

**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division**

**First Amendment to Agreement between the City and County of San Francisco  
and  
Harvey M. Rose Associates, LLC, Debra A. Newman, Louie & Wong, LLP, A Joint  
Venture**

THIS AMENDMENT (this "Amendment") is made as of October 14, 2014, in San Francisco, California, by and between Harvey M. Rose Associates, LLC, Debra A. Newman, Louie & Wong, LLP, A Joint Venture ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration or the Director's designated agent.

**RECITALS**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, The Agreement provides that City may, in its discretion, increase Contractor's compensation and the not-to-exceed amount of the Agreement if the City's Board of Supervisors adopts a motion to increase Contractor's hourly rate, provided that any such increase may be no more than the Cost of Living Adjustment (COLA) rate set by statute or ordinance for government employees by the City, the State, or the Federal Government, whichever is highest; and

WHEREAS, On September 16, 2014, the Board of Supervisors adopted Motion M14-154, enacting a three percent COLA, to be effectuated no earlier than October 1, 2014, resulting in a 2.25 percent, or \$45,000, increase to the contract in Fiscal Year 2014-2015 and a 3.00 percent increase in future fiscal years; and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to increase Contractor's billing rates, update Appendix B, and update standard contractual clauses;

NOW, THEREFORE, Contractor and City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**1a. Agreement.** The term "Agreement" shall mean the Agreement dated December 19, 2013, between Contractor and City.

**1b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**2a. Section 5.** Section 5, Compensation, of the Agreement currently reads as follows:

**5. Compensation.** Compensation shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 4 of this Agreement, that the Clerk of the Board, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. The amount of this Agreement shall not exceed \$2,000,000 (two million dollars) per year unless the Board of Supervisors adopts a motion enacting a cost of living adjustment (COLA). The Board of Supervisors may adopt such a motion a maximum of one time per calendar year. Any such motion could increase Contractor's hourly rate by no more than the COLA rate set by statute or ordinance for government employees by the City, the State, or the Federal Government, whichever is highest. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the Board of Supervisors Department as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

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

**Such section is hereby amended in its entirety to read as follows:**

**5. Compensation.** Compensation shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 4 of this Agreement, that the Clerk of the Board, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. The amount of this Agreement shall not exceed \$1,000,000 in Fiscal Year 2013-2014 (ending June 30, 2014), \$2,045,000 in Fiscal Year 2014-2015 (ending June 30, 2015), and shall not exceed \$2,060,000 per Fiscal Year thereafter unless the Board of Supervisors adopts a motion enacting a cost of living adjustment (COLA) to increase that amount. The Board of Supervisors may adopt such a motion a maximum of one time per calendar year. Any such motion could increase Contractor's hourly rate by no more than the COLA rate set by statute or ordinance for government employees by the City, the State, or the Federal Government, whichever is highest. The breakdown of costs associated with this

Agreement appears in Appendix B-1, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the Clerk of the Board of Supervisors as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

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

**2b. Appendix B-1.** Appendix B "Calculation of Charges" is replaced in its entirety by Appendix B-1, which is hereby attached and incorporated as though fully set forth herein.

**2c. Replacing "Earned Income Credit (EIC) Forms" with "Consideration of Criminal History in Hiring and Employment Decisions" Section.** Section 32 "Earned Income Credit (EIC) Form," is hereby replaced in its entirety to read as follows:

**32. Consideration of Criminal History in Hiring and Employment Decisions.**

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

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

c. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

d. Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received, base an Adverse Action on an applicant's or potential applicant for employment's, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

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

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

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

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

**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after October 1, 2014.

**4. Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

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

**CITY**

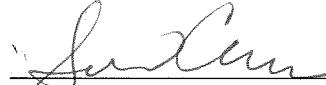
**CONTRACTOR**

Recommended by:

Harvey M. Rose Associates, LLC, Debra A. Newman, Louie & Wong, LLP, A Joint Venture



Angela Calvillo  
Clerk of the Board  
Board of Supervisors



Severin Campbell  
Joint Venture Partnership Manager  
1390 Market Street, Suite 1025  
San Francisco, CA 94102  
City vendor number: 81834

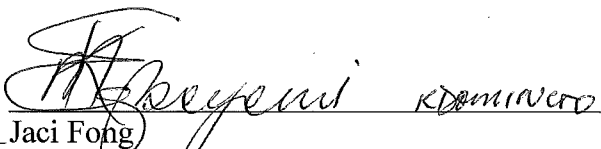
Approved as to Form:

Dennis J. Herrera  
City Attorney

By: 

Jon Givner  
Deputy City Attorney

Approved:



Jaci Fong  
Director of the Office of Contract Administration, and Purchaser

**Appendix**

B-1: Calculation of Charges

**Appendix B-1  
Calculation of Charges**

The following hourly rates, annual hours allocation and fee schedules will apply to the Budget and Legislative Analyst Joint Venture, which consists of Harvey M. Rose Associates, LLC, Debra A. Newman, and Louie & Wong, LLP.

**Hourly Rates**

<b>Staff Level</b>	<b>Rate</b>
<b>Principal Analyst</b>	\$169.95
<b>Senior Analyst</b>	\$128.75
<b>Analyst</b>	\$92.70

These hourly rates are all inclusive, meaning that no additional amounts will be charged to the City for expenses, including administrative support, travel, office expense, telephone or other items required to perform the services described in Appendix A. All fees will be charged in arrears, based on actual hours worked during the preceding month, unless a different methodology is required by the City. Contractor may request a cost of living adjustment (COLA) increase in billing rates at least 60 days in advance of each January 1 anniversary date of the contract. The City, in its sole discretion, shall determine whether to grant the increase. Any increase shall be subject to approval by the Board of Supervisors. The amount of this Agreement shall not exceed \$1,000,000 in Fiscal Year 2013-2014 (ending June 30, 2014), \$2,045,000 in Fiscal Year 2014-2015 (ending June 30, 2015), and shall not exceed \$2,060,000 per Fiscal Year thereafter unless the Board of Supervisors adopts a motion enacting a COLA to the billing rates. The Board of Supervisors may adopt such a motion a maximum of one time per calendar year. Any such motion could increase Contractor's hourly rate by no more than the COLA rate set by statute or ordinance for government employees by the City, the State, or the Federal Government, whichever is highest.

The schedule below provides an initial allocation of professional staff hours by Joint Venture and subcontractors.

<b>Staff Level</b>	<b>Proposed Contract Hours</b>
<b>Principal Analyst</b>	4,174
<b>Senior Analyst</b>	4,845
<b>Analyst</b>	7,840
<b>Total</b>	16,859

The allocation of professional staff hours would result in the following allocation of professional fees, by Joint Venture partner firm and subcontractors.

Fee Allocation by Joint Venture Partner/LBE Contractor

<b>Organization</b>	<b>Percent of Fees</b>	<b>Percent of Joint Venture</b>
<b>Harvey M. Rose Associates, LLC</b>	53.7%	64.0%
<b>Debra A. Newman</b>	22.4%	26.6%
<b>Louie &amp; Wong, LLP</b>	7.9%	9.4%
<b>Rodriguez, Perez, Delgado &amp; Company</b>	11.7%	N/A
<b>Hampton Smith</b>	4.4%	N/A
<b>Total</b>	100%	100%

The allocation of professional staff hours presented here is for planning purposes. Actual hours may vary by Joint Venture partner, subcontractor, and classification, based on Contractor's assessment of the Board of Supervisors' service requirements. In no event will payments to the LBE subcontractors drop below the 16% threshold established by the City. In addition, Joint Venture partners that are also certified LBE will receive 35% of net contract proceeds after payment to the subcontractors. Contractor will provide reports to the Clerk of the Board of Supervisors each month showing actual hours of service for the quarter and year-to-date and a forecast for the balance of the year, by service area, Joint Venture partner, subcontractor and staff classification.

Budget & Legislative Analyst

Contract Term: January 1, 2014 to December 31, 2017

Calendar Year	Months	Fiscal Year	Contract Amount	Calendar Year Contract Amount	Fiscal Year Contract Amount
2014	January - June	FY 13/14	\$1,000,000	\$2,022,500	\$1,000,000
	July - December	FY 14/15	\$1,022,500		
2015	January - June	FY 14/15	\$1,022,500	\$2,052,500	\$2,045,000
	July - December	FY 15/16	\$1,030,000		
2016	January - June	FY 15/16	\$1,030,000	\$2,060,000	\$2,060,000
	July - December	FY 16/17	\$1,030,000		
2017	January - June	FY 16/17	\$1,030,000	\$2,060,000	\$2,060,000
	July - December	FY 17/18	\$1,030,000		
<b>TOTAL</b>			<b>\$8,195,000</b>	<b>\$8,195,000</b>	<b>\$8,195,000</b>