



# OFFICE OF THE CITY ADMINISTRATOR

Jestin Johnson, City Administrator

**REQUEST FOR PROPOSALS (RFP)** 

For

## SUMMER FOOD SERVICE PROGRAM 2025

<u>Due Date</u>: Friday, February 7, 2025 – 2:00 p.m. Pacific **Time (PT)** 

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The Combined Contract Schedules will be collected from the successful proposer before a final decision is made and up to full contract execution. It may be viewed at: <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a> or at 150 Frank H. Ogawa Plaza Suite 6213, Oakland, CA, Department of Finance, Contracts Unit. Also, request a copy by email from <a href="mailto:isupplier@oaklandca.gov">isupplier@oaklandca.gov</a>

#### I. INTRODUCTION

This Request for Proposal (RFP) is being issued by the City of Oakland, Department of Human Services.

The selected contractors will prepare and deliver meals in compliance with USDA and California Department of Education (CDE) guidelines, ensuring adherence to stringent nutritional, safety, and quality standards. We seek contractors who demonstrate a commitment to sustainability by sourcing ingredients locally, utilizing compostable packaging, and excluding prohibited items such as pork and sugar-sweetened beverages. Contractors must demonstrate a commitment to timely delivery, maintain meticulous records, and comply with all health and sanitation requirements. Non-compliance may result in contract penalties, including forfeiture of payment or termination.

**Deadline for Questions**: Monday, January 31, 2025 by 5:00 p.m., Pacific Time (PT) ContractAdmin@oaklandca.gov

**Proposal Due Date and Time**: Friday, February 7, 2025 by 2:00 p.m., PT. Please log on to iSupplier to submit your online proposal before the 2:00 P.M. deadline. Questions regarding online submittal through iSupplier must be directed to isupplier@oaklandca.gov.

Submit Proposals electronically to iSupplier: Please log on to iSupplier to submit your proposal before the 2:00 P.M. deadline. Questions regarding online submittal through iSupplier must be directed to isupplier@oaklandca.gov to the attention of Finance, Contract Administration Unit.

Proposals must be received in iSupplier portal by Contract Administration Staff no later than the identified deadline. iSupplier will not allow late submittals and therefore please allow time to log in, create a response, and upload your Proposal. Email submittals will not be accepted.

The Contractor shall be required to comply with all applicable City programs and policies outlined in Attachment C. Details are presented in the project documents and will be discussed at the pre-proposal meeting. Discussions will include, but may not be limited to: ◆Equal Benefits for Registered Domestic Partners ◆Campaign Contribution ◆Post-project Contractor Evaluation ◆Prompt Payment ◆Arizona Boycott ◆ 0% L/SLBE ◆ Dispute Disclosure ◆Living Wage ◆Minimum Wage ◆ Border Wall Prohibition ◆ Sanctuary City Contracting and Investment Ordinance

Contractors who wish to participate in the RFP/RFQ process are required to register in iSupplier to receive addenda, updates, announcements, and notifications of contracting opportunities. We recommend updating your firm's primary email address regularly and periodically confirming that the "Products and Services" section fully represents

the scope of products and services provided. If you have any questions, please email <a href="mailto:isupplier@oaklandca.gov">isupplier@oaklandca.gov</a>.

For further information and detailed iSupplier registration instructions, please visit the following link <a href="https://www.oaklandca.gov/services/register-with-isupplier">https://www.oaklandca.gov/services/register-with-isupplier</a>

Free copies of the RFP/RFQ documents and Addenda are available in iSupplier. Hard copies will NOT be available for purchase from the City. Please consult the City website for the Plan Holder list.

iSupplier Registration/Login: https://www.oaklandca.gov/services/register-with-isupplier New registrants can email isupplier@oaklandca.gov for registration instructions. Allow 3 working days for approval to access bid documents through iSupplier 2. iSupplier User Guides:
 <a href="https://www.oaklandca.gov/documents/isupplier-user-guides">https://www.oaklandca.gov/documents/isupplier-user-guides</a>

## 3. iSupplier Plan Holders List:

https://www.oaklandca.gov/services/active-closed-opportunties

**Contact Information:** The following City staffs are available to answer questions regarding this RFP:

- 1. Contract Administration: contractadmin@oaklandca.gov
- 2. Contract Compliance Officer: Sophany Hang at Shang@Oaklandca.gov

**II. PROGRAM DESCRIPTION** The goal of the Summer Food Service Program (SFSP) is to ensure that Oakland children receive the nourishment required for their learning, play, and overall growth during the summer, thereby better preparing them for the upcoming school year. This program promotes healthy eating habits, which contribute to maintaining a healthy weight and fostering positive self-esteem.

Oakland's SFSP offers complimentary and nutritious meals to children under the age of 18 residing in the local community. Various program locations can be found across Oakland, including libraries, park and recreation centers, housing authorities, non-profit organizations, and local faith-based groups.

For the summer of 2025, SFSP anticipates serving approximately 100,000 to 120,000 meals across an estimated 40 to 50 sites. Each site provides a daily snack and lunch as part of the meal service.

The City of Oakland's SFSP is inviting proposals from potential food vendors in accordance with federal procurement regulations. The program intends to grant a contract for the supply

of unitized and packaged summer meals to be delivered during the program's operational period from May 27, 2025, to August 8, 2025. Proposals will be evaluated, and the contract awarded to the bidder(s) whose proposal provides the most advantages to the program, considering both price and other factors. Reimbursement will be made on a per-meal basis. All meals provided under this contract must comply with SFSP requirements as outlined in Title 7 CFR 225 and relevant state guidelines and bulletins.

The City of Oakland is seeking contractors capable of delivering high-quality meals that meet SFSP standards and the specific requirements outlined in this Request for Proposal (RFP). Meals served must adhere to the CACFP meal pattern. We are looking for vendors who can provide nutritious menus, diverse and appealing meal options, and who can meet the guidelines for using reusable or compostable food and beverage packaging. Punctual meal delivery is also a critical requirement. The City will establish a contract with a qualified food service vendor that meets all CDE (California Department of Education) requirements and offers the most beneficial option for the program.

## **Available for Bid:** Snack and Lunch

In formulating your response to the Request for Proposals (RFP), we emphasize the significance of bid pricing, along with a range of other pivotal considerations. While a competitive bid is vital, we will also be evaluating various factors to ensure the optimal quality of meals and the effective delivery of services during the summer session of 2024. The primary objective remains the provision of high-quality meals and seamless service.

In addition to pricing, vendors must include in their proposals the ability to offer a diverse selection of unitized meals, ensuring that approved meal temperatures are maintained during transportation and delivery. The comprehensive bid price should cover all expenses, including food, beverages, packaging (compostable/recyclable), utensils, condiments, medically necessary meal substitutions, applicable sales tax, and any other associated costs.

For the 2025 SFSP, vendors are required to submit a sample menu as part of their proposals, featuring at least five distinct lunch and snack options. After bids have been submitted, vendors will be notified of when and where their food samples will be tested. As part of the evaluation process, vendors must provide samples of their proposed meals, which will be tested and compared to those from other bidders. The quality and taste of the food will be critical factors in the selection process, along with other considerations such as pricing, menu variety, and compliance with SFSP and CDE standards.

For information about USDA meal patterns, visit the following websites: https://www.fns.usda.gov/cacfp/meals-and-snacks

https://www.fns.usda.gov/sfsp/meal-patterns

http://www.fns.usda.gov/cnd/Summer/Administration/meal patterns.html

For information on Food Based Menu Planning and use of the Food Buying Guide, visit the following website:

https://www.fns.usda.gov/tn/food-buying-guide-for-child-nutrition-programs

## For information on SFSP USDA Nutrition Guide:

https://fns-prod.azureedge.net/sites/default/files/sfsp/USDA\_SFSP\_NutritionGuide.pdf

## For information on food safety:

https://www.fns.usda.gov/food-safety/food-safety-resources

## For more information on USDA COVID-19 waivers:

https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers

#### III. SCOPE OF SERVICES

- The contractor agrees to forfeit payment for meals that are not delivered prior to
  the start of the approved meal time, temperature of meals and beverage is outside
  of approved food safety regulations. The contractor agrees to forfeit payment of
  meals that are spoiled or unwholesome at the time of delivery, or do not otherwise
  meet the meal requirements or agreed menu and all its components contained in
  this agreement.
- 2. Contractor will prepare and deliver meals during the summer months on specific days which meet the minimum requirements as to the nutritional content as specified by the CAFCP Meal Pattern which is excerpted from the regulations 7 CFR Part 225.16, plus:
  - a. Minimum of 50% of the food must be grown in California
  - b. Food must contain no trans fats
  - c. All meat and dairy antibiotic-free and hormone-free
  - d. Food must contain no high fructose corn syrup
  - e. No sugar sweetened beverages

- 3. "Sugar Sweetened Beverage" means any beverage intended for human consumption to which one or more caloric sweeteners has been added and that contains 25 or more calories per 12 fluid ounces of beverage.
- 4. Contractor will prepare all meals as specified by the California Department of Education Child Nutrition and Food Distribution Division.
- 5. Contractor will create a summer menu that has variety and food appeal to ensure that the meals are being well received and consumed by the Oakland SFSP's children. Meals must be culturally diverse and taste good. All meals must be approved prior to service.
- 6. Contractor will provide menu for Summer Food Service Program to the City at the beginning of each month.
- 7. Contractor will provide unitized meals daily (Monday through Friday,) for the period beginning May 27, 2025, and ending August 8, 2025, as requested by the City for distribution to those children who qualify under the Summer Food Service Program.
- 8. Meals must conform to the cycle menus, quality standards, and food specifications approved by the California Department of Education (CDE) that the bid was based upon.
- 9. Contractor will provide meals of quality standards and size as bid.
- 10. Contractor will provide photos of summer meals prior to the beginning of service. Photos will be provided to service sites to assist with ensure portion size and menu items.
- 11. The City will not be obligated to pay for meals that are not consistent with the same portion size of food samples provided during the taste test or if they do not comply with meal pattern requirements of USDA and CDE.
- 12. Meals will be unitized. Meals must be individually proportioned and packaged in compartmentalized containers and delivered as a unit.
- 13. Meals will NOT include:
  - Pork products
  - Peanut butter

- Juice
- 14. Contractor will include either low-fat milk or non-diary beverage served in lieu of fluid milk with meals and must keep it at 41 degrees or lower. Milk substitution must be nutritionally equivalent to milk and provide specific levels of calcium, protein, vitamins A and D, magnesium, phosphorus, potassium, riboflavin, and vitamin B-12 (7 CFR 210.10(d)(3)).
- 15. A variety of fruit must be listed on the menu provided within the bid package.
- 16. Fruit provided will not be duplicated on the same day or two days in a row. Failure to provide fruit variety or duplication of fruit does not comply with the menu plan contained in this agreement and constitutes a non-complaint meal.
- 17. Type of "fruit" delivered must be on the delivery slip each day.
- 18. A variety of vegetables must be listed on the menu provided within the bid package.
- 19. Vegetables provided will not be duplicated on the same day or two days in a row. Failure to provided vegetable variety or duplication of vegetable does not comply with the menu plan contained in this agreement and constitutes a non-complaint meal.
- 20. Type of "vegetable" delivered must be on the delivery slip each day.
- 21. Food containers must compartmentalize meals and be made of compostable materials.
- 22. Perishables will be kept cool/refrigerated during preparation maintained and transported abiding by the Alameda Environmental Health Department and the California Food Retail Code.
- 23. Contractor will provide picnic items i.e., compostable eating utensils, napkin, condiments and other ingredients that meet requirements for reimbursable lunch in bulk on the first delivery date for each site. Contractor will ensure each site is stocked with supplies for two weeks at a time. Utensils and napkin cannot be soiled by the contents within the unitized package. Failure to provide utensils and unsoiled napkins constitutes non-compliance for meals served during the period they have not been provided.

- 24. The City shall notify the Contractor by 4:00 p.m. daily of the number of meals needed for the following day. Contractor must allow for the adjustment of meals daily until 4:00 p.m.
- 25. The contractor shall provide management supervision always and maintain constant quality control inspections to check for portion size, appearance, and packaging, in addition to the quality of products.
- 26. Contractor will transport meals in a vehicle with the capacity to keep meals at the appropriate food safety temperature.
- 27. Meals will not be subcontracted for the total meals, with or without milk or non-dairy beverage, or for the assembly of the meals.
- 28. The City will not be obligated to pay for meals that are found (during delivery inspection or during meal service) delivered after the approved meal service start time, after "Best Before" date label on packaged food, to be of unacceptable quality (moldy bread, rotten fruits or vegetables, overcooked or burned food, spoiled milk, etc.) temperature higher than 41 degrees for cold meals, or any meals that do not meet the USDA guidelines.
- 29. Meals that are out of compliance (late, moldy, spoiled, missing components, etc.) are unacceptable. The City will notify the contractor and a corrective action plan must be submitted to the City by the contractor within 48 hours. Failure to do so may result in suspension or termination of the contract.
- 30. Under this program the City prefers a vendor to buy domestic commodities or products. A "domestic commodity or product" is defined as one that is either produced in the United States or is processed in the United States substantially using agricultural commodities that are produced in the United States. The term "substantially" means that over 51 percent (51%) of the final product consists of agricultural commodities that are grown domestically.
- 31. Meals will be prepared under properly controlled temperatures and assembled not more than 24 hours prior to delivery. Contractors will provide documentation of their process for preparing and assembling meals.
- 32. Contractor will maintain full and accurate records, which document:
  - a. The menus provided to the agency during the term of this agreement

- b. A listing of components of each meal and the contribution to the meal pattern
- c. An itemization of the quantities of each component and portion sizes used to prepare said meal
- 33. Contractor will supply copies of their health certification for the food service facility in which meals will be prepared.
- 34. Contractor will supply copies of valid catering registration with ACDEH or an appropriate enforcement agency.
- 35. Each contractor must operate either from a licensed food facility or possess a valid commissary agreement. Contractors must submit copies of their permits for operating from a permanent food facility or provide documentation of their agreement to utilize a commissary.
- 36. All books and records are made available to CDE, OIG at any reasonable time and place for a period of three years from the date of receipt of final payment under the contract or until all audit issues are resolved.
- 37. Contractor will supply the sponsor with copies of the food preparation records at the end of each month.
- 38. Contractor ensures that the meal preparation site is periodically inspected to determine bacteria levels. Contractor will promptly submit results of the inspection to SFSP representative.
- 39. Contractor ensures that health and sanitation requirements are met always (CA Retail Food Code 113996).
- 40. Contractor will present to the City an invoice accompanied by reports no later than the 10th day of each month, which itemizes the previous month's delivery.
- 41. Contractor will invoice the Summer Food Service Program, City Administrator's Office for all reimbursable approved meals delivered to SFSP sites.
- 42. Contractor will invoice will state:
  - a. Site
  - b. Date
  - c. Meal delivered

- i. Meal type (lunch or snack)
- ii. Meal price
- iii. Meal variation (from agreed menu)
- iv. Fruit delivered each day for each meal contracted
- v. Vegetable provided each day for meal contracted
- vi. Quantity
- 43. Contractor will retain a list of approved SFSP sites and their average daily participation and approved meal times provided by the Oakland Summer Food Service Program.
- 44. The City will not be obligated to place any minimum dollar amount of orders under the contract or any minimum number of orders. The City will pay the contractor for all meals delivered in accordance with the SFSP regulation.
- 45. Contractor will be required to make substitutions or modifications to the meal patterns for participants with disabilities who are unable to consume the regular program meals when such substitutions are supported by a statement from a recognized medical authority that includes the required alternate foods (FNS Instruction 783-2, Rev.1, 10-19-94).
- 46. The City shall have the option to cancel this contract if the federal government withdraws funds to support the SFSP. It is further understood that, in the event of cancellation of the contract, the City shall be responsible for meals that have already been assembled and/or delivered in accordance with this contract.
- 47. Contractor must wait for SFSP staff to temp the food and beverage (five to eight minutes), count and verify how many meals are delivered and sign the delivery slip. The contractor's driver cannot take the temperature of the food before or upon arrival that documents the temperature on the delivery slip.



City of Oakland Summer Food Service Program 2024

#### **DELIVERY SLIP**

Site Name:		Date:	Time of Delivery:	
Time & Temp at departure:	Temperature	Quantity	Staff Signature (verifying temperature and quantity)	
Lunch			10 1000	
Snacks				
Milk				
Comments				

For any issue with temperature or quality at the time of delivery immediately send an email to OaklandSFSP@oaklandca.gov and call James Cooke (510) 992-9603

Meal Delivered - Please circle the meal below that you are receiving today.

LUNCH	Food Component	Serving Size	Monday	Tuesday	Wednesday	Thursday	Friday
	*Meat/Meat alternate	2 07.					
	*Bread/Grains	l slice (.9 oz)					
	Vegetables/Fruits	% cup total (6 fl. oz.)					
	Milk	1 cup					
	Other	•					
SNACK	Food Component	Serving Size	Monday	Tuesday	Wednesday	Thursday	Friday
	*Meat/Meat alternate	1 oz.					
	*Bread/Grains	1 slice (.9 oz)					
	Vegetables/Fruits	% cup total (6 fl. oz.)					
	Milk	1 cup					
	Other						

- 48. Each carton shall be labeled, and the label shall include:
  - a. The processor's (plant) name and address
  - b. Item identity and meal type
  - c. Date of production
  - d. Quantity of individual units per carton
  - e. Time of production
- 49. Delivery slips must contain:
  - a. Meal items and portions
  - b. Time of delivery
  - c. Number of lunches
  - d. Number of milks
  - e. Number of snacks
  - f. Temperature at time of delivery of all meal items

- g. Type of fruit delivered and portion size
- h. Type of vegetable delivered and portion size
- 50. Contractor will leave the original delivery slip at SFSP sites and retain a copy for their records.
- 51. Contractor will remove all food trays and bins from SFSP sites at the end of site service date service. After 10 days from the site's end date in the program, food tray and bins will be considered abandoned and will be disposed.
- 52. The contractor will prepare and deliver meals for approximately 10 to 30 sites throughout the city of Oakland. The City will provide a list of service sites to each contractor. The list may be amended as SFSP 2025 service sites are added or dropped.
- 53. All meals must be delivered in vehicles with the capacity to maintain food safety regulations before the approved meal service time.
- 54. In cases of non-performance or non-compliance such as late, missed, or incomplete delivery of approved meals on the part of the Contractor, the Contractor shall pay the agency for any excess costs the City incurs.
- 55. Contractor shall assess the potential for non-performance or non-compliance before 45 minutes of a scheduled delivery.
- 56. Contractor shall arrange for third-party vendor to supply and deliver meals to replace incomplete, damaged, late, or otherwise non-compliant delivery of approved meals, at the sole cost to the Contractor. Such delivery must occur within 30 minutes of the scheduled meal service time.
- 57. Contractor shall immediately notify the City by phone and email of the potential non-performance or non-compliant delivery of approved meals before 45 minutes of a scheduled delivery. Notification shall include the following:
  - The impossibility of on-time delivery
  - The circumstance(s) precluding delivery
  - A statement of if succeeding deliveries will be affected
  - Implementation of contingency plan to immediately replace meals
- 58. No payments will be made for deliveries made later than the site's approved start meal time. Emergency circumstances at the center precluding utilization of meals are the concern of the City. The City may cancel orders provided it gives the

contractor at least 24 hours' notice. Adjustments for emergency situations affecting the contractor's ability to deliver meals or the City's ability to utilize meals for periods longer than 24 hours will be mutually worked out between the contractor and the City.

#### **Definitions - as used herein:**

- a. The term "bid" means an offer to perform the work described in the Request for Proposals at the fixed unit price specified in accordance with the terms and conditions of the solicitation.
- b. The term "bidder" means a commercial food service vendor submitting a bid in response to this Request for Proposal.
- c. The term "contractor" means the Commercial Food Service Vendor to whom the bid is awarded and with whom the contractual agreement is executed.
- d. The term "CDE" means the California Department of Education, Nutrition Services Division.
- e. The term "Commercial Food Service Vendor" means an organization, other than a public or private nonprofit school, with which an agency may contract for preparing and, unless otherwise provided for, delivering meals, with milk, for use in the SFSP.
- f. The term "Request for Proposal," hereafter referred to as "RFP", means the document soliciting bids through the formal advertising method of procurement. In the case of this SFSP, the RFP becomes a part of the contract upon acceptance by the agency, review by CDE and execution of the contractual agreement.
- g. The term "agency" means the Summer Food Service Program entity, which issues this RFP.
- h. The term "program" means the Summer Food Service Program as set forth in the Code of Federal Regulations, 7 CFR Part 225.
- i. The term "meal service" means the provision of a snack, of a lunch, or of a snack and lunch.
- j. The term "unitized meal" means an individual pre-portioned meal consisting of a combination of foods meeting the complete meal requirements, delivered as a unit and served as a unit, with milk.

Other terms have the meanings ascribed to them in the Summer Food Service Program Regulations, 7 CFR Part 225.

## **Explanation to Bidders:**

Any explanation desired by a bidder regarding the meaning or interpretation of the RFP specifications, etc., must be requested in writing prior to bid opening and with sufficient time allowed for a reply to reach all bidders before bid opening. Oral explanations or instructions given before the award of the contract will not be binding.

Any information given to a prospective bidder concerning an RFP will be furnished to all prospective bidders as an amendment to the RFP if such information is necessary to bidders in submitting bids on the RFP or if the lack of such information would be prejudicial to uninformed bidders.

## Acknowledgement of amendments to RFP:

Agencies must notify bidders of any amendments made to the RFP. Bidders must acknowledge changes to the RFP by signing and returning the amendments with your bid package submission.

## Bidders having interest in more than one bid:

If more than one bid is submitted by any one person, by or in the name of a clerk, partner, or other person, all such bids will be rejected.

#### **Errors in Bids:**

Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and he/she cannot secure relief on the plea of error.

#### **Award of Contract:**

- a. The contract will be awarded to the bidder(s) who is the most responsible firm and who's proposal is most advantageous to the program, with price and other factors considered; and
- b. The agency reserves the right to reject any or all bids when there is sound documented business reason in the best interest of the SFSP and to waive informalities and minor irregularities in bids received.

## Late Bids, Modifications of Bids, or Withdrawals of Bids:

- a. Any bid received after the exact time specified for receipt will not be considered.
- b. Any modification or withdrawal of bid must be made prior to the exact time set for receipt of bids.
- c. The only acceptable evidence to establish the date of receipt is that made via email confirmation.

d. Notwithstanding the above, a late modification of an otherwise successful bid, which makes its terms more favorable to the agency, will be considered at any time it is received and may be accepted.

#### **Bid Options**

Meals must be delivered directly to the SFSP sites in vehicles with the capacity to maintain food safety temperatures during transportation. The City of Oakland has two options available for bid.

- 1. Snack
- 2. Lunch

## Requirements

- a. CACFP meal pattern
- b. Portion Size ages 6-12 and 13-18
- c. Daily direct delivery to SFSP sites
- d. Cold and/or hot meal delivery
- e. Cold meals delivered can be eaten cold or warmed to be a hot meal
- f. Lunch consumed as same day of delivery
- g. Meals warmed by site staff
- h. Unitized meals

#### **Contract Term:**

The contract awarded from this Request for Proposal will be effective from approximately May 27, 2024 through August 8, 2025. This contract may be canceled for cause by either party with a sixty-day notification.

#### **Requirements for Meals:**

Contractor will prepare meals during the summer months, which meet the minimum requirements as to the nutritional content as specified by the CACFP Meal Pattern which is excerpted from the regulations 7 CFR Part 225.16. The CACFP meal pattern requirements were recently updated. The updated CACFP meal pattern requirements went into effect on October 1, 2019. CACFP meal pattern requirements must comply with the updated CACFP meal patterns. For more information on the updated CACFP meal patterns, please visit:

## http://www.fns.usda.gov/cacfp/mealsand-snacks

Fruit and vegetables provided for one meal cannot be duplicated the same day or two days in a row. Fruit variety schedule should be provided on all menus and

invoices. Only fruit that is ripe will be served and compensated. Contractor will not be paid for inedible items.

All food packaging, napkins and utensils must be BPI Certified compostable. Beverage containers must be either recyclable or BPI Certified compostable.

Excessive similar entrees with minimal changes will not be considered a different meal. Multiple snacks as a meal will not be accepted

All meals must be wholesome at the time of delivery, and maintain food temperature safety guidelines (not frozen, burned or spoiled) and meet the SFSP meal requirements. Any meals, which do not comply with the requirements and specifications herein, will be rejected, and vendor agrees to forfeit payment for rejected meals. Violations that shall cause disallowances in the contractor's payment shall include but not be limited to the following:

- An imbalance between the number of beverages and the number of meals
- Meals that are not unitized
- Meals that are not in compartmentalized compostable/recyclable containers
- Meals with components that are less than the required size, weight, or temperature
- Missing components\*
- Meals that are improperly packaged, i.e., containers that are broken, torn or open meals
- Meals that are wholly or partially spoiled
- Meals delivered and kept outside of food safety guidelines
- Frozen meals, burned meals, or spoiled meals
- Duplication of fruit on the same day or two days in a row
- Duplication of vegetables on the same day or two days in a row
- Same fruit or vegetable component used to meet 3/4 c. fruit/vegetable requirement
- Changing meals, menus or substituting components without the City's prior approval

\*Missing food components shall be considered unacceptable. Missing compostable utensils and/or condiments not requiring refrigeration shall be considered acceptable if contractor supplies sites with sufficient emergency components in advance. Provisions of these emergency components in no way reduces contractor's obligation to make its best effort to provide them as part of the packaged, daily, delivered meal.

In case of nonperformance or noncompliance on the part of the contractor, the contractor shall pay the sponsor for any excess costs the City incurs.

## **Nutritional Improvements:**

USDA nutritional guidelines ensure that children are receiving healthy meals with the proper amounts of grains, produce, dairy and meat or meat alternatives. While this provides a good foundation for quality meals, nutritional improvements can be made. Examples include exchanging a white flour bun for two slices of whole wheat bread, offering fresh fruits and vegetables instead of juice, offering nonfat/low fat options. Milk and cheeses can be low in fat. Whole grain breads, rolls, buns and pastas can be used whenever economically feasible, and low-fat oatmeal raisin cookies can be offered in place of full fat chocolate chip cookies. Foods can be baked or stir-fried instead of deep fat fried.

## **Food preparation:**

Temperature, delivery, and preparation of food are critical and add to nutritional quality. Meals shall not be prepared earlier than 24 hours in advance of children's eating to maximize freshness of the food. Proper refrigeration shall be maintained during the preparation and delivery of all food to insure wholesomeness of food at the time of delivery and in accordance with State and local health codes. All meals must maintain food temperature safety regulations.

Food must be delivered at an appropriate temperature; frozen, burned or spoiled food will not be accepted. Foods that are delivered without appropriate temperature regulation will not be accepted.

## **Food specifications:**

All meat and meat products will have been slaughtered, processed and manufactures in plants inspected under a US Department of Agriculture approved inspection and bear the appropriate seal. All meat and meat products must be sound sanitary and free of objectionable odor or signs of deterioration on delivery.

## **Product specifications:**

Milk and milk products are defined as "...fluid types of pasteurized flavored or unflavored whole milk, low fat milk, skim milk, or cultured buttermilk, which meet state and local standards for such milk...." Milk delivered for the program will conform to these specifications.

Contractor using a commercially prepared product that does not have a Child Nutrition (CN) label must obtain and provide product specifications signed by an official of the manufacturer and processed product documentation MB:USDA-CNP-05-2013.P

## **Additional Guidelines:**

## **Temperatures:**

Contractor must deliver unitized meals in vehicles with the capacity to keep cold food at the appropriate temperature and milks at 41 degrees or lower.

The City is not obligated to pay for incomplete meals, any unauthorized menu changes, any inadequate meal temperatures, and or any spoiled or unwholesome meals.

## **Ordering process:**

Contractor will provide meals on a daily basis (Monday through Friday) for the period beginning May 29, 2025 and ending August 8, 2025, as requested by the City for distribution to those children who qualify under the Food Service Program. The City shall notify the Contractor by 4:00 PM daily of the number of meas needed for the following day. Contractor must allow for the adjustment of lunches daily until 4:00 PM. Ordering process may be altered if agreed upon in negotiations by both parties.

#### **Packaging:**

Packaging requirements for unitized meals:

- Food containers must be made of compartmentalized, non-toxic, BPI Certified compostable materials.
- Perishables will be cooled/ refrigerated during preparation and transport in a manner consistent with USDA standards, and all laws ensuring safe food handling procedures.
- Contractor must deliver milk and meals that are 41 degrees or lower to SFSP sites.
- Each container shall be labeled, and the label shall include:
  - a. The processor's (plant) name and address
  - b. Item identity and meal type
  - c. Date of production
  - d. Quantity of individual units per carton

#### **Delivery:**

Contractor will deliver unitized meals daily in a vehicle that maintains all food safety temperatures to SFSP sites by the approved meal start time.

## **Health and Sanitation Requirements:**

The contractor shall provide the City with a copy of the current health certifications for the food service facility in which it prepares meals for the City. The contractor shall ensure that all health and sanitation requirements of the California Uniform Retail Food Facilities Law, Chapter 4 of the California Health and Safety Codes, are met at all times including that the meal preparation site is periodically inspected to determine bacteria levels and to promptly submit results of the inspections to the City and/or the California Department of Education representative.

Contractor will supply the sponsor with copies of the food preparation records at the end of each month.

## Menu-cycle change procedure:

Once a menu cycle has been approved, changes to this cycle may be made only when agreed upon by both parties. In such instances the City will be contacted by phone or email by the contractor so that substitutions can be agreed upon and approved by the authorized state representative. Both the City and the contractor will document changes.

The City reserves the right to request menu changes within the cost parameters periodically throughout the contract period if meals are not being well received (consumed) by the children. When an emergency exists, which might prevent the contractor from providing a specified meal component, the contractor will notify the City immediately so substitutions can be agreed upon.

The City reserves the right to suggest menu changes within the contractor's food cost periodically throughout the contract.

Contractor will be required to make substitutions or modifications to the meal patterns for participants with disabilities who are unable to consume the regular program meals when such substitutions are supported by a statement from a recognized medical authority that includes the required alternate foods (FNS Instruction 783-2, Rev.1, 10-19-94).

Selected contractor(s) must have final full summer menus submitted by May 16, 2025. Menu will be translated by City staff in multiple languages and distributed in a timely manner.

#### Menu Items:

Meals served during the program must be reflective in appearance, quantity, and nutritional quality of samples provided by contractor for the taste test.

Please see U.S.D.A. "Food Buying Guide for Child Nutrition Programs" for further information and/or clarity on SFSP Meal Pattern Requirements.

Contractor will not be reimbursed for unauthorized menu changes or for any incomplete meals. If any portion of the meal does not coincide with the cycle menu, payment will be withheld for that meal.

## **Pricing:**

Meals must meet USDA guidelines as required by the CACFP Meal Pattern, plus:

- Minimum of 50% of the food must be grown in California
- Food must contain no trans fats
- All meat and dairy antibiotic-free and hormone-free
- Food must contain no high fructose corn syrup
- No sweetened beverages

Bid prices must include price of food, beverage, packaging, transportation from preparation facility and all other related cost (e.g., condiments, utensils, napkin, taxes, etc.). In addition to pricing, please submit a 10-day sample menu cycle with your submission (Attachment M).

## **Summer Food Service Program sites:**

**Attachment A** is a list of the City of Oakland's summer food service sites in 2024. SFSP service sites listed are provided to demonstrate scope of work.

#### **Record Keeping and Invoicing:**

Contractor will maintain full and accurate records, which document:

- The menus provided to the agency during the term of this agreement
- A listing of components of each meal
- An itemization of the quantities of each component used to prepare said meal
- Dates of meal service
- Delivery Slips

Invoices must be itemized to show the number of meals and beverages, included in the delivery for each day. Type of fruit and vegetable served needs to be itemized to support required rotation.

The contractor shall furnish itemized invoice statements each month.

Additional copies of invoices may be requested. Dates on invoices must match dates of delivery. The contractor shall submit revised daily invoices when necessary to credit the City for meals not acceptable by the City due to crushing, spoilage or other negligence.

The books and records of the contractor pertaining to sponsor feeding operation shall be available for a period of three years from the date of receipt of final payment under the contract for inspection and audit by representatives of the California Department of Education (CDE), U. S. Department of Agriculture, the U. S. General Accounting Office, and the City at any reasonable time and place.

## Nonperformance or noncompliance:

In cases of nonperformance or noncompliance on the part of the Contractor, the Contractor shall pay the agency for any excess costs the agency incurs.

The Contractor agrees to forfeit payment for meals that are not delivered by the approved meal service time to all SFSP sites. The Contractor agrees to forfeit payment for meals are spoiled or unwholesome at the time of delivery, meals outside of approved food safety temperatures and milk temp at 42 degrees or higher, shelf stable (if required or agreed) snacks and meals that do not otherwise meet the meal requirements contained in this agreement.

CDE nor the United States Department of Agriculture (USDA) assumes liability for payment of any differences between the number of meals delivered by the Contractor and the number of meals served by the City that are eligible for reimbursement.

The City shall reserve the right to hold the contractor accountable for failure to comply with a contract that is awarded based on this RFP.

The City reserves the right to inspect and determine the quality of food delivered.

#### **Food Samples:**

Selected bidders will be informed of when and where their meal samples will be tasted after bid packages are reviewed. Bidders will be notified on or before February 1, 2025, if their participation is required. Meals provided for tasting must be from the 10-day menu submitted with the bid package. Exact details, including time, location, and the number of meals required, will be announced at a later date.

Meals served during the program must reflect the appearance, quantity, and nutritional quality of the samples provided by the bidder.

Meal samples must be packaged and maintained at the appropriate temperatures..

#### IV. THE PROPOSAL

#### A. GENERAL INFORMATION

- 1. The successful proposer selected for this service shall obtain or provide proof of having a current City of Oakland Business tax Certificate.
- 2. The City Council reserves the right to reject any and all bids.
- 3. <u>Local and Small Local Business Enterprise Program (L/SLBE)-0%</u> <u>L/SLBE</u>--per the availability analysis dated December 26, 2024

https://cao-94612.s3.amazonaws.com/documents/LSLBE-Program-Guidelines Revised.5.4.21.pdf

a. .

b.

c. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing **Schedule D**, Ownership, Ethnicity, and Gender Questionnaire, and **Schedule E**, Project Consultant Team, which shall be attached hereto and incorporated herein.

## 4. The City's Living Wage Ordinance

This Agreement is subject to the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service Contractors (contractors) of the City and employees of CFARs (Ord. 12050 § 1, 1998). Oakland employers are also subject to the City of Oakland Minimum Wage law (see Section 5, below), and must pay employees wages and provide benefits consistent with the Minimum Wage law or Oakland Living Wage Ordinance, whichever are greater.

The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as <u>Declaration of Compliance – Living Wage Form</u>; and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the contractor must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation Said employees shall be paid an initial hourly wage rate of \$17.37 with health benefits or \$19.95 without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. Effective July 1<sup>st</sup> of each year, Contract shall pay adjusted wage rates.
- b. Health benefits Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$2.58 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full-time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. For more information, web sites include but are not limited to: (1) <a href="https://www.irs.gov/">https://www.irs.gov/</a> and <a href="https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit">https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit</a>
- e. Contractor shall provide to all employees and to Department of Workplace and Employment Standards (DWES) written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal

areas of the work site(s) and shall include the above-referenced information.

- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Department of Workplace and Employment Standards (DWES), on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to Department of Workplace and Employment Standards (DWES).

## 5. Minimum Wage Ordinance

Oakland employers are subject to Oakland's Minimum Wage Law, whereby Oakland employees must be paid the current Minimum Wage rate. Employers must notify employees of the annually adjusted rates by each December 15<sup>th</sup> and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services. This contract is also subject to Oakland's Living Wage Ordinance (see Section 4, above), and must pay employees wages and provide benefits consistent with the Living Wage Ordinance, whichever are greater.

For further information, please go to the following website: <a href="https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges">https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges</a>

## 6. Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City Contractors (contractors) between

employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001)

The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a Contractor's operations that occur (1) within the City; (2) on real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City; and (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or sub-contractors.

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1**, Equal Benefits-Declaration of Nondiscrimination form. For more information, see <a href="http://library.municode.com/HTML/16308/level2/TIT2ADPE\_CH2.32EQBEOR.html#TOPTITLE">http://library.municode.com/HTML/16308/level2/TIT2ADPE\_CH2.32EQBEOR.html#TOPTITLE</a>

7. <u>Prompt Payment Ordinance</u> OMC Section 2.06.070 Prompt Payment Terms Required in Notices Inviting Bids, Requests for Proposals/Qualifications and Purchase Contracts

This Agreement is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06. The Ordinance requires that, unless specific exemptions apply. Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed payments are subject to investigation by the City of Oakland Liaison upon the filing of a compliant. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractors are required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City, The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with a contractor or subcontractor that delivers goods and/or services pursuant to or in connection with a City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <a href="https://www.oaklandca.gov/resources/prompt-payment-forms">https://www.oaklandca.gov/resources/prompt-payment-forms</a> or at Department of Workplace and Employment Standards (DWES), 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to <a href="https://www.oaklandca.gov">DWES@Oaklandca.gov</a>

## 8. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

a. Contractor and Contractor's sub-contractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national

origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b. Contractor and Contractor's Sub-contractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing <u>Declaration of Compliance with the Americans with Disabilities Act</u>, attached hereto and incorporated herein.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its sub-Contractors and suppliers, by completing the <u>Ownership</u>, <u>Ethnicity and Gender Questionnaire</u>.
- f. The Project Contractor Team attached and incorporated herein and made a part of this Agreement, <u>Exit Report and Affidavit</u>, attached and incorporated herein and made a part of this Agreement.
- g. All affirmative action efforts of Contractors are subject to tracking by the City. This information or data shall be used for statistical purposes only. All Contractors are required to provide data regarding the make-up of their sub-Contractors and agents who will perform City contracts, including the race and gender of each employee and/or Contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- h. The City will immediately report evidence or instances of apparent discrimination in City or Agency contracts to the appropriate State and Federal agencies, and will take action against Contractors who are found

to be engaging in discriminatory acts or practices by an appropriate State or Federal agency or court of law, up to and including termination or debarment.

- i. In the recruitment of sub-Contractors, the City of Oakland requires all Contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- j. In the use of such recruitment, hiring and retention of employees or sub-Contractors, the City of Oakland requires all Contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

## 9. Arizona and Arizona-Based Businesses

Contractor agrees that in accordance with Resolution No. 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify Department of Purchasing, if it's Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

## 10. Sanctuary City Contracting and Investment Ordinance

Ordinance N.O. 13540 CMS was adopted by the Oakland City Council on June 4th, 2019 and prohibits the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE) services or goods for data collection or with the United States Customs and Border Protection (CBP) Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) to support immigration detention facilities. These contractors are not to be used unless the City Council makes a specific determination that no reasonable alternative exists. The ordinance also prohibits the City from investing in any of these companies and

requires the City to include notice of these prohibitions in any Requests for Proposals (RFPs), Requests for Qualifications (RFQs), and any construction or other contracting bids. The ordinance also requires that the City provide an annual report to the Privacy Advisory Commission on its enforcement.

## 11. Border Wall Ordinance

This contract is subject to the Border Wall Ordinance of Oakland Municipal Code (Ordinance 13459 C.M.S, passed November 28, 2017) and effective immediately upon adoption. The purpose of the ordinance is to mandate and direct the City Administrator- in instances where there is no significant additional cost, to be defined in regulations, or conflict with law- to refrain from entering into new or amended contracts to purchase professional, technical, scientific or financial services, goods, construction labor and materials or other services, or supplies from businesses that enter into contracts to provide such services, goods, materials or supplies to build the U.S.-Mexico border wall;

The City of Oakland shall be prohibited from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" individual, firm, or financial institution who provides any services, goods, equipment or information technology or cloud-based technology or services, to the construction a wall along any part of the United States – Mexico border.

All vendors seeking to do business with the City of Oakland must complete and sign "Schedule W" as a statement of compliance with Ordinance 13459 C.M.S,

## 12. Pending Dispute Disclosure Policy:

Contractors are required to disclose pending disputes with the City of Oakland when they are involved in submitting bids, proposals or applications for a City contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose and has disclosed, any and all pending disputes to the City prior to the execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

## 13. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits Contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form.

## 14. Nuclear Free Zone Disclosure

Contractor represents, pursuant to the combined form <u>Nuclear Free Zone Disclosure Form</u> that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete the combined form, attached hereto.

## 15. Scope, Ownership and Use of City Data

#### a. Scope of City Data

City data ["Data"] shall consist of any and all data disclosed or provided by the City to Contractor, or collected, developed or generated by Contractor, whether pursuant or incidental to the purposes of the Agreement

## b. Ownership

All Data shall be the exclusive property of and all ownership rights therein shall vest in the City. To the extent necessary, Contractor hereby assigns to the City any and all rights which arise out of, are developed in connection with, or are the results of the services Contractor provides under the Agreement. This provision shall not apply to Data defined as Exceptions under Section 123 (c) ["Proprietary or Confidential Information"].

#### c. Use of City Data

Contractor avers and covenants to not use City Data for any purpose whatsoever other than to fulfill its obligations to City under the Agreement. Contractor shall fully indemnify City for any claims against City resulting from Contractor's use of City Data in violation of this provision.

## 16. Security of City Data

- a. City Data is highly sensitive, confidential and is of paramount importance to the City because unauthorized disclosures of the Data could seriously harm City and possibly third parties. Contractor acknowledges that City, in entering into this Agreement with Contractor, is relying upon Contractor's professional expertise, know-how, judgment, experience and its representations in its System Security Plan [Exhibit 2] that the integrity of the security, availability and processing of its System protects and preserves the confidentiality and privacy of the Data. Further, Contractor represents that, at all times, its System will maintain and ensure that the Data remains secure and does not through any of Contractor's actions or lack of thereof become vulnerable to unauthorized access by third parties. Contractor further warrants that its System has been accredited under currently recognized industry recognized standards.
- b. Notwithstanding as may be otherwise provided in this Agreement and with the exception of those instances for which City is responsible, Contractor avers and covenants to be solely responsible for restoring and correcting any corruption to City Data that occur by reason of Contractor's actions or lack thereof, including ransomware attacks upon Contractor, and to fully indemnify City for any claims against City resulting from corruption of City Data and other injuries ensuing from, but not limited to, the herein forestated events.

## 17. Independent Contractor

Rights and Responsibilities. City shall have no authority over or responsibility for employees and subcontractors of Contractor. It is expressly agreed that, in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City. Contractor has complete and sole discretion for the manner in which the Work and Services under this Agreement is performed. Contractor will determine the method, details and means of performing the Services described in the SOW.

Contractor acknowledges and agrees that (i) Contractor's employees and subcontractors are under Contractor's sole supervision, direction and full control. of Contractor; and, (ii) that Contractor controls the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for

Contractor's own acts and those of Contractor's subordinates and employees.

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.

Non-Exclusive Relationship Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in his or her sole discretion, sees fit.

Cooperation of the City The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

Extra Work Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

## 18. Sample Professional Service Agreement

This Agreement is subject to the attached Sample Professional Service Agreement.

#### 19. Insurance Requirements

The Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of the Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute grounds for rescission of the contract award.

The Contractor shall name the City of Oakland, its Council members, directors, officers, agents, employees and volunteers as additional insured in its Comprehensive Commercial General Liability and Automobile Liability policies. If Contractor submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 11 85 form and/or CA 20 48 - Designated Insured Form (for business auto insurance).

Please Note: A statement of additional insured endorsement on the ACORD insurance certificate is insufficient and will be rejected as proof of the additional insured requirement.

Unless a written waiver is obtained from the City's Risk Manager, Contractors must provide the insurance as found at https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules (Schedule Q). A copy of the requirements is attached and incorporated herein by reference. Liability insurance shall be provided in accordance with the requirements specified.

When providing the insurance, include the Project Name and Project Number on the ACORD form in the section marked Description of Operations/Locations.

When providing the insurance, the "Certificate Holder" should be listed as: City of Oakland, Finance Department, 150 Frank H. Ogawa Plaza, Suite 6213, Oakland, CA 94612.

## 20. City Contractor Performance Evaluation

At the end of the project, the Project Manager will evaluate the Contractor's Performance in accordance with the City Contractor Performance Evaluation program.

## 21. Violation Of Federal, State, City/Agency Laws, Programs Or Policies:

The City or Agency may, in their sole discretion, consider violations of any programs and policies described or referenced in this Request for Proposal, a material breach and may take enforcement action provided under the law, programs or policies, and/or terminate the contract, debar contractors from further contracts with City and Agency and/or take any other action or invoke any other remedy available under law or equity.

## 22. Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of the City. Contractor's services will be performed in accordance with the generally accepted principles and practices applicable to Contractor's trade or The Contractor warrants that the Contractor, and the profession. Contractor's employees and sub-contractors are properly licensed, registered, and/or certified as may be required under any applicable federal, state, and local laws, statutes, ordinances, rules, and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in

which the work under this Agreement is performed. Prior to the execution of this agreement, Contractor shall complete the <u>Independent Contractor Questionnaire</u>, Part A, attached hereto.

- 23. All responses to the RFQ become the property of the City.
- 24. The RFQ does not commit the City to award a contract or to pay any cost incurred in the preparation of the proposal.
- 25. The City reserves the sole right to evaluate each proposal and to accept or reject any or all proposals received as a result of the RFQ process.
- 26. The City reserves the unqualified right to modify, suspend, or terminate at its sole discretion any and all aspects of the RFQ and/or RFQ process, to obtain further information from any and all Contractor teams and to waive any defects as to form or content of the RFQ or any responses by any contractor teams.
- 27. The City may require a service provider to participate in negotiations and submit technical information or other revisions to the service provider's qualifications as may result from negotiations.
- 28. All documents and information submitted to the City of Oakland in response to an RFP are public records pursuant to California Government Code, Sections 6254, et seq. and City of Oakland Sunshine Ordinance, Oakland Municipal Code Chapter 2.20. The City shall disclose such documents and information upon request by any member of the public, absent a mandatory duty to withhold or a discretionary exemption that the City may choose to exercise. The City shall not in any way be liable or responsible for any disclosures of documents or information made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance.
- 29. The Fair Political Practices Act and/or California Government Code Section 1090, among other statutes and regulations may prohibit the City from contracting with a service provider if the service provider or an employee, officer or director of the service providers' firm, or any immediate family of the preceding, or any sub-contractor or contractor of the service provider, is serving as a public official, elected official, employee, board or commission member of the City who will award or influence the awarding of the contract or otherwise participate in the making of the contract. The making of a contract includes actions that are preliminary or preparatory to the selection of a contractor such as, but not limited to, involvement in the reasoning, planning and/or drafting of solicitations for bids and RFQs, feasibility studies, master plans or preliminary discussions or negotiations.

## B. SUBMITTAL REQUIREMENTS

Submit Proposals electronically to iSupplier: Please log on to iSupplier to submit your proposal before the identified. deadline. Questions regarding online submittal through iSupplier must be directed to isupplier@oaklandca.gov with the heading of "RFP Assistance" or refer to the iSupplier userguide at https://www.youtube.com/watch?v=DMLb2hFLd0Y

All proposals must include the project name, submittal date, and time the proposals are due on the documents.

## C. REQUIRED PROPOSAL ELEMENTS AND FORMAT

#### 1. Transmittal Letter

For the transmittal letter, only, For the transmittal letter, only. Addressed to Jestin Johnson, City Administrator, Office of the City Administrator, City Hall, 1 Frank Ogawa Plaza, 3rd Floor, Oakland, California, 94612. (Please do not submit proposals to this address or forward proposals to this address.)

- b. Identify the point person, a description of their position and contact information of (ONE page only):
  - 1. Drivers Delivery Coordinator
  - 2. Ordering
  - 3. Billing
  - 4. Quality
  - 5. Delivery slips
  - 6. Nutrition, ingredients, recipes
- c. Describe the facility where meals are created and how they are assembled (ONE page only)
  - d. How will you ensure quality of the meals?(ONE page only)
  - e. Delivery service (ONE page only)
    - 1. Number of vehicles to deliver meals to SFSP sites
    - 2. Number of delivery vehicles are designated solely for SFSP sites
    - 3. If vehicles delivering to SFSP sites are shared with other organizations, how will you ensure timely delivery
    - 4. Action plan if there is a missed delivery to a site
    - 5. Action plan if there is a late delivery
  - f. Details of how you will address problems or issues (ONE page only):
    - 1. Response within 24 hours
      - 2. Communication with the sponsor and the corrective action plan

g. Include Price Bid Sheet:

#### 2. References

A. Contractor(s): Three business related references, giving name, company, address, telephone number and business relationship.

- 3. Submittals are validated using the following RFQ Checklist.
- a Schedules (Required with submission)
  - 1. Schedule E Project Consultant Team
  - 2. Schedule I Sanctuary City Contracting and Investment Ordinance
  - 3. Schedule O Campaign Contribution Limits
  - 4. Schedule W Border Wall Prohibition
- **4.** Other schedules must be submitted prior to full contract execution and are available at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a>
- **5.** Addenda Proposal and Acknowledgment of all Addenda if issued, please provide signed addenda and submit with proposal.
- **6.** Proprietary Information: All responses to the RFQ become the property of the City. To withhold financial and proprietary information, please label each page as "confidential" or "proprietary".
- 7. Public Records Act or Sunshine Ordinance: Although a document may be labeled "confidential" or "proprietary", information is still subject to disclosure under the Public Records Act or Sunshine Ordinance, and is, at the City's discretion, based on the potential impact of the public's interests whether to disclose "confidential" or "proprietary" information.

#### D. REJECTION OF PROPOSAL ELEMENTS

The City reserves the right to reject any or all proposals, whether minimum qualifications are met, and to modify, postpone, or cancel this RFQ without liability, obligation, or commitment to any party, firm, or organization. The City reserves the right to request and obtain additional information from any candidate submitting a proposal. A proposal may be rejected for any of the following reasons:

Proposal received after designated time and date.

- Proposal not in compliance with the City of Oakland Local/Small Local Business Enterprise Program.
- Proposal not containing the required elements, exhibits, nor organized in the required format.
- Proposal considered not fully responsive to this RFQ.

#### E. EVALUATION OF PROPOSALS

Category	Maximum Score (Points)
Price	40
Past Performance	30
Menu/Food Samples	20
Capacity	10
Total	100

#### Price

The unit bid price for meals must include all costs related to food, beverages, recyclable/compostable packaging, utensils, condiments, and transportation that maintains food within the required safety temperature guidelines. Contractors must also provide an example of the compostable containers to be used for food service. Compostable utensils and napkins must be supplied, with enough stock for two weeks at each site. If utensils or napkins are provided in the meal package, they must not be soiled by the food contents.

#### • Past Performance

The contractor's past performance in summer food service programs will be considered, including timely delivery, completeness of meal components, meal quality, menu variety, and overall communication with the City.

#### Menu/ Food Samples

The City seeks a contractor capable of providing healthy, tasty, and culturally diverse meals that offer variety. The same fruit or vegetable cannot be used for two meals on the same day or repeated on consecutive days.

Selected bidders will be informed if a taste evaluation is required. Contractors will be expected to supply meal samples that reflect the portion

size and quality outlined in the submitted summer menu. Food will be assessed based on freshness, taste, portion size, and appearance. Exact details regarding the evaluation process, including time and location, will be provided at a later date.

#### Capacity

Contractors must describe their capacity to deliver daily meals either to the central distribution center or directly to individual sites by the approved time. Work examples and references should be provided to demonstrate experience in delivering a similar volume of meals and daily distribution.

#### F. INTERVIEWS OF SHORT-LISTED FIRMS - OPTIONAL

Interviews of short-listed vendors may include a food tasting evaluation, if necessary. Successful bidders will be notified if selected for an interview, which may involve a comparison of their meals through tasting and grading. The detailed interview and evaluation process is outlined below:

#### 1) Presentation and Sample Requirements:

- Short-listed vendors will be informed of their selection and provided with the date, time, and location of the interview, which may include a food tasting component.
- Vendors may be required to present a minimum of 5 samples each of lunch and snack options.
- The meals presented must be representative of those the vendor will serve during the program.
- Each vendor will need to submit a detailed description of the meals, including ingredients, portion sizes, and any special dietary considerations.
- Vendors must ensure the samples are properly packaged and maintained at the appropriate temperature during transportation and presentation.

#### 2) Interview and Evaluation Process:

- The interview will last approximately 1 hour for each vendor.
- Equal segments of time will be dedicated to meal presentation and a questionand-answer session.
- If a taste evaluation is included, vendors should be prepared to discuss the following aspects during the interview:
  - Presentation and visual appeal of the meals.
  - Taste and quality of the food, if applicable.
  - Packaging, including sustainability and practicality.

- Temperature control measures to maintain food safety.
- Any other distinguishing features of their meal offerings.

The City anticipates the **tentative schedule** of events to be as follows:

RFP Submission Deadline
 Interview with selected bidders
 Contract Negotiations
 Contract Award
 February 7, 2025
 February 14, 2025
 March 2025
 April 2025

#### G. CONTRACT NEGOTIATIONS AND AWARD

- 1. Following the completion of the evaluation process, contractors will be ranked based on their final score. The top-ranked contractor will be invited to participate in contract negotiations. If the City and the top-ranked contractor are unable to reach an agreement on contract terms within a reasonable timeframe, the City may terminate negotiations and proceed with the next-ranked contractor.
- 2. The contract amount, including reimbursements, will be a "not to exceed" figure, established based on a mutually agreed-upon Scope of Services and fee schedule.
- 3. Upon successful completion of the negotiations, the City Administrator will award the contract to the selected contractor(s).
- 4. A sample City standard professional services agreement is included in the RFQ as referenced as Attachment A "Sample Agreement". The selected contractor will be required to enter into a contract that contains similar terms and conditions as in the standard agreement. Please note that the City Attorney's Office is typically not inclined to make any modifications to the standard agreement terms and provisions.
- 5. Once the contract is signed, the contractor will receive an upfront payment of 25% of the contract amount to support the successful execution of the program from the outset.
- 6. The selected contractor and its other members will be required to maintain auditable records, documents, and papers for inspection by authorized local, state and federal representatives. Therefore, the contractor and its other members may be required to undergo an evaluation to demonstrate that the contractor uses recognized accounting and financial procedures.

#### **END OF RFP**



#### ATTACHMENT A

## SAMPLE ONLY

## PROFESSIONAL SERVICE AGREEMENT BETWEEN THE CITY OF OAKLAND AND NAME OF CONTRACTOR

#### PARTIES AND EFFECTIVE DATE

This *Professional Service Agreement* ("Agreement" or "Contract") is made by and between the CITY OF OAKLAND, a municipal corporation ("City") and [CONTRACTOR's FULL LEGAL NAME] ("Contractor") (collectively the "Parties") and shall be effective on the date the Agreement is executed by all Parties ("Effective Date").

#### **RECITALS**

- A. The City wishes to [insert short description of services required].
- B. This Agreement was competitively procured as required by Oakland Municipal Code Chapter 2.04. [or state the exception to competitive procurement and how waiver granted].
- C. The City Council approved this Agreement by Resolution No. [] C.M.S. on [DATE].
- D. The City Administrator has determined that this Agreement is for services that are professional, scientific, or technical and temporary in nature and that this Agreement will not result in the loss of employment or salary by any person having permanent status in the competitive service.
- E. This Agreement is being funded in whole or in part by [State/Federal Funding] from the [Entity] (Funding ID, or exact name of the Award).
- F. Funds are available for this Agreement in [insert Department Name] Fund (insert fund number), [insert Project Number, if applicable].

NOW, THEREFORE, the Parties to this Agreement covenant as follows:

#### AGREEMENT PROVISIONS

#### 1. Scope of Services

Contractor agrees to perform the services specified in **Schedule A**, <u>Scope of Services</u> attached to this Agreement and incorporated herein by reference.

Contractor shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement. The Project Manager for the City shall be **Project Manager**.

#### 2. Time of Performance

The time for performance under this Agreement ("Term") shall begin on Month, Day, Year and shall end Month, Day, Year.

#### 3. Compensation and Method of Payment

Contractor shall be paid for the performance of services set forth in **Schedule A** during the Agreement Term in accordance with **Schedule B**, <u>Budget</u>, attached hereto and incorporated herein. Payments shall be based on actual eligible costs incurred by Contractor in the performance of the services under this Agreement but shall be capped so as not to exceed **S[Insert Amount]** ("Capped Amount"). The maximum amount paid for the performance of services under this Agreement shall not exceed the Capped Amount, even if the Contractor's actual costs exceed the Capped Amount. All invoices submitted for payment shall identify the completed deliverable(s) and the billable amount for each deliverable along with any supporting documentation (i.e. receipts). Payments shall be due upon completion and acceptance of the services or as otherwise specified in **Schedule A** or **Schedule B**.

In the aggregate, progress payments will not exceed ninety percent (90%) of the total amount of the Contract, with the balance to be paid upon satisfactory completion of the entire Contract. Progress, or other payments, will be based on services rendered, and will not be made in advance of services rendered.

In computing the amount of any progress payment (this includes any partial payment of the contract price during the progress of the work, even though the work is broken down into clearly identifiable stages, or separate tasks), the City will determine the amount that the Contractor has earned during the period for which payment is being made, on the basis of the Contract terms.

#### 4. <u>Independent Contractor</u>

#### a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is an independent contractor, and is not an employee of the City. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation, and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for Contractor's own

acts and those of Contractor's subordinates and employees. Contractor will determine the method, details, and means of performing the services described in **Schedule A**.

#### b. Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of the City. Contractor warrants that the Contractor, and the Contractor's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state, and local laws, statutes, ordinances, rules, and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. Failure to perform all of the Services required under this Agreement will constitute a material breach of the Agreement and may be cause for the City's termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this Agreement, Contractor shall complete and submit Schedule M, Part A, Independent Contractor Questionnaire, which shall be attached hereto and incorporated herein.

#### c. Payment of Income Taxes

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest, or damages suffered by the City resulting from Contractor's failure to comply with this provision.

#### d. Non-Exclusive Relationship

Contractor may perform services for, and contract with, as many additional clients, persons, or companies as Contractor, in Contractor's sole discretion, sees fit.

#### e. Tools, Materials, and Equipment

Contractor will supply all tools, materials, and equipment required to perform the services under this Agreement.

#### f. Cooperation of the City

The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

#### g. Extra Work

Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

#### 5. Proprietary or Confidential Information of the City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information received from the City, or collected on behalf of the City, including personal identifying data, shall be held in confidence and used only in the performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

#### 6. Ownership of Results

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

#### 7. Copyright

Contractor shall timely execute and provide to the City all necessary documents to assign to the City the copyright to works created pursuant to this Agreement.

#### 8. Audit

Contractor shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Contractor shall (a) permit the City to have access to those records for the purpose of making an audit, examination, or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Contractor under this Agreement.

In addition to the above, Contractor agrees to comply with all audit, inspection, recordkeeping, and fiscal reporting requirements incorporated by reference.

#### 9. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company, or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to immediately terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, or gift.

#### 10. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations, or interest in this Agreement or arising hereunder to any person, persons, entity, or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute City's consent to any further assignment or transfer.

#### 11. Publicity

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews, and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

#### 12. Title of Property

Title to all property, real and personal, acquired by the Contractor from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Contractor acknowledges it is responsible for the protection, maintenance, and preservation of all such property held in custody for the City during the term of the Agreement. The Contractor shall, upon expiration of termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Contractor shall immediately notify the Police Department, obtain a written police report, and notify the City in accordance with "Notice" section of this Agreement.

Contractor shall provide to the City Auditor all property-related audit and other reports required under this Agreement.

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Contractor shall obtain the City's approval prior to the disposition or sale of any real or personal property acquired with City funds.

#### 13. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Contractor must acquire and maintain for the duration of this Agreement, the policies of insurance identified in **Schedule Q**, <u>Insurance Requirements</u>, attached hereto and incorporated herein. Contractor must submit proof of insurance, which shall be attached hereto and incorporated herein.

#### 14. Indemnification

- a. Notwithstanding any other provision of this Agreement, Contractor shall indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:
  - (i) Breach of Contractor's obligations, representations, or warranties under this Agreement;
  - (ii) Act or failure to act in the course of performance by Contractor under this Agreement;
  - (iii) Negligent or willful acts or omissions in the course of performance by Contractor under this Agreement;
  - (iv) The use or occupancy of City property by Contractor, including but not limited to nuisance claims, claims by an invitee regarding claimed tenancy on City property, or claims related to habitability or tenantability of City property;
  - (v) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error, or omission of Contractor;
  - (vi) Unauthorized use or disclosure by Contractor of Confidential Information as provided in the Proprietary or Confidential Information of the City section above; and
  - (vii) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trademark, service mark, or other proprietary or intellectual property rights of any third party.

b. For purposes of the preceding Subsections (i) through (vi), the term "Contractor" includes Contractor, its officers, directors, employees, representatives, agents, servants, sub-consultants, and subcontractors.

- c. City shall give Contractor prompt written notice of any such claim of loss or damage and shall cooperate with Contractor, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.
- d. Notwithstanding the foregoing, City shall have the right if Contractor fails or refuses to defend City with Counsel acceptable to City to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold any payments due Contractor in the amount of anticipated defense costs plus additional reasonable amounts as security for Contractor's obligations under this Section 15. In no event shall Contractor agree to the settlement of any claim described herein without the prior written consent of the City.
- e. Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any action or claim which potentially falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Contractor by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence, or willful misconduct of an Indemnitee.
- f. All of Contractor's obligations under this Section are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
- g. Contractor's indemnification obligations set forth above shall not be limited by the City's insurance requirements contained in Schedule Q hereof, nor by any other provision of this Agreement. City's liability under this Agreement shall be limited to the payment of Contractor in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

#### 15. Right to Offset Claims for Money

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of: a) this Agreement; b) any purchase order; or c) any other transaction with Contractor.

#### 16. Prompt Payment Ordinance

Contractor shall comply with the City's Prompt Payment Ordinance, Title 2, Chapter 2.06 of the Oakland Municipal Code. The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of receipt of invoices unless the Contractor or its subcontractors notify the City of Oakland Liaison within the Department of Workplace and Employment Standards ("Liaison") in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed payments are subject to investigation by the Liaison upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check, or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of the release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractor is required to file an affidavit, under penalty of perjury, that Contractor has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance with the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment under the Prompt Payment Ordinance may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this Agreement.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <a href="https://www.oaklandca.gov/resources/prompt-payment-forms">https://www.oaklandca.gov/resources/prompt-payment-forms</a> or in the Department of Workplace and Employment Standards, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261, or email <a href="mailto:vinman@oaklandca.gov">vinman@oaklandca.gov</a>.

#### 17. Arizona and Arizona-Based Businesses

Contractor confirms that it has read and understood City Resolution No. 82727 C.M.S., which urges City Departments to the extent practicable and in instances where there is no significant additional cost to the City of conflict with the law, to refrain from entering into new or amended contracts to purchase goods or services from any company that is headquartered in Arizona, and urges companies to also boycott the State of Arizona and Arizona-based businesses until Arizona repeals SB 1070. Contractor agrees, in accordance with City Resolution No. 82727 C.M.S., that Contractor is not currently headquartered in the State of Arizona and shall not establish an Arizona business headquarters for the duration of this Agreement or until Arizona rescinds SB 1070.

#### 18. Sanctuary City Contracting and Investment Ordinance

Contractor confirms that it has read and understood Oakland Municipal Code Chapter 2.23, Sanctuary City Contracting and Investment Ordinance, which prohibits the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE), the United States Customs and Border Protection (CBP) Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) with any "data broker," "extreme vetting," or "detention facilities" services (as defined in Oakland Municipal Code Section 2.23.020) unless the prohibition is waived.

Contractor certifies that it has completed a Declaration of Compliance with the Sanctuary City Contracting and Investment Ordinance (Schedule I) to secure this Agreement, incorporated herein, and agrees, as a material condition of this Agreement, that Contractor and its agents or subcontractors that provide goods or services to or for the City under this Agreement have not been contracted to provide ICE, CBP, or the HHS/ORR with data broker, extreme vetting, or immigration detention facilities services, and that the City, in its sole discretion shall determine such failure.

#### 19. Border Wall Ordinance

Contractor confirms that it has read and understood Oakland Municipal Code Chapter 2.22, Border Wall Ordinance, which prohibits the City from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" (as defined by Section 2.22.020 of the Oakland Municipal Code), individual, firm, or financial institution who provides any services, goods, equipment or

information technology or cloud-based technology or services, to construction of a wall along any part of the United States-Mexico border unless the prohibition is waived.

Contractor certifies that it has completed a Declaration of Compliance with the Border Wall Ordinance (Schedule W) to secure this Agreement, incorporated herein, and agrees, as a material condition of this Agreement, that Contractor and its agents or subcontractors that provide goods or services to or for the City under this Agreement have not been hired to provide services, goods, products, equipment, or information or cyber technology, construction, architectural, engineering, or any professional services for the construction of the Border Wall, or any Border Wall Work or provide such services for the duration this Agreement. Contractor stipulates that failure to comply with the requirements of Oakland Municipal Code Chapter 2.22 shall constitute a material breach by Contractor of this Agreement. The City in its sole discretion shall determine such failure.

#### 20. Dispute Disclosure

Contractors are required to disclose pending disputes with the City of Oakland. Contractor agrees to disclose and has disclosed, any and all pending disputes with the City in writing to the Project Manager. Failure to disclose pending disputes prior to execution of this Agreement or any subsequent amendment shall be a basis for termination of the Agreement.

#### 21. Events of Default and Remedies

- A. The occurrence of any of the following shall constitute a material default and breach of this Agreement by Contractor:
  - k. Failure to adequately perform the Work set forth in the Scope of Work;
  - 1. The use or expenditure of funds, property, and/or information provided under this Agreement by Contractor in any manner that is not consistent with the purpose of this Agreement or in compliance with the Scope of Work attached hereto;
  - m. Failure of Contractor to comply with any obligations under this Agreement, or to observe or perform any other material provision of this Agreement; or
  - n. Contractor's (a) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or 60 days after the filing; (b) making a general assignment for the benefit of creditors; (c) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or 60 days after the filing; (d) insolvency; or (e) failure, inability or admission in writing of its inability to pay its debts as they become due.
- B. The City shall give written notice to Contractor of any default by specifying the nature of the event or deficiency giving rise to the default, the action required to cure the deficiency, if an action to cure is possible, and a date, which shall be not less than 30

calendar days from the mailing of the notice, by which such action to cure, if a cure is possible, must be undertaken. Contractor shall not be in default if Contractor cures such default within the specified cure period, or, if such default is not reasonably capable of cure within the specified period, Contractor begins to cure the default within the cure period and thereafter diligently pursues the cure to completion. Following any notice of an event of default, the City may suspend payments under this Agreement pending Contractor's cure of the specified breach. Upon an event of default that has not been cured by Contractor, the City, in its discretion, may take any of the following actions:

- 1. Terminate this Agreement in whole or in part;
- 2. Suspend payments under this Agreement;
- 3. Demand immediate reimbursement of any funds disbursed under this Agreement;
- 4. Bring an action for equitable relief (i) seeking the specific performance by Contractor of the terms and conditions of the Agreement, and/or (ii) enjoining, abating, or preventing any violation of said terms and conditions, and/or (iii) seeking declaratory relief;
- 5. Bar Contractor from future funding by the City; and/or
- 6. Pursue any other remedy available at law or in equity.

#### 22. Termination on Notice

The City may terminate this Agreement immediately with or without cause upon giving thirty (30) calendar days written notice to Contractor. Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on **Month, Day, Year**.

#### 23. Conflict of Interest

#### a. <u>Contractor</u>

The following protections against conflict of interest will be upheld:

- i. Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.

- iii. Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor.
- iv. Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Contractor shall exercise due diligence to ensure that no such official will receive such an interest.
- Contractor further warrants and represents, to the best of its present v. knowledge and excepting any written disclosures as to these matters already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Contractor agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).
- vi. Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts

to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.

- vii. Contractor represents and warrants to the best of its present knowledge, that in addition to the State statutes, regulations, local ordinances, municipal code, and Charter provisions referenced in this section, Contractor has read and is aware of the City of Oakland Government Ethics Act (Oakland Municipal Code Chapter 2.25), including, without limitation, the provisions prohibiting Conflicts of Interest and Personal Gain set forth at OMC 2.25.040, and those prohibiting (a) the influencing of contracts with former employers and (b) nepotism, as set forth in OMC 2.25.070. Contractor agrees and acknowledges that Contractor shall adhere to the City of Oakland Government Ethics Act, to the extent Contractor is deemed a Public Servant thereunder.
- viii. Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

#### b. No Waiver

Nothing herein is intended to waive any applicable federal, state, or local conflict of interest law or regulation

#### c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state, and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, and/or (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.

#### 24. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state, or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, mental or physical disability (including but not limited to Acquired-Immune Deficiency Syndrome (AIDS), and AIDS-Related Complex (ARC)), military or military veteran status, or any other legally-protected class. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, promotion or failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, mental or physical disability (including by not limited to AIDS, and ARC), military or military veteran status, or any other legally-protected class.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall comply with the Americans with Disabilities Act and all other applicable federal, state, and local disability rights legislation.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Contractors are required to disclose any disciplinary or investigatory actions against the Contractor by the Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH), or the Office of Federal Contract Compliance Programs (OFCCP). Contractor agrees to disclose and has disclosed, any and all such disciplinary or investigatory actions in writing to the Project Manager. Failure to disclose such action prior to execution of this Agreement or any subsequent amendment shall be a basis for termination of the Agreement.

#### 25. Local and Small Local Business Enterprise Program (L/SLBE)

Contractor shall comply with the City of Oakland's Local and Small Local Business Enterprise Program (L/SLBE). The City's current L/SLBE Program guidelines may be accessed via the following link:

https://cao-94612.s3.amazonaws.com/documents/LSLBE-Program-Guidelines Revised.5.4.21.pdf

Contractor understands and agrees to the following:

- a. Preference Points Preference points are awarded based on the level of local, small local and very small local business participation that is proposed by contractors during the competitive solicitation process.
- b. Maintaining Participation As a condition of the award of this Contract, Contractor must achieve and maintain the levels of local, small local, or very small local business participation for which preference points were earned during the competitive solicitation process or the levels of participation agreed upon by the Parties during negotiation of this Agreement. Failure to achieve and maintain the proposed levels of participation may result in the imposition of penalties as set forth in the above-referenced Local and Small Local Business Enterprise Program guidelines.
- c. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing **Schedule D**, Ownership, Ethnicity, and Gender Questionnaire, and **Schedule E**, Project Consultant Team, which shall be attached hereto and incorporated herein.

#### 26. <u>Living Wage Ordinance</u>

If the contract amount of this Agreement is equal to or greater than \$25,000, Contractor must comply with the Oakland Living Wage Ordinance, Title 2, Chapter 2.28 of the Oakland Municipal Code. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to, among others, employees of service contractors (consultants) of the City. Oakland employers are also subject to the City of Oakland Minimum Wage law (see next section) and must pay employees wages and provide benefits consistent with the Minimum Wage law or Oakland Living Wage Ordinance, whichever are greater.

If applicable, Contractor certifies that it has submitted a completed Declaration of Compliance with the Living Wage Ordinance (Schedule N) to secure this Agreement, which is incorporated herein, and, unless specific exemptions apply or a waiver is granted, Contractor agrees that it must provide the following to its employees who perform services under or related to this Agreement:

a. Minimum compensation and Health Benefits – Effective July 1<sup>st</sup> of each year, Contractor shall pay adjusted Living Wage rates, dependent on whether health benefits are included. The current Living Wage Rates for each year can be found at <a href="https://www.oaklandca.gov/departments/workplace-employment-standards">https://www.oaklandca.gov/departments/workplace-employment-standards</a>.

Contractor agrees to pay the rates as upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. Contractor shall provide proof that health benefits are in effect for those employees at the lower living wage rate no later than 30 days after execution of the Contract.

- b. Compensated days off Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward the provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- c. Federal Earned Income Credit To inform employees that he or she may be eligible for Earned Income Credit ("EIC") and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist Contractor. Web sites include but are not limited to: <a href="http://www.irs.gov">http://www.irs.gov</a> for current guidelines as prescribed by the Internal Revenue Service.
- d. Contractor shall provide to all employees written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- e. Contractor shall provide all of the above required written notices and forms in English, Spanish or other languages spoken by a significant number of employees within 30 days of each employee's start of work under or related to this Agreement.
- f. Reporting Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay, and benefits for each of its employees. Contractor shall provide a copy of said list to the Department of Workplace and Enforcement Standards, on a quarterly basis, by March 31, June 30, September 30, and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in a penalty of five hundred dollars (\$500.00) for each day that the list remains outstanding (OMC Section 2.28.110.C). Contractor shall maintain employee payroll and related records for a period of three (3) years after expiration of the compliance period.
- g. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with all of the foregoing Living Wage provisions. Contractor shall include the above-referenced provisions in its subcontracts and by signature confirms subcontractor compliance.

#### 27. Minimum Wage Ordinance

Oakland employers are subject to Oakland's Minimum Wage Law, Chapter 5.92 of the Oakland Municipal Code, whereby Oakland employees must be paid the City's current Minimum Wage rate. Employers must notify employees of the annually adjusted rates by

each December 15<sup>th</sup> and prominently display notices at the job site. The law also requires paid sick leave for employees and payment of service charges collected for their services. This contract is also subject to Oakland's Living Wage Ordinance (see previous section) and must pay employees wages and provide benefits consistent with the City's Living Wage Ordinance or the Minimum Wage Law, whichever are greater. For further information, please visit the following website: https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges

#### 28. Equal Benefits Ordinance

If the contract amount of this Agreement is equal to or greater than \$25,000, this Agreement is subject to the City's Equal Benefits Ordinance ("EBO"), Title 2, Chapter 2.32 of the Oakland Municipal Code and its implementing regulations, which prohibits the City from contracting with entities that discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees.

The EBO only applies to those portions of a contractor's operations that occur (1) within the City of Oakland; (2) on real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of the EBO shall not apply to subcontracts or subcontractors of any contractor.

If applicable, Contractor agrees to comply with the requirements of Oakland Municipal Code, Chapter 2.32, and agrees it has a duty to promptly provide to the City documents and information verifying its compliance.

#### 29. City of Oakland Campaign Contribution Limits

If this Agreement requires Council approval, it is subject to the City's Campaign Reform Act, Title 3, Chapter 3.12 of the Oakland Municipal Code, and its implementing regulations. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of or termination of, contract negotiations. If applicable, Contractor certifies that it has completed a signed certification form (Schedule O, Acknowledgment of Campaign Contribution Limits) to secure this Agreement, incorporated herein, and agrees to comply with Oakland Municipal Code Chapter 2.32.

#### 30. Nuclear Free Zone Ordinance

Contractor confirms that it has read and understood Ordinance No. 11478 C.M.S., titled "An Ordinance Declaring the City of Oakland a Nuclear Free Zone and Regulating Nuclear Weapons Work and City Contracts with and Investment in Nuclear Weapons Makers," which restricts the City from entering into professional service agreements with nuclear weapons makers unless an exemption applies. Under Ordinance No. 11478 C.M.S., it is the City's policy

to minimize the expenditure of City funds on goods and services produced by nuclear weapons makers and Contractor is urged to comply with this policy in making purchases and subcontracts. Contractor agrees to comply with Ordinance No. 11478 C.M.S. in the provision of services under this Agreement and certifies that it is not a nuclear weapons maker.

#### 31. Slavery Era Disclosure

Contractor confirms that it has read and understood the Slavery Era Disclosure Ordinance, Oakland Municipal Code Chapter 9.60, which requires contractors providing (1) insurance services or (2) financial services to the city of Oakland (including, but not limited to, any bank in which the city deposits public funds and any investment managers), whether subject to a competitive bid or not, and (3) each textile, tobacco, railroad, shipping, rice and/or sugar company doing business with the city, including but not limited to, such businesses with a city franchise, to disclose information related to the legacy of slavery.

If applicable, Contractor certifies that it has completed a signed Slavery Era Disclosure Affidavit (Schedule S) to secure this Agreement, incorporated herein, and agrees to comply with Oakland Municipal Code Chapter 9.60.

#### 32. Political Prohibition

Subject to applicable State and Federal laws, Contractor agree that moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

#### 33. Religious Prohibition

Contractor understands and agrees that there shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of this Agreement.

#### 34. Business Tax Certificate

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid for the duration of this Agreement.

#### 35. Compliance with State and/or Federal Standards

The funding for this Agreement is provided in full or in part by a Federal or State Grant to the City. As part of the terms of receiving the funds, the City is required to incorporate some of the terms into this Agreement and include certain reporting requirements. The incorporated terms and requirements are stated in **Exhibit 1 to the Scope of Work**, "State/Federal Funding Terms."

By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred, or otherwise excluded from participation in federal assistance programs. Contractor has

submitted **Schedule Z**, Certification of Debarment and Suspension, attached hereto and incorporated by reference herein.

#### 36. Abandonment/Termination of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the projects under this Agreement at any time. In such event, the City shall give Contractor thirty (30) days written notice of such abandonment and termination of Agreement. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Contractor shall have the right to expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve or reject all or any part of said proposed costs. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor.

Should the project or any portion thereof be abandoned, the City shall pay the Contractor for all services performed up to the effective date of termination due to abandonment in accordance with the terms of this Agreement.

#### 37. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is: a) approved by resolution of the City Council if required by the Oakland City Charter, Oakland Municipal Code Title 2.04 or Oakland City Council Rules of Procedure, b) approved as to form and legality by the Office of the City Attorney, and c) signed by the City Administrator or his or her authorized designee.

#### 38. Governing Law

This Agreement shall be governed by the laws of the State of California.

#### 39. Notice

If either party shall desire or be required to give disclosures or notice to the other, such disclosure or notice shall be given in writing, via facsimile, email, or other electronic transmission and concurrently by prepaid U.S. certified or registered mail, addressed to the recipient as follows:

(City of Oakland)
Agency/Department
Address
Oakland, CA

Attn: Project Manager

Name of Contractor
Address
City State Zip
Attn: Project Manager

Any party to this Agreement may change the name or address of representatives for the purpose of this Notice Section by providing written notice to all other parties ten (10) business days before the change is deemed effective.

#### 40. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants, and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any parties, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

#### 41. Modification

Any modification of this Agreement will be effective only if it is in writing and signed by all parties to this Agreement.

#### 42. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

#### 43. Time of the Essence

Contractor agrees that time is of the essence in the performance of this Agreement.

#### 44. Commencement, Completion, and Closeout

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing by the City and shall not constitute a waiver of rights the City may have under this Agreement.

If Contractor fails to complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, Contractor shall make a determination of any and all final costs due under this Agreement and shall submit a requisition to the City for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement). Contractor's failure to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including, without limitation, any obligation for payment of work performed or payment of claims by Contractor.

#### 45. Counterpart Signatures

This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same Contract. The parties shall be entitled to electronically sign and transmit this Contract (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the signing party or the party on whose behalf the document has been signed. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed Contract upon request.

#### 46. Authority

The persons signing below represent and warrant that they have authority to bind their respective party, and all necessary approvals to sign on behalf of their respective party have been obtained.

#### 47. Inconsistency

If there is any inconsistency between this Agreement and the attachments/exhibits hereto, the text of this main Agreement shall prevail.

#### [SIGNATURES ON NEXT PAGE]

City:					
CITY OF OAKLAND,		Contractor:			
a California municipal corporation		INSERT NAME IN ALL CAPS, a California corporation [CONFIRM]			
1 1					
		CORPORATE STATUS			
City Administrator's Office (Date)					
		Signature	(Date)		
Department Head (Date)					
		Print Name			
Approved for form and legality:					
Tree to to to the man regulary.		Title			

City Resolution No.

END OF PROFESSIONAL SERVICES AGREEMENT

## END OF PROFESSIONAL SERVICES AGREEMENT SAMPLE

**ATTACHMENT B1** 

(Stand-Alone Schedules Required with Proposal)

### SCHEDULE E (PROJECT CONSULTANT TEAM LISTING)

#### **AND**

# SCHEDULE I (SANCTUARY CITY CONTRACTING AND INVESTMENT ORDIANCE)

#### **AND**

## SCHEDULE O (CAMPAIGN CONTRIBUTION LIMITS)

#### **AND**

## SCHEDULE W (BORDER WALL PROHIBITION FORM)

An interactive version of the forms can be downloaded from Contracts and Compliance website <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a> or request for a copy from Contracts Unit at <a href="mailto:ContractAdmin@oaklanca.gov">ContractAdmin@oaklanca.gov</a>

#### SCHEDULE E PROJECT CONSULTANT TEAM LISTING To be completed by prime consultants only. Note: Date The consultant herewith must list all sub-consultants regardless of the tier and their respective percentages of the project work. No other sub-consultants, other than those listed below shall be Prime Consultant used without prior written approval by the City of Oakland. Provide all information listed and check the appropriate boxes. Firms must be certified with the City of Oakland in order to receive Local/Small Local Business Enterprise credits. At the time of submittal of Schedule E (for Project Name: professional services), some USLBE-participation must be proposed in order to satisfy the the requirement at the time of submission. If zero participation is presented, the proposal will not be accepted. Signed: % of \* Ethnicity SBA-LBE SLBE VSLBE Project Phone Dollar Type of Work **Company Name Address and City** Number Work Amount

Attach additional page(s) if necessary.

Contractors are required to identify the ethnicity and gender of all listed firms majority owner. This information will be used for tracking purposes only.

Revised 1/21/2022 DM

<sup>\* (</sup>AA=African American) (AI=Asian Indian) (AP=Asian Pacific) (C=Caucasian) (H=Hispanic) (NA=Native American) (O=Other) (NL=Not Listed)

<sup>\*\* (</sup>M = Male) (F = Female)



#### Schedule I

"Sanctuary City Contracting and Investment Ordinance"

United States Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) Prohibition.

This Schedule must be submitted with all proposals or bids by all contractors/Consultants and their sub-contractors/subconsultants, and all vendors seeking to do business with the City of Oakland.

Compliance must be established prior to full contract execution.

	***************************************	
I, (name)	, the undersigned,	of
	(Position/Title	
(Business Entity) - hereinafter r	referred to as Business Entity and duly authorized to attest on bel	half of the

business Entity), declare the following:

- 1. Neither this Business Entity nor any of its subsidiaries, affiliates or agents are under contract with the United States Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) to provide services or goods for data collection or immigration detention facilities. The term "data collection" includes the collection of information (such as personal information about consumers) for another purpose from that which it is ultimately used, datamining in large data bases for trends and information, threat-modeling to identify probable attackers to computer systems, predictive risk analysis to predict future events, and similar services. Additionally, this business entity does not anticipate a contract with ICE, CBP, or HHS/ORR for such work for the duration of a contract/contracts with the City of Oakland.
- 2. The appropriate individuals of authority are cognizant of their responsibility to notify the City's Project Manager and invoice reviewer or the City Administrator's Office, Chief Privacy Officer if any of this Business Entity's subsidiaries, affiliates, or agents are under contract with ICE, CBP, or HHS/ORR for the purposes listed above.
- 3. To maintain compliance, upon review and approval of invoices, the contractors/vendors hereby agree to submit a declaration on company stationery attached to each invoice that the company remains in compliance with the ICE, CBP, and HHS/ORR Prohibition and will not seek or secure a contract with ICE, CBP, or HHS/ORR.
- 4. Upon close out or completion of deliverables and prior to issuance of final payment (while honoring the Prompt Payment Ordinance), this business entity agrees to submit a statement attached to the final invoice, under penalty of perjury, declaring full compliance with the ICE, CBP, and HHS/ORR Prohibition. I understand that an invoice is not declared fully complete and accepted unless and until the declaration of compliance is accepted.
- 5. If this business entity fails to disclose a contract with ICE, CBP, or HSS/ORR to provide services for data collection or immigration detention facilities, the relevant persons may be guilty of a misdemeanor and up to a \$1,000 fine. Additionally, the City Administrator may to the extent permissible by law, remedy any such violations and may use all legal measures available to rescind, terminate, or void contracts in violation.
- 6. I declare under penalty of perjury that the above will not, have not, and do not plan to contract with ICE, CBP, or HHS/ORR to provide services or goods for data collection or immigration detention facilities.



#### PLEASE COMPLETE AND SIGN

	I declare that I understand Ordinance #13540 C.MS. Based on my understanding the above is true and correct to the best of my knowledge.			
or  I declare that I understand Ordinance # 13540 C.MS. Based on my understanding all or a portion of the above is not true and correct to the best of my knowledge.				
	(Printed Name and Signature of Business Owner) (Date)			
	(Name of Business Entity) (Street Address, City, State, and Zip Code )			
	(Name of Parent Company) (If applicable)			
Of	ntacts: ice Phone: ail:			
	r Office Use Only:			
	proved/Denied/Waived			
(SI	Authorized Representative Date			
SCH	EDULE I DB/DM 2019			



#### SCHEDULE O

#### CONTRACTOR ACKNOWLEDGEMENT OF CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS

DepartmentContract/Proposal Name This is an Original Revised form (check one). If Origin			
his is an Original Revised form (check one). If Origin			
hanged data.	ial, complete all that applies. If R	evised, co	omplete Contractor name and any
ontractor Name	Phone		
treet Address	City	, State	Zip
ype of Sulomission (check one) Bid Proposal Qualification _	Amendment		
lajority Owner (if any). A majority owner is a person or entity who owns mo	ire than 50% of the contracting firm or ent	tity.	
	104219039		
dividual or Business Name	Phone		
treet Address	City	State	Zip.
reet numress	City	June	
the City of Oakland and the Oakland Redevelopme criminal penalties.  I have read Oakland Municipal Code Chapter 3.12,	including section 3.12.140, the co	ontractor	provisions of the Oakland Campaig
Reform Act and certify that I/we have not knowingly	, nor will I /we make contributions	during th	ne period specified in the Act.
I understand that the contribution restrictions also a Municipal Code Chapter 3.12.080.	pply to entities/persons affiliated	with the c	contractor as indicated in the Oaklar
If there are any changes to the information on this form during t	he contribution-restricted time period, I w	ill file an am	nended form with the City of
Oakland.			
Oakland.	90 1040		
Signature			
	Date Position		20
Signature Print Name of Signer			P <sub>0</sub>
Signature			

## SCHEDULE W BORDER WALL PROHIBITION

(This form is to be completed by Contractors and their sub-contractors, and all Vendors seeking to do business with the City of Oakland)

I,		, the undersigned, a
	(Name)	
		of
	(Title)	(Business Entity)
(herei	nafter referred to as Business Entity am	a duly authorized to attest on behalf of the business Entity
I.	with any branch of the federal go	of its subsidiaries, affiliates or agents are under contract overnment to plan, design, build, support, repair and/o nor do we anticipate entering or competing for such work attracts with the City of Oakland.
II.	contact person/Project Manager, in Employment Standards (DWES)	rity are cognizant of their <u>responsibility to notify</u> the city nvoice reviewer or the Department of Workplace and ), if any of the identified above decide to compete, plant r maintain any part of work or servicing the border wall.
III.	To maintain compliance, upon rev hereby agree to submit attached to e	view and approval of invoices, the contractors/vendor each invoice, a declaration on company stationery that the th the Border Wall Prohibition and will not seek or secur-
IV.	honoring the Prompt Payment Ordi invoice, under penalty of perjury, d	eliverables and prior to issuance of final payment (while nance) I agree to submit a statement attached to the <u>final</u> eclaring full compliance with the Border Wall voice is not declared fully complete and accepted unless upon is accepted.
V.	I declare under penalty of perjury the	hat the above will not, have not and do not plan to g, maintenance of the operations of the so called "Border
[	I declare that I understand Ordinanis true and correct to the best of my	ce #13459 C.MS. Based on my understanding the above knowledge.
[		nce #13459 C.MS. Based on my understanding all or a correct to the best of my knowledge.
		(Printed
Name	and Signature of Business Owner)	(Date)
(Name	e of Business Entity)	(Street Address City, State and Zip Code)
(Nam	e of Parent Company)	

#### **ATTACHMENT B2**

(Stand-Alone Schedules Required Prior to Contract Award)

### SCHEDULE E-2 (OAKLAND WORKFORCE VERIFICATION)

### **AND**

### SCHEDULE Q (INSURANCE REQUIREMENTS)

An interactive version of the forms can be downloaded from Contract s and Compliance website <a href="https://cao-94612.s3.amazonaws.com/documents/Schedule-Q-Standard-Contracts-rev-091219.pdf">https://cao-94612.s3.amazonaws.com/documents/Schedule-Q-Standard-Contracts-rev-091219.pdf</a> or request for a copy from Contracts Unit at <a href="mailto:ContractAdmin@oaklanca.gov">ContractAdmin@oaklanca.gov</a>

CITY O OAKLA		Oakland Workforce Verification					Schedule E-2	
Date Subs	mitted:	_Consultant/Service Provider:	Phone:					
Address:		email:		# add	itional sheets attached:			
	PLEASE NOTE: All prime consultants seeking additional preference points for Oakland workforce must complete this form and submit with "required attachments" to Contracts and Compliance no later than four (4) days after proposal due			RE QUIRED ATTACHMENTS				
		e assigned Complinace Officer name		and the second second second	аць цве ргорога ше	Pleasech	ned: box below:	to confirm
			14420 144 04500 04100			1	2	3
Use a	EMPLOYEE additional sheets if needed	CURRENT STREET ADDRESS	OF HIRE	LAST 4 DIGITS OF Soc. Sec.#	WORK CLASSIFICATION	Valid Photo ID	Other Proof of Oakland Residency	DE9
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Verification	on of Public Assistance.	Sesidency: Utility Bills, Bank Account their most recently filed DE6/9.	state mem.	s, Auto registrat	ion, wortgage statements,	nemai a	greements,	and OT
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Use a	EMPLOYEE additional sheets if needed	CURRENT STREET ADDRESS	OF HIRE	LAST 4 DIGITS OF Soc. Sec.#	WORK CLASSIFICATION	Valid Photo ID	Other Proof of Oakland Residency	DE6
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#### Schedule Q INSURANCE REQUIREMENTS

(Revised 09/12/2019)

a. General Liability, Automobile, Workers' Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

i. Commercial General Liability insurance shall cover bodily injury, property damage and personal injury liability for premises operations, independent contractors, products-completed operations personal & advertising injury and contractual liability. Coverage shall be on an occurrence basis and at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01)

Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- ii. **Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and nonowned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 0001.
- iii. Workers' Compensation insurance as required by the laws of the State of California, with statutory limits, and statutory coverage may include Employers' Liability coverage, with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, and \$1,000,000 each employee bodily injury by disease. The Contractor certifies thathe/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

- iv. Professional Liability/ Errors and Omissions insurance, if determined to be required by HRM/RMD, appropriate to the contractor's profession with limits not less than \$\_\_\_\_\_\_ each claim and \$\_\_\_\_\_\_ aggregate. If the professional liability/errors and omissions insurance is written on a claims-made form:
  - a. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
  - b. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
  - c. If coverage is cancelled 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 period coverage for a minimum of three (3) years after completion of work.
  - v. Contractor's Pollution Liability Insurance: If the Contractor is engaged in: environmental remediation, emergency response, hazmat cleanup or pickup, liquid waste remediation, tank and pump cleaning, repair or installation, fire or water restoration or fuel storage dispensing, then for small jobs (projects less than \$500,000), the Contractor must maintain Contractor's Pollution Liability Insurance of at least \$500,000 for each occurrence and in the aggregate. If the Contractor is engaged in environmental sampling or underground testing, then Contractor must also maintain Errors and Omissions (Professional Liability) of \$500,000 per occurrence and in the aggregate.
  - vi. **Sexual/Abuse insurance.** If Contractor will have contact with persons under the age of 18 years, or provides services to persons with Alzheimer's or Dementia, or provides Case Management services, or provides Housing services to vulnerable groups (i.e., homeless persons) Contractor shall maintain sexual/molestation/abuse insurance with a limit of not less than \$1,000,000 each occurrence and \$1,000,000 in the aggregate. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
  - Vii. Technology Professional Liability (Errors and Omissions) OR Cyber Liability Insurance, if determined to be required by HRM/RMD, appropriate to the Consultant's profession, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and

penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

#### b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Insured Status (Additional Insured): Contractor shall provide insured status naming the City of Oakland, its Councilmembers, directors, officers, agents, employees and volunteers as insureds under the Commercial General Liability policy. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 (11/85) or both CG 20 10 and CG 20 37 forms, if later revisions used). If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on an ISO form CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- ii. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents, employees and volunteers shall be primary insurance. Any other insurance available to the City Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Agreement); and
- iii. Cancellation Notice: Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Entity; and
- iv. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents and subcontractors; and
- v. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement; and
- vi. Insurer shall carry insurance from admitted companies with an A.M. Best Rating of A VII, or better.

#### c. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

#### d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

#### e. <u>Proof of Insurance</u>

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if, and when, requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

#### f. Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the project to verify compliance with requirements.

#### g. <u>Deductibles and Self-Insured Retentions</u>

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

#### h. Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors, employees and volunteers for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

#### i. Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice.

#### j. <u>Higher Limits of Insurance</u>

If the contractor maintains higher limits than the minimums shown above, The City shall be entitled to coverage for the higher limits maintained by the contractor.

#### **ATTACHMENT C: CITY SCHEDULES AND POLICIES**

**PLEASE READ CAREFULLY**: It is the prospective primary proposer's/bidder's/grantee's responsibility to review all listed City Schedules, Ordinances and Resolutions.

If you have questions regarding any of the schedules, Ordinances or Resolutions, please contact the assigned Contract Compliance Officer listed on the Request for Proposals (RFP), Notice Inviting Bids (NIB), Notice To Bidders (NTB), Request for Qualifications (RFQ) and Grant announcements.

By submitting a response to this RFP/Q, NIB, NTB, or Grant opportunities, to the City of Oakland the prospective primary participant's authorized representative hereby certifies that your firm or not-for profit entity has reviewed all listed City Schedules, Ordinances and Resolutions and has responded appropriately.

Note: additional details are available on our website as follows: https://www.oaklandca.gov/documents/contracting-policies-and-legislation

## 1. <u>Arizona and Arizona-Based Businesses</u> - Applies to all agreements and is part of the "Contract".

Contractor confirms that it has read and understood City Resolution No. 82727 C.M.S., which urges City Departments to the extent practicable and in instances where there is no significant additional cost to the City of conflict with the law, to refrain from entering into new or amended contracts to purchase goods or services from any company that is headquartered in Arizona, and urges companies to also boycott the State of Arizona and Arizona-based businesses until Arizona repeals SB 1070. Contractor agrees, in accordance with City Resolution No. 82727 C.M.S., that Contractor is not currently headquartered in the State of Arizona and shall not establish an Arizona business headquarters for the duration of this Agreement or until Arizona rescinds SB 1070.

## 2. <u>Declaration of Compliance with the Americans with Disabilities Act</u> – Applies to all agreements and is part of the "Contract".

- i. This Agreement is subject to the Americans with Disabilities Act (ADA). It requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.
  - (1) You certify that you will comply with the Americans with Disabilities Act by:
  - (2) Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor's goods, services and facilities for people with disabilities;
  - (3) Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;

- (4) Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration the Contractor's program would result;
- (5) Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive;
- (6) Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities;
- (7) If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.
- ii. Prior to execution of this agreement and/or upon request, the contractor shall complete the <u>Schedule C-1</u> form and submit to the City. The form can be found on our website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a> (see Combined Schedules)

For Declaration of ADA compliance for facility and other special events agreements please reference C-2 on the above web site.

3. <u>Schedule D</u> – (Ownership, Ethnicity, and Gender Questionnaire) – **Applies to all** agreements and is part of the "Combined Contract Schedules". Please be advised that ethnicity and gender information will be used for reporting and tracking purposes ONLY.

This agreement is subject to the reporting of Ownership, Ethnicity and Gender questionnaire form. Prior to execution of this agreement and/or upon request, the contractor shall complete the <a href="Schedule D">Schedule D</a> form and submit to the City. The form can be found on our website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a> (see Combined Schedules)

- 4. <u>Schedule E</u> (Project Consultant or Grant Team). **Applies to Non-Construction** agreements and is a "stand alone Schedule<sup>1</sup>" and must be submitted with the proposal.
  - i. For tracking purposes ONLY This Agreement is subject to the attached hereto and incorporated herein as Schedule E form, this form is required to be submitted with the proposal.
  - ii. The form can also be found on our website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a>.
  - iii. This form is use for establishing level of certified local Oakland for profit and not for profit participation and calculating compliance with council's 50% local participation policy.
  - iv. In response to this RFP/Q or grant opportunity, the prime shall be a qualified for profit or not-for profit entity.
  - v. Sub-Consultants (if used) or sub-grantees must be listed to include: addresses,

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<sup>&</sup>lt;sup>1</sup> Stand Alone Schedule is not part of the "Combined Schedule".

telephone numbers and areas of expertise/trace category of each. Briefly describe the project responsibility of each team member. Identify if contractors are certified MBE, WBE, Local Business Enterprises (LBE) and Small Local Business Enterprise (SLBE), Locally Produced Goods or Very Small Local Business Enterprise.

5.

- i.
- ii. <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a>

6.

- $i. \quad \underline{https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules.} \\$
- ii.

## 7. <u>Schedule G</u> – (<u>Progress Payment Form</u>) – Applies to all agreements and is a "stand alone Schedule".

This Agreement is subject to the reporting of subcontractor progress payments monthly. The Schedule G form can be found on our website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a>.

### 8. <u>Pending Dispute Disclosure Policy</u> – Applies to all agreements and is part of the "Contract".

Contractors are required to disclose pending disputes with the City of Oakland. Contractor agrees to disclose and has disclosed, any and all pending disputes with the City in writing to the Project Manager. Failure to disclose pending disputes prior to execution of this Agreement or any subsequent amendment shall be a basis for termination of the Agreement.

9. <u>Schedule M</u> – (<u>Independent Contractor Questionnaire</u>, <u>Part A</u>). – Applies to all agreements and is part of the "Combined Contract Schedules".

Prior to execution of this agreement and/or upon request, the contractor shall complete the <a href="Schedule M">Schedule M</a> form and submit to the City. The form can be found on our website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a> (see Combined Schedules)

- 10. <u>Schedule N</u> (<u>LWO Living Wage Ordinance</u>) Applies to Non-Construction agreements and is a "stand alone Schedule".
  - i. This Agreement is subject to the Oakland Living Wage Ordinance. The full details of the Living Wage Ordinance can be found on the City's website

- (https://library.municode.com/HTML/16308/level2/TIT2ADPE\_CH2.28LIWAO R.html#TOPTITLE).
- ii. Prior to execution of this agreement and/or upon request the contractor shall complete the <u>Schedule N</u> form and submit to the City. The form can be found on our website at

## 11. <u>Schedule N-1</u> - (<u>EBO - Equal Benefits Ordinance</u>) – Applies to Non-Construction agreements over \$25,000 and is a "stand alone Schedule".

- i. This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The full details of the Equal Benefits Ordinance can be found on the City website at <a href="http://library.municode.com/HTML/16308/level2/TIT2ADPE\_CH2.32EQBEOR.html#TOPTITLE">http://library.municode.com/HTML/16308/level2/TIT2ADPE\_CH2.32EQBEOR.html#TOPTITLE</a>.
- ii. Prior to execution of this agreement and/or upon request the contractor shall complete the <u>Schedule N-1</u> form and submit to the City. The form can be found on our website at

## 12. <u>Schedule O</u> – (City of Oakland Campaign Contribution Limits Form) - **Applies to all** agreements and is a "stand alone Schedule" and must be submitted with the proposal.

- i. This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits Contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.
- ii. The form is also available on our website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a>

#### 13. Nuclear Free Zone Ordinance - Applies to all agreements and is part of the "Contract".

Contractor confirms that it has read and understood Ordinance No. 11478 C.M.S., titled "An Ordinance Declaring the City of Oakland a Nuclear Free Zone and Regulating Nuclear Weapons Work and City Contracts with and Investment in Nuclear Weapons Makers," which restricts the City from entering into professional service agreements with nuclear weapons makers unless an exemption applies. Under Ordinance No. 11478 C.M.S., it is the City's policy to minimize the expenditure of City funds on goods and services produced by nuclear weapons makers and Contractor is urged to comply with this policy in making purchases and subcontracts. Contractor agrees to comply with Ordinance No. 11478 C.M.S. in the provision of services under this Agreement and certifies that it is not a nuclear weapons maker.

## 14. <u>Schedule Q</u> - (<u>Insurance Requirements</u>) - Applies to all agreements and is a "stand alone Schedule", and evidence of insurance must be provided.

- i. This Agreement is subject to the attached hereto and incorporated herein as Schedule Q Insurance Requirements. Unless a written waiver is obtained from the City's Risk Manager, Contractors must provide the insurance as found at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a> Schedule Q.
- ii. A copy of the requirements is attached and incorporated herein by reference. Liability insurance shall be provided in accordance with the requirements specified.
- iii. When providing the insurance, include the Project Name and Project Number on the ACORD form in the section marked Description of Operations/Locations.
- iv. When providing the insurance, the "Certificate Holder" should be listed as: City of Oakland, Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612.

## 15. <u>Affidavit of Non-Disciplinary or Investigatory Action</u> - Applies to all agreements is part of the "Contract".

This Agreement is subject to the Schedule V - Affidavit of Non-Disciplinary or Investigatory Action. The form can be found on our website at

16. <u>Schedule W</u> – (Border Wall Prohibition)- Applies to all agreements and is a "stand alone Schedule" and must be submitted with the proposal.

This Agreement is subject to the Ordinance #13459 C.M.S. and its implementing regulations. The full details of the Border Wall Ordinance are located on the City website at <a href="https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules">https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules</a>

**PLEASE NOTE:** By submitting an RFP/Q, NIB, NTB, or Grants to the City of Oakland the prospective primary participant's authorized representative hereby obligates the proposer(s) to the stated conditions referenced in this document.