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SAN FRANCISCO, CA 94111

LEASING APPLICATION PACKAGE

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PART I

LEASING APPLICATION

Please print legibly or type. Use attachments to provide complete and detailed information to facilitate Port review and approval process.

I. Proposed Tenant Legal Name /Business Type

Date: _____

A. Name/Address of Proposed Tenant

Full Legal Name of Proposed Tenant: _____

Residence Address: _____

E-mail address _____

Existing Business Name: _____

Business Address: _____

Telephone: _____

Fax: _____

How long at the Premises: _____

Contact Person: _____

Name

Title

Telephone

II. Legal Status

A. Fictitious Business Name Statement (If applicable):

Operating Name: _____

When/Where Filed? _____

Not applicable _____

B. Type of Business Entity:

____ Corporation ____ Mutual Benefit ____ Sub ____ Not-for-Profit

____ Partnership: ____ General ____ Limited

____ Limited Liability Company (LLC)

____ Limited Liability Partnership (LLP)

____ Sole Proprietor(s)

____ Franchise

____ Other _____

(explain)

C. If tenant is a corporation or LLC, please complete the following:

State of Incorporation: _____

Date of Incorporation: _____

Local Agent for Service of Process:

Name: _____

Address: _____

Phone Number: _____

List all officers and directors of the corporation or members of the LLC:

Name: _____

Title: _____

Name: _____

Title: _____

Name: _____

Title: _____

Attach a copy of the statement by domestic stock corporation.

**D. If proposed tenant is a general or limited partnership,
please list all general partners:**

Name: _____

Address: _____

Date of Birth: _____

Social Security Number: _____

Name: _____

Address: _____

Date of Birth: _____

Social Security _____

Attach a copy of the Articles of Organization.

E. Who will sign the lease?

Print Name _____

Print Title _____

(If tenant is a corporation, two signatories are required. Both must be corporate officers or persons who are authorized by the corporation to enter into contracts).

F. Has the proposed tenant ever had a lease, license or other tenancy with the Port? Identify the dates of this tenancy, location of tenancy, and facts concerning the termination or expiration of the tenancy.

G. For Property Manager Use Only:

Name & Date of Lease/License _____

Lease/License No. _____

Status of Account: _____

III. Description of Proposed Term, Use, Area, Location, Activities and Required Licenses or Permits.

A. Proposed Uses (including ancillary or support uses). Describe the operations and activities that will occur on the Premises, including both indoor and outdoor uses, on a separate attachment, if necessary. Provide a complete and detailed explanation to facilitate the Port's lease review and approval process. Explain if any of the proposed uses are water-dependent or bay-related.

B. Requested amount of space (delineate by type of space—i.e. shed storage space, improved land, office space, and by amount of square footage):

C. Desired Location, if known (be specific-- i.e. pier building number, outdoor area, including nearest cross street). Include site map if available.

D. Term sought (months/years):

E. How many employees will be working on site in the course of normal daily operations?

F. Will proposed use require interior or exterior alterations, improvements, repairs or demolition on the Premises? Describe in detail all alterations, improvement or repairs proposed, including estimated square footage of interior and exterior areas to be constructed or renovated in an attachment, if necessary.

G. Will any of the types of work listed below be required for site preparation/ construction of tenant improvements, or on-going operations? Please provide explanation for any of the items checked below which will apply and list any permits required, if known:

Activity	Site Preparation	Ongoing Operations
Excavation (quantity in cubic yards)		
Fill (indicate if any pier repairs or new construction in or over the Bay is proposed)		
Utility installation or modification, including systems to handle sewage and storm water runoff		
Demolition		
Work on shoreline or over water		
Soil borings or groundwater wells		
Vehicle maintenance (including washing/oil change)		
Dredging		
Industrial manufacturing, production or processing		

H. If improvements are proposed, including the construction or placement of new structures, will they block views to the Bay?

Yes

No

Unknown

I. Will tenant bring soil or construction materials to the Premises, either for site preparation or as part of ongoing operations? List the type and volumes of material to be transported into and out of the facility.

J. Many activities may require approvals from other agencies, which may include those listed below. Please indicate if your proposed operation may require any of these or other permits, along with further details/explanation on a separate attachment:

- City of San Francisco Health Department
 - Water Quality for groundwater wells/soil borings
 - Hazardous Materials for use and/or storage of hazardous materials or waste
 - Hazardous waste for soil excavation/management
 - Solid waste management
 - City of San Francisco Police Department
 - Entertainment /Amplified Sound
 - SF Bay Conservation Development Commission
 - State of California Solid Waste Board
 - Alcohol Beverage Control
 - Bay Area Air Quality Management District
 - Regional Water Quality Control Board (construction in or over water, storm water runoff from construction activities or on-going industrial operations)
 - Army Corps of Engineers (construction in water or shoreline)
 - Planning Commission Master Plan Referral
 - Conditional Use Permit
 - CEQA Environmental Review
 - Other (List) _____
-

K. Will tenant use or store any hazardous material, or generate any hazardous waste (e.g. used oil, solvent, cleaning solutions) during site preparation or regular operations? If so, identify all such substances and operations and the quantities to be stored or used on the Premises. Please list any regulatory approvals required for these hazardous materials and waste operations on the Premises, as well as other environmental reviews, if known. Please provide this information on a separate attachment, accompanied by a detailed and complete explanation to facilitate the Port's lease review and approval process.

L. Please list any permits or authorizations from environmental regulatory agencies currently or formerly held by applicant. If so, please provide details.

M. Has the applicant ever been cited for a violation of environmental or health and safety laws, regulations, or permit requirements? If so, please provide details.

N. List all materials and approximate quantities to be stored on premises. Attach additional sheets if necessary:

O. Will the proposed use involve truck traffic to/from the Premises on a daily basis? If so, please describe the average number of daily truck trips

P. What are the proposed days and hours of operation at the Premises?

Q. Will the operations create significant levels of noise that can be heard from locations adjacent to Port property? If so, please indicate during what times this noise will occur and provide an estimate of the level in decibels from the closest non-Port site.

IV. FINANCIAL INFORMATION ABOUT PROPOSED TENANT

A. Financials / tax returns

The proposed tenant shall provide the Port with financial statements or income tax returns for the past three (3) years.

B. Bank References

(1) NAME OF BANK OR S&L: _____

Branch: _____

Address: _____

_____ City State Zip

Telephone: _____ Contact Name: _____

Account # _____

Type of Account _____

(2) NAME OF BANK OR S&L:

Branch: _____

Address: _____

_____ City State Zip

Telephone: _____ Contact Name: _____

Account # _____

Type of Account _____

C. Assets of proposed tenant

(1) List all real property in which you have an interest:

_____ Value: \$ _____
Describe

_____ Value: \$ _____
Describe

(2) List all automobiles in which you have an interest:

_____ Value: \$ _____
Year/Make/Model/License No.

_____ Value: \$ _____
Year/Make/Model/License No.

(3) List all other assets in which you have an interest:

_____ Value: \$ _____
Describe

_____ Value: \$ _____
Describe

(4) List any interest the proposed tenant has in any other business(es), and give addresses and phone numbers of each:

D. Liabilities of proposed tenant

List all liabilities of the proposed tenant (loans, mortgages, credit card accounts, etc.):

_____	Describe	Amount: \$ _____
_____	Describe	Amount: \$ _____
_____	Describe	Amount: \$ _____
_____	Describe	Amount: \$ _____

E. Bankruptcy

Has the proposed tenant ever filed for bankruptcy protection? (YES) _____ (NO) _____

When _____

Where? _____

If Yes, Explain Details: (e.g. Chapter 7, 11, 13) _____

Current Status of Bankruptcy:

Explain: _____

F. Previous business landlord:

Name of Prior Landlord: _____

Address: _____

Phone Number: _____

Dates of previous tenancy: _____

Address of previous tenancy: _____

Monthly Rent: _____

Reason for Leaving: _____

THIS APPLICATION MUST BE SIGNED, DATED AND ACCOMPANIED BY CASH OR CASHIER'S CHECK FOR THE SECURITY DEPOSIT IN AN AMOUNT EQUAL TO TWO (2) MONTHS' RENT. THE SECURITY DEPOSIT IS FULLY REFUNDABLE IF THE PARTIES DO NOT ENTER INTO A LEASE. THE APPLICANT HEREIN UNDERSTANDS AND AGREES THAT PAYMENT OF A SECURITY DEPOSIT SHALL IN NO WAY BE CONSTRUED AS AN AGREEMENT, OBLIGATION OR ACCEPTANCE TO LEASE BY THE SAN FRANCISCO PORT COMMISSION.

THE UNDERSIGNED APPLICANT, BEING THE PROPOSED TENANT HEREIN, HEREBY DECLARES UNDER PENALTY OF PERJURY THAT THE INFORMATION SET FORTH IN THIS APPLICATION

Distribute to Real Estate

Confidential

FOR LEASE IS TRUE AND CORRECT.

PLEASE NOTE: (1) NO ALTERATIONS OR IMPROVEMENTS MAY BE INSTALLED IN THE PREMISES WITHOUT FIRST OBTAINING A BUILDING PERMIT FROM THE PORT ENGINEERING DEPARTMENT, and (2) NO CHANGE IN USE SHALL BE PERMITTED IN THE PREMISES WITHOUT AN APPROVED LEASE AMENDMENT.

IF INDIVIDUAL(S):

(Signature) Dated: _____
Print Name _____

(Signature) Dated: _____
Print Name _____

IF CORPORATION, PARTNERSHIP, LLC OR LLP,

Print Name of Entity

By: _____ Dated: _____
(Signature)

Name: _____
Title: _____

By: _____ Dated: _____
(Signature)

Name: _____
Title: _____

- DID YOU REMEMBER TO INCLUDE:**
Articles Of Organization
Statement of Domestic Stock Corporation
Financial Statements of Company or tax returns (three years)
Security Deposit (cash or cashiers check)

YOUR APPLICATION FOR LEASE WILL NOT BE CONSIDERED UNTIL ALL OF THE ABOVE REQUIRED ITEMS HAVE BEEN SUBMITTED TO THE PORT.

AUTHORIZATION FOR RELEASE OF CREDIT INFORMATION

The undersigned hereby authorizes the companies and/or individuals listed below and on the reverse side to release to the SAN FRANCISCO PORT COMMISSION (Pier 1, Accounting Department, San Francisco, CA 94111) all pertinent and confidential information concerning the credit standing or account status of:

Name of Proposed Tenant

Authorized Signature

Date: _____

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PORT OF SAN FRANCISCO - Tenant Contact Information

Tenant Name on Lease:	
dba, if applicable:	

Main Agreement (Primary Contact : Recipient of Port general emails, mailings, notices, agreement admin, insurance & parking) REQ'D

Last Name Mr / Mrs / Ms	First Name	Middle Initial	Title
Address		City	State Zip Code
e-mail	Telephone	Cellular Phone	Fax

Billing (Recipient of all invoices, statements and billing issues) REQ'D Check if same as mailing address

Last Name Mr / Mrs	First Name	Middle Initial	Title
Address		City	State Zip Code
e-mail	Telephone	Cellular Phone	Fax

Emergency (First person to be contacted in case of emergency) REQ'D Check if same as mailing address

Last Name Mr / Mrs /	First Name	Middle Initial	Title
Address		City	State Zip Code
e-mail	Telephone	Cellular Phone	Fax

Legal Notice (Contact responsible for legal issues involving tenant's agreement) REQ'D Check if same as mailing address

Last Name Mr / Mrs /	First Name	Middle Initial	Title
Address		City	State Zip Code
e-mail	Telephone	Cellular Phone	Fax

Local/On-Site (Other than Primary Agreement Contact) NOT REQ'D Check if same as mailing address

Last Name Mr / Mrs	First Name	Middle Initial	Title
Address		City	State Zip Code
e-mail	Telephone	Cellular Phone	Fax

Insurance (Tenant Employee responsible for insurance compliance, not broker) Check if same as mailing address

Last Name Mr / Mrs /	First Name	Middle Initial	Title
Address		City	State Zip Code
e-mail	Telephone	Cellular Phone	Fax

Signature:	
Print Name:	
Date:	

MAIL to: Port of San Francisco
Attn: Real Estate Admin.
Pier One, San Francisco, CA 94111

FAX to: (415) 274-0578

**PERSONAL DATA QUESTIONNAIRE FOR
INDIVIDUALS AND MEMBERS OF PARTNERSHIPS**

Each person who is required to complete a Personal Data Questionnaire must submit a separate form.

NAME _____

NAME OF PROPOSED TENANT IF DIFFERENT FROM ABOVE: _____

OTHER NAMES USED: _____

Address: _____

Phone Number: _____

DATE OF BIRTH: _____ SS#: _____

DRIVER'S LICENSE NUMBER: _____ STATE: _____ EXPIRES: _____

HOME ADDRESS: _____

City State Zip
Telephone: _____

EMPLOYER: _____

Address: _____

Phone Number: _____

How Long: _____

NAME OF BUSINESS: _____

IF LESS THAN FIVE YEARS, PREVIOUS EMPLOYER _____

Address _____

City State Zip
Telephone: _____ How long? _____

Name of Spouse/Partner: _____

Address, if different from above: _____

Phone Number: _____

Spouse/Partners Employer: _____

Address: _____

Phone Number: _____

BANK REFERENCES

(1) NAME OF BANK OR S&L: _____

Branch: _____

Address: _____

City	State	Zip
------	-------	-----

Telephone: _____ Contact Name: _____

Account # _____

Type of Account _____

(2) NAME OF BANK OR S&L:

Branch: _____

Address: _____

City	State	Zip
------	-------	-----

Telephone: _____ Contact Name: _____

Account # _____

Type of Account _____

LIST ALL REAL PROPERTY IN WHICH YOU HAVE AN INTEREST:

_____ Value: \$ _____
Describe

_____ Value: \$ _____
Describe

LIST ALL AUTOMOBILES IN WHICH YOU HAVE AN INTEREST:

_____ Value: \$ _____
Year/Make/Model/License No.

_____ Value: \$ _____
Year/Make/Model/License No.

LIST ALL OTHER ASSETS IN WHICH YOU HAVE AN INTEREST:

_____	Value: \$ _____
Describe	
_____	Value: \$ _____
Describe	

LIST ANY BUSINESS(ES) IN WHICH YOU HAVE AN INTEREST:

Name of Business: _____
Address: _____
Phone Number: _____
Nature of Interest: _____

Name of Business: _____
Address: _____
Phone Number: _____
Nature of Interest: _____

LIST ALL OUTSTANDING DEBTS (loans, mortgages, credit card accounts, etc.):

_____	Amount: \$ _____
Describe	
_____	Amount: \$ _____
Describe	
_____	Amount: \$ _____
Describe	
_____	Amount: \$ _____
Describe	

HAVE YOU EVER FILED FOR BANKRUPTCY PROTECTION? (YES) _____ (NO) _____

When? _____
Where? _____

If Yes, Explain Details: (e.g. Chapter 7, 11, 13)

Current Status of Bankruptcy:
Explain: _____

I declare under penalty of perjury that the information contained in this Personal Data Questionnaire is true and correct.

_____ Dated: _____
(Signature)
Print Name _____

PERSONAL DATA QUESTIONNAIRE FOR LEASE GUARANTORS

Name of Guarantor: _____

Address: _____

Phone Number: _____

Relationship to proposed tenant: _____

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PART II & PART III

The following pages include information regarding the various City and County of San Francisco Ordinances and requirements for compliance of all Port Tenants.

Attached are:

PART II

- 1. First Source Hiring Ordinance: Employer's Projection of Entry Level Positions**

PART III

- 2. Human Rights Commission: Nondiscrimination Requirements under Chapter 12B and 12C Ordinances**
- 3. Human Rights Commission: Form 3, DBE Ordinance Compliance Declaration**

Please review the attached information, as it is the tenant's responsibility to understand, adhere to, and submit the required information listed hereinafter.

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Edwin M. Lee, Mayor

Office of Economic and Workforce Development
Workforce Development Division

PART II

NON-CONSTRUCTION FIRST SOURCE EMPLOYER’S PROJECTION OF ENTRY LEVEL POSITIONS

By signing this form, employers agree to participate in the San Francisco Workforce Development System established by the City and County of San Francisco, and comply with the provisions of the First Source Hiring Program pursuant to Chapter 83 of the San Francisco Administrative Code. As an indication of good faith efforts to comply with First Source, the Employer must fill out this form at commencement of contract/tax year to indicate:

- For a Tenant/Sub-tenant, the number of **Entry Level Positions** in the company that are currently filled and those that are currently available on premises leased by the City of San Francisco.
- For the successful Developer, Contractor, or Subcontractor, **Entry Level Positions** that are currently filled and those that will be available during construction work.
- For a tenant of a private commercial project that falls under Chapter 83 provisions of the City Administrative Code, the number of **Entry Level Positions** that are currently filled and those that will be available within the lease holding business at project address.
- For companies applying for the Biotech Payroll Tax Exclusion and Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion, the number of **Entry Level Positions** that are currently filled and those that will be available in the current tax year.
- For a successful organization awarded a City contract in excess of \$50,000, the number of **Entry Level Positions** that are currently filled and those that will be available within the business or non-profit organization.
- If positions listed are subject to collective bargaining agreements.

Note: If an Entry Level Position becomes available during the term of the lease and/or contract, Employer must notify the First Source Hiring Administration.

Entry Level Position means a non-managerial position that requires either no education above a high school diploma or certified equivalency, or less than two (2) years of training or specific preparation. Apprenticeship positions should be included.

Type of Employer (check one):

- Tenant
- Developer
- Contractor
- Subcontractor
- Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion applicant
- Subtenant
- Biotech Payroll Tax Exclusion applicant
- "Scene in San Francisco" Rebate applicant

Identify Project or Construction Project (if applicable):

City Department (if Contract or Lease):

Name of Employer:

Contact Person:

Street Address:

City:

State:

Zip:

Telephone:

Fax:

Email:

Signature of authorized employer representative

Date

Entry-Level Position Title	Number Currently Filled	Number Currently Available	Number Projected to Become Available in the next 12 Months	Estimated Date of Next Available Position	Subject to Collective Bargaining? (Yes/No)

Please fax, email, or mail this form SIGNED to:

Attn: Business Services
Tel: 415-701-4848
Fax: 415-701-4897



Tenant of the San Francisco Port Commission
Pier 1, San Francisco, CA 94111
(415) 274-0400



City and County of San Francisco Human Rights Commission

PART III

San Francisco Nondiscrimination Ordinance - SF Administrative Code Chapter 12B

Sec. 12B.1. All Contracts and Property Contracts to Include Nondiscrimination Provisions; Definitions.

Sec. 12B.2. Nondiscrimination Provisions.

Sec. 12B.3. Human Rights Commission Empowered.

Sec. 12B.4. Nondiscrimination Guidelines.

Sec. 12B.5. Chapter Applies Only to Discriminatory Employment Practices.

Sec. 12B.5-1. Nonapplicability, Exceptions and Waivers.

Sec. 12B.6. Severability.

SEC. 12B.1. ALL CONTRACTS AND PROPERTY CONTRACTS TO INCLUDE NONDISCRIMINATION PROVISIONS; DEFINITIONS.

(a) All contracting agencies of the City, or any department thereof, acting for or on behalf of the City and County, shall include in all contracts and property contracts hereinafter executed or amended in any manner or as to any portion thereof, a provision obligating the contractor not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter against any employee of, any City employee working with, or applicant for employment with such contractor and shall require such contractor to include a similar provision in all subcontracts executed or amended thereunder.

(b) No contracting agency of the City, or any department thereof, acting for or on behalf of the City and County, shall execute or amend any contract or property contract with any contractor that discriminates 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 bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits 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 following conditions. In the event that the contractor's actual cost of providing a certain benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be

deemed to discriminate in the provision of benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs. In addition, in the event a contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor provides the employee with a cash equivalent.

(c) Definitions. As used in this Chapter the following words and phrases shall have the meanings indicated herein:

"Age" shall mean the age of any employee or applicant for employment who has attained the age of 40 years and has not attained the age of 65 years. For the purposes of this Chapter, discrimination because of age shall mean dismissal from employment of, or refusal to employ or rehire any person because of his or her age, if such person has attained the age of 40 years and has not attained the age of 65 years, if the person is physically able and mentally competent to perform the services required. Age limitations of apprenticeship programs in which the State or its political subdivisions participate shall not be considered discriminatory within the meaning of this Chapter.

"Amend" shall mean to substantively change the terms of a pre-existing contract, and shall not include amendments to decrease the scope of work or the amount to be paid under a contract. Construction change orders shall not be construed as contract amendments for the purposes of this Chapter.

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

"Commission" shall mean the Human Rights Commission of the City and County of San Francisco.

"Contract" shall mean an agreement 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 and County or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County, and does not include property contracts, agreements entered into after June 1, 1997 pursuant to settlement of legal proceedings, contracts for urgent litigation expenses, or contracts for a cumulative amount of \$5,000 or less per vendor in each fiscal year.

"Contractor" means any person or persons, firm, partnership, corporation, or combination thereof, who enters into a contract or property contract with a department head or officer empowered by law to enter into contracts or property contracts on the part of the City and County.

"Director" shall mean the Director of the Human Rights Commission.

"Disability" shall mean a physical or mental impairment which substantially limits one or more major life activities, or a record of such an impairment.

"Domestic partner" shall mean any person who has a currently registered domestic partnership with a governmental body pursuant to state or local law authorizing such registration.

"Gender identity" shall mean a person's various individual attributes as they are understood to be masculine and/or feminine.

"Property contract" shall mean a written agreement for the exclusive use or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements. For the purposes of this Chapter, "exclusive use" means the right to use or occupy real property to the exclusion of others, other than the rights reserved by the fee owner. "Property contract" shall not include a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit, except that "property contract" shall include such permits granted to a private entity for the use of City property for the purpose of a for-profit activity. "Property contract" shall also not include street excavation, street construction or street use permits, agreements for the use of City right-of-way where a contracting utility has the power of eminent domain, or agreements governing the use of City property which constitutes a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas and that are generally recognized as protected by the First Amendment to the U.S. Constitution, or which are primarily recreational in nature.

"Qualified disabled employee" shall mean a person able to perform the essential functions of a job with reasonable accommodation.

"Sex" shall mean the character of being male or female.

"Sexual orientation" shall mean the status of being lesbian, gay, bisexual or heterosexual.

"Subcontract" shall mean an agreement to (i) provide goods and/or services, including construction labor, materials or equipment, to a contractor, if such goods or services are procured or used in the fulfillment of the contractor's obligations arising from a contract with the City, or (ii) to transfer the right to occupy or use all or a portion of a real property interest subject to a property contract to a subcontractor and pursuant to which the contractor remains obligated under the property contract.

"Subcontractor" means any person or persons, firm, partnership, corporation or any combination thereof, who enters into a subcontract with a contractor. Such term shall include any person or entity who enters into an agreement with any subcontractor for the performance of 10 percent or more of any subcontract.

(d) The requirements of this Chapter shall apply to (i) any of a contractor's operations within San Francisco; (ii) a contractor's operations on real property outside of San Francisco owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract or property contract with the City; (iii) where the work is being performed by a contractor for the City within the United States; and (iv) any of a contractor's operations elsewhere within the United States.

SEC. 12B.2. NONDISCRIMINATION PROVISIONS.

Every contract and property contract for or on behalf of the City shall incorporate by reference and require the contractor to comply with the provisions of Section 12B.2. In addition, all contractors must incorporate by reference in all subcontracts and require subcontractors to comply with the requirements set forth in Sections 12B.2(a) and 12B.2(c) through 12B.2(k), and failure to do so shall constitute a material breach of contract.

In the performance of a contract the contractor agrees as follows:

(a) The contractor or subcontractor will not discriminate against any employee, City and County employee working with such contractor or subcontractor, or applicant for employment with such contractor or subcontractor on the basis of the fact or perception of that person's race, color, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or AIDS/HIV status, weight, height, or association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter. Discrimination on the basis of sex includes sexual harassment as defined in Section 16.9-25(b) of this Code. The contractor or subcontractor will take action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to the fact or perception of their race, color, creed, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or AIDS/HIV status. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. Nothing in this Chapter shall require or prohibit the establishment of new classifications of employees in any given craft. The provisions of this Section with respect to age shall not apply to (1) termination of employment because of the terms or conditions of any bona fide retirement or pension plan, (2) operations of the terms or conditions of any bona fide retirement or pension plan which has the effect of a minimum service requirement, and (3) operation of the terms or conditions of any bona fide group or insurance plan. The contractor or subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in such form and content as shall be furnished or approved by the awarding authority setting forth the provisions of this Section.

(b) The prime contractor shall state that the prime contractor does not, and will not during the term of the contract 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 bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits 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 following conditions. In the event that the contractor's actual cost of providing a certain benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for the spouse

of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs. In addition, in the event a contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor provides the employee with a cash equivalent. The Director shall be the final arbiter of a contractor's or property contractor's compliance or substantial compliance with this Chapter and the Director's determination shall not be appealable to the Commission. Contractors shall treat as confidential to the maximum extent allowed by law or the requirements of contractor's insurance provider any request by an employee or applicant for employment for domestic partner or spousal benefits or any documentation of eligibility for domestic partner or spousal benefits submitted by an employee or applicant for employment.

In adopting this Section 12B.2(b), the intent of the Board of Supervisors is to equalize to the maximum extent legally permitted the total compensation between similarly situated employees with spouses and employees with domestic partners.

In particular, consistent with the severability clause set forth in Section 12B.6 below, the Board of Supervisors intends that if a court or agency of competent jurisdiction finds that a State or federal law, rule or regulation invalidates (1) the application of this Section to any business, person, type of compensation or benefit, or location; or (2) any other requirement of this Section, then the court or agency should sever the invalid clause and leave in effect the remainder of this Section.

(c) The contractor or subcontractor shall provide reasonable accommodation for qualified disabled applicants for employment and for qualified disabled employees. Said contractor or subcontractor need not provide reasonable accommodation if such would present an undue hardship. An undue hardship may include but not be limited to more than a de minimus cost, violation of the seniority rights of other co-workers as established by a bona fide seniority system, or a health or safety risk to the employee or co-employees. The burden of establishing an undue hardship rests on the employer.

(d) The contractor or subcontractor will in all solicitations or advertisements for employees placed by or on his or her behalf, state that qualified applicants will receive consideration for employment without regard to the fact or perception of their race, creed, religion, color, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or AIDS/HIV status.

(e) The contractor or subcontractor will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other agreement or understanding, a notice, in such form and content as shall be furnished or approved by the awarding authority, advising the said labor union or workers' representative of the contractor's or subcontractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The contractor or subcontractor will permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Commission, the

City's awarding authority or the Fair Employment and Housing Commission, for the purposes of investigation to ascertain compliance with the nondiscrimination provisions of this Chapter, and upon request shall provide evidence that the contractor has complied or will comply with the nondiscrimination provisions of this Chapter.

(g) A contractor or subcontractor shall be deemed to have breached the nondiscrimination provisions of this Chapter upon:

(1) A finding by the Director or such other official who may be designated by the Commission, that the contractor or subcontractor has willfully violated such nondiscrimination provisions; or

(2) A finding by the California Fair Employment and Housing Commission that a contractor or subcontractor has violated any provision of the California Fair Employment and Housing Act or the nondiscrimination provisions of this Chapter, provided that the California Fair Employment and Housing Commission has issued a final order pursuant to Section 12970 of the Government Code, or has obtained a judgment and order enforcing the final order pursuant to Section 12973 of the Government Code; provided further, that for the purposes of these provisions, an order or injunction shall not be considered final during the period within which (1) appeal may be taken, or (2) the same has been stayed by order of court, or (3) further proceedings for vacation, reversal or modification are in progress before a competent administrative or judicial tribunal.

(3) Upon such finding by the Director or other official designated by the Commission, or the California Fair Employment and Housing Commission, the awarding authority shall notify the contractor or subcontractor that unless the contractor or subcontractor demonstrates to the satisfaction of the Director or other official designated by the Commission, within such reasonable period as the Commission shall determine, that the violation has been corrected, action will be taken as set forth in Subparagraphs (h) and (i) hereof.

(4) The Commission shall, within 10 days of the date of issuance of any finding by the Director or other official designated by the Commission for the enforcement of this Chapter, mail to any person or persons affected by said finding, a copy of said finding, together with written notice of the right to appeal such finding. Notice of appeal must be filed in writing with the Chairperson of the Commission within 20 days of the date of mailing said copy and notice.

(5) For purpose of appeal proceedings under this Section, a quorum shall consist of eight members of the Commission. The vote of the majority of the full Commission shall be necessary to affirm, reverse or modify such decisions, order or other action rendered hereunder. Should a member of the Commission be designated under Section 12B.2(g)(1) of this Chapter, that Commissioner may not participate in an appeal under this Section except as a witness.

(6) The presiding officer of the Commission shall have the power to administer oaths to witnesses in appeals before the Commission under this Section. In the event that any person shall fail or refuse to appear as a witness in any such proceeding after being requested to do so, and if it shall appear to the Commission that his or her testimony, or books, records, documents or other things under his or her control are material and relevant as evidence in the matter under consideration by the Commission in

the proceeding, the presiding officer of the Commission may subpoena such person, requiring his or her presence at the proceeding, and requiring him or her to bring such books, records, documents or other things under his or her control.

(7) All appeals to the Commission shall be open to the public. Records and minutes shall be kept of such proceedings and shall be open to public inspection. Upon reaching a decision in any appeal, the Commission shall give written notice thereof to the Director or other official designated by the Commission, and the appellant or appellants. The decision of the Commission shall be final unless within 15 days of the filing and service of written notice thereof appropriate legal proceedings are filed in a court of competent jurisdiction by any party to the contract, property contract or subcontract.

(8) If any contractor or subcontractor shall fail to appear at an appeal proceeding of the Commission after having been given written notice to appear, such failure to appear shall be grounds for termination of the contract, property contract or subcontract and such contractor or subcontractor shall be deemed to have forfeited all rights, benefits and privileges thereunder.

(9) The Commission shall promulgate rules and regulations for the implementation of the nondiscrimination provisions of this Chapter.

(h) The awarding authority may deduct from the amount payable to the contractor or subcontractor by the City under any contract or property contract subject to this Chapter, or may impose upon the contractor or subcontractor, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Chapter. In addition to any other penalties provided for the violation of the nondiscrimination provisions of this Chapter or for the failure of any contractor or subcontractor to abide by the rules and regulations of the Commission, the contract, property contract or subcontract may be terminated or suspended, in whole or in part, by the awarding authority upon the basis of a finding as set forth in Section 12B.2(g) that the contractor has discriminated contrary to the provisions of this Chapter, and all moneys due or to become due hereunder may be forfeited to, and retained by, the City.

(i) A breach of the nondiscrimination provisions in the performance of a contract, property contract or subcontract shall be deemed by the City to be material breach of contract and the basis for determination by the awarding authority that the contractor or subcontractor is an irresponsible bidder as to all future contracts or property contracts for which such contractor or subcontractor may submit bids. Such contractor or subcontractor shall not for a period of up to two years thereafter, or until it shall establish and carry out a program in conformity with the nondiscrimination provisions of this Chapter, be allowed to act as a contractor or subcontractor under any contract or property contract.

(j) Nothing contained in this Chapter shall be construed in any manner so as to prevent the City from pursuing any other remedies that may be available at law, equity or under any contract or property contract.

(k) The contractor or subcontractor will meet the following standards for compliance:

(1) If the contractor or subcontractor has been held to be an irresponsible bidder under Section 12B.2(i) hereof, the contractor or subcontractor shall furnish evidence that it has established and is carrying out a program in conformity with the nondiscrimination provisions of this Chapter.

(2) The contractor or subcontractor may be required to file with the Commission a basic compliance report, which may be a copy of the federal EEO-1, or a more detailed report as determined by the Commission. Willful false statements made in such reports shall be punishable as provided by law. No contractor or subcontractor shall be held in noncompliance for not filing such a report with the Commission unless it has been specifically required to do so in writing by the Commission.

(3) Personally, or through its representatives, the contractor or subcontractor shall, through negotiations with the unions with whom it has collective bargaining or other agreements requiring the contractor or subcontractor to obtain or clear its employees through the union, or when the contractor or subcontractor otherwise uses a union as an employment resource, attempt to develop an agreement which will:

(A) Define and outline responsibilities for nondiscrimination in hiring, referral, upgrading and training;

(B) Otherwise implement a nondiscrimination program in terms of the unions' specific areas of skill and geography, such as an apprenticeship program, to the end that minority workers will be available and given an equal opportunity for employment.

(4) The contractor or subcontractor shall notify the awarding authority of opposition to the nondiscrimination provisions of a contract by individuals, firms or organizations during the term of the contract.

SEC. 12B.3. HUMAN RIGHTS COMMISSION EMPOWERED.

The San Francisco Human Rights Commission, its presiding officer and its director are hereby granted the power to do all acts and exercise all powers referred to in Section 12B.2 here of.

SEC. 12B.4. NONDISCRIMINATION GUIDELINES.

The following nondiscrimination guidelines shall apply to all contracts and property contracts subject to this Chapter.

In order to be eligible to submit a bid or proposal or to have a bid or proposal considered by the awarding authority, the prospective contractor shall agree to abide by a nondiscrimination program which conforms to the requirements of the Commission.

The Commission may also require contractors and subcontractors to take part in a pre-bid or pre-award conference in order to develop, improve or implement a qualifying nondiscrimination program.

(a) Nondiscrimination programs developed pursuant to this Section shall be effective for a period of 12 months from the date of approval by the Commission. Contractors or subcontractors who are members in good standing of a trade association which has negotiated a nondiscrimination program with the Commission may make this association program their commitment for the specific contract or property contract upon approval of the Commission without the process of a separate pre-bid or pre-award conference. Such an association agreement shall be effective for a period of 12 months from the date of approval by the Commission. Trade associations shall provide the Commission with a list of members in good standing in such association. The Commission shall annually supply contracting agencies of the City and County with a list of contractors and subcontractors who have developed approved nondiscrimination programs.

(b) The awarding authority shall be responsible for notifying all prospective bidders or proposers of the requirements of this Section and, when requested by the Commission, for notifying the Commission of each contract or property contract which is being proposed to be put to public bid.

(c) The proposed nondiscrimination program described by this Section, and the pre-bid or pre-award conference which may be required by the Commission, shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

(1) Apprenticeship where approved programs are functioning and other on-the-job training for nonapprenticeable occupations;

(2) Classroom preparation for the job when not apprenticeable;

(3) Pre-apprenticeship education and preparation;

(4) Upgrading training and opportunities;

(5) Encouraging the use of contractors and subcontractors of all ethnic groups, provided, however, that any contract or property contract subject to this Chapter shall require the contractor or subcontractor to provide not less than the prevailing wage, working conditions, and practices generally observed in private industries in the City for such work; and

(6) The entry of qualified minority journeypersons into the industry.

(d) Nondiscrimination agreements resulting from the proposed nondiscrimination programs or the pre-bid or pre-award conferences shall not be confidential and may be publicized by the Commission at its discretion. In addition, the Commission may report to the Board of Supervisors, either on request of the Board or on its own initiative, on the progress or the problems which attend the implementation of these agreements or any other aspect of enforcement of this Chapter.

(e) Any job training or education program using the funds, facilities, or staff of the City which, in the judgment of the Board of Supervisors or the Commission, can make a contribution to the implementation of this Chapter shall submit reports to the Commission as requested and shall be

required to cooperate with the contractors, subcontractors and unions and with the Commission for the effectuation of the nondiscrimination programs developed under this Chapter.

SEC. 12B.5. CHAPTER APPLIES ONLY TO DISCRIMINATORY EMPLOYMENT PRACTICES.

(a) This Chapter shall not confer upon the City and County of San Francisco or any agency, board or commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or subcontractors engaged in the performance of City and County contracts or property contracts.

(b) The Board of Supervisors shall appropriate such funds from the General Fund of the City, subject to budgetary and fiscal provisions of the Charter, as it may deem necessary for the enforcement of this Chapter.

SEC. 12B.5-1. NONAPPLICABILITY, EXCEPTIONS AND WAIVERS.

(a) The Director shall waive the requirements of this Chapter under the following circumstances:

(1) Whenever the Director finds, upon the advice of the awarding authority, that there is only one prospective contractor willing to enter into a property contract with the City for use of City property on the terms and conditions established by the City, or that the needed goods, services, construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source and the prospective contractor is not currently disqualified from doing business with the City, or from doing business with any governmental agency based on any contract compliance requirements;

(2) If the contracting department, board or commission certifies in writing to the Director that pursuant to Administrative Code Sections 6.30 or 21.25 the contract or property contract is necessary to respond to an emergency which endangers the public health or safety and no entity which complies with the requirements of this Chapter capable of responding to the emergency is immediately available; provided that such certification must be made prior to the Controller's contract certification;

(3) Where the City Attorney certifies in writing to the Director that the contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of this Chapter.

(b) This Chapter shall not apply where the prospective contractor is a public entity and the Director finds that goods, services, construction services for a public work or improvement or interest in or right to use real property of comparable quality or accessibility as are available under the proposed contract or property contract are not available from another source, or that the proposed contract or property contract is necessary to serve a substantial public interest.

(c) This Chapter shall not apply where the contracting officer finds that the requirements of this

Chapter will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement, provided that the contracting officer has made a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to authorize application of this Chapter.

(d) Upon the request of a potential contractor or upon the contracting officer's own initiative, after taking all reasonable measures to find an entity that complies with the law, the contracting officer may waive any or all of the requirements of this Chapter for any contract, property contract or bid package advertised and made available to the public, or any competitive or sealed bids received by the City as of the date of the enactment of this ordinance under the following circumstances:

(1) Where the contracting officer determines that there are no qualified responsive bidders or prospective contractors who could be certified by the Commission as being in compliance with the requirements of this Chapter and that the contract or property contract is for goods, a service or a project that is essential to the City or City residents; or

(2) Where the contracting officer determines that transactions entered into pursuant to bulk purchasing arrangements through federal, State or regional entities which actually reduce the City's purchasing costs would be in the best interests of the City; or

(3) Where the contracting officer determines that the requirements of this Chapter would result in the City's entering into a contract with an entity that was set up, or is being used, for the purpose of evading the intent of this Chapter, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Chapter;

(4) The waiver authority granted to contracting officers in this Section 12B.5-1(d) shall be subject to the requirements that:

(i) All proposed waivers must be submitted to the Director and the Clerk of the Board of Supervisors. All proposed waivers must set forth the reasons the contracting officer is requesting the waiver, what steps were taken to find an entity that complies with this Chapter and why the waiver does not defeat the intent of this Chapter, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Chapter. Such waivers shall be subject to the prior approval of the Director, who shall take action approving or denying a proposed waiver within 30 days of receiving a notification of a proposed waiver from a contracting officer. If after 30 days the Director has taken no action on the proposed waiver, the waiver shall be deemed approved. The Clerk of the Board of Supervisors shall list the notice of the proposed waiver at the rear of the next available Board agenda, and

(ii) Contracting officers report to the Director whenever such a waiver is granted within 5 days of granting the waiver, and

(iii) For any contract subject to approval by the Board, the contracting officer shall state in the approving resolution whether any waiver under this Section 12B.5-1(d) has been or is proposed to be

granted for that contract, and

(iv) The Director shall conduct quarterly comprehensive reviews of the use of the waiver authority by departments and shall make a report to the Board of Supervisors. Contracting officers who have exercised waiver authority under this Section 12B.5-1(d) in the previous quarter must appear before a Board of Supervisors committee and report on their use of such waiver authority. If the Board finds abuse of waiver authority by a department under this Section 12B.5-1(d), either as a result of a report of the Director or upon its own initiative, the Board may by resolution transfer that waiver authority for that department to the Director, to be exercised by the Director upon recommendation of the contracting officer under any or all of the circumstances enumerated in this Section 12B.5-1(d);

(5) Nothing in this Section 12B.5-1(d) shall limit the right of the Board of Supervisors to waive the provisions of this Chapter.

(e) This Chapter shall not apply to (i) the investment of trust moneys or agreements relating to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre-existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:

(1) No person, entity or financial institution doing business in the City and County which is in compliance with this Chapter is capable of performing the desired transaction(s); or

(2) The City will incur a financial loss which in the opinion of the Treasurer would violate his or her fiduciary duties.

This subparagraph (e) shall be subject to the requirement that City moneys shall be withdrawn or divested at the earliest possible maturity date if deposited or invested with a person, entity or financial institution other than the U.S. government which does not comply with this Chapter.

(f) The General Manager of the Public Utilities Commission may waive the requirements of this Chapter where the contractor is providing wholesale or bulk water, power or natural gas, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or loading scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the San Francisco Public Utilities Commission; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures; and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City and County of San Francisco.

(g) Sections 12B.1(b) and 12B.2(b) shall not apply to any contracts or property contracts executed or amended prior to June 1, 1997, or to bid packages advertised and made available to the public, or any competitive or sealed bids received by the City, prior to June 1, 1997, unless and until such contracts or property contracts are amended after June 1, 1997, and would otherwise be subject to this Chapter.

SEC. 12B.6. SEVERABILITY.

This Chapter shall be construed so as not to conflict with applicable federal or State laws, rules or

regulations. Nothing in this Chapter shall authorize any City agency to impose any duties or obligations in conflict with limitations on municipal authority established by federal law at the time such agency action is taken.

In the event that a court or agency of competent jurisdiction holds that State or federal law, rule or regulation invalidates any clause, sentence, paragraph or section of this Chapter or the application thereof to any person or circumstances, it is the intent of the Board of Supervisors that the court or agency sever such clause, sentence, paragraph or section so that the remainder of this Chapter shall remain in effect.

SF Administrative Code Chapter 12C

Sec. 12C.1. All Contracts and Property Contracts to Include Nondiscrimination Provisions.

Sec. 12C.2. Definitions.

Sec. 12C.3. Nondiscrimination Provisions.

Sec. 12C.4. Human Rights Commission Empowered.

Sec. 12C.5. Funding.

Sec. 12C.5-1. Nonapplicability, Exceptions and Waivers.

Sec. 12C.6. Severability.

Sec. 12C.1. All Contracts and Property Contracts to Include Nondiscrimination Provisions.

(a) All contracting agencies of the City, or any department thereof, acting for or on behalf of the City and County, shall include in all contracts and property contracts a provision obligating the contractor not to discriminate on the basis of the fact or perception of that person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter, against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, operated by that contractor, and shall require such contractor to include a similar provision in all subcontracts.

(b) The requirements of this Chapter shall apply to (i) any of a contractor's operations within San Francisco; (ii) a contractor's operations on real property outside of San Francisco owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract or property contract with the City; (iii) where the work is being performed by a contractor for the City within the United States; and (iv) any of a contractor's operations elsewhere within the United States. (Amended by Ord. 489-86, App. 12/18/86; Ord. 433-94, App. 12/30/94; Ord. 440-96, App. 11/8/96; Ord. 481-96, App. 12/20/96; Ord. 201-97, App. 5/27/97; Ord. 286-97, App. 7/18/97)

Sec. 12C.2. Definitions.

As used in this Chapter the term:

"Age" for the purpose of membership refers to the age of any person who has attained the age of 18 years, except for bona fide senior citizen organizations.

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

"Commission" shall mean the Human Rights Commission of the City and County of San Francisco.

"Contract" shall mean an agreement for public works or improvements to be performed, or grants to be provided, or for goods or services to be purchased, at the expense of the City and County or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County, and does not include property contracts, agreements entered into pursuant to settlement of legal proceedings, or contracts for a cumulative amount of \$5,000 or less per vendor in each fiscal year.

"Contractor" means any person or persons, firm, partnership, corporation, or combination thereof, who enters into a contract or property contract with a department head or officer empowered by law to enter into contracts or property contracts on the part of the City and County.

"Director" shall mean the Director of the Human Rights Commission.

"Disability" is a physical or mental impairment which substantially limits one or more major life activities, or a record of such an impairment.

"Domestic partner" shall mean any person who has a currently registered domestic partnership with a governmental body pursuant to State or local law authorizing such registration.

"Gender identity" shall mean a person's various individual attributes as they are understood to be masculine and/or feminine.

"Property contract" shall mean a written agreement for the exclusive use or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements. For the purposes of this Chapter, "exclusive use" means the right to use or occupy real property to the exclusion of others, other than the rights reserved by the fee owner. "Property contract" shall not include a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit, except that "property contract" shall include such permits granted to a private entity for the use of City property for the purpose of a for-profit activity. "Property contract" shall also not include street excavation, street construction or street use permits, agreements for the use of City right-of-way where a contracting utility has the power of eminent domain, or agreements governing the use of City property which constitutes a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas and that are generally recognized as protected by the First Amendment to the U.S. Constitution, or which are primarily recreational in

nature.

"Qualified disabled employee" shall mean a person able to perform the essential functions of a job with reasonable accommodation.

"Sex" shall mean the character of being male or female.

"Sexual orientation" shall mean the status of being lesbian, gay, bisexual or heterosexual.

"Subcontract" shall mean an agreement to (i) provide goods and/or services, including construction labor, materials or equipment, to a contractor, if such goods or services are procured or used in the fulfillment of the contractor's obligations arising from a contract with the City, (ii) to transfer the right to occupy or use all or a portion of a real property interest subject to a property contract to a subcontractor and pursuant to which the contractor remains obligated under the property contract.

"Subcontractor" means any person or persons, firm, partnership, corporation or any combination thereof, who enters into a subcontract with a contractor. Such term shall include any person or entity who enters into an agreement with any subcontractor for the performance of 10 percent or more of any subcontract. (Amended by Ord. 489-86, App. 12/18/86; Ord. 433-94, App. 12/30/94; Ord. 440-96, App. 11/8/96; Ord. 481-96, App. 12/20/96; Ord. 201-97, App. 5/27/97)

Sec. 12C.3. Nondiscrimination Provisions.

Every contract and property contract entered into by any agency of the City shall incorporate by reference and require contractor to comply with the nondiscrimination provisions of Section 12C.3. In addition, all contractors must incorporate by reference in all subcontracts and require subcontractors to comply with the requirements of this Section 12C.3, and failure to do so shall constitute a material breach of contract.

In the performance of a contract, the contractor or subcontractor shall agree as follows:

(a) The contractor or subcontractor will not discriminate against any person seeking accommodations, advantages, facilities, privileges, services, or membership in the business, social or other establishment or organization operated by the contractor or subcontractor on the basis of the fact or perception of that person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or AIDS/HIV status, weight, height, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter. Services provided by contractor or subcontractor to the public shall be provided regardless of disability of persons otherwise entitled to or qualified for such services.

(b) Should the contractor or subcontractor operate as a membership organization, the contractor or subcontractor will permit access to its membership records, rules, regulations and other pertinent data, by the City's awarding authority, or the Commission, for the purpose of investigating to ascertain compliance with the nondiscrimination provisions of this Chapter, and on request provide

evidence that the contractor or subcontractor has complied or will comply with the nondiscrimination provisions of this Chapter. The Director shall be the final arbiter of a contractor's or subcontractor's compliance or substantial compliance with this Chapter and the Director's determination shall not be appealable to the Commission.

(c) A contractor or subcontractor shall be deemed to have breached the nondiscrimination provisions of this Chapter upon:

(1) A finding by the Director or such other official who may be designated by the Commission, that contractor or subcontractor has wilfully violated such nondiscrimination provisions.

(2) Upon such finding by the Director or other official designated by the Commission, the awarding authority shall notify the contractor or subcontractor that unless the contractor or subcontractor demonstrates to the satisfaction of the Director or other official designated by the Commission within such reasonable period as the Commission shall determine, that the violation has been corrected, action will be taken as set forth in Section 12C.3(d) and/or Section 12C.3(g).

(3) The Commission shall, within 10 days of the date of issuance of any findings by the Director or other official designated by the Commission for the enforcement of this Chapter, mail to any person or persons affected by said finding, a copy of said finding, together with written notice of the right to appeal such finding. Notice of appeal must be filed in writing with the Chairperson of the Commission within 20 days of the date of mailing said copy and notice.

(4) For purposes of appeal proceedings under this Section, a quorum shall consist of eight members of the Commission. The vote of the majority of the full Commission shall be necessary to affirm, reverse or modify such decisions, order or other action rendered hereunder. Should a member of the Commission be designated under Section 12C.3(c)(1) of this Chapter, that Commissioner may not participate in an appeal under this Section except as a witness.

(5) The presiding officer of the Commission shall have the power to administer oaths to witnesses in appeals before the Commission under this Section. In the event that any person shall fail or refuse to appear as a witness in any such proceeding after being requested to do so, and if it shall appear to the Commission that his or her testimony, or books, records, documents or other things under his or her control are material and relevant as evidence in the matter under consideration by the Commission in the proceeding, the presiding officer of the Commission may subpoena such person, requiring his or her presence at the proceeding and requiring him or her to bring such books, records, documents or other things under his or her control.

(6) All appeals to the Commission shall be open to the public. Records and minutes shall be kept of such proceedings and shall be open to public inspection. Upon reaching a decision in any appeal, the Commission shall give written notice thereof to the Director or other official designated by the Commission, and the appellant or appellants. The decision of the Commission shall be final unless within 15 days of the filing and service of written notice thereof appropriate legal proceedings are filed in a court of competent jurisdiction by any party to the contract, property contract or subcontract.

(7) If any contractor or subcontractor shall fail to appear at an appeal proceeding of the Commission after having been given written notice to appear, such failure to appear shall be grounds for termination of the contract, property contract or subcontract and such contractor or subcontractor shall be deemed to have forfeited all rights, benefits and privileges thereunder.

(8) The Commission shall promulgate rules and regulations for the implementation of the nondiscrimination provisions of this Chapter.

(d) A breach of the nondiscrimination provisions in the performance of a contract, property contract or subcontract shall be deemed by the City to be a material breach of contract and the basis for determination by the awarding authority that the contractor or subcontractor is an irresponsible contractor or subcontractor as to all future contracts or property contracts for which such contractor or subcontractor may submit bids. Such contractor or subcontractor shall not, for a period of up to two years thereafter, or until it shall establish and carry out a program in conformity with the nondiscrimination provisions of this Chapter, be allowed to act as a contractor or subcontractor under any contract or property contract.

(e) Nothing contained in this Chapter shall be construed in any manner so as to prevent the City from pursuing any other remedies that may be available at law, equity or under any contract or property contract.

(f) The contractor or subcontractor will meet the following standards for compliance:

(1) If the contractor or subcontractor has been held to be irresponsible under Section 12C.3(d) hereof, the contractor or subcontractor shall furnish evidence that it has established and is carrying out a program in conformity with the nondiscrimination provisions of this Chapter.

(2) The contractor or subcontractor may be required to file with the Commission a basic compliance report. Wilful false statements made in such reports shall be punishable as provided by law. No contractor or subcontractor shall be held in noncompliance for not filing such a report with the Commission unless it has been specifically required to do so in writing by the Commission.

(g) The awarding authority may deduct from the amount payable to the contractor or subcontractor by the City under any contract or property contract subject to this Chapter, or may impose upon the contractor or subcontractor, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Chapter. In addition to any other penalties provided for the violation of the nondiscrimination provisions of this Chapter or for the failure of any contractor or subcontractor to abide by the rules and regulations of the Commission, the contract, property contract or subcontract may be terminated or suspended, in whole or in part, by the awarding authority upon the basis of a finding as set forth in Section 12C.3(d) that the contractor or subcontractor has discriminated contrary to the provisions of this Chapter, and all moneys due or to become due hereunder may be forfeited to, and retained by, the City. (Amended by Ord. 489-86, App. 12/18/86; Ord. 433-94, App. 12/30/94; Ord. 201-97, App. 5/27/97; Ord. 286-97, App. 7/18/97)

Sec. 12C.4. Human Rights Commission Empowered.

The San Francisco Human Rights Commission, its presiding officer and its director are hereby granted the power to do all acts and exercise all powers referred to in Section 12C.3 thereof. (Amended by Ord. 84-77, App. 3/11/77)

Sec. 12C.5. Funding.

The Board of Supervisors shall appropriate such funds from the General Fund of the City and County of San Francisco, subject to budgetary and fiscal provisions of the Charter, as it may deem necessary for enforcement of this ordinance. (Amended by Ord. 84-77, App. 3/11/77)

Sec. 12C.5-1. Nonapplicability, Exceptions and Waivers.

(a) The Director shall waive the requirements of this Chapter under the following circumstances:

(1) Whenever the Director finds, upon the advice of the awarding authority, that there is only one prospective contractor willing to enter into a property contract with the City for use of City property on the terms and conditions established by the City, or that the needed goods, services, construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City, or from doing business with any governmental agency based on any contract compliance requirements;

(2) If the contracting department or commission certifies in writing to the Director that pursuant to Administrative Code Section 6.30 or 21.25 the contract or property contract is necessary to respond to an emergency which endangers the public health or safety and no entity which complies with the requirements of this Chapter capable of responding to the emergency is immediately available; provided that such certification must be made prior to the Controller's contract certification;

(3) Where the City Attorney certifies in writing to the Director that the contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of this Chapter.

(b) This Chapter shall not apply where the prospective contractor is a public entity and the Director finds that goods, services, construction services for a public work or improvement or interest in or right to use real property of comparable quality or accessibility as are available under the proposed contract or property contract are not available from another source, or that the proposed contract or property contract is necessary to serve a substantial public interest.

(c) This Chapter shall not apply where the contracting officer finds that the requirements of this Chapter will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement, provided that the contracting officer

has made a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to authorize application of this Chapter.

(d) Upon the request of a potential contractor or upon the contracting officer's own initiative, after taking all reasonable measures to find an entity that complies with the law, the contracting officer may waive any or all of the requirements of this Chapter for any contract, property contract or bid package advertised and made available to the public, or any competitive or sealed bids received by the City as of the date of the enactment of this ordinance under the following circumstances:

(1) Where the contracting officer determines that there are no qualified responsive bidders or prospective contractors who could be certified by the Commission as being in compliance with the requirements of this Chapter and that the contract or property contract is for goods, a service or a project that is essential to the City or City residents; or

(2) Where the contracting officer determines that transactions entered into pursuant to bulk purchasing arrangements through federal, State or regional entities which actually reduce the City's purchasing costs would be in the best interests of the City; or

(3) Where the contracting officer determines that the requirements of this Chapter would result in the City's entering into a contract with an entity that was set up, or is being used, for the purpose of evading the intent of this Chapter, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Chapter;

(4) The waiver authority granted to contracting officers in this Section 12C.5-1(d) shall be subject to the requirements that:

(i) All proposed waivers must be submitted to the Director and the Clerk of the Board of Supervisors. All proposed waivers must set forth the reasons the contracting officer is requesting the waiver, what steps were taken to find an entity that complies with this Chapter and why the waiver does not defeat the intent of this Chapter, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Chapter. Such waivers shall be subject to the prior approval of the Director, who shall take action approving or denying a proposed waiver within 30 days of receiving a notification of a proposed waiver from a contracting officer. If after 30 days the Director has taken no action on the proposed waiver, the waiver shall be deemed approved. The Clerk of the Board of Supervisors shall list the notice of the proposed waiver at the rear of the next available Board agenda, and

(ii) Contracting officers report to the Director whenever such a waiver is granted within five days of granting the waiver, and

(iii) For any contract subject to approval by the Board, the contracting officer shall state in the approving resolution whether any waiver under this Section 12C.5-1(d) has been or is proposed to be granted for that contract, and

(iv) The Director shall conduct quarterly comprehensive reviews of the use of the waiver authority by

departments and shall make a report to the Board of Supervisors. Contracting officers who have exercised waiver authority under this Section 12C.5-1(d) in the previous quarter must appear before a Board of Supervisors committee and report on their use of such waiver authority. If the Board finds abuse of waiver authority by a department under this Section 12C.5-1(d), either as a result of a report of the Director or upon its own initiative, the Board may by resolution transfer that waiver authority for that department to the Director, to be exercised by the Director upon recommendation of the contracting officer under any or all of the circumstances enumerated in this Section 12C.5-1(d);

(5) Nothing in this Section 12C.5-1(d) shall limit the right of the Board of Supervisors to waive the provisions of this Chapter.

(e) This Chapter shall not apply to (i) the investment of trust moneys or agreements relating to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre-existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:

(1) No person, entity or financial institution doing business in the City and County which is in compliance with this Chapter is capable of performing the desired transaction(s); or

(2) The City will incur a financial loss which in the opinion of the Treasurer would violate his or her fiduciary duties.

This subparagraph (e) shall be subject to the requirement that City moneys shall be withdrawn or divested at the earliest possible maturity date if deposited or invested with a person, entity or financial institution other than the U.S. government which does not comply with this Chapter.

(f) The General Manager of the Public Utilities Commission may waive the requirements of this Chapter where the contractor is providing wholesale or bulk water, power or natural gas, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or loading scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the San Francisco Public Utilities Commission; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures; and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City and County of San Francisco. (Added by Ord. 481-96, App. 12/20/96; amended by Ord. 201-97, App. 5/27/97; Ord. 286-97, App. 7/18/97; Ord. 431-97, App. 11/21/97)

Sec. 12C.6. Severability.

This Chapter shall be construed so as not to conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter shall authorize any City agency to impose any duties or obligations in conflict with limitations on municipal authority established by federal law at the time such agency action is taken.

In the event that a court or agency of competent jurisdiction holds that the State or federal law,

rule or regulation invalidates any clause, sentence, paragraph or section of this Chapter or the application thereof to any person or circumstances, it is the intent of the Board of Supervisors that the court or agency sever such clause, sentence, paragraph or section so that the remainder of this Chapter shall remain in effect. (Amended by Ord. 84-77, App. 3/11/77; Ord. 286-97, App. 7/18/97)

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FORM 3: HRC NON-DISCRIMINATION AFFIDAVIT

1. I will ensure that my firm complies fully with the provisions of Chapter 12B and 12C of the San Francisco Administrative Code and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
2. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the Human Rights Commission shall be payable to the City and County of San Francisco upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any contract with the City and County of San Francisco.
3. I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

**Signature of Owner/Authorized
Representative:** _____

Owner/Authorized Representative (Print) _____

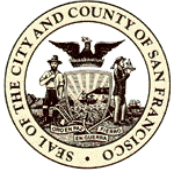
Name of Firm (Print) _____

Title and Position _____

Address, City, ZIP _____

**Federal Employer Identification Number
(FEIN):** _____

Date: _____



CITY AND COUNTY OF SAN FRANCISCO CONTRACT MONITORING DIVISION

S.F. ADMINISTRATIVE CODE CHAPTERS 12B & 12C DECLARATION: NONDISCRIMINATION IN CONTRACTS AND BENEFITS (CMD-12B-101)

The Equal Benefits Ordinance prohibits the City and County of San Francisco from contracting with vendors that discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and between the domestic partners and spouses of such employees.

- *Domestic Partners are same-sex and opposite-sex couples registered with any state or local government agency authorized to perform such registrations.*
- *Domestic partnerships and marriages may only be verified to the same extent and in the same manner. For example, waiting periods to qualify for benefits must be the same for domestic partners and spouses. Domestic partner registry certificates must be recognized as fully equivalent to marriage certificates.*

INSTRUCTIONS

STEP 1 Obtain a Vendor Number

- If you have already been issued a vendor number by the City & County of San Francisco, go to Step 2.
- To obtain a vendor number, contact Vendor File Support: vendor.file.support@sfgov.org or (415) 554-6702.

STEP 2 Complete this 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits form (CMD-12B-101)

STEP 3 Obtain the necessary supporting documentation

- Most recent legal verification of employee count/firm structure, for example, a W-3 Form, DE 1 Form, DE 9 Form or an annual San Francisco Payroll Expense Tax Statement.
(Please redact confidential employee information.)
- A copy of a memorandum that has been distributed to your firm's employees detailing the firm's compliant nondiscrimination and domestic partner benefit policies. An example of a memorandum that includes all required confirmations is provided with this form and on the Contract Monitoring Division website.
Note: the memorandum is not a substitute for fully compliant incorporation of domestic partner language in all benefit policies. Please contact the Contract Monitoring Division prior to distribution of the memorandum if you have questions.

STEP 4 Submit the 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits form (CMD-12B-101) and all supporting documentation to:

- cmd.equalbenefits@sfgov.org or
Contract Monitoring Division, 30 Van Ness Avenue, Suite 200, San Francisco, CA 94102-6020

◆ Section 1. Vendor Information

Name of Firm: _____ DATE & TIME RECEIVED BY CMD
(FOR CMD USE ONLY)

Name of Firm Contact Person:

Phone: _____ Ext.:

E-mail Address:

Vendor Number (if known):

Federal ID or Social Security Number:

Approximate Number of Employees in the U.S. (Do not count yourself):

Are any of your employees covered by a collective bargaining agreement or union trust fund? Yes No

Union name(s):

◆ Section 2. Compliance Questions

Question 1. Nondiscrimination – Protected Classes

- A. Does your firm agree it will not discriminate against its employees, applicants for employment, employees of the City, or members of the public on the basis of the fact or perception of a person’s membership in the following categories? YES NO

Please note: a YES answer is required for compliance.

Race, Color, Creed, Religion, National origin, Ancestry, Age, Sex, Sexual orientation, Gender identity (transgender status), Domestic Partner status, Marital status, Disability, AIDS/HIV status, Height, Weight

- B. Does your firm agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract you have with the City? YES NO

Please note: you must answer this question even if you do not intend to enter into any subcontracts, and a YES answer is required for compliance.

Question 2. Nondiscrimination – Equal Benefits for Employees with Spouses and Employees with Domestic Partners, and for the Spouse or Domestic Partner of an Employee

Questions 2A and 2B should be answered YES even if your employees pay some or all of the cost of spousal or domestic partner benefits.

- A. Does your firm provide or offer access to any employee benefits? (If your firm does not have employees, answer NO) YES NO

- B. If you answered “Yes” to 2.A, are all of the benefits equally available to employees with domestic partners and employees with spouses? (If your firm does not have employees, answer NO) YES NO

If you answered YES to either or both Questions 2A and 2B, please continue to Question 2C.

If you answered NO to both Questions 2A and 2B, please complete Section 3.

- C. Please check all benefits that apply to your answers above and list in the “Other” line any additional benefits not already specified. Note: some benefits are provided to employees because they have a spouse or domestic partner, such as bereavement leave; other benefits are provided directly to the spouse or domestic partner, such as dependent life insurance.

BENEFIT	Available to Employees	Available to/Affects Domestic Partners	Available to/Affects Spouses
• Health Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Dental Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Vision Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Retirement (Pension, 401(k), IRA, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Bereavement Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Family Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Parental Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Employee Assistance Program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Relocation and/or Travel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Firm Discount, Facilities & Events	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Credit Union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Child Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Dependent Life Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Short-Term/Long-Term Disability Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Accidental Death & Dismemberment Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Other (Please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Other (Please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Firm Name _____

D. Please **initial** all statements below that apply to your firm. **Please note:** in addition, a **YES** answer is required for compliance.

- Domestic partners are defined as same-sex couples and opposite-sex couples registered with any state or local registry and verify their relationship in the same manner as spouses. YES NO
- A memorandum detailing our firm’s domestic partner policies has been distributed to employees. YES NO
- The employee handbook includes domestic partner language wherever spouses are referenced. YES NO
- The children of domestic partners are explicitly included in all policies that recognize stepchildren. YES NO
- All insurance plans contain language that recognizes spouses and domestic partners equally. YES NO
- All retirement, 401(k) and similar plans explicitly provide the same distribution choices for spousal and domestic partner or nonspousal beneficiaries. YES NO

Note: If you can’t offer a benefit in a nondiscriminatory manner *because of reasons outside your control*, (e.g., there are no insurance providers in your area willing to offer domestic partner coverage) you may be eligible for Reasonable Measures compliance. To comply on this basis, you must agree to pay a cash equivalent, submit a completed Reasonable Measures Application Form (CMD-12B-102) with all necessary attachments, and have your application approved by the Contract Monitoring Division. For more information, see the Rules of Procedure or contact the Contract Monitoring Division.

COMPLIANCE AUDITS AND REQUIRED DOCUMENTATION

The City and County of San Francisco regularly audits firms to verify that the answers on this form are complete and accurate.

Please see the [Chapter 12B Equal Benefits Documentation Guide](#) for a detailed description of compliant documentation.

To be certified under Chapters 12B & 12C you must submit proper documentation confirming that your firm has already fully implemented equal benefits for employees with spouses and employees with domestic partners, and between the spouses and domestic partners of such employees. In addition to a compliant CMD-12B-101 Declaration, you must submit legal verification of your firm’s employee count and a copy of your compliant memorandum to employees that explains your firm’s nondiscrimination and domestic partner benefit policies. *Note: the memorandum is not a substitute for fully compliant incorporation of domestic partner language in your firm’s benefit policies.* You may also be required to provide benefit documentation to verify that your firm does not discriminate in the provision of benefits. Such documentation may include your employee handbook and confirmations from your insurance, union and retirement documents. Failure to offer benefits in accordance with the San Francisco Chapter 12B Equal Benefits Ordinance may result in suspension of your firm’s compliance status, financial penalties and/or the inability to contract with the City and County of San Francisco.

◆ Section 3. Execute this CMD-12B-101 Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____ in the year _____, at _____, _____
(City) (State)

Signature

Mailing Address

Name of Signatory (please print)

City, State, Zip Code

Title

▶ **Submit this form and supporting documentation to:** Contract Monitoring Division, 30 Van Ness Ave., Suite 200, San Francisco, CA 94102-6020, or to CMD.EqualBenefits@sfgov.org or to the City department that sent it to you if the department so requests.

✓ **Resource Materials** and additional copies of this form may be found at: www.sfgov.org/CMD.

☎ **For assistance**, please contact the Contract Monitoring Division at 415-581-2310.

EXAMPLE OF 12B COMPLIANT MEMORANDUM TO EMPLOYEES

[FIRM LETTERHEAD]

To: All [Firm Name] Employees
From: [Firm Representative Name, Title] Re:
Domestic Partner Benefit Policy Date: [Date]

[Firm Name] does not discriminate based on the following protected categories:

Race, Color, Creed, Religion, National origin, Ancestry, Age, Sex, Sexual Orientation, Gender identity (transgender status), Domestic Partner status, Marital status, Disability, AIDS/HIV status, Height, Weight

[Firm Name] offers the following employee benefits equally to employees with spouses and employees with domestic partners, and to the spouses and domestic partners of such employees [List all benefits provided by firm]:

- Health Insurance - [List each carrier]
- Dental Insurance - [List each carrier]
- Vision Insurance - [List each carrier]
- Retirement - [List each type of plan, for example, Pension, 401(k), 403(b), Simple IRA]
- Bereavement Leave
- Family Leave
- Parental Leave
- Employee Assistance Program
- Relocation and/or Travel
- Firm Discount, Facilities & Events
- Credit Union
- Child Care
- Dependent Life Insurance - [List each carrier]
- Short Term and/or Long-Term Disability Insurance - [List each carrier]
- Accidental Death & Dismemberment Insurance – [List each carrier]

Domestic partners are defined as same-sex and opposite-sex couples who are registered with any state or local government domestic partner registry. Any requirements for proof of relationship or waiting periods for domestic partnerships are also applied to marriages. Domestic partner registry certificates are accepted as fully equivalent to marriage certificates.



**CITY & COUNTY OF SAN FRANCISCO
CONTRACT MONITORING DIVISION**

CHAPTER 12B EQUAL BENEFITS DOCUMENTATION GUIDE

Each benefit policy must include domestic partners and their children where spouses and stepchildren are referenced. Blanket statements regarding your firm's general domestic partner policy in a separate part of the employee handbook are insufficient.

Benefit Type	Guidelines	Standard Documentation
Health Dental Vision Dependent Life Long-term Disability Long-term Care Accidental Death & Dismemberment Business Travel Accident Personal Travel Accident	<p>Insurance confirmations must explicitly define Domestic Partners as "same-sex and opposite-sex couples who have registered with any state or local government domestic partnership registry."</p> <p>In addition, it must be confirmed that any requirements for proof of relationship for domestic partnerships are also applied to marriages. For example, domestic partner registry certificates must be recognized as fully equivalent to marriage certificates.</p> <p>Insurance policies that provide continuation coverage to spouses and stepchildren must specify that COBRA-like continuation coverage is available to domestic partners and their children.</p> <p>Pre-tax benefits may not comply.</p>	<p>Acceptable: the cover page, eligibility section, and other relevant sections (such as the COBRA section) of the Basic Plan Document, or you may submit a letter or email message from the insurance carrier (contact us for an example).</p> <p>Unacceptable: letters from brokers, enrollment forms, invoices, Summary Plan Descriptions.</p>
Retirement (Pension, 401(k), etc.)	<p>Plan documents must confirm that the distribution options are the same for spouse and non-spouse or domestic partner beneficiaries (not who can be a beneficiary, but how the money is distributed upon the employee's death).</p>	<p>A copy of the cover page and the distribution section of the Summary Plan Description or Basic Plan Document of your 401(k) or pension or savings plan(s). If you have a prototype plan, please include the Adoption Agreement.</p>
Bereavement Leave Family Leave Family Medical Leave Military Caregiver Leave Military Exigency Leave Parental Leave Relocation and Travel Discounts, Facilities & Events	<p>Where the term "spouse" is used, the term "domestic partner" must be included.</p> <p>The definition of "immediate family" must be defined in the bereavement policy and if it includes in-laws, the equivalent members of a domestic partner's family must be explicitly included. <i>An example of a compliant definition is: the employee's spouse or domestic partner; a parent, child, or sibling of the employee, spouse or domestic partner; and the spouse or domestic partner of the employee's parents, children, or siblings.</i></p> <p>Federal law does not prevent recognition of domestic partners or their children in the FMLA and Military policies.</p>	<p>A copy of your employee handbook policies.</p> <p>When the term "Domestic Partners" is defined in an employee handbook, the following definition must be used: "same-sex and opposite-sex couples who have registered with any state or local government domestic partnership registry." Domestic partners may not be required to prove their relationship (for example, with an affidavit) or subject to waiting periods unless a firm provides proof that spouses are subject to the same requirements. Domestic partner registry certificates must be recognized as fully equivalent to marriage certificates.</p>
Employee Assistance Program Credit Union	<p>References to spouses must include references to domestic partners or household members.</p>	<p>A brochure or letter from the provider or policy from the employee handbook.</p>
Child Care	<p>References to spouses must include references to domestic partners.</p> <p>Pre-tax benefits may not comply.</p>	<p>A brochure or letter from the provider.</p>
Union	<p>Separate documentation must be submitted for benefits administered through collective bargaining agreements.</p>	<p>Unions that recognize domestic partners have usually prepared a 1-page statement that is available upon request. If a union doesn't recognize domestic partners, call the Equal Benefits Unit at 415-581-2310 for assistance.</p>
Other	<p>If your firm offers other benefits, please specify what they are on the 12B Declaration and provide documentation.</p>	<p>Varies; call the Equal Benefits Unit at 415-581-2310 for assistance.</p>