

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

**Second 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 19, 2015, 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 July 21, 2015, the Board of Supervisors adopted Motion M15-116 enacting a three and one quarter percent (3.25%) COLA, to be effectuated no earlier than October 1, 2015, resulting in a 2.44%, or \$50,264, increase to the contract in Fiscal Year 2015-2016 and a 3.25% 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-1, 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 as amended by the:

First amendment, dated October 14, 2014

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 \$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). 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 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), \$2,110,264 in Fiscal Year 2015-2016 (ending June 30, 2016), and shall not exceed \$2,126,950 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-2, "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-2. Appendix B-1 "Calculation of Charges" is replaced in its entirety by Appendix B-2, which is hereby attached and incorporated as though fully set forth herein.


3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after October 1, 2015.

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


Recommended by:



Angela Calvillo
Clerk of the Board
Board of Supervisors

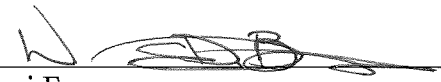
Approved as to Form:

Dennis J. Herrera
City Attorney

By: 

Jon Givner
Deputy City Attorney

Approved:

for 

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

CONTRACTOR

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



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

Appendix

B-2: Calculation of Charges

**Appendix B-2
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

Staff Level	Rate
Principal Analyst	\$175.47
Senior Analyst	\$132.93
Analyst	\$95.71

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), \$2,110,264 in Fiscal Year 2015-16 (ending June 30, 2016), and shall not exceed \$2,126,950 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 table below provides an initial allocation of professional staff hours by Joint Venture and subcontractors.

Staff Level	Proposed Contract Hours
Principal Analyst	4,175
Senior Analyst	4,845
Analyst	7,840
Total	16,860

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

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