

**RfQ#APD2022-01**  
**Electronic Monitoring System Solution**  
**ATTACHMENT I: Terms and Conditions**

**I. GENERAL**

**A. Public Disclosure**

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

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

**B. Limitation on Communications During Solicitation**

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

**C. How to Register as a City Supplier**

The following requirements pertain only to Proposers not currently registered with the City as a Supplier. While it is not a requirement to be a Supplier registered with the City at the time of Proposal submission, it is encouraged.

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

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

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

- **City Business Tax Registration Inquiries:** For questions regarding business tax registration procedures and requirements, contact the Tax Collector's Office at (415) 554-4400 or, if calling from within the City and County of San Francisco, 311.

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- **Chapter 12(B) and 12(C) Inquiries:** For questions concerning the City's Chapter 12(B) and 12(C) Equal Benefits and Non-Discrimination in Contracting requirements, go to: [www.sfgov.org/cmd](http://www.sfgov.org/cmd).

**D. Contract Terms and Negotiations**

The successful Proposer will be required to enter into an Agreement substantially in the form of the Agreement attached hereto as Attachment 1, City's Proposed Agreement Terms. **If Proposer is unable to accept City's Contract Terms substantially in the form presented, Proposer shall include a revised copy of City's Sample Contract with its Proposal.** Please use tracked changes and/or add comments to the revised copy. The revised copy of the Proposed Agreement must clearly:

- (1) Mark those sections to which it objects;
- (2) Set forth Proposer's alternative terms with respect to each such section; and
- (3) Explain the basis for each proposed change.

If a satisfactory contract(s) cannot be negotiated in a reasonable time, the City, in its sole discretion, may terminate negotiations. Upon termination of negotiations, City may begin negotiation with the Proposer that meets the Minimum Qualifications of this Solicitation whose Proposal receives the next highest ranking score.

See Attachment VI, "Sample Contract," to review and revise as needed.

**E. Protest Procedures**

**1. Protest of Non-Responsiveness Determination**

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

**2. Protest of Non-Responsible Determination**

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

**3. Protest of Contract Award**

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

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**4. Delivery of Protests**

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

**II. CITY'S SOCIAL POLICY REQUIREMENTS**

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

**A. Proposers Unable to do Business with the City**

**1. Generally**

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

**2. Administrative Code Chapter 12X**

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

**3. Administrative Code Chapter 12B**

A Proposer selected pursuant to this Solicitation may not, during the term of the **Contract Agreement**, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set

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forth in §12B.2(b) of the San Francisco Administrative Code. *Refer to Attachment 1, City's Proposed Agreement Terms for additional details related to the application of this Ordinance to a contract awarded pursuant to this Solicitation.*

- B. Reserved (Prevailing Wage Ordinance)**
- C. Reserved (Health Care Accountability Ordinance)**
- D. Reserved (Minimum Compensation Ordinance)**
- E. Reserved (First Source Hiring Program)**
- F. Reserved (Sweatfree Procurement)**
- G. Other Social Policy Provisions (See Attachment VI, "Sample Contract")**

**III. RESERVED (LOCAL BUSINESS ENTERPRISE (LBE) PROGRAM REQUIREMENTS)**

**IV. INSURANCE**

**A. Insurance**

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

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

Unless otherwise stated, within ten business days of the receipt of a notice of award of a Contract, the Proposer to whom the contract is awarded shall deliver the required insurance certificates and policy endorsements to City. If the Proposer fails or refuses to furnish the required insurance within ten days after receiving notice to award a Contract, City may, at its option, determine that the Proposer has abandoned its Proposal. The foregoing in no way limits the damages which are recoverable by City whether or not defined elsewhere in the contract documents.

**V. TERMS AND CONDITIONS FOR RECEIPT OF PROPOSALS**

**A. Cybersecurity Risk Assessment**

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

To conduct a CRA, City shall collect as part of this Solicitation process one of the following two documents.

1. **SOC-2 Type 2 Report:** Report on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality or Privacy; or

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2. **City's Cyber Risk Assessment Questionnaire:** Proposer's responses to a City's Cyber Risk Assessment Questionnaire.

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

More information about the Cybersecurity Risk Assessment can be found at this website:  
<https://sfgov.org/oca/technology-procurement-considerations>

See Attachment IV, "Minimum Qualifications & Prior Project Descriptions" for information on how to submit this information.

**B. Solicitation Errors and Omissions**

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

**C. Objections to Solicitation Terms**

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

**D. Solicitation Addenda**

The City may modify this Solicitation, prior to the Proposal due date, by issuing an Addendum to the Solicitation, which will be posted on the [Adult Probation Department website](https://sfgov.org/adultprobation/requests-proposals) (<https://sfgov.org/adultprobation/requests-proposals>). Every Addendum will create a new version of the Sourcing Event and Proposers must monitor the event for new versions. **The Proposer shall be responsible for ensuring that its Proposal reflects any and all Solicitation Addenda issued by the City prior to the Proposal due date regardless of when the Proposal is submitted.** Therefore, the City recommends that the Proposer consult the website frequently, including shortly before the Proposal due date, to determine if the Proposer has downloaded all Solicitation Addenda. It is the responsibility of the Proposer to check for any Addenda, Questions and Answers documents, and updates, which may be posted to the subject Solicitation.

**THE SUBMITTAL OF A RESPONSE TO THIS SOLICITATION SHALL EXPLICITLY STIPULATE ACCEPTANCE BY THE PROPOSERS OF THE TERMS FOUND IN THIS**

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**SOLICITATION, ANY AND ALL ADDENDA ISSUED TO THIS SOLICITATION, AND THE PROPOSED CONTRACT TERMS.**

**E. Proposal Term**

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

**F. Revision to Proposal**

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

**G. Proposal Errors and Omissions**

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

**H. Financial Responsibility**

The City accepts no financial responsibility for any costs incurred by a Proposer in responding to this Solicitation. Proposers acknowledge and agree that their submissions in response to this Solicitation will become the property of the City and may be used by the City in any way deemed appropriate.

**I. Proposer's Obligations under the Campaign Reform Ordinance**

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

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

This restriction applies to the party seeking the contract, the party's board of directors, chairperson, chief executive officer, chief financial officer, chief operating officer, any person

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with an ownership interest greater than ten percent, and any political committees controlled or sponsored by the party, as well as any subcontractors listed in the awarded contract or Proposal. The law both prohibits the donor from giving contributions and prohibits the elected official from soliciting or accepting them.

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

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

**J. Reservations of Rights by the City**

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

1. Waive or correct any defect or informality in any response, Proposal, or Proposal procedure;
2. Reject any or all Proposals;
3. Reissue the Solicitation;
4. Prior to submission deadline for Proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this Solicitation, or the requirements for contents or format of the Proposals;
5. Procure any materials, equipment or services specified in this Solicitation by any other means; or
6. Determine that the subject goods or services are no longer necessary.

**K. No Waiver**

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

**L. Other**

1. The City may make such investigation, as it deems necessary, prior to the award of this contract to determine the conditions under which the goods are to be delivered or the work is to be performed. Factors considered by the City shall include, but not be limited to:
  - a) Any condition set forth in this Solicitation;
  - b) Adequacy of Proposer's plant facilities and/or equipment, location and personnel location to properly perform all services called for under the Purchase Order; and
  - c) Delivery time(s).

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

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

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

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

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**ACKNOWLEDGEMENT OF ATTACHMENT I: TERMS AND CONDITIONS**

**Proposer must sign and include this page in their submission.**

Submission of a proposal indicates a Proposer's acceptance of the Terms and Conditions contained in this Solicitation unless clearly and specifically noted otherwise in the proposal. The City may discontinue its selection, contract negotiations, or contract award processes with any Proposer if it is determined that the Proposer has not accepted the Terms and Conditions contained herein.

EACH PROPOSER, AS PART OF ITS PROPOSAL, MUST SUBMIT THIS DOCUMENT SIGNED BY AT LEAST ONE (1) REPRESENTATIVE(S) AUTHORIZED BY THE PROPOSER TO MAKE REPRESENTATIONS FOR THE PROPOSER AND TO OBLIGATE THE PROPOSER TO PERFORM THE COMMITMENTS CONTAINED IN ITS PROPOSAL.

**Acknowledged and Agreed:**

Signature:	Signature:
Printed Name:	Printed Name:
Title:	Title:
Firm Name:	Firm Name:
City, State:	City, State:
Phone Number:	Phone Number:
Date:	Date:

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**ATTACHMENT II: Reserved (Local Business Enterprise)**

Not Applicable.