal law or Agency policy, but only to the extent (A) each Covered Employee is covered by such requirement, and (B) such prevailing rate of wage is not less than the gross hourly compensation required under Section 3 of this Policy;

(n) agreements for the investment of Agency monies where the Executive Director finds that requiring compliance with this Policy will violate the Agency's fiduciary duties and for the investment of retirement, health or other funds held in trust pursuant to federal, state or local law, or MOU where the official or officials responsible for investing or managing such funds finds that requiring compliance with this Policy will violate their fiduciary duties;

(o) agreements made in connection with loans or grants under which the Agency, as creditor or grantor, is providing funds to be used by the debtor or grantee to: (A) acquire an interest in real property on which residential improvements for low- or moderate-income households will be constructed; (B) construct improvements owned or leased by the debtor or grantee, on condition that residents of the improvements qualify as low- or moderate-income households; or (C) rehabilitate improvements owned or leased by the debtor or grantee;

(p) disposition and development or groundlease agreements of Agency Property on which residential improvements for low-or-moderate income households will be constructed or existing improvements will be operated for low-or-moderate income households; provided, however, that any leases for commercial space in such properties shall be considered Included Leases and shall be subject to the requirements of this Policy;

(q) agreements with an owner (such as an owner participation agreements,) where such agreement is granted from the exercise of the Agency’s regulatory or police powers not requiring any discretionary approvals by the Agency.

2.5 "Contract Amendment" shall mean an agreement entered into on or after the Effective Date, pursuant to which a Contract entered into prior to the Effective Date is modified or supplemented in order to:

(a) extend the term;

(b) modify the total amount of payments due from the Agency under a Contract; or

(c) modify the scope of services to be performed by a Contractor.

The term does not include construction change orders.

2.6 "Contractor" shall mean either:

(a) the person or entity that enters into a Contract with the Agency; or

(b) in the case of an Included Subcontract, the subcontractor who enters into the Included Subcontract with the Contractor.

(c) in the case of an Included Tenant, the Tenant who enters into the Included Lease with the Contractor.

2.7 "Covered Employee" shall mean:

(a) An Employee of a Contractor who, during the applicable Pay Period, performs at least four (4) hours per week during the Pay Period work funded (in whole or in part) under the applicable Contract or to the project funded under the applicable Contract:

(i) within the geographic boundaries of the City;

(ii) on real property owned or controlled by the Agency, but outside the geographic boundaries of the Agency; or

(iii) elsewhere in the United States, but only if such related work performed elsewhere within the United States consists of at least ten (10) hours per each work week during the Pay Period in question.

(b) Notwithstanding the foregoing, the term "Covered Employee" shall exclude the following Employees of a Contractor that is a Nonprofit Corporation:

(i) Any Employee who is:

(A) under the age of eighteen (18) and is claimed as a dependent for federal income tax purposes and is employed as an after-school or summer Employee; or

(B) employed as a trainee in a bona fide training program consistent with Federal law, which training program enables the Employee to advance into a permanent position; provided, however, these exemptions only apply when the Employee does not replace, displace or lower the wage or benefits of any existing position or Employee; and

(ii) Any disabled Employee of a Contractor, which disabled Employee:

(A) is covered by a current sub-minimum wage certificate issued to the Contractor by the U.S. Department of Labor; or

(B) would be covered by such a certificate but for the fact that the Contractor is paying a wage equal to or higher than the minimum wage.

2.8 "Effective Date" shall mean April 7, 2009, the date the Agency Commission approves this Policy.

2.9 "Employee" shall mean any person who is employed by a Contractor, including part-time and temporary employees.

2.10 "Excluded Subcontract" shall mean any agreement or portion of an agreement between a Contractor and a person or entity who is not an Employee of such Contractor, which agreement or portion of an agreement relates to a Contract but is not an Included Subcontract. The term "Excluded Contract" shall include, without limitation, an agreement pursuant to which a Contractor obtains from such a person or entity goods to be used in the fulfillment of the Contractor's duties under the applicable Contract. The term shall also include agreements (including, without limitation, any permit to enter or license for a term of less than 120 days or any easement agreement) for the exclusive use of real property owned by the Agency or of which the Agency has exclusive use, other than Property Agreements as set forth in Section 2.12.

2.11 “Included Lease” shall mean a lease, sublease or other agreement with any person or entity for the exclusive right to occupy or use all or any portion of real property owned, leased or otherwise controlled by the Agency or real property in which the Agency has a Proprietary Interest.

2.12 "Included Subcontract" shall mean an Included Lease or an agreement or portion of an agreement between a Contractor and a person or entity who is not an Employee of such Contractor, pursuant to which such person or entity:

(a) agrees to assist a Contractor in performing a Contract; or

(b) agrees to assist a Contractor with a project funded by grant monies conveyed to the Contractor under the applicable Contract. An agreement to assist a Contractor shall mean an agreement to perform all or a portion of a component of the services covered by the Contract with the Agency.

2.13 “Lease” shall mean a written agreement (including, without limitation, any lease, concession or license) in which:

(a) the Agency gives to another party the exclusive use of Agency Property for a term exceeding one hundred and twenty (120) consecutive days in any calendar year, whether by single or cumulative instruments. If cumulative instruments cause the term of the agreement to exceed one hundred and twenty (120) consecutive days, the agreement shall be subject to this Policy only on or after the effective date of the instrument which causes the term to exceed 120 consecutive days. “Lease” includes “Lease Amendment”.

(b) the Contractor gives to another party the exclusive use of property in which the Agency has a Proprietary Interest for a term exceeding one hundred and twenty (120) consecutive days in any calendar year, whether by single or cumulative instruments. If cumulative instruments cause the term of the agreement to exceed one hundred and twenty (120) consecutive days, the agreement shall be subject to this Policy only on or after the effective date of the instrument which causes the term to exceed 120 consecutive days.

2.14 "Lease Amendment" shall mean a modification to a Lease that extends the term or materially changes any other provision of the Lease.

(a) Notwithstanding the foregoing, "Lease Amendment" does not include a one-time extension of the term of a Lease for up to 6 months, or relocation of the leased premises at the request of the Agency for its benefit or convenience (as determined by the Agency Executive Director).

2.15 "Minimum Compensation" shall mean each of the components required under Section 3 of this Policy.

2.16 "Nonprofit Corporation" shall mean a nonprofit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section.

2.17 "Property Agreements" shall mean Disposition and Development Agreements (DDAs), Groundleases, and any other agreements with the Agency (other than Excluded Subcontracts) in which the Agency has a Proprietary Interest.

2.18 "Proprietary Interest" shall mean any nonregulatory arrangement or circumstance in which the financial or other nonregulatory interests of the Agency in a Contract could be adversely affected, in the following circumstances:

(a) The Agency receives significant ongoing revenue (such as rent payments) under a lease or ground lease of real property owned by the Agency for the development of a project pursuant to a Contract, excluding government fees or tax or assessment revenues, or the like (except for tax revenues under the circumstances specified in (ii)); or

(b) The Agency receives ongoing revenue from a project pursuant to a Contract to pay debt service on bonds or loans provided by the Agency to assist the development of such project (including incremental tax revenues generated by the project or the development project in which it is located and used, directly or indirectly, to pay debt service on bonds or to repay a loan by the Agency where the proceeds are used for development of that project or the development project in which it is located;

(c) The Agency has agreed in a Contract to underwrite or guarantee the development or operation of a development project, or loans related thereto;

(d) The Agency pursuant to a Contract receives a continuing financial payment that is specific to that project, which is not a tax or other charge of general applicability or a one-time payment for the land;

(e) The Agency receives a share in the profits of a project in a negotiated economic participation agreement pursuant to a Contract;

(f) In addition to the circumstances described above, the Agency shall be deemed to have a Proprietary Interest in a Contract for a project if the Agency determines, or an interested party demonstrates, prior to the effective date of the Contract pursuant to which a project will be operated that there is a significant risk that the Agency's financial or other nonregulatory interest in the project could be adversely affected, except that no circumstance or arrangement shall be considered "financial or non-regulatory" under this definition if it arises from the exercise of regulatory or police powers such as taxation or the receipt of tax increment funds as provided in Article 16, section 16 of the California Constitution (except as provided in (b) above), zoning or the issuance of regulatory permits.

2.19 "Pay Period" shall mean the applicable Contractor's regular pay period.

2.20 "Sublease" shall mean any agreement with any person or entity for the exclusive right to occupy or use all or any portion of City Property covered by a Lease.

(a) Notwithstanding the foregoing, the term "Sublease" does not include each of the circumstances set forth in Section 2.13 that constitutes and exclusion from the definition of "Lease."

2.21 "Subtenant" shall mean a person or entity that enters into a Sublease.

2.22 "Tenant" shall mean the person or entity that enters into a Lease with the City.

SEC. 3 MINIMUM COMPENSATION COMPONENTS

Minimum Compensation shall consist of each of the following:

(a) (i) Starting April 7, 2009, the hourly gross compensation in the amount of $11.54 per hour for commercial businesses subject to this Policy and $11.03 per hour for nonprofit organizations subject to this Policy.

(ii) Notwithstanding the foregoing in Section 3(a)(i) above, and without the need of further action by the Agency Commission, the hourly gross compensation required under this Policy shall automatically increase to match the rate required by the City's minimum compensation ordinance (San Francisco Administrative Code, Chapter 12P) as amended from time to time. Rate increases under this provision shall apply to new contracts entered into after the effective date of any such increase and shall not apply to then existing contracts or amendments to then existing contracts, in order to provide predictability in budgeting.

(iii) The hourly gross compensation required by the City and required under this Policy is currently posted by the City's Office of Labor Standards on its website at http://sfgsa.org/index.aspx?page=403. However, any future increases in the hourly gross compensation shall apply whether or not posted on the City's website.

(iv) Amendments to the City's minimum compensation ordinance (San Francisco Administrative Code, Chapter 12P) other than changes to the hourly gross compensation shall not apply to this Policy unless expressly adopted by the Agency Commission.

(b) Compensated time off (at the compensation rates specified in subsection (a) of this Section) in an hourly amount that, on an annualized basis for a full-time employee, equals twelve (12) days per year. Such time off shall vest with the Covered Employee at the end of the applicable Pay Period and may be used, for sick leave, vacation or personal necessity. Notwithstanding the foregoing, if a Contractor reasonably determines, in good faith, that the Contractor cannot comply with this requirement for compensated time off, the Contractor shall provide the Covered Employee with a cash equivalent of such compensated time off.

(c) Uncompensated time off in an hourly amount that, on an annualized basis for a full-time employee, equals ten (10) days per year. Such time off shall vest with the Covered Employee at the end of the applicable Pay Period and may be used, at the option of the Covered Employee, for sick leave for the illness of the Covered Employee or such Covered Employee's spouse, domestic partner, child, parent, sibling, grandparent or grandchild.

SEC. 4. CONTRACT REQUIREMENTS

Every Contract or Contract Amendment entered into on or after the Effective Date shall provide as follows:

(a) For each hour worked by a Covered Employee during each Pay Period during the term of the Contract (as such term may be extended from time to time), Contractor shall provide to such Covered Employee no less than the Minimum Compensation as required in this Policy.

(b) Failure to comply with the foregoing requirement shall constitute a material breach by Contractor of the terms of the Contract. Such failure shall be determined by the Agency in its sole discretion.

(c) If, within thirty (30) days after the Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the Agency shall have the right to pursue any rights or remedies available under the terms of the Contract or under applicable law.

(d) The Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the Agency with regard to the employer's compliance or anticipated compliance with this Policy, for opposing any practice proscribed by this Policy, for participating in proceedings related to this Policy, or for seeking to assert or enforce any rights under this Policy by any lawful means.

(e) The Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of this Policy.

(f) The Contractor shall keep itself informed of the current Minimum Compensation, and shall provide prompt written notice to all Covered Employees of annual adjustments to the Minimum Compensation, as well as any written communications received by the Contractor from the Agency, which communications are marked to indicate that they are to be distributed to Covered Employees.

(g) The Contractor shall provide reports to the Agency in accordance with any reporting standards promulgated by the Agency's Contract Compliance Division.

(h) The Contractor shall provide the Agency with access to pertinent records after receiving a written request to do so and being provided at least five (5) business days to respond.

(i) The Contract Compliance Division may conduct random audits of Contractors. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by this Policy; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten (10) days of the written notice; and (iv) limited to one audit per Contractor every two years for the duration of the Contract. Nothing in this Section shall be deemed to interfere with the authority of the Contract Compliance Division to investigate any report of an alleged breach of contract as provided in Section 6(b).

(j) Any Contractor subject to the provisions of this Policy shall promptly notify the Contract Compliance Division of any subcontractors performing services covered by this Policy and shall certify to the Contract Compliance Division that it has notified the subcontractors of their obligations under this Policy.

SEC. 5. ADMINISTRATION AND ENFORCEMENT

(a) The Contract Compliance Division shall adopt the guidelines or rules adopted by the City and County of San Francisco for implementation of the City's Minimum Compensation Ordinance. At the option of the Contract Compliance Division, additional or revised guidelines or rules for the administration of this Policy may be adopted to facilitate the Agency's implementation of this Policy. Such guidelines and rules shall not be adopted finally until the Contract Compliance Division has held at least one (1) public community meeting and a workshop at a regularly scheduled Agency Commission meeting on the proposed guidelines hearing. The guidelines and rules shall establish procedures for providing administrative hearings requested by Covered Employees to determine whether a Contractor has breached a Contract based on the Minimum Compensation requirements of this Policy. The guidelines and rules shall also establish procedures permitting Contractors to provide payroll information in confidence to the Agency for purposes of monitoring compliance under this Policy and authorizing disclosure of the information by the Agency only when necessary for enforcement purposes. The Contract Compliance Division shall also issue a determination as to whether a particular instrument constitutes a Contract or agreement is subject to the requirements of this Policy. The Contract Compliance Division shall report annually on compliance with this Policy to the Agency Commission. Such report shall include cumulative information regarding the number of waivers granted by the Executive Director or Agency Commission pursuant to Sections 7, 8, 9 and 10 of this Policy and statistical data regarding such waivers.

(b) A Covered Employee may report to the Contract Compliance Division in writing any alleged breach by a Contractor of the terms required to be contained in the applicable Contract under this Policy. The Contract Compliance Division shall investigate any such report. If the Contract Compliance Division determines that a Contractor is in breach of any such term, the Contract Compliance Division shall notify the Executive Director of its findings and of any action that the Contract Compliance Division requests that the Executive Director take with respect to such breach. In order to ensure compliance with this Policy and to enhance the monitoring activities of the Contract Compliance Division, the Agency desires to encourage reporting by Covered Employees pursuant to this subsection. The Contract Compliance Division shall keep confidential, to the maximum extent permitted by applicable laws, the Covered Employee's name and other identifying information.

(c) In addition to any other rights or remedies available to the Agency under the terms of the Contract or under applicable law, the Agency shall have the following rights, in the event of such failure by the Contractor:

(i) the right to charge the Contractor an amount equal to the difference between the Minimum Compensation levels required by this Policy and any compensation actually provided to each Covered Employee who was not paid in accordance with the terms of this Policy, together with interest on such amount from the date payment was due at the maximum rate then permitted by law;

(ii) the right to set off all or any portion of the amount described in the preceding clause (i) of this Subsection against amounts due to Contractor under the Contract;

(iii) the right to terminate the Contract in whole or in part;

(iv) in the event of a breach by Contractor of the covenant referred to in Section 4 (d), the right to seek reinstatement of the affected Covered Employee or to obtain other appropriate equitable relief; and

(v) the right to bar a Contractor from entering into future contracts with the Agency for three (3) years. Each of these rights shall be exercisable individually or in combination with any other rights or remedies available to the Agency. Any amounts realized by the Agency pursuant to this subsection shall be paid to each applicable Covered Employee.

(d) Each Covered Employee shall be a third-party beneficiary under the Contract as set forth in this subsection and in subsection (e) of this Section, and may pursue the following remedies in the event of a breach by the Contractor of any contractual covenant described in Section 3 or Section 4, but only after the Covered Employee has provided the notice and participated in the administrative review hearing provided in this subsection. The Covered Employee shall give written notice of a breach to the Contractor and to the Contract Compliance Division. If the Contract Compliance Division determines that no breach has occurred, or if the Agency fails to obtain the cure of a breach by the Contractor within sixty (60) days after receipt of notice by the Covered Employee, the Covered Employee may request an administrative review hearing. The Covered Employee must request such a hearing within ninety (90) days after giving written notice of the breach. Unless the Covered Employee withdraws the request for a hearing, the Contract Compliance Division shall conduct, or arrange to have conducted, a hearing. The Employee shall have the right to attend the hearing personally or through a designated representative. The Contract Compliance Division shall notify the Contractor of the hearing so that the Contractor may attend and present evidence. After the hearing is completed, the person conducting the hearing shall determine whether the Contractor has breached the Contract. Upon the issuance of a written decision finding a breach, and after a waiting period of twenty-one (21) days, the Covered Employee may bring an action against the Contractor for such breach in the Superior Court of the State of California, as appropriate, unless the Agency has commenced an action against the Contractor based on the breach, or obtained compliance, within the 21-day waiting period and provided notice to the Covered Employee of that action. If the Covered Employee prevails in such action, the Covered Employee may be awarded: (A) an amount equal to the difference between the Minimum Compensation and any compensation actually provided to the Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law; and (B) in the event of a breach by Contractor of the covenant referred to in Section 4 (d), the right to seek reinstatement or to obtain other appropriate equitable relief.

(e) In the event of any legal action or proceeding between Contractor and a Covered Employee arising from this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees and disbursements, incurred by such prevailing party in such action or proceeding and in any appeal in connection with such action or proceeding; provided, however, that a Contractor shall be entitled to such costs and expenses only if the court determines that the Covered Employee's action or proceeding was frivolous, vexatious or otherwise an act of bad faith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorneys' fees and disbursements shall be included in and as a part of such judgment. This Article does not authorize any award of costs, expenses, or attorney's fees in favor of or against the Agency.

(f) The Agency shall maintain the confidentiality of payroll information obtained in the course of monitoring compliance with this Policy and shall disclose such information only as necessary for enforcement purposes.

(g) The Contract Compliance Division shall develop a procedure for obtaining an assurance from Contractors when they sign an agreement subject to this Policy that they comply with the requirements of this Policy, such as the signing of an affidavit of compliance.

SEC. 6. WAIVERS

The Executive Director shall waive the requirements of this Policy under the following circumstances:

(a) The Executive Director has determined that:

(i) either

(A) there is only one prospective Contractor willing to enter into the applicable Contract on the terms and conditions established by the Agency (other than the requirements of this Policy); or

(B) the needed services under the applicable Services Contract are available only from a sole source;

and

(ii) the prospective Contractor is not currently disqualified from doing business with the Agency or any other governmental agency.

(b) The Executive Director has determined in writing that the Contract is necessary to respond to an emergency which endangers the public health or safety and no entity that complies with the requirements of this Policy and is capable of responding to the emergency is immediately available to perform the required services.

(c) The Executive Director has determined in writing that:

(i) there are no qualified responsive bidders or prospective vendors that comply with the requirements of this Policy; and

(ii) the Contract is for a service, project, or property that is essential to the Agency or the public.

(d) the Executive Director has determined in writing that:

(i) the Services to be purchased are available under a bulk purchasing arrangement with a federal, state or local governmental entity;

(ii) purchase under such arrangement will substantially reduce the Agency's cost of purchasing such Services; and

(iii) purchase under such an arrangement is in the best interest of the Agency or the public.

SEC. 7. ADDITIONAL WAIVERS BY THE EXECUTIVE DIRECTOR - NONPROFIT CORPORATIONS

A Nonprofit Corporation may seek a waiver from the requirements of the adjustments provided in 3(a)(ii) and 3(a)(iii) if the highest paid managerial position in the organization earns a salary which, when calculated on an hourly basis, is not more than six times the lowest wage paid by the organization to a Covered Employee. The Nonprofit Corporation shall provide to the Contracting Department a written statement, prepared and signed by the Nonprofit Corporation, setting forth an explanation of the economic hardship to the Nonprofit Corporation or the negative impact on services that would result from compliance with this Policy. The Executive Director may grant the requested waiver. Each waiver shall be effective for a period of up to one year, and subsequent waivers may be requested and granted.

SEC. 8. SPECIAL WAIVER BY THE AGENCY COMMISSION

Upon receipt of an application from the Contractor, stating fully the grounds of the request and the facts pertaining thereto, the Agency finds following its own further investigation that the application of the Policy would result in an adverse impact on services or an unreasonable financial impact on the Contract. In order to permit any such waiver, the Agency must determine that:

(a) The application of the Policy would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the applicable Redevelopment Plan;

(b) There are exceptional circumstances or conditions applicable to the property, the intended development of the property, or the services proposed through a contract, which do not apply generally to other properties or contracts having the same standards, restrictions and controls;

(c) Permitting a waiver, for a specified period of time, will not be materially detrimental to the public welfare or injurious to property or improvement in the area; and,

(d) Permitting a waiver, for a specified period of time, will not be contrary to the objectives of the applicable redevelopment plan.

Waivers shall only be granted for a limited time period as determined to be needed to promote the general purpose and intent of the applicable redevelopment plan. Subsequent waivers may be requested and either granted or denied. The Agency anticipates the all covered

Projects and Contracts will eventually transition to achieving a viability that will allow for covered Contractors to comply with the Policy.

SEC. 9. WAIVER THROUGH COLLECTIVE BARGAINING

All or any portion of the applicable requirements of this Policy may be waived in a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

SEC. 10. RELATIONSHIP TO OTHER REQUIREMENTS

This Policy provides a minimum level of compensation and shall not be construed to preempt or otherwise affect any other law, regulation or requirement providing a higher level of compensation.

SEC. 11. PREEMPTION

Nothing in this Policy shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

SEC. 12. EFFECTIVE DATE

This Policy shall become effective the date of the Agency approval.

SEC. 13. SEVERABILITY

If any part or provision of this Policy, or the application of this Policy to any person or circumstance, is held invalid, the remainder of this Policy, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Policy are severable.

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE
(SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY)
AMENDED HEALTH CARE ACCOUNTABILITY POLICY

SECTION 1. FINDINGS AND DECLARATIONS

1.1 The Office of Community Investment and Infrastructure (successor agency to the Redevelopment Agency of the City and County of San Francisco) (the "**Agency**") enters into many contracts, including, but not limited to, service contracts, loan and grant agreements and property agreements, in furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq., the "**Law**") in the interest of the health, safety and general welfare of the City of San Francisco's ("**City**") residents.

1.2 These contracts and agreements have at times involved compensation to the contracting parties' or their subcontractors' employees that does not include health benefits or does not provide a high enough level of compensation that would allow an employee to acquire their own health insurance. Uninsured persons seeking medical assistance place an immediate burden on the City's limited public health resources and place the uninsured at a far greater level of health risk. Requiring these contracting parties and their subcontractors to offer health benefits to their employees, or to make payments to the City's Department of Public Health to provide for the care of such persons, or to participate in a health benefits program developed by the City's Director of Health, will improve the health, safety and general welfare of San Francisco's residents by ensuring health benefits for many more of the City's residents who are now uninsured.

SECTION 2. DEFINITIONS

As used in this Policy the following capitalized terms shall have the following meanings:

2.1 "**Agency**" shall mean the Office of Community Investment and Infrastructure (successor agency to the Redevelopment Agency of the City and County of San Francisco).

2.2 "**Agency Property**" means real property that is owned by the Agency or which the Agency has exclusive use. "Exclusive use" means the right to use or occupy real property to the exclusion of all others, subject to the rights reserved by the party granting such exclusive use.

2.3 "**City**" shall mean the City and County of San Francisco.

2.4 "**Contract**" shall mean an agreement or portion of an agreement that provides for services to be purchased at the expense of the Agency or out of funds established by ordinance or MOU, or otherwise controlled by the Agency. The term "Contract" shall include, without limitation, Property Agreements, Included Subcontracts and agreements such as grant agreements, pursuant to which agreements the Agency grants funds to a Contractor for services (including, without limitation, cultural activities, performances or exhibitions) to be rendered to all or any portion of the public rather than to Agency. Notwithstanding the foregoing, the term "Contract" shall exclude:

(a) Agreements for a duration of less than one (1) year. Contractors are prohibited from entering into multiple contracts of short duration order to evade the requirements of this Policy;

(b) Agreements for the purchase or lease of goods, or for guarantees, warranties, shipping, delivery, installation or maintenance of such goods. Where an agreement is for the purchase or lease of both goods and other services, the agreement shall not be deemed a "Contract" if a preponderance of the contract amount is for goods;

(c) Agreements entered into pursuant to settlement of legal proceedings;

(d) Agreements for urgent or specialized advice, consultation or litigation services for the Agency where the General Counsel finds that it would be in the best interests of the Agency not to include the requirements of this Policy;

(e) Agreements with any person or entity if the amount of the agreement is less than $25,000 (in the case of a for-profit entity or person) or less than $50,000 (in the case of a Nonprofit Corporation). However, if the Contracting Party has multiple agreements with the Agency in a given fiscal year (which agreements would be considered "Contracts" under this Policy except that the individual dollar amounts are below the thresholds set forth in the preceding sentence) and the cumulative amount of such agreements is $75,000 or more, the provisions of this Policy shall apply to each such agreement from the date on which the triggering Contract is executed;

(f) Agreements for the investment, management or use of trust assets where compliance would violate the fiduciary duties of the trustee;

(g) Agreements executed prior to the Effective Date (unless and until a Contract Amendment is executed);

(h) Agreements executed after the Effective Date (unless and until a Contract Amendment is entered into) pursuant to, and within the scope of, bid packages or requests for proposals advertised and made available to the public prior to the Effective Date, unless the bid packages or requests for proposals are materially amended on or after the Effective Date;

(i) Agreements that require the expenditure of grant funds awarded to the Agency by another entity. If a Contract is funded both by grant funds and non-grant funds, the entire Contract is exempt; provided that, if the use of the grant funds is severable from the non-grant funds, the Contract is exempt only with respect to the use of the grant funds;

(j) Agreements pursuant to which the Agency awards a grant to a Nonprofit Corporation;

(k) Agreements with a public entity;

(l) Agreements for employee benefits to be provided to Agency employees, where the Executive Director finds that no person or entity is willing to comply with this Policy and is capable of providing the required employee benefits;

(m) Agreements for the investment, management or use of Agency monies where the Executive Director finds that requiring compliance with this Policy will violate the Agency's fiduciary duties and for the investment of retirement, health or other funds held in trust pursuant to Charter, statute, ordinance or MOU where the official or officials responsible for investing or managing such funds find that requiring compliance with this Policy will violate their fiduciary duties;

(n) Loan agreements and agreements made in connection with loans or grants under which the Agency, as creditor or grantor, is providing funds to be used by the debtor or grantee to:

i. Acquire an interest in real property on which residential improvements for low- or moderate-income households will be constructed;

ii. Construct improvements owned or leased by the debtor or grantee, on condition that residents of the improvements qualify as low- or moderate-income households; or

iii. Rehabilitate improvements owned or leased by the debtor or grantee;

(o) Disposition and development or groundlease agreements of Agency Property on which residential improvements for low-or-moderate income households will be constructed or existing improvements will be operated for low-or-moderate income households; provided, however, that any leases for commercial space in such properties shall be considered Included Leases and shall be subject to the requirements of this Policy;

(p) Agreements between a Tenant or Subtenant and a Contractor to perform services on property covered by a Lease if the Contractor does not provide such services on a regular and on-going basis. For purposes of this exemption, if employees of the Contractor and any Subcontractors cumulatively work on the Lease property less than 130 days within a 12-month period, the agreement shall not be considered regular and on-going.

(q) Agreements with an owner (such as owner participation agreements) where such agreement is granted in the exercise of the Agency's regulatory or police powers.

2.5 "**Contract Amendment**" shall mean a modification to an agreement which extends the term, increases the total amount of payments due from the Agency (except where such increase is due solely to cost of living adjustments), or modifies the scope of services to be performed by the Contractor; provided that the resulting agreement falls within the definition of "Contract."

(a) Notwithstanding the foregoing, "Contract Amendment" does not include a one-time extension of the term of a Contract for up to 6 months, or a construction change order, modification or amendment to a Contract executed by the Agency for its benefit (as determined by the Executive Director.

2.6 "**Contractor**" shall mean the person or entity that enters into a Contract with the Agency. The term "Contractor" also means any person or entity that enters into a Contract with a Tenant or Subtenant to perform services on property covered by a Lease.

2.7 "**Covered Employee**" shall mean:

(a) An Employee of a Contractor or Subcontractor who works on an Agency Contract or Subcontract for 15 hours or more per Week.

i. Within the geographic boundaries of the City of San Francisco; or

ii. Elsewhere in the United States.

(b) An Employee of a Tenant or Subtenant who works 20 hours or more per Week on property that is covered by a Lease or Sublease; and

(c) An Employee of a Contractor or Subcontractor that has a Contract or Subcontract to perform services on property covered by a Lease or Sublease if the Employee works 15 hours or more per Week on the property.

(d) A Contractor or Subcontractor may not divide an employee's time between working on an Agency contract and working on other duties with the intent of reducing the number of Covered Employees working on the Contract to evade compliance with this policy. Such action shall constitute a violation of this policy.

Notwithstanding the foregoing, the term "Covered Employee" does <u>not</u> include the following:

(1) Any Employee under the age of eighteen (18) who is a student, provided that the Employee does not replace, displace or lower the wage or benefits of any existing position or Employee; or

(2) Any Employee who is (i) a temporary Employee hired for a time-limited period, and (ii) for that period is receiving academic credit or completing mandatory hours for professional licensure or certification, and (iii) the Employee does not replace, displace or lower the wages or benefits of an existing position or Employee; or

(3) Any Employee employed as a trainee in a bona fide training program consistent with Federal law, which training program enables the Employee to advance into a permanent position, provided that the Employee does not replace, displace or lower the wage or benefits of any existing position or Employee; or

(4) Any Employee that the Contracting Party is required to pay no less than the "prevailing rate of wage" in accordance with the Agency's Prevailing Wage Policy; or

(5) Any disabled Employee who is covered by a current sub-minimum wage certificate issued to the employer by the U.S. Department of Labor or would be covered by such a certificate but for the fact that the employer is paying a wage equal to or higher than the minimum wage; or

(6) Any Employee of a Nonprofit Corporation who is a temporary employee, hired on an hourly or per diem basis to replace a regular employee during a temporary absence from the workplace.

2.8 "**Effective Date**" shall mean April 7, 2009, the date the Agency Commission approves this Policy.

2.9 "**Employee**" shall mean any person who is employed by a Contractor, including part-time and temporary employees.

2.10 "**Included Lease**" shall mean a lease, sublease or other agreement with any person or entity for the exclusive right to occupy or use all or any portion of real property owned, leased or otherwise controlled by the Agency in which the Agency has a Proprietary Interest.

2.11 "**Lease**" shall mean a written agreement (including, without limitation, any lease, concession or license) in which:

(a) The Agency gives to another party the exclusive use of Agency Property for a term exceeding one year, whether by single or cumulative instruments. If cumulative instruments cause the term of the agreement to exceed one year, the agreement shall be subject to this Policy only on or after the effective date of the instrument which causes the term to exceed one year. "Lease" includes "Lease Amendment".

(b) The Contractor gives to another party the exclusive use of property in which the Agency has a Proprietary Interest for a term exceeding one year, whether by single or cumulative instruments. If cumulative instruments cause the term of the agreement to exceed one year, the agreement shall be subject to this Policy only on or after the effective date of the instrument which causes the term to exceed one year.

2.12 "**Lease Amendment**" shall mean a modification to a Lease that extends the term or materially changes any other provision of the Lease.

(a) Notwithstanding the foregoing, "Lease Amendment" does not include a one-time extension of the term of a Lease for up to 6 months, or relocation of the leased premises at the request of the Agency for its benefit or convenience (as determined by the Agency Executive Director).

2.13 "**Nonprofit Corporation**" shall mean a nonprofit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section.

2.14 "**Policy**" shall mean this Amended Health Care Accountability Policy adopted by the Agency Commission on April 7, 2009.

2.15 "**Property Agreements**" shall mean Disposition and Development Agreements (DDAs), Groundleases, and any other agreements with the Agency (other than Excluded Subcontracts) in which the Agency has a Proprietary Interest.

2.16 "**Proprietary Interest**" shall mean any nonregulatory arrangement or circumstance in which the financial or other nonregulatory interests of the Agency in a Contract could be adversely affected, in the following circumstances:

(a) The Agency receives significant ongoing revenue (such as rent payments) under a lease or ground lease of real property owned by the Agency for the development of a project pursuant to a Contract, excluding government fees or tax or assessment revenues, or the like (except for tax revenues under the circumstances specified in Section 2.16(b));

(b) The Agency receives ongoing revenue from a project pursuant to a Contract to pay debt service on bonds or loans provided by the Agency to assist the development of such project (including incremental tax revenues generated by the project or the development project in which it is located and used, directly or indirectly, to pay debt service on bonds or to repay a loan by the Agency where the proceeds are used for development of that project or the development project in which it is located;

(c) The Agency has agreed in a Contract to underwrite or guarantee the development or operation of a development project, or loans related thereto;

(d) The Agency pursuant to a Contract receives a continuing financial payment that is specific to that project, which is not a tax or other charge of general applicability or a one-time payment for the land;

(e) The Agency receives a share in the profits of a project in a negotiated economic participation agreement pursuant to a Contract; or

(f) In addition to the circumstances described above, the Agency shall be deemed to have a Proprietary Interest in a Contract for a project if the Agency determines or an interested party demonstrates prior to the effective date of the Contract pursuant to which a project will be operated that there is a significant risk that the Agency's financial or other nonregulatory interest in the project could be adversely affected, except that no circumstance or arrangement shall be considered "financial or non-regulatory" under this definition if it arises from the exercise of regulatory or police powers such as taxation or the receipt of tax increment funds as provided in Article 16, section 16 of the California Constitution (except as provided in Section 2.16(b)) above), zoning or the issuance of regulatory permits.

2.17 "**Week**" shall mean a consecutive seven-day period. If the Contractor's regular pay period is other than a seven-day period, the number of hours worked by an employee during a seven-day Week, for purposes of this Policy, shall be calculated by adjusting the number of hours actually worked during the Contractor's regular pay period to determine the average over a seven-day Week. However, such period of averaging shall not exceed a duration of one month.

2.18 "**Subcontract**" shall mean an agreement between a Contractor and a person or entity pursuant to which the person or entity agrees to perform all or a portion of the services covered by a Contract.

(a) Notwithstanding the foregoing, the term "Subcontract" does not include:

i. Agreements for the purchase or lease of goods, or for guarantees, warranties, shipping, delivery, installation or maintenance of such goods. When an agreement is for the purchase or lease of both goods and other services, the agreement shall not be deemed a "Subcontract" if a preponderance of the Contract amount is for goods; or

ii. Agreements with a public entity.

2.19 "**Subcontractor**" shall mean a person or entity that enters into a Subcontract.

2.20 "**Sublease**" shall mean any agreement with any person or entity for the exclusive right to occupy or use all or any portion of Agency Property covered by a Lease or Property Agreement. Notwithstanding the foregoing, the term "Sublease" does not include each of the circumstances set forth in Section 2.12(a) that constitutes an exclusion from the definition of "Lease" or "Property Agreement."

2.21 "**Subtenant**" shall mean a person or entity that enters into a Sublease.

2.22 "**Tenant**" shall mean the person or entity that enters into a Lease or Property Agreement with the City.

SECTION 3. HEALTH CARE ACCOUNTABILITY COMPONENTS

3.1 With respect to each Covered Employee who either resides in San Francisco (regardless of where the Covered Employee provides services) or provides services covered by this Policy in San Francisco, each Contractor shall do one of the following, at the Contractor's option:

(a) Offer to the Covered Employee health plan benefits that meet minimum standards prepared by the City's Health Director and approved by the City's Health Commission. The minimum standards shall provide for a maximum period for each Covered Employee's health benefits to become effective, no later than the first of the month that begins after 30 days from the start of employment on a covered Contract, Subcontract, Lease or Sublease. The Health Commission shall review such standards every two years to ensure that the standards stay current with State and Federal regulations and existing health benefits practices; or

(b) For each Week in which the Covered Employee works the applicable minimum number of hours set forth in Section 2.7 (definition of "Covered Employee"), pay to the City $2.00 per hour ("fee option payment") for each hour the Covered Employee is employed by the Contracting Party on the Contract or Subcontract or on property covered by a Lease, but not to exceed $80 in any Week. The City shall appropriate money received pursuant to this Subsection 3.1(b) for the use of the Department of Public Health. The Department of Public Health shall use the monies appropriated for staffing and other resources to provide medical care for the uninsured. The Health Commission may increase this hourly rate and Weekly maximum in accordance with either the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or the increase in average Health Maintenance Organization ("HMO") premiums in California depending on which the Health Commission determines better reflects the cost of providing health care in the Bay Area; provided, however, the Health Commission shall take this action no more than once a year and any adjustments in such hourly rate or Weekly maximum must be approved by the Board of Supervisors by resolution; or

(c) Participate in a health benefits program developed by the Health Director in consultation with the City's Purchasing Department. The Health Director shall obtain Health Commission approval of the program before implementing it. The Health Director shall seek such approval within twelve (12) months after this Policy is finally approved. Prior to implementation of the health benefits program provided in this Subsection 3.1(c), each Contractor shall comply with Subsection 3.1(a) or 3.1(b). After the Health Director implements the program, in addition to the options provided in Subsections 3.1(a) or 3.1(b), Contractors may satisfy their obligations under this Policy by complying with the requirements of the health benefits program. In developing the program, the Health Director shall (i) attempt to make health coverage available for uninsured Covered Employees and, if feasible, any other person employed by a Contracting Party who works less than 20 hours per week on an Agency contract, or other uninsured City residents; (ii) use public health facilities to the maximum extent practicable; (iii) make the program economically viable; and (iv) provide a mechanism for funding which relies, as much as possible, on contributions by participating employers and employees.

(d) With respect to each Covered Employee who does not reside in San Francisco, but who provides services covered by this Policy each Contractor shall do one of the options set forth in Subsection 3.1(a), (b) or (c), at the Contractor's option.

(e) With respect to each Covered Employee who does not reside in San Francisco, and does not provide services covered by this Policy in San Francisco, each Contractor shall do one of the following, at the Contractor's option:

i. Offer to the Covered Employee health plan benefits that meet minimum standards prepared by the Health Director and approved by the Health Commission pursuant to Subsection 3.1(a) above; or

ii. For each Week in which the Covered Employee works the applicable minimum number of hours set forth in Section 2.7 (definition of "Covered Employee"), pay to the Covered Employee an additional $2.00 per hour for each hour the Covered Employee is employed by the Contracting Party on the Contract or Subcontract or on property covered by a Lease, but not to exceed $80 in any Week, to enable the employee to obtain health insurance coverage. This represents the City's current estimate of the average cost of obtaining individual health insurance benefits. The Health Commission may increase this hourly rate and Weekly maximum in accordance with either the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or the increase in average HMO premiums in California depending on which the Health Commission determines better reflects the cost of providing health care in the Bay Area; provided, however, the Health Commission shall take this action no more than once a year and any adjustments in such hourly rate or Weekly maximum must be approved by the City's Board of Supervisors by resolution.

(f) Notwithstanding the above, if, at the time a Contract, Subcontract, Lease, or Sublease is executed, the Contractor has 20 or fewer employees (or, in the case of a Nonprofit Corporation, 50 or fewer employees), including any employees the Contractor plans to hire to implement the Contract, Subcontract, Lease or Sublease, the Contractor shall not be obligated to provide the Health Care Accountability Components set forth in this Section 3 to its Covered Employees. In determining the number of employees a Contractor has, all employees of all entities that own or control the Contractor and that the Contractor owns or controls, shall be included.

(g) Notwithstanding anything in this Policy to the contrary and without the need of further action by the Agency Commission, (i) the minimum number of hours required to be considered a "Covered Employee", (ii) the Minimum Standards for Health Care Benefits required to be provided to Covered Employees and (iii) the fee option payments required to be paid to the City under Section 3 of this Policy shall automatically increase to match the levels required by the City's health care accountability ordinance (San Francisco Administrative Code, Chapter 12Q) as amended from time to time. Notwithstanding anything in this Policy to the contrary, fee option payments and Minimum Standards for Health Care Benefits increases under this provision shall apply to new contracts entered into after the effective date of any such increase and shall not apply to existing contracts or amendments to existing contracts, in order to provide predictability in budgeting.

(h) The fee option payment and current Minimum Standards for Health Care Benefits required by the City and required under this Policy is currently posted by the City's Office of Labor Standards on its website at http://www.sfgov.org/site/olse_index.asp?id=27461. However, any future increases shall apply whether or not posted on the City's website.

(i) Amendments to the City's health care accountability ordinance (San Francisco Administrative Code, Chapter 12Q) other than changes to the (i) the minimum number of hours required to be considered a "Covered Employee", (ii) the Minimum Standards for Health Care Benefits required to be provided to Covered Employees and (iii) the fee option payments required to be paid to the City under Section 3 of this Policy shall not apply to this Policy unless expressly adopted by the Agency Commission.

SECTION 4. CONTRACTUAL OBLIGATIONS

4.1 Each Contractor that enters into a Contract, Subcontract, Lease, or Sublease shall agree:

(a) To comply with the requirements of this Policy, including the requirement to choose and perform one of the Health Care Accountability Components set forth in Section 3;

(b) To comply with regulations adopted by the Agency pursuant to this Policy;

(c) To 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 Agency Contract or Subcontract. If the Contractor fails to maintain records that accurately reflect the number of hours each employee has worked on the Agency Contract or Subcontract, it shall be presumed that any employee who has worked on an Agency Contract or Subcontract is a Covered Employee as herein defined.

(d) To provide information and reports to the Agency in accordance with any reporting standards promulgated by the Agency in consultation with the City's Director of Health;

(e) To provide the Agency with access to pertinent payroll records relating to the number of employees employed and terms of medical coverage as allowed by law after receiving a written request to do so and being provided at least ten (10) business days to respond;

(f) To allow the Agency to inspect the Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with this Policy;

(g) To cooperate with the Agency when it conducts audits;

(h) To include in every Contract, Subcontract, Lease, or Sublease subject to this Policy provisions requiring compliance with this Policy, consistent with any directives or standards adopted by the Agency;

(i) To notify the Agency promptly of any Subcontractors performing services covered by this Policy and certify to the Agency that it has notified the Subcontractors of their obligations under this Policy; and

(j) To represent and warrant that it is not an entity that was set up, or is being used, for the purpose of evading the intent of this Policy.

4.2 A Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any Employee for notifying the City regarding the Contractor's noncompliance or anticipated noncompliance with this Policy, for opposing any practice proscribed by this Policy, for participating in proceedings related to this Policy, or for seeking to assert or enforce any rights under this Policy by any lawful means.

SECTION 5. ADMINSTRATION AND ENFORCEMENT

5.1 The Agency, shall implement the City's Department of Public Health regulations for the interpretation and administration of this Policy, to the extent such regulations are consistent with adopted Agency Policy.

5.2 The Agency shall monitor Contractors for compliance and investigate complaints of violations of this Policy. The Agency's General Counsel shall develop contractual provisions for use by Agency staff designed to enable the Agency to pursue the remedies set forth in this Section against every person or entity required to comply with this Policy.

5.3 The Agency, or at its request, the City's Department of Public Health, may conduct audits of Contractors, although such audits shall be conducted at a mutually agreed upon time and location within ten (10) days of written notice.

5.4 The Agency's Contract Compliance Division shall provide an annual joint report to the Agency Commission on compliance with this Policy. Such report shall include cumulative information regarding the number of waivers granted pursuant to this Policy.

5.5 A Covered Employee may report to the Agency's Contract Compliance Division in writing any alleged violation of this Policy by a Contractor or other person or entity subject to this Policy. The Agency shall investigate any such report. If the Agency determines that any person or entity has violated this Policy, the Agency shall notify the Contractor of its findings. In order to ensure compliance with this Policy and to enhance the monitoring activities of the Agency, the Agency encourages reporting by Covered Employees pursuant to this Subsection. The Agency shall keep confidential the Covered Employee's name and other identifying information, to the maximum extent permitted by applicable law.

5.6 The Agency has the right to assign the enforcement provisions of this Section 5, to the appropriate City department to act on behalf of the Agency;

5.7 In addition to any other rights or remedies available to the Agency under the terms of any agreement of a Contractor or under applicable law, the Agency, or the City acting on behalf of the Agency, shall have the following rights:

(a) The right, at the discretion of the Agency, to charge the Contractor for any amounts that the Contractor should have paid to the City for hours worked by Covered Employees together with simple annual interest of 10% on such amount from the date payment was due;

(b) The right, at the discretion of the Agency, to assess liquidated damages as provided in Section 6;

(c) The right, at the discretion of the Agency, to set off all or any portion of the amount that a Contractor is required to pay to the City pursuant to preceding Subsections 5.7(a) and 5.7(b) against amounts due to a Contractor;

(d) The right, at the discretion of the Agency, to terminate the Contract or Lease in whole or in part; or

(e) The right, at the discretion of the Agency, to bar a Contractor from entering into future Contracts or Leases with the Agency for three (3) years.

(f) The right to bring a civil action against the Contractor to pursue the remedies provided in this Policy, at law or in equity. The prevailing party shall be entitled to its costs and all reasonable attorneys' fees.

5.8 Each Contractor shall be responsible for its Subcontractors with respect to compliance with this Policy. If a Subcontractor fails to comply, the Agency, or the City acting on behalf of the Agency, may pursue the remedies set forth in this Section against the Contractor based on the Subcontractor's failure to comply, provided that the Agency has first provided the Contractor with notice and an opportunity to obtain a cure of the violation.

5.9 Each Tenant shall be responsible for each Subtenant, Contractor and Subcontractor performing services on property covered by the Tenant's Lease, with respect to compliance with this Policy. If any Subtenant, Contractor or Subcontractor fails to comply, the Agency, or the City acting on behalf of the Agency, may pursue the remedies set forth in this Section against the

Tenant based on the Subtenant's, Contractor's or Subcontractor's failure to comply, provided that the Agency has first provided the Tenant with notice and an opportunity to obtain a cure of the violation.

5.10 Each of the rights set forth in this Section 5 shall be exercisable individually or in combination with any other rights or remedies available to the Agency. Any amounts realized by the Agency pursuant to this Section shall be used first to cover the costs of enforcing this Policy and thereafter appropriated for the use of the Department of Public Health.

5.11 The Agency may compromise and settle unlitigated claims against Contractors for violations of contractual provisions required by this Policy.

5.12 All Contractors are required to cooperate fully with the Agency in connection with any investigation of an alleged violation of this Policy or with any inspection conducted by the Agency.

5.13 When the Agency is authorized to charge interest (not to exceed 10%), in determining whether to charge the interest, the Agency shall give due consideration to the size of the Contractor's business, the Contractor's good faith (or lack thereof), the gravity of the violation and the history of previous violations.

SECTION 6. ADDITIONAL CONTRACT REQUIREMENTS: LIQUIDATED DAMAGE

6.1 Every Contract, Contract Amendment, Lease and Lease Amendment entered after April 7, 2009 shall contain provisions in which the Contractor agrees:

(a) To be liable to the Agency for liquidated damages as provided in this Section 6.

(b) To be subject to the procedures governing enforcement of a breach of the terms of a Contract, Contract Amendment, Lease and Lease Amendment which terms are required by this Policy.

(c) That the commitment of Contractor to comply with the requirements of this Policy is a material element of the Agency's consideration for the agreement and that the failure of a Contractor to comply will cause significant and substantial harm to the Agency and the public, which is extremely difficult to determine or quantify, and that the liquidated damages set forth in this Section 6 are reasonable amounts to pay for the harm caused by the Contractor's non-compliance.

(d) That for failure to comply with the requirements of this Policy, the Agency may require the Contractor to pay to the Agency (or the City if the Agency has delegated enforcement to the City) liquidated damages of up to one hundred dollars ($100) for each one-week pay period for each Covered Employee for whom the Contractor has either not offered health plan benefits or made fee option payments as required by Section 3. The Agency shall adjust this amount proportionately for Contractors that use a pay period other than once per week.

(e) That for any failure to provide reports to the Agency or access to pertinent records, or any failure to cooperate with any audit, inspection or investigation conducted by the

Agency (or the City, if the Agency has delegated enforcement to the City), the Agency may require the Contractor to pay the Agency liquidated damages of up to one thousand dollars ($1,000).

(f) That while liquidated damages in the maximum amounts set forth in this Section 6 are a reasonable estimate of the harm caused by the Contractor's non-compliance with contractual provisions required by this Policy, the Agency may determine that less than the full amount is warranted depending on the circumstances of each case. The Agency shall give due consideration to the following factors in determining the amount of liquidated damages: the size of the Contractor's business, the Contractor's good faith (or lack thereof), the gravity of the violation, the history of previous violations, the failure to comply with record-keeping, reporting and anti-retaliation requirements, and the extent to which the imposition of liquidated damages would undermine the purpose of this Policy by imposing unreasonable financial burdens on the Contractor, thereby restricting its ability to fulfill its obligations under this Policy.

SECTION 7. INVESTIGATION AND DETERMINATION OF VIOLATIONS

7.1 Determination of Violation. Upon determining that a Contractor may have violated the terms of a Contract, Contract Amendment, Lease or Lease Amendment required under this Policy, the Agency Executive Director shall send written notice to the Contractor of the possible violation and of the Contractor's right to respond to the Agency's initial determination by submitting pertinent documents and other information. The written notice shall also notify the Contractor that the Agency Executive Director is authorized to withhold payment otherwise due to the Contractor pursuant to the provisions of Subsection 7.5. If after providing the Contractor with a reasonable opportunity to respond to the allegations, the Agency Executive Director makes a final determination that a violation has occurred, the Agency Executive Director shall provide a written notice of violation to the Contractor.

7.2 Right of Appeal. The Contractor may appeal the Agency Executive Director's final determination. The Contractor must file an appeal with the Agency in writing, specifying the basis for contesting the determination, no later than 15 days after the date of the notice of determination. Failure to file an appeal in writing to the Agency Executive Director within 15 days shall cause the Agency Executive Director's determination to be deemed a final administrative decision by the Agency.

7.3 Administrative Hearing.

(a) Within 15 days after the Agency receives an appeal, the Executive Director shall appoint a hearing officer and shall notify the Contractor. The Agency reserves the right to delegate any and all enforcement actions under this Section 7 to the City's Office of Labor Standards and Enforcement.

(b) The hearing officer shall promptly set a date for a hearing. The hearing shall commence within 45 days of the notification of the appointment of the hearing officer and conclude within 75 days of such notification unless all parties agree to an extended period.

(c) The Agency shall have the burden of producing evidence that the Contractor has violated the requirements of this Policy and the burden of proving the violation .

7.4 Hearing Officer's Decision.

(a) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or vacating the Agency Executive Director's determination. If the hearing officer vacates the Agency's determination in its entirety, that decision shall also vacate any assessment of liquidated damages. If the hearing officer affirms the Agency's determination, the hearing officer shall issue a decision upholding the Agency's determination , including the amount of the liquidated damages assessed by the Agency. With respect to liquidated damages, the hearing officer's jurisdiction to modify the Agency's assessment is limited and the following procedures apply. If the hearing officer modifies the Agency Executive Director's determination, the hearing officer shall transmit the decision to the Agency Executive Director, who shall within five business days modify the assessment of liquidated damages consistent with the hearing officer's decision based on the criteria set forth in Section 6.1(f) and transmit the modified assessment to the hearing officer. Upon receiving the modified assessment from the Agency, the hearing officer shall within three business days issue a final decision, which shall include the amount of the liquidated damages assessment as modified by the Agency.

(b) The hearing officer's decision shall consist of findings and a determination, which shall be final. The Contractor may seek review of the hearing officer's decision only by filing in the San Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure Section 1094.5, as it may be amended from time to time.

(c) The failure of the hearing officer to comply with the time requirements of this Section 7 shall not cause the hearing officer to lose jurisdiction over an appeal from the Agency Executive Director's determination filed under this Section 7.

(d) Upon the hearing officer's decision affirming or modifying the Agency Executive Director's determination, the Contractor shall take the corrective action, including the payment of liquidated damages, if any, within 14 days of receiving the hearing officer's decision. When a Contractor fails to take corrective action within the time required by the provisions of this Subsection, the Agency may immediately pursue all available remedies against the Contractor.

7.5 Withholding of Payment

(a) When the Agency sends notice to a Contractor of the Executive Director's final determination that the Contractor has violated the requirements of this Policy and of the Contractor's right of appeal, the Agency may deduct from the payments otherwise due to the Contractor the amounts that the Agency has determined the Contractor must pay to the City (fee option payments) and to the Agency as liquidated damages.

(b) The Agency may withhold these funds until: (i) the hearing officer issues a decision finding that the Contractor does not owe all or a portion of the amount withheld, in which case the Agency shall release the funds to the Contractor consistent with the hearing officer's decision; or (ii) the Contractor consents to the use of the funds to pay the Agency or City as applicable the amounts that the Agency or hearing officer found due. As to any funds being withheld for which neither Subsection 7.5(b)(i) nor 7.5(b)(ii) applies, the Agency shall retain the funds until the hearing officer's decision is no longer subject to judicial review, at which time the funds become the property of the Agency, provided that this action is consistent with any final determination of a court of competent jurisdiction. Notwithstanding the provisions of this Subsection 7.5(b), the Agency Executive Director may authorize the release of payments withheld from the Contractor under this Section if the Agency Executive Director determines that the continued withholding of funds imposes a substantial risk of endangering public health or safety, interfering with a service or project that is essential to the Agency (as determined by the Agency Executive Director) or having an unreasonable adverse financial impact on the Agency.

SECTION 8. WAIVERS BY THE AGENCY EXECUTIVE DIRECTOR

8.1 The Agency Executive Director or designee, shall waive the requirements of this Policy when the relevant Agency staff has provided justification to the Agency Executive Director, and the Agency Executive Director has found that one of the following circumstances exists:

(a) The needed service, project or property arrangement under the Contract or Lease is available only from a sole source;

(b) The Contract or Lease is necessary to respond to an emergency that endangers the public health or safety;

(c) There are no qualified responsive bidders or prospective vendors or tenants that comply with the requirements of this Policy and the agreement is for a service, lease or project that is essential to the Agency, City or the public;

(d) The public interest warrants the granting of a waiver because application of this Policy would constitute an adverse impact on services or an unreasonable adverse financial impact on the Agency or City; or

(e) The services to be purchased are available under a bulk purchasing arrangement with a federal, state or local governmental entity; and under such arrangement will substantially reduce the Agency's cost of purchasing such services; and such an arrangement is in the best interest of the Agency or the public.

8.2 Each waiver shall be effective for the duration of the Contract or Lease. Subsequent waivers may be requested and either granted or denied.

SECTION 9. SPECIAL WAIVER BY THE AGENCY COMMISSION

9.1 Upon receipt of an application from the Contractor, stating fully the grounds of the request and the facts pertaining thereto, the Agency finds following its own further investigation that the application of the Policy would result in an adverse impact on services or an unreasonable financial impact on the Contract. In order to permit any such waiver, the Agency must determine that:

(a) The application of the Policy would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the applicable Redevelopment Plan;

(b) There are exceptional circumstances or conditions applicable to the property, the intended development of the property, or the services proposed through a contract, which do not apply generally to other properties or contracts having the same standards, restrictions and controls;

(c) Permitting a waiver, for a specified period of time, will not be materially detrimental to the public welfare or injurious to property or improvement in the area; and,

(d) Permitting a waiver, for a specified period of time, will not be contrary to the objectives of the applicable redevelopment plan.

9.2 Waivers shall only be granted for a limited time period as determined to be needed to promote the general purpose and intent of the applicable redevelopment plan. Subsequent waivers may be requested and either granted or denied. The Agency anticipates the all covered Projects and Contracts will eventually transition to achieving a viability that will allow for covered Contractors to comply with the Policy.

SECTION 10. WAIVER BY COLLECTIVE BARGAINING

10.1 All or any portion of the applicable requirements of this Policy may be waived in a bone fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

SECTION 11. PREEMPTION

11.1 Nothing in this Policy shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

SECTION 12. EFFECTIVE DATE

12.1 This Amended Health Care Accountability Policy shall become effective on April 7, 2009, the date of Agency Commission approval.

SECTION 13. SEVERABILITY

13.1 If any part or provision of this Policy, or the application of this Policy to any person, location or circumstance, is enjoined or held invalid by a court of law, the remainder of this Policy, including the application of such part or provisions to other persons, locations or circumstances, shall not be affected by such action and shall continue in full force and effect. To this end, the provisions of this Policy are severable. Further, to the extent Section 3(b) may be enjoined or held invalid by a court of law, the Contracting Party may alternatively comply in accordance with Section 3(e)(ii).

ATTACHMENT #5

DISCLOSURE QUESTIONS

Instructions: Please respond completely to each question listed below using the space provided. Use a separate sheet of paper, if necessary. Please state "No" or "None" when appropriate. Do not leave a question blank or state "N/A". If the applicant[1] is an individual, then the information relative to that individual should be disclosed. If the applicant is a group or joint venture, then information relative to each member of the group or entities that comprise the joint venture should be disclosed. If the applicant is a corporation, then the information relative to the corporation should be disclosed.

1. Has applicant ever defaulted on a loan or other financial obligation? This includes all affiliate corporations and partnerships in which applicant is a general partner. If so, please describe the circumstances including dates and current status.

Answer:____

2. Are there any prior or pending legal proceedings, actions, convictions or judgments that have been filed against applicant or its wholly owned subsidiaries, or any prior or pending arbitrations or mediations. If so, provide dates the complaints were filed and the present status of the litigation or the status of the arbitrations or mediations.

Answer:____

3. Are there any prior or pending administrative complaint/hearing against, or any debarment or suspension of, or other administrative determination by any federal, state or local government entity relating to applicant, against any of applicant's affiliated corporations, partnerships in which applicant is a general partner, or other business entity. If so, please describe the circumstances including dates, agency or body conducting the investigation or inquiry and the current status.

Answer:____

4. Has applicant or its wholly owned subsidiaries ever filed for bankruptcy. Please include dates and jurisdiction of filing, the reason, and current status.

Answer:____

[1] For the purposes of this RFQ, the term "applicant" shall mean and refer to the respondent to this RFQ regardless of legal form. Thus applicant applies to individuals, sole proprietorships, joint ventures, unincorporated associations, partnerships, LLCs, LLPs, corporations (whether for profit, nonprofit, California or out of state) and any other entity legally entitled to do business in the State of California.

5. Describe any business, property, gifts, loans, investments or other financial relationships applicant, its individual principals, corporation, LLC, LLP or any of applicant's affiliated corporations or partnerships in which applicant is a general partner, or other business entity, with any member of the Agency Commission or his/her immediate family which are financial interest as defined by Section 87103 of the Fair Political Practices Act.[2]

Answer:____

Applicant(s) hereby certify under penalty of perjury under the laws of the State of California that all information provided in the Disclosure Questionnaire is true and correct.

Date: ______________ Signed: ________________________________

[2] In summary Government Code Section 87100 requires any public officials participating in making decisions to refrain from using their official position to influence a governmental decision in which they know or has reason to know they have a financial interest. Section 87103 defines a financial interest as one that has a material, financial effect on the official or a member of their immediate family as follows: business interest – over $2,000; real property interest – over $2,000; other source of income within 12 months before the decision – over $500; gift or intermediary for donor of gift within 12 months - $250; business entity in which the official is a director, officer, partner, trustee, employee or holds a position of management. See Government Code Section 87103 for the complete definition.

ATTACHMENT #6

STATEMENT OF COMPLIANCE WITH AGENCY POLICIES & CERTIFICATION OF APPLICANT

Applicant(s) ___________________________________ agrees to comply with all of the Agency's policies, including but not limited to insurance and indemnification requirements found in this RFP.

Applicant(s) hereby certifies that is in good standing with federal, state, and local regulatory bodies, and is authorized to conduct business and provide the goods and/or services requested in this RFP.

The undersign hereby certifies under penalty of perjury under the laws of the State of California that the foregoing statements and all information provided in Applicant's proposal in response to this RFP are true and correct.

Date: ______________ Signed: ________________________________

Print Name: ____________________________

Title:__________________________________

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

PERSONAL SERVICES CONTRACT

This PERSONAL SERVICES CONTRACT ("Contract") is entered into as of [effective date] by and between the OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic ("OCII"), and [CONTRACTOR NAME], **["a California corporation" or "a sole proprietorship"]** ("Contractor").

RECITALS

A.

B.

C.

D.

E.

NOW, THEREFORE, OCII and the Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide the services described on **Attachment A**, "Scope of Services".

2. TIME OF COMPLETION
[One or an appropriate combination of the following will be used]

The term of this Contract shall begin on [starting date] and end on [Contract ending date].

Contractor's Schedule of Performance is set forth on Attachment " ".

Contractor will begin work within ____ days after receipt of an OCII Notice to Proceed.

Time for completion for this Contract will be ____ days after receipt of an OCII Notice to Proceed to the Contractor.

3. COMPENSATION AND METHOD OF PAYMENT

A. Compensation. For example: "The maximum amount payable under this Contract is Twenty-Five Thousand Dollars ($25,000.00). Payment shall be made according to the schedule and terms described on Attachment __, "Payment Schedule". All expenses of Contractor are included in the amounts payable pursuant to **Attachment B,** "Budget", and no expenses shall be reimbursed separately. Contractor will submit monthly billing invoices to OCII. The invoices shall include the billing amount, total hours invoiced, hourly billing rate, description of services rendered, supporting documentation and Contractor's signature. OCII staff will review and approve these invoices for payment."

B. Taxes. No payroll or employment taxes of any kind will be withheld or paid by OCII on behalf of Contractor. OCII will not treat Contractor as an employee with respect to the Contract services for any purpose, including federal and state tax purposes. Contractor understands and agrees that it is Contractor's responsibility to pay all taxes required by law, including self-employment social security tax. OCII will issue an IRS 1099 Form, or other appropriate tax-reporting document, to Contractor for the Contract services.

C. Benefits. Contractor will not be eligible for, and will not participate in, any health, pension, or other benefit of OCII which exists solely for the benefit of OCII employees during the Contract Term.

4. NO PERSONAL LIABILITY

No member, official or employee of OCII shall be liable personally to Contractor or any successor in interest in the event of any default or breach by OCII or for any amount which may become due to Contractor or any successor or on any obligation under the terms of this Contract.

5. ASSIGNMENT OF CONTRACT

Contractor shall not assign this Contract, or any part thereof, without the prior express written consent of OCII.

6. TERMS AND CONDITIONS-CDBG FUNDED CONTRACTS

This Contract is funded in whole or in part with CDBG funds and all CDBG requirements apply, including, but not limited to Section 3 Clause (see below). The Contractor must comply with the policies, guidelines and requirements of OMB Circulars No. A-122, A-133 and the portions of A-100 or the related CDBG provisions required by 24 CFR 570.502(b). Contractor is responsible for assuring compliance with the circulars as they may be amended from time to time. If the Contractor is subject to the single audit requirement by virtue of the dollar amount of the Contract, or Contractor's total amount of CDBG funded contracts during the term of this Contract, Contractor must provide OCII with such an audit when it is submitted to MOCI, or other applicable recipient entity.

SECTION 3 CLAUSE

Section 3 Clause (12 U.S.C. 1701u) (24 CFR Part 135)

A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the U.S. Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

B. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of the Department of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The Contractor will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of the Department of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided under this Contract and shall be binding upon Contractor, its successors and assigns. Failure to fulfill these requirements shall subject the Contractor, its subcontractors, successors and assigns to those sanctions specified by 24 CFR Part 135.

7. NON-FEDERAL LABOR STANDARDS

Contractor agrees that any employees performing work or services for Contractor shall be subject to the State and local laws governing prevailing wage rates, hours and working conditions, and benefits applicable to similar work or services performed in San Francisco. Contractor further agrees that the inclusion of the above provision in this Contract shall not be construed to relieve Contractor or any subcontractor from the pertinent requirements of any applicable Federal labor standards provision. Where minimum rates of pay required under State or local law are higher than the minimum rates of pay required by or set forth in applicable Federal labor standards, said State or local minimum rates shall be the applicable minimum rates of pay for such classifications.

8a. INDEMNIFICATION

To the fullest extent allowable by law, Contractor shall hold harmless, defend at its own expense and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees against any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, arising directly or indirectly from all acts or omissions to act of contractor or its officers, agents or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising from Agency's gross negligence or willful acts and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its officers, agents or employees. In addition to Contractor's obligation to indemnify Agency, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend Agency 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 Agency and continues at all times thereafter. This section does not apply to contracts for construction design services provided by a design professional, as defined in California Civil Code Section 2782.8.

8b. INDEMNIFICATION BY DESIGN PROFESSIONALS

This section applies to any design professional as defined in California Civil Code Section 2782.8 who is or will provide construction design services ("Design Professional") as part of, collateral to, or affecting this Agreement with the Contractor. Each Design Professional who will provide construction design services shall hold harmless, defend at his or her own expense and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description, including reasonable attorney's fees, directly or indirectly that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Design Professional. It is expressly agreed and understood that the duty of indemnification pursuant to this section, including the duty to defend, is to be interpreted broadly, to the greatest extent permitted by law, including but not limited to California Civil Code Section 2782.8.

9. INDEPENDENT CONTRACTOR

Contractor hereby declares that it is engaged in an independent business and agrees to perform its services as an independent contractor and not as the agent or employee of OCII. Contractor has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Contractor agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state and local payroll tax and withholding requirements, workers' compensation requirements and all regulations governing such matters. Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of the Contract.

10. INSURANCE

A. Contractor must procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors. If the Contractor maintains additional coverages and/or higher limits than the minimums shown in this Article 10, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Contractor.

B. Minimum Scope of Insurance. Coverage must be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).

(2) Insurance Services Office Automobile Liability coverage, code 1 (form number CA 00 01- any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Professional Liability Insurance appropriate to the Contractor's profession covering all negligent acts, errors and omissions.

C. Minimum Limits of Insurance. Contractor must maintain limits no less than:

(1) General Liability:

a. For contracts not involving demolition or construction, or during phases of contracts prior to demolition or construction: $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit ($4,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

b. For contracts involving demolition or construction or during phases involving demolition or construction: $5,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit ($10,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

(2) Automobile Liability: $1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of $1,000,000 for bodily injury by accident and $1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees).

(4) Professional Liability Insurance: $2,000,000 per claim and in the annual aggregate. If the Contractor's Professional Liability Insurance is "claims made" coverage, these minimum limits shall be maintained by the Contractor for no less than five (5) years beyond completion of the Scope of Services.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Contractor shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(1) The "Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" are to be covered as additional insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the

Contractor; and liability arising out of work or operations performed by or on behalf of the Contractor.

(2) For any claims related to this Contract, the Contractor's insurance coverage must be primary insurance as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Contractor's insurance and shall not contribute with it.

(3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.

(4) Each insurance policy required by this clause must be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to OCII.

(5) Contractor hereby grants to OCII a waiver of any right to subrogation which any insurer of said Contractor may acquire against OCII by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OCII has received a waiver of subrogation endorsement from the insurer.

(6) If any of the required policies provide coverage on a claims-made basis:

a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract of work.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five years after completion of contract work.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.

G. Verification of Coverage. Contractor must furnish OCII with certificates of insurance and with original endorsements evidencing coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by OCII. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

H. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein.

11. RECORDS, REPORTS AND AUDITS

A. Records

(1) Records shall be established and maintained in accordance with Agency requirements, and U.S. Department of Housing and Urban Development ("HUD") requirements if the Contract is funded with HUD Community Development Block Grant ("CDBG") funds, with respect to all matters covered by this Contract. Except as otherwise authorized by OCII, such records shall be maintained for a period of four years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be retained for four years or until such audit findings have been resolved, whichever is later.

(2) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

B. Reports and Information

At such times and in such forms as OCII, the City and County of San Francisco or HUD, if the Contract is funded with CDBG funds, may require, there shall be furnished to OCII or its designated representative such statements, records, reports, data and information as OCII, the City and County of San Francisco or HUD may request pertaining to matters covered by this Contract.

C. Audits and Inspections

At any time during normal business hours and as often as OCII, the City and County of San Francisco or HUD, and/or the Comptroller General of the United States, if the Contract is funded with CDBG funds, may deem necessary, there shall be made available to OCII or its representatives for examination all records with respect to all matters covered by this Contract and Contractor will permit OCII, the City and County of San Francisco, HUD and/or the Comptroller General of the United States to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract.

12. CONFLICTS

Except for approved eligible administrative or personnel costs, no employee, agent, contractor, officer or official of OCII who exercises any functions or responsibilities with respect to this Contract or who is in a position to participate in a decision making process or gain inside information with regard to it, shall obtain a personal or financial interest in or benefit from any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom they have family or business ties, during his or her tenure or for two years thereafter. The term "Contractor" also includes the employees, officers (including board members), agents and subcontractors of a Contractor under this Contract. In order to carry out the purposes of this Section, Contractor shall incorporate, or cause to be incorporated, in all contracts and subcontracts relating to activities pursuant to this Contract, a provision similar to that of this Section.

13. CONTRACTOR'S DUTY OF LOYALTY

Contractor for itself and subcontractors, if any, agrees to abide by OCII's duty of loyalty, which appears at Section IX.H. (Prohibited Activities of Present and Former Employees, Commissioners and Consultants) of OCII's Personnel Policy and which states in part the following: "Unless approved in advance in writing by OCII, no present or former employee, Commissioner or consultant of OCII shall knowingly act for anyone other than OCII in connection with any particular matter in which OCII is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an Agency employee, Commissioner or consultant whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, consultant or Commissioner may, in the case of an employee or consultant, be grounds for discharge or termination of the consultant contract, and in the case of a Commissioner, be considered misconduct in office pursuant of California Health and Safety Code Section 33115."

14. LIMITATIONS ON CONTRIBUTIONS

Through execution of this Agreement, Contractor 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 OCII for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder 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 six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Contractor agrees to provide to OCII the names of each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is not sponsored or controlled by Contractor.

15. CONFIDENTIALITY/PROPERTY OF AGENCY

All of the reports, information, data or other materials prepared or assembled by Contractor under this Contract, including Contractor's opinions and conclusions based upon such items, are confidential. Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without the prior written approval of OCII. Unless otherwise stated in the Scope of Services, all such reports, information, data or other materials and work product shall become the property of OCII, but are subject to disclosure under the Public Records Act, Cal. Gov't Code §§ 6250 et seq., and the Agency Public Records Policy, Agency Resolution No. 182-2005 (Nov. 1, 2005).

16. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE

It is understood and agreed that Contractor shall comply with California Government Code Section 7550. California Government Code Section 7550 provides in part that when the total cost for work performed for a local agency by nonemployees of such agency exceeds $5,000.00, any document or written report prepared in whole or in part by nonemployees for such agency shall contain, in a separate section, the numbers and dollar amount of all contracts and subcontracts relating to the preparation of such document or written report.

17. NONDISCRIMINATION AND EQUAL BENEFITS

A. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of this Contract. Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations to clients or the general public.

B. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

C. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Contractor agrees not to discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, and shall comply fully with all provisions of OCII's Nondiscrimination in Contracts Policy ("Policy"), adopted by Agency Resolution No. 175-97, as such Policy may be amended from time to time.

E. Contractor shall provide all services to the public under this Contract in facilities that are accessible to persons with disabilities as required by state and federal law and execute **Attachment C** "Nondiscrimination in Contracts and Benefits Form".

18. COMPLIANCE WITH SMALL BUSINESS ENTERPRISE PROGRAM

OCII implements a Small Business Enterprises ("SBE") Program that was adopted by Agency Resolution No. 43-2015 and that requires consideration in awarding contracts in the following order: 1) Project Area SBEs, 2) San Francisco-based SBEs (outside an Agency Project Area), and 3) All other SBEs. Non San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non San Francisco-based SBEs (see **Attachment D** "SBE Agreement").

Under the SBE Program, the Contractor, in awarding subcontracts, must make good faith efforts to achieve SBE participation of 50 % for professional, personal services, and construction contracts; provided, however, that this goal may vary depending on the extent of subcontracting opportunities under OCII contract and the availability of SBE subcontractors capable of providing goods or services required by the contract; and provided further, that OCII has the sole discretion to modify the 50 % SBE participation goal consistent with the SBE Program, as specified in the SBE Agreement.

OCII relies on the information that a business may have provided to qualify under another public entities' business certification program in determining whether that business qualifies as an SBE under OCII's SBE Program. Those other programs include: City and County of San Francisco Local Disadvantaged Business Enterprises (LBE) certification, *information available at* - http://sfgsa.org/index.aspx?page=5364; and State of California – Small Business Enterprises certification – http://www.dgs.ca.gov/pd/Programs/OSDS/GetCertified.aspx. OCII retains the discretion, however, to determine if the information provided for those other programs meets SBE eligibility under OCII's SBE Program.

19. COMPLIANCE WITH MINIMUM COMPENSATION POLICY AND HEALTH CARE ACCOUNTABILITY POLICY

Contractor agrees, as of the date of this Contract and during the term of this Contract, to comply with the provisions of OCII's Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency Resolution 168-2001, as such policies may be amended from time to time (See **Attachment E** "Minimum Compensation Policy" and **Attachment F** "Health Care Accountability Policy"). Such compliance includes providing all "Covered Employees," as defined under Section 2.7 of the Policies, a minimum level of compensation and offering health plan benefits to such employees or to make payments to the City and County of San Francisco's Department of Public Health, or to participate in a health benefits program developed by the City and County of San Francisco's Director of Health.

20. TERMINATION

OCII may terminate this Contract at any time without cause upon written Notice of Termination to the Contractor; provided, however, that in the event of such termination, OCII shall compensate the Contractor for work completed to the satisfaction of OCII as of the date of such notice or the date of termination specified in and directed by such notice.

21. MISCELLANEOUS PROVISIONS

A. Notices

All notices, demands, consents or approvals required under this Contract shall be in writing and shall be deemed given when delivered personally or by facsimile transmission or three (3) business days after being deposited in the U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

If to OCII: Office of Community Investment and Infrastructure/Successor Agency to the San Francisco Redevelopment Agency
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Attention: Executive Director

If to Contractor: **[name]**
[mailing address]
Attention: **[contact]**

or to such other addresses as the parties may designate by notice as set forth above.

B. Time of Performance

(1) Time is of the essence in the performance of all the terms and conditions of this Contract.

(2) All performance and cure periods expire at 5 p.m., San Francisco, California time, on the applicable date.

(3) A performance or cure date which otherwise would be a Saturday, Sunday or Agency holiday shall be extended to the next Agency working day.

C. Successors and Assigns

This Contract shall be binding upon and inure to the benefit of the successors and assigns of OCII and the Contractor. Where the term "Contractor" or "Agency" is used in this Contract, it shall mean and include their respective successors and assigns; provided, however, that OCII shall have no obligation under this Contract to, nor shall any benefit of this Contract accrue to, any unapproved successor or assign of Contractor where Agency approval of a successor or assign is required by this Contract.

D. Modification, Waiver and Amendment

Any modification, waiver or amendment of any of the provisions of this Contract must be in writing and signed by both OCII and Contractor.

E. Entire Contract

This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Contractor and OCII affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements, agreements and understandings between Contractor and OCII with respect to the subject matter hereof.

F. Severability

If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.

G. Governing Law

This Contract shall be governed by the laws of the State of California. It is the responsibility of Contractor to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements.

H. Headings

Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.

I. Attorneys' Fees

In any action or proceeding arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

J. Authority

The undersigned represents and warrants that he or she has full power and authority to enter into this Contract and to bind the Contractor in accordance with its terms.

K. Designated Representative

The initial designated representative for OCII for this Contract is ___________________, OCII representative's phone number is__________________ The initial Contractor designated representative for this Contract is ____________________, the Contractor's designated representative's phone number is ___________________.

IN WITNESS WHEREOF OCII and Contractor have executed this Contract as of the date first above written.

[CONTRACTOR] **[“a California corporation” or “a sole proprietorship”]**

By:______________________________
[Signatory]
[Title]
Federal Tax Identification No. _____________

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic

By:______________________________
Executive Director,

APPROVED AS TO FORM:

By:_________________________
Agency General Counsel

[The following is to be included if the contract is to be approved by the Commission]

Authorized by Resolution No. ______, adopted ________________.

ATTACHMENTS

Attachment A: Scope of Services

Attachment B: Budget

Attachment C: Nondiscrimination in Contracts and Benefits Form

Attachment D: Small Business Enterprise Agreement

Attachment E: Minimum Compensation Policy Declaration

Attachment F: Health Care Accountability Policy Declaration

ATTACHMENT #8

RFP REGISTRATION FORM

Name of RFQ

Name of Organization:

Address:

Contact Person:

Phone:

Fax:

E-mail:

ATTACHMENT #9

SUBMISSION CHECKLIST SHEET

The Proposal must contain all the following information:

☐ **Narrative**: Submit a description of no more than five (5) pages describing qualifications in any relevant areas of specialty and professional capabilities.

☐ **General**:

a) provide a description of relevant experience and professional qualifications, and

b) the applicant's familiarity with the military properties and/or base closure remediation sites generally, and the Hunters Point Shipyard the Bayview Hunters Point area specifically.

☐ **Writing and Presentation Materials**: Submit copies of the following:

a) Up to a maximum of five (5) example original comment letters on a variety of Navy or other military base cleanup documents listed in the Scope of Services. Please submit only your original work – if the comment letters were revised by a Client or combined with comments from other reviewers please submit only the draft comments that were written by the personnel that are being proposed for work on this contract.

b) An example of an original opinion letter produced by the personnel that are being proposed for work on this contract. The opinion letter should discuss environmental contamination and current or proposed land uses of a project based on at least three years of review of Navy or other military base cleanup documents similar to ones listed in the Scope of Services.

c) Up to a maximum of three (3) original tables, spreadsheets or graphs presenting analytical environmental data from a military base or similar property. These need to have been produced by the personnel that are being proposed for work on this contract.

d) Up to a maximum of five (5) original drawings, figures or maps of a military base or other property similar to the Shipyard showing information about the site. The base map used for the figures can be borrowed from other sources as long as the symbols, legends, data, construction details, illustrations, etc. were produced by the personnel that are being proposed for work on this contract.

e) Up to a maximum of three (3) presentations (i.e., power point, spreadsheet, slides) prepared by personnel that are being proposed for work on this contract. Presentation topic should be about environmental contamination, cleanup and/or the transfer process at a military base similar to the Shipyard. Presentations could have been reviewed and edited by Client or other reviewers as long as the personnel that are being proposed for work on this contract could be reasonably said to have significantly contributed to the final product.

☐ **Comparable Experience Listing**: provide a detailed description of a maximum of three (3) projects performed in the last five (5) years that are of a similar or related nature to this RFP's scope of services, providing the client name, a description of the work performed and when, the approximate number of hours worked on the project (on an annual basis or overall) and contact information for each client.

☐ **Staffing List**: Names of key employees who will be involved in this project, including title, a resume, and a description of the type of work to be performed by or the responsibilities of the employee.

☐ **Budget**: Provide an overall annual budget for the entire three-year term that includes all costs associated with the Contract, including but not limited to a listing of the proposed employees and their proposed hourly rates. The budget must be broken down by line item and category so that the Agency can evaluate the types of costs that are being proposed. Budgets may not to exceed $320,000 per year. Include a cost proposal for the Additional Services listed in the Phase 1 Scope of Services (all cost proposals and budgets are subject to negotiation).

☐ **Recommendations and References**: If available, up to three (3) letters of recommendation from former client organization representatives. Letters must include client contact information. References may be contacted.

☐ **Attachments**

1) A signed Small Business Enterprise Agreement **(Attachment #1).**
2) A signed Declaration of Nondiscrimination in Contracts and Benefits **(Attachment #2)**.
3) A signed Minimum Compensation Policy Declaration **(Attachment #3)**.
4) A signed Health Care Accountability Declaration **(Attachment #4)**.
5) Complete responses to all Disclosure Questions in **Attachment #5**.
6) A signed Statement of Compliance with Agency Policies & Certification of Applicant **(Attachment #6)**.
7) Evidence of Compliance with the minimum OCII insurance requirements. A typical way is to provide this evidence is by providing a certificate of insurance.
8) A list of all current/past contracts and clients on the Project (do not submit this for non-Project related work) so that a Duty of Loyalty review can be conducted. If the Applicant has, or has had, a contract/client on the Project, that contract's scope of services may be in conflict with this RFP's scope of services and the Applicant may not be eligible for a contract under this RFP. See more on Duty of Loyalty below under Section VII.B.

☐ **Notes:**

1) Applicants must notify OCII in writing within ten days of any change in the employment status of key employees identified in its submittal.
2) Inability to comply with OCII's policies, including but not limited to nondiscrimination, equal benefits, minimum compensation, healthcare accountability, small business enterprise requirements (if applicable), and insurance may result in disqualification from this RFP process.
3) A submission checklist is provided as **Attachment #9** to ensure that the applicant's submittal is complete. Please use this sheet when completing your submittal. The Agency may disqualify from consideration any Proposal received with insufficient copies or lacking all or part of any required submission element.
4) Applicants may submit a Proposal at any time prior to the submission deadline.

☐ Proposals and all required submission materials must be submitted to OCII no later than 4:00 p.m. **June 4, 2021**. Proposals must be submitted electronically with the subject line: **"Environmental Technical Support Services"**, to kasheica.mckinney@sfgov.org