



Fluxx Labs, Inc. 2261 Market Street #4060, San Francisco CA, 94114

### Software as a Service Order

This Software as a Service Order ("Order") is entered into by and between Fluxx Labs, Inc. ("Fluxx") and the Customer identified in the table below ("Customer") and is effective as of the latter date by which both parties have executed this Order as set forth below ("Effective Date"). This Order, together with the attached Software as a Service Terms and Conditions document, all Addenda attached thereto or referenced therein, and each Statement of Work and attachments thereto, sets forth the terms under which Customer is granted the limited right to access remotely and use Fluxx's proprietary grants management system and the related services identified in the Order.

Customer		
Customer Legal Name and Contact Information	City of San Diego Division of Cultural Affairs, Economic Development Department 1200 Third Ave, Ste 1400 San Diego, California 92101	
Effective Date for Order	10/1/2025	
Signatory Contact	Claudia Abarca	cabarca@sandiego.gov
Remit Invoices To	Olivia Jones	ojones@sandiego.gov
Proscribed Territory	Countries and territories set forth hereto in Exhibit 1-B.	
Purchase Order Requirement	Is a PO required for payment of fees for products and/or services under this Order?	Yes <u>XX</u> No <u>  </u>
Tax Information	Tax Exempt: N	
Annual Subscription		
Subscription	Annual subscription to remotely access and use Fluxx, including hosting, ongoing maintenance and support, and unlimited users and data usage.	

Subscription Start Date	10/1/2025	Subscription Term			Five (5) years, commencing on the Subscription Start Date
Subscription Invoice Dates	10/1/2025	10/1/2026	10/1/2027	10/1/2028	10/1/2029
Subscription Fee (\$ in USD)	Year 1	Year 2	Year 3	Year 4	Year 5
Grantmaker Platform	\$35,020.00	\$36,070.60	\$37,152.72	\$38,267.30	\$39,415.32
SSO Integration	\$2,898.42	\$2,985.37	\$3,074.93	\$3,167.18	\$3,262.20
Office Hours 20 x \$250.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
<b>Total Annual Subscription and Other Fees</b>	<b>USD \$42,918.42</b>	<b>USD \$44,055.97</b>	<b>USD \$45,227.65</b>	<b>USD \$46,434.48</b>	<b>USD \$47,677.52</b>

## Terms & Conditions

IMPORTANT: THE PERSON EXECUTING THIS ORDER ON BEHALF OF THE CUSTOMER (THE "CUSTOMER SIGNATORY") HEREBY ACKNOWLEDGES AND CONFIRMS THAT: (A) CUSTOMER SIGNATORY HAS FULL AUTHORITY FROM THE CUSTOMER TO BIND THE CUSTOMER TO ALL TERMS AND CONDITIONS OF THE AGREEMENT; (B) THE AGREEMENT IS COMPRISED OF THE ORDER, ALL OF THE SOFTWARE AS A SERVICE TERMS AND ALL ADDENDA AND EXHIBITS INCLUDED OR REFERENCED THEREIN AND AVAILABLE (THE "TERMS"), WHICH ARE HEREBY INCORPORATED BY REFERENCE, TOGETHER WITH ALL STATEMENTS OF WORK MUTUALLY EXECUTED BY THE PARTIES; (C) CUSTOMER SIGNATORY HAS READ AND UNDERSTANDS ALL OF THE TERMS A

ND CONDITIONS OF THE ENTIRE AGREEMENT; AND (D) CUSTOMER AGREES TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THE AGREEMENT.

IF CUSTOMER SIGNATORY DOES NOT ACKNOWLEDGE AND CONFIRM ALL OF THE ABOVE, OR IF THE CUSTOMER WHOM CUSTOMER SIGNATORY REPRESENTS IS NOT WILLING TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THE AGREEMENT OR DOES NOT ACKNOWLEDGE THE LEGALLY BINDING NATURE OF THE CONTRACT ESTABLISHED BY THE TERMS, THEN CUSTOMER SIGNATORY MUST NOT EXECUTE THE ORDER AND NO AGREEMENT IS FORMED

BETWEEN FLUXX LABS, INC. AND CUSTOMER.

ANY ADVANCED SERVICES PROVIDED OUTSIDE THE SCOPE OF STANDARD SERVICES WILL BE BILLED AT THE RATE IN EFFECT AT THE TIME THE SERVICES ARE INCURRED. RATES ARE SUBJECT TO CHANGE, AND CURRENT PRICING WILL APPLY AS OF THE DATE OF SERVICE.

Upon signature by both parties, this Order is legally binding and incorporates by reference the attached Software as a Service Terms (including all Addenda attached thereto or referenced therein, such as the Fluxx Privacy Notice) and any other exhibits or attachments. If you are entering into this Order on behalf of a legal entity, you represent that you have authority to bind the Customer hereto.

**City of San Diego**

Name: Claudia Abarca

Signature: 

Title: Director, Purchasing and Contracting

Date: 12/22/2025

**Fluxx Labs, Inc.**

Name: Melissa Caldwell

Signature:   
Melissa Caldwell (Nov 7, 2025 15:17:28 EST)

Title: VP of Customer Experience

Date: 11/07/2025

**Approved as to form by San Diego City Attorney Heather Ferbert:**

Name: Kenneth So

Signature:   
Kenneth So (Dec 23, 2025 11:05:25 PST)

Title: Deputy City Attorney

Date: 12/23/2025

## **Exhibit 1-B: Proscribed Countries**

**(i) All countries and/or territories in which use of the Services is prohibited under U.S. law or regulation, including without limitation those of the Office of Foreign Asset Control (OFAC) of the U.S. Department of the Treasury.**

**(ii) The People's Republic of China and all of its regions.**

**(iii) The following other countries or territories known by either party hereto to have laws or regulations that the Services violate if any: \_\_\_\_\_.**

## Software as a Service Terms

These software as a Service Terms (together with all Addenda attached hereto or referenced herein, the "Terms"), the Order to which these Terms are attached, Statement(s) of Work and any other exhibits or attachments govern Customer's access to and use of the Fluxx System. Any initially capitalized term used but not otherwise defined in these Terms have the meaning ascribed to such terms in the Order or in an attached or referenced addendum, as applicable. This Agreement is effective as of the Start Date of the Order executed by both Fluxx and Customer.

### 1. Certain Definitions; Interpretation; Construction.

Each following initially capitalized term has the meaning ascribed to such term herein. Whenever the words "include," "includes" or "including" are used in this Agreement, they are deemed to be followed by the words "without limitation." The term "cash," "dollars" and "\$" mean United States dollars. All Addenda and Exhibits attached hereto are deemed part of this Agreement and included in any reference to this Agreement. Any singular term in this Agreement is deemed to include the plural and any plural term the singular.

**"Addendum"** means each addendum attached hereto by the parties, including without limitation Addendum I (Support Services) and Addendum 2 (Insurance).

**"Agreement"** means the Order to which these Terms are attached, these Terms, all Addenda attached hereto or referenced herein (which includes without limitation the Fluxx Privacy Notice) and Exhibit I (Form of Statement of Work).

**"Customer Data"** means any of Customer's information, documents or electronic files that are uploaded to the Fluxx System, some of which may include personal data as governed by the Fluxx Privacy Notice.

**"Personal Data"** means any information that reasonably identifies or can be used to identify an individual directly or indirectly.

**"Documentation"** means the standard, online documentation for the Fluxx System that Fluxx makes available, as the same may be revised and updated by Fluxx from time to time.

**"Fees"** means, collectively, the Subscription Fee together with all SOW Fees.

**"Fluxx Privacy Notice"** means Fluxx's then-current privacy policy and other attachments thereto or references therein, a current copy of which can be found at <https://www.fluxx.io/privacy-policy>.

**"Fluxx System"** means Fluxx's proprietary hosted grants management system that integrates customer relationship management and business process workflows (including any updates, revisions, enhancements, modifications, and derivative works thereof that may be provided hereunder), including the related services specified in the Order, the Addenda attached hereto and each Statement of Work.

**"Office Hours"** means one-on-one technical coaching and/or thought partnership services provided by Fluxx to support a Customer's specific system needs.

**"Subscription Fee"** means the annual fee, as set forth in the Order, that Customer pays in advance for the right to access and use the Fluxx System during the Subscription Term.

**"Subscription Term"** means each annual period during which Customer remains current in payment of all Subscription Fees.

**"User"** means a named individual to whom Customer has granted access to use the Fluxx System on Customer's behalf, regardless of whether or not the User actually accesses the Fluxx System, subject to the terms of this Agreement.

## **2. Access to and Use of Fluxx System; Ownership of Fluxx System**

a. Subject to the terms of this Agreement, Fluxx hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable, limited right during the Subscription Term to permit Customer's Users to access remotely via the Internet and use the Fluxx System, solely for Customer's internal purposes and only in accordance with the Documentation.

b. As between Fluxx and Customer, Fluxx is and will remain the owner of the Fluxx System and all portions thereof and Customer acknowledges and agrees that Fluxx is and will remain owner of all right, title and interest in and to all intellectual property rights (including all derivatives or improvements thereof) in the Fluxx System, including without limitation any invention or discovery related to the Fluxx System that may be made as a consequence of Customer's accessing or using the Fluxx System. If Customer or any of Customer's Users provide to Fluxx any suggestions, enhancement requests, feedback, recommendations, or other information relating to the Fluxx System ("Feedback"), Fluxx may freely use and exploit such Feedback in any manner and for any purpose whatsoever without any consideration to Customer or its Users or any other obligations or restrictions. Fluxx is providing a limited term subscription to access and use the Fluxx System during the Subscription Term. Customer acknowledges that access to, and use of, the Fluxx System is limited to the scope of the express provisions set forth in this Section 2.b. and that there are no implied licenses; all rights not expressly granted under this Agreement are reserved by Fluxx.

c. Except as expressly permitted hereunder, Customer will not permit any person (including, without limitation, Users), directly, indirectly, alone, or with another party do or attempt to do any of the following: (i) copy, disassemble, reverse engineer, decompile, or attempt to derive the source code of the underlying software or technology providing the Fluxx System; (ii) modify, create derivative works based upon, or translate the Fluxx System; (iii) license, sell, rent, lease, transfer, grant any rights in or otherwise commercially exploit the Fluxx System in any form with any other party; (iv) upload Customer Data or

other content that misappropriates or violates any third party proprietary rights or privacy rights; (v) remove, modify or otherwise tamper with notices or legends on the Fluxx System or Documentation; (vi) interfere with the operation or functionality of the Fluxx System; (vii) attempt to probe, scan, penetrate, breach or test the vulnerability of the Fluxx System or disable or circumvent the Fluxx System's security or authentication measures; or (viii) use or access the Fluxx System for the purpose of building a competitive product or service.

d. Customer is and will remain owner of all right, title and interest in the Customer Data. Customer hereby grants to Fluxx, a nonexclusive, non-transferable (except if authorized under Section 13(c) below), right and license to use, host, copy, transmit, modify and display the Customer Data only for purposes of (i) enabling and improving Customer's use of the Fluxx System; and (ii) compiling and analyzing data concerning usage of the Fluxx System that has been aggregated with similar data relating other Fluxx customers and anonymized so that it does not specifically identify Customer or its Users.

e. Customer is responsible for ensuring that Customer and Customer's Users' use of the Fluxx System is in compliance with all applicable laws and governmental regulations and Customer acknowledges that Customer assumes all risk arising from any such use that is not compliant with applicable laws and regulations.

f. Customer is solely responsible for maintaining the security of all usernames and passwords granted to it, for the security of its information systems used to access the Fluxx System, and for its Users' compliance with the terms of this Agreement. Fluxx will act as though any electronic communications it receives under Customer's usernames have been sent by Customer. Customer will immediately notify Fluxx if it becomes aware of any loss or theft or unauthorized use of any of Customer's passwords or usernames.

g. Fluxx has the right at any time to terminate or suspend access to any User or to Customer if Fluxx reasonably believes Customer has breached Section 2 of this Agreement or if Fluxx believes in good faith that such termination or suspension is necessary to preserve security integrity or accessibility of the Fluxx System.

### **3. [Reserved].**

### **4. Subscription Fees and Office Hours; Payment**

Customer will pay to Fluxx the Subscription Fees specified in the Order, with the Subscription Fee for the first Subscription Term due no later than thirty (30) business days after receiving an invoice

from Fluxx and the Subscription Fee for each subsequent Subscription Term due no later than thirty (30) business days after commencement of the applicable Subscription Term.

Customer has a bank of pre-approved funds to use toward Office Hours. These hours will be billed after they have been scheduled and used, and fees will be specified in each invoice. Customer agrees to pay the amount specified in each invoice within thirty (30) business days of receipt. The Customer is not required to use all available Office Hours and will only pay for services rendered.

Any failure to pay Fees within thirty (30) business days of the applicable due date, and not paid thereafter within fifteen (15) business days after Customer's receipt of written notice of such failure by Fluxx, will constitute a material breach by Customer under this Agreement, and any such unpaid Fees will accrue a late payment fee equal to 1.5% of the overdue amount for each month that the overdue amount remains unpaid or the maximum amount permitted by applicable law, whichever is less.

Except as otherwise provided for by law or in this Agreement, all payment obligations are non-cancelable and once paid are nonrefundable.

## **5. Confidentiality**

"**Confidential Information**" means any proprietary information, technical data, trade secrets or know-how, including but not limited to research, product plans, products, services, suppliers, supplier lists, customers, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, or other business information, which is not required to be disclosed by law, disclosed by one party ("**Disclosing Party**") to the other party ("**Receiving Party**"), either directly or indirectly, in writing or orally that (i) is marked or designated as confidential or (ii) under the circumstances of its disclosure, a reasonable person should consider to be confidential. For purposes of this Agreement, Customer Confidential Information includes all Customer Data, and Fluxx Confidential Information includes the Fluxx System, underlying software technology providing the Fluxx System, Documentation and the terms of this Agreement and the related Orders, unless such information is required to be disclosed by law. Each Receiving Party agrees that it will hold in strict confidence and not disclose the Confidential Information of the Disclosing Party to any third party and to use the Confidential Information of the Disclosing Party only for the purposes expressly permitted by this Agreement, and no other purpose, unless otherwise required by law. The Receiving Party will only permit access to the Disclosing Party's Confidential Information to the Receiving Party's employees, contractors, advisors and third-party vendors that assist Fluxx with the provision of the Fluxx System or related services who have a need to know, unless otherwise required by law. Each party will maintain confidentiality and prevent accidental or other loss or disclosure of any Confidential Information of the other party with at least the same degree of care as it uses to protect its own Confidential Information, but in no event with less than reasonable care. A Receiving Party's obligations of confidentiality under this

Agreement will not apply to information that such party can establish (i) is generally known within the industry without the breach of any agreement or fiduciary duty or the violation of any law, (ii) was known to the Receiving Party prior to the time of disclosure by the Disclosing Party without the breach of any agreement or fiduciary duty or the violation of any law by the Receiving Party, (iii) has been rightfully received by the Receiving Party from a third party who is authorized to make such disclosure; (iv) was independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (v) is required to be disclosed by law. Each party recognizes and acknowledges that any use or disclosure, if not otherwise required by law, of the Confidential Information by the Receiving Party in a manner inconsistent with the provisions of this Agreement might cause the Disclosing Party irreparable damage for which remedies at law may be inadequate. Accordingly, the Disclosing Party will have the right to seek an immediate injunction in respect of any breach of these confidentiality obligations to obtain such relief. Nothing in this Section 5 may be interpreted to supersede disclosure requirements under the California Public Records Act, California Govt. Code § 7920.000 et seq. ("CPRA"), or to require any additional noticing beyond the notice requirement set forth in the CPRA.

## 6. Privacy and Data Protection

a. Fluxx will maintain administrative, physical and technical safeguards designed for the protection of the security, confidentiality and integrity of Customer Data in accordance with industry standards. Customer acknowledges and agrees that Fluxx may share Customer Data with third-party vendors that assist Fluxx with the performance of this Agreement, in which case Fluxx must take reasonable precautions to ensure that said Customer Data is treated by any authorized third-party vendor with at least the same degree of care as it uses to protect its own Confidential Information.

b. Customer further acknowledges that the Fluxx System is not designed (or intended) to process or manage any (i) protected health information under HIPAA, or other similarly sensitive personal information, and/or (ii) special categories of personal data as set forth in Article 9 of the GDPR (defined in the Fluxx Privacy Notice) with respect to any natural person (collectively "**Sensitive Data**"). Customer will not permit or cause its Users to disclose any Sensitive Data to the Fluxx System. Customer assumes all risk arising from the disclosure or use of any Sensitive Data on or with the Fluxx System, including the risk of any inadvertent disclosure or unauthorized access thereto.

c. Both parties will comply at all times with applicable data protection laws ("**Data Protection Laws**"), including the European Union General Data Protection Regulation ("**GDPR**") to the extent that the Personal Data (as that term is defined in the GDPR) of individuals in the European Economic Area ("**EEA**") is collected, shared, transferred, accessed, stored or otherwise processed ("**Processed**", "**Processing**") in connection with the Fluxx System hereunder. The parties further agree that in the event that Data Protection Laws are amended or updated, the parties will take all required steps to comply

with the Data Protection Laws. In the event that any applicable Data Protection Laws require the parties to cooperate in order to address the rights of any individuals, the parties will take all reasonable steps to cooperate and comply with such obligations.

d. In connection with the Fluxx System and related services to be performed hereunder, Fluxx is deemed the "data processor" and the Customer is deemed a "data controller" as those terms are defined under GDPR. As a data controller, Customer is primarily responsible for the Processing activities undertaken in connection with the Fluxx System hereunder. Customer is solely responsible for (i) developing its own privacy notice that is in compliance with all applicable Data Protection Laws and discloses the Customer's collection, use, and Processing of personal information; (ii) posting said privacy notice conspicuously, in a manner and format that are readily accessible for all Users of the Fluxx System; (iii) ensuring that it has established a proper legal basis in connection with the Processing of any Personal Data provided to Fluxx, (iv) obtaining (and maintaining a record of) User consent as defined under GDPR where consent may be required, (v) handling and responding to any data subject rights as may be asserted by its Users from time to time, and (vi) providing notice to its Users of the transfer of Personal Data to Fluxx and the Processing to be performed hereunder. Customer will immediately notify Fluxx if it fails to comply with the obligations set forth herein and/or under Data Protection Laws, such that Fluxx may cease the Processing of any Personal Data. Fluxx will promptly notify Customer of any regulatory or data subject requests pertaining to Personal Data as set forth in the Fluxx Privacy Notice.

e. To the extent that the Processing activities hereunder are subject to the GDPR, the parties further agree as follows:

- I. Fluxx will at all times use industry standard administrative, physical and technical safeguards designed to protect the security, privacy and integrity of any and all Personal Data provided to it by the Customer in compliance with the GDPR.
- II. To the extent required by Data Protection Laws, the parties can refer to Fluxx's Privacy Policy (<https://www.fluxx.io/privacy-policy>), and the terms of which will prevail in the event of a conflict between the Fluxx Privacy Policy and this Agreement.

## **7. Support Services**

The support services to be provided by Fluxx to Customer are described in Addendum I attached hereto (the "Support Services").

## **8. Limited Warranty; Disclaimer of Other Warranties**

a. Fluxx warrants to Customer that during the Subscription Term: (i) the Fluxx System will operate substantially in accordance with the Documentation when used as directed; and (ii) such functionality will not be materially decreased. Fluxx must remedy any failure to

conform to such warranty by providing the Support Services as set forth in Addendum 1 to modify the Fluxx System to achieve the warranted functionality, provided that any such nonconformance: (1) is sufficiently described in writing and reproducible by Fluxx; and (2) is not the result of use by Customer or Users of the Fluxx System in a manner inconsistent with this Agreement and/or Documentation. If Fluxx is unable to meet the foregoing warranty obligations, then Customer's sole and exclusive remedy will be to terminate the Agreement for breach in accordance with Section 12(b) below and Fluxx will refund to Customer on a pro-rata basis all pre-paid Fees attributable to unused portion of the Subscription Term for the applicable Order.

b. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN SECTION 8.a. ABOVE, THE SERVICES ARE PROVIDED SOLELY ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, FLUXX EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO: IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND TITLE AND NON-INFRINGEMENT; AND THAT THE OPERATION OR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

## **9. Limitation of Liability**

a. In no event will either party be liable for any incidental, indirect, exemplary, special, punitive or consequential damages, under any circumstances, or for any lost profits, revenue or savings, or the loss of use of any data, even if a party has been advised of, knew or should have known of, the possibility thereof.

b. Fluxx's and its licensor's or supplier's total aggregate liability for any and all claims, losses or expenses (including attorneys' fees) arising out of or in connection with this Agreement, whether based in contract, negligence, strict liability, warranty, misrepresentations, other torts or any other theory of liability, will be limited to the maximum extent permitted by applicable law.

c. NOTWITHSTANDING THE FOREGOING LIMITATIONS IN SECTIONS 9(a) AND 9(b) ABOVE, NO LIMITATION OF LIABILITY WILL APPLY TO THE EXTENT THE CLAIM RESULTS FROM (I) INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (II) FRAUD OR WILLFUL MISCONDUCT BY THE OTHER PARTY, OR (III) BREACH OF CUSTOMER'S PAYMENT OBLIGATIONS. These exclusions are meant to apply to the fullest extent permitted by applicable law and regardless of the failure of any specific remedy.

## **10. Indemnification**

a. To the fullest extent permitted by law, Fluxx will defend (with legal counsel reasonably acceptable to Customer), indemnify, protect, and hold harmless Customer and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Fluxx or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Agreement by Fluxx, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Fluxx's duty to defend, indemnify, protect and hold harmless does not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

b. Indemnification Procedures. The following procedural requirements will apply to any party seeking indemnification ("**Indemnified Party**") from the party providing indemnification under this Section 10 ("**Indemnifying Party**"). To avail itself of the foregoing indemnification, the Indemnified Party will: (x) promptly notify the Indemnifying Party in writing of the claim for which indemnification is sought ("**Claim**") (provided that any delay in such notice that does not materially prejudice the Indemnifying Party in its defense of such Claim will not relieve the Indemnifying Party of its obligations hereunder); (y) provide the Indemnifying Party, at the

Indemnifying Party's expense, with all reasonable information and assistance to defend or settle the Claim; and (z) grant the Indemnifying Party with the necessary authority and control of the defense or settlement of the Claim.

## **11. Insurance**

Fluxx must obtain and maintain during the term of this Agreement, at its own expense, the insurance policies and coverage as set forth in Addendum 2 attached hereto.

## **12. Term and Termination**

a. The term of this Agreement commences on the Start Date specified in the Order and, unless earlier terminated pursuant to this Agreement, continues for the Subscription Term specified in such Order. The term of this Agreement may be renewed for successive one-year Subscription Terms in the event that (i) Customer provides notice of intent to renew at least 30 days in advance of the end of the then-current Subscription Term and (ii) the parties mutually agree in writing to a new Subscription Term.

b. If either party materially breaches any of its obligations under this Agreement, then the non-breaching party may terminate this Agreement immediately, provided that the breaching party fails to cure the material breach within fifteen (15) business days after having received written notice by the non-breaching party of the breach or default

c. Upon termination or expiration of this Agreement: (i) the usage rights granted under Section 2(a) immediately terminate; (ii) each party will, upon written request, promptly return to the other party any Confidential Information of the other party in its possession, custody or control; and (iii) upon Customer's written request, Fluxx will extract Customer Data from the Fluxx System into a data package (in SQL and CSV format) and make a copy available to Customer via AWS or other hosting provider for up to thirty (30) days after termination. Sections 2(b) through 2(e) inclusive, 4, 5, 6, 8(b), 9, 10, 12(c) and 13 and the applicable definitions in Section I will survive termination of this Agreement

### **13. Miscellaneous**

a. Notices regarding this Agreement to Fluxx must be in writing by electronic mail, first class mail, or overnight courier at the address on record with Customer at that time. Notices regarding this Agreement to Customer must be in writing by posting notice on the Fluxx System, electronic mail, first class mail, or overnight courier, to Customer's address on record with Fluxx. All notices will be deemed to have been given three days after mailing or posting (if sent by first class mail), upon delivery in the case of courier, or 12 hours after either sending by e-mail or posting on the Fluxx System.

b. Customer grants Fluxx the right to use its name and logo in customer lists on its website, commercial advertisements and promotional materials for the sole purpose of indicating that Customer is a user of the Fluxx System, provided that Fluxx complies with San Diego City Council Policy 000-41.

c. Neither party may assign any of its rights hereunder or this Agreement, whether by operation of law or otherwise, without the other party's prior written consent, such consent not to be unreasonably delayed, conditioned or withheld. A non-assigning party's sole remedy for any purported assignment by the other party in breach of this clause is, at the non-assigning party's election, termination of the Agreement upon written notice to the assigning party. Subject to the foregoing, any Assignment will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

d. Fluxx will not be liable or responsible for any failure to perform, or delay in performance of, any of Fluxx's obligations under this Agreement caused by an act or event beyond Fluxx's reasonable control, including without limitation acts of God, war (whether or not actually declared), armed conflict or the serious threat of the same, hostility, blockade, military embargo, sabotage, insurrection, rebellion, act of a public enemy, riot or other act of civil disobedience, governmental act, judicial action, explosion, act of terrorism or threat

thereof (including cyberterrorism), natural disaster (including without limitation asteroid strikes or volcanic activity), violent storm (including without limitation hurricanes, tornados or blizzards), atmospheric disturbance (including without limitation geomagnetic storm, solar flare or sun outage with respect to electricity grids, transformers and satellite transmissions destruction by lightning, fire, earthquake, tsunami, flood, plague, epidemic, pan-epidemic, quarantine, civil commotion, strike or lockout or labor dispute (excluding for the avoidance of doubt strikes of Fluxx's staff), satellite malfunction, prolonged internet outage, communications line failure or power failure or impossibility of the use of public or private transport, communication systems, the internet or third party hosting providers (e.g. AWS). Either party may terminate this Agreement upon written notice to the other party if a force majeure event continues substantially uninterrupted for a period of thirty (30) days or more.

e. Any determination of invalidity or unenforceability of any one provision will have no effect on the continuing force and effect of the remaining provisions. The failure of either party to enforce any right or provision of this Agreement does not constitute a waiver of such right or provision, or future enforcement thereof.

f. This Agreement is governed by the laws of the State of California, without regard to its conflict of laws provisions. The exclusive jurisdictions and venues for any claims arising out of or related to this Agreement or Customer's use of the Fluxx System are in the state and federal courts located in the Cities and Counties of San Francisco and San Diego, California, and Customer irrevocably agrees to submit to jurisdiction of such courts.

**g. Non-Discrimination Requirements:**

- I. **Compliance with Customer's Equal Opportunity Contracting Program (EOCP).** Fluxx must comply with Customer's EOCP Requirements. Fluxx must not discriminate against any employee or applicant for employment on any basis prohibited by law. Flux must provide equal opportunity in all employment practices. Fluxx must seek to ensure that any subcontractors providing goods or services to Customer under this contract must not discriminate against any employee or applicant for employment on any basis prohibited by law. Nothing in this Section may be interpreted to hold Fluxx liable for any discriminatory practice of any subcontractors.
- II. **Non-Discrimination Ordinance.** Fluxx must not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Fluxx must provide equal opportunity for subcontractors to participate in subcontracting opportunities, and comply with Customer's Equal Opportunity Contracting Program.. Fluxx understands and agrees that violation of this clause will be considered a material breach of the Contract and

may result in Contract termination, debarment, or other sanctions. Fluxx must make reasonable efforts to ensure similar non-discrimination language is included in contracts between Fluxx and any subcontractors, vendors and suppliers involved in providing goods or services to Customer.

- III. **Provider Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations.** Fluxx must comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Fluxx must comply with the most restrictive requirement (i.e., that which provides the most access). Fluxx also must comply with Customer's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Agreement by reference. Fluxx warrants and certifies compliance with all federal and state access laws and regulations and further, must make reasonable efforts to provide that any subcontract agreement for this Contract contains language which indicates the subcontractors agreement to abide Federal, State, and local ADA Access Laws and Regulations.
  - IV. **Compliance Investigations.** Upon City's request, Fluxx agrees to provide to City, within 60 calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Fluxx has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid for each subcontract or supply contract. Fluxx further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Fluxx understands and agrees that violation of this clause will be considered a material breach of this agreement and may result in the termination of this agreement, debarment, and other sanctions.
- h. Additional City of San Diego Mandated Requirements
- i. **Drug-Free Workplace Certification.** Fluxx must comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into this agreement by this reference.
  - ii. **Equal Benefits Ordinance Certification.** Unless an exception applies, Fluxx must comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC) sections 22.4301-22.4308. Failure to maintain equal benefits is a material breach of this agreement.
  - iii. **Contractor Standards.** Fluxx must comply with Contractor Standards provisions codified in the SDMC. Fluxx understands and agrees that violation of Contractor Standards will be considered a material breach of this agreement

and may result in termination of this agreement, debarment, and other sanctions.

- iv. **Business Tax Certificate.** Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a contract is executed.
- v. **Equal Pay Ordinance.** Unless an exception applies, Fluxx must comply with the Equal Pay Ordinance (EPO) codified in San Diego Municipal Code sections 22.4801 through 22.4809. Fluxx must certify in writing that it will comply with the requirements of the EPO.
  - a. **Contractor and Subcontract Requirement.** The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of Fluxx to the same extent as it would apply to Fluxx. If subject to the Equal Pay Ordinance, Fluxx must require all of their subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.
- vi. **Duty to Cooperate with Auditor.** The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Fluxx's records to confirm contract compliance. Fluxx must make reasonable efforts to cooperate with Auditor's requests.
- i. This Agreement constitutes the entire agreement of the parties regarding the subject matter hereof and supersedes any prior written agreements or understandings between the parties with respect to the Fluxx System. The preprinted terms of any purchase order or similar document provided to or by Customer prior to execution of this Agreement are void and of no force or effect. This Agreement may not be amended except by a writing signed by each party.

## Addendum 1 - Support Services

a. **Support Continuation.** The Support Services will commence on the Subscription Start Date and continue until termination of the Agreement.

b. **Customer Contacts.** All Support Services inquiries will be directed to Fluxx from employees or consultants identified in writing to Fluxx by Customer. All Support Services inquiries should be submitted via the online Support ticketing portal.. Customer will use commercially reasonable efforts to minimize repetitive Support Services inquiries for the same error. All support requests will be submitted in the format provided by Fluxx to Customer described herein. Fluxx will track all Support Services inquiries and maintain a history of all Support Services interactions with Customer, which shall be available to Customer upon request.

c. **Support Services Hours.** Fluxx will deliver ongoing Support Services from 2:00 a.m. to 6:00 p.m. Pacific Time Monday through Friday (excluding applicable public and company holidays) (the "Business Hours").

d. **Technical Support.** Without limiting any other obligations hereunder, Fluxx will provide consultation, instruction, and basic technical support services (which could include minor configuration changes, Fluxx System upgrades, and troubleshooting) to Customer regarding the Fluxx System ("**Technical Support**"). In response to requests from Customer, Technical Support may be delivered by electronic mail, remote support, and/or Internet-delivered answers during the Subscription Term.

e. **Advanced Services.** These optional services, which include audit, advanced configuration (configuration that requires analysis, build and testing), office hours and training certification packaged can be requested, scoped and managed under a separate Statement of Work.

f. **Response.** Fluxx will respond to support requests in accordance with this Addendum 1. Without limiting the Fluxx's obligations to provide Support Services herein, Fluxx will use commercially reasonable efforts to resolve all inquiries as soon as reasonably practicable.

- I. **Conditions.** Prior to initiating any support request of any kind, Customer must first have attempted to determine the cause of and resolve the issue directly. If the issue is not resolved after such attempt, Customer may then initiate a support request as specified in this Addendum. Customer will use reasonable efforts to describe the problem with specificity and help Fluxx gather relevant and helpful information regarding the problem. Customer will additionally describe to Fluxx the phenomenon or the process that created the issue to enable Fluxx to reproduce the problem with as much detail as reasonably possible.
- II. **Responses.** A response means a written confirmation (email accepted) that a support request has been received.

III. Incident/Error Classifications. The case priority level is designated by Fluxx’s Technical Support agents at the time of case submission, as defined below:

Priority	Response Time	Description
Priority 1 Urgent	1 hour	Significant service availability issues or global impairment in critical aspects of the Fluxx System or its processing capabilities that impair Customer from using the Fluxx System.
Priority 2 High	4 hours	Issues that materially affect processing by and access to the technology or significant impairment of material aspects of the services or its processing capabilities. The Fluxx System is working, however specific components are generating errors and or not responding in a timely manner.
Priority 3 Medium	48 Business Hours	Issues that moderately affect processing by and access to the technology or moderate impairment of material aspects of the Fluxx System or its processing capabilities
Priority 4 Low	48 Business Hours	An issue with a low degree of impairment of the Fluxx System.

\* The Response times in the table above commence upon submission of a support request by Customer to Fluxx. The Response times will be timed from the moment written permission and test account credentials and information are provided via the Fluxx incident tracking system. Incidents are reported to Fluxx incident tracking system and Customer receives an incident number via email.

\*\* With respect to Priority 1 problems, Fluxx will work continuously until the issue(s) are resolved or an acceptable work-around is identified. Fluxx will allocate reasonable resources to provide updates on a regular basis until resolved. Status may be given to Customer Representatives via the online ticketing system, electronic mail and/or phone, unless otherwise requested by Customer Representative.

\*\*\* With respect to Priority 2 problems, Fluxx will allocate reasonable resources to resolve the issue(s) and provide updates on a regular basis until resolved.

All duration requirements for acknowledgement and response immediately shift to the Business Hour requirements upon start of Business Hours. Customer Representative will promptly confirm resolution of issue to Fluxx by email.

The commitments set forth in this Addendum 1 shall not apply to the extent that Fluxx's failure to meet the applicable standard was caused by (i) scheduled downtime, (ii) any Force Majeure Event, (iii) Customer's breach of the Agreement or (iv) Customer's equipment, software or other technology used to connect to the Internet

## Addendum 2 - Insurance

Fluxx must procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this Agreement and the results of that work by Fluxx, its agents, representatives, employees or subcontractors.

Fluxx must provide, at a minimum, the following:

**Commercial General Liability.** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit will apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit will be twice the required occurrence limit.

**Workers' Compensation.** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

**Professional Liability (Errors and Omissions).** Insurance appropriate to Fluxx's business, with a limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

**Cyber Liability.** Insurance covering cyber liability, including first party and third-party coverage, with limits no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate for all claims each policy year.

If Fluxx maintains broader coverage or higher limits than the minimums shown above, Customer requires, and is entitled to, the broader coverage and the higher limits, as applicable, maintained by Fluxx. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to Customer.

Customer, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Fluxx including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Fluxx's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

For any claims related to this contract, Fluxx's insurance coverage will be primary coverage at least as broad as ISO CG 20 01 04 13 as respects Customer, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Customer, its officers, officials, employees, or volunteers will be excess of Fluxx's insurance and will not contribute with it.

Each insurance policy required above must provide that coverage will not be canceled, except with notice to Customer.

Fluxx hereby grants to Customer a waiver of any right to subrogation which the Workers' Compensation insurer of said Fluxx may acquire against Customer by virtue of the payment of any loss under such insurance. Fluxx agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Customer has received a waiver of subrogation endorsement from the insurer.

Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work. If insurance coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Fluxx must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.

The insurance will be with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to Customer. Customer will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

Fluxx will furnish Customer with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by Customer before work commences. However, failure to obtain the required documents prior to the work beginning does not waive Fluxx's obligation to provide them.

Customer reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Fluxx will require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Fluxx will ensure that Customer is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors must provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

**City of San Diego**  
**CONTRACTOR STANDARDS**  
**Pledge of Compliance**

The City of San Diego has adopted a Contractor Standards Ordinance (CSO) codified in section 22.3004 of the San Diego Municipal Code (SDMC). The City of San Diego uses the criteria set forth in the CSO to determine whether a contractor (bidder or proposer) has the capacity to fully perform the contract requirements and the business integrity to justify the award of public funds. This completed Pledge of Compliance signed under penalty of perjury must be submitted with each bid and proposal. If an informal solicitation process is used, the bidder must submit this completed Pledge of Compliance to the City prior to execution of the contract. All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, Contractors must provide responses on Attachment A to the Pledge of Compliance and sign each page. Failure to submit a signed and completed Pledge of Compliance may render a bid or proposal non-responsive. In the case of an informal solicitation or cooperative procurement, the contract will not be awarded unless a signed and completed Pledge of Compliance is submitted. A submitted Pledge of Compliance is a public record and information contained within will be available for public review except to the extent that such information is exempt from disclosure pursuant to applicable law.

By signing and submitting this form, the contractor is certifying, to the best of their knowledge, that the contractor and any of its Principals have not within a five (5) year period – preceding this offer, been convicted of or had a civil judgement rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) contract or subcontract.

“Principal” means an officer, director, owner, partner or a person having primary management or supervisory responsibilities within the firm. The Contractor shall provide immediate written notice to the Procurement Contracting Officer handling the solicitation, at any time prior to award should they learn that this Representations and Certifications was inaccurate or incomplete.

**This form contains 10 pages, additional information may be submitted as part of *Attachment A*.**

**A. BID/PROPOSAL/SOLICITATION TITLE:**

Grants Management System for Arts and Culture Funding  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**B. BIDDER/PROPOSER INFORMATION:**

Fluxx Labs, Inc.			
Legal Name		DBA	
2261 Market Street #4060	San Francisco	CA	94114
Street Address	City	State	Zip
Melissa Caldwell, VP, Customer Experience	(855) 358-9946		
Contact Person, Title	Phone	Fax	

Provide the name, identity, and precise nature of the interest\* of all persons who are directly or indirectly involved\*\* in this proposed transaction (SDMC § 21.0103). Use additional pages if necessary.

\* The precise nature of the interest includes:

- the percentage ownership interest in a party to the transaction,
- the percentage ownership interest in any firm, corporation, or partnership that will receive funds from the transaction,
- the value of any financial interest in the transaction,
- any contingent interest in the transaction and the value of such interest should the contingency be satisfied, and
- any philanthropic, scientific, artistic, or property interest in the transaction.

\*\* Directly or indirectly involved means pursuing the transaction by:

- communicating or negotiating with City officers or employees,
- submitting or preparing applications, bids, proposals or other documents for purposes of contracting with the City, or
- directing or supervising the actions of persons engaged in the above activity.

<b>Kristy Gannon</b>	<b>Chief Executive Officer</b>
Name	Title/Position
San Francisco, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Director - Fluxx Board of Directors; 6% ownership of Fluxx	
Interest in the transaction	

<b>Kerrin Mitchell</b>	<b>Chief Development Officer</b>
Name	Title/Position
San Francisco, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

<b>Eric Hansen</b>	<b>Chief Technology Officer</b>
Name	Title/Position
San Francisco, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

<b>Paul Mariani</b>	<b>Chief Financial Officer</b>
Name	Title/Position
San Francisco, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

<b>Ashley Boyer</b>	<b>Chief Revenue Officer</b>
Name	Title/Position
Chicago, IL	
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

<b>Robert Tinker</b>	<b>Executive Chairman - Fluxx Board of Directors</b>
Name	Title/Position
San Francisco, CA	Metamorph Partners
City and State of Residence	Employer (if different than Bidder/Proposer)
Metamorph Partners, 34% ownership of Fluxx	
Interest in the transaction	

Madeline Duva	Director - Fluxx Board of Directors
Name	Title/Position
San Francisco, CA	Retired
City and State of Residence	Employer (if different than Bidder/Proposer)

Interest in the transaction

Bion Ludwig & Bill Carmen	Director - Fluxx Board of Directors
Name	Title/Position
San Francisco, CA	ABS Capital; Granite
City and State of Residence	Employer (if different than Bidder/Proposer)
ABS Capital, 29.8%; Granite, 2.1% - ownership of Fluxx	

Interest in the transaction

Annie Rhodes	Chief Strategy Officer
Name	Title/Position
New York, NY	
City and State of Residence	Employer (if different than Bidder/Proposer)

Interest in the transaction

**C. OWNERSHIP AND NAME CHANGES:**

1. In the past five (5) years, has your firm changed its name?  
 Yes       No

If Yes, use Attachment A to list all prior legal and DBA names, addresses, and dates each firm name was used. Explain the specific reasons for each name change.

2. Is your firm a non-profit?  
 Yes       No

If Yes, attach proof of status to this submission.

3. In the past five (5) years, has a firm owner, partner, or officer operated a similar business?  
 Yes       No

If Yes, use Attachment A to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner, or officer of your firm holds or has held a similar position in another firm.

**D. BUSINESS ORGANIZATION/STRUCTURE:**

Indicate the organizational structure of your firm. Fill in only one section on this page. Use Attachment A if more space is required.

**Corporation** Date incorporated: 03/31/2021 State of incorporation: Delaware

List corporation's current officers: CEO: Kristy Gannon; CDO: Kerrin Mitchell  
CTO: Eric Hansen; CRO: Ashley Boyer  
CFO: Paul Mariani, CSO: Annie Rhodes

Type of corporation: C  Subchapter S

Is the corporation authorized to do business in California:  Yes       No

If Yes, after what date: 04/15/2015

Is your firm a publicly traded corporation?  Yes  No

If Yes, how and where is the stock traded? \_\_\_\_\_

If Yes, list the name, title and address of those who own ten percent (10 %) or more of the corporation's stocks:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do the President, Vice President, Secretary and/or Treasurer of your corporation have a third party interest or other financial interests in a business/enterprise that performs similar work, services or provides similar goods?  Yes  No

If Yes, please use Attachment A to disclose.

Please list the following: Authorized Issued Outstanding

a. Number of voting shares:	_____	_____	_____
b. Number of nonvoting shares:	5,000	100	100
c. Number of shareholders:	_____	_____	_____
d. Value per share of common stock:		Par	\$ 0.00
		Book	\$ _____
		Market	\$ _____

**Limited Liability Company** Date formed: \_\_\_\_\_ State of formation: \_\_\_\_\_

List the name, title and address of members who own ten percent (10%) or more of the company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Partnership** Date formed: \_\_\_\_\_ State of formation: \_\_\_\_\_

List names of all firm partners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Sole Proprietorship** Date started: \_\_\_\_\_

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Joint Venture** Date formed: \_\_\_\_\_

List each firm in the joint venture and its percentage of ownership:

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**Note:** To be responsive, each member of a Joint Venture or Partnership must complete a separate *Contractor Standards form*.

**E. FINANCIAL RESOURCES AND RESPONSIBILITY:**

1. Is your firm preparing to be sold, in the process of being sold, or in negotiations to be sold?

Yes  No

If Yes, use Attachment A to explain the circumstances, including the buyer's name and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?

Yes  No

If Yes, use Attachment A to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

4. In the past five (5) years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

5. Within the last five years, has your firm filed a voluntary petition in bankruptcy, been adjudicated bankrupt, or made a general assignment for the benefit of creditors?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

6. Are there any claims, liens or judgements that are outstanding against your firm?

Yes  No

If Yes, please use Attachment A to provide detailed information on the action.

7. Please provide the name of your principal financial institution for financial reference. By submitting a response to this Solicitation Contractor authorizes a release of credit information for verification of financial responsibility.

Name of Bank: Bridge Bank, a division of Western Alliance

Point of Contact: Joshua Biehn

Address: 55 Almaden Blvd, San Jose CA 95113

Phone Number: (408) 423-8500

8. By submitting a response to a City solicitation, Contractor certifies that he or she has sufficient operating capital and/or financial reserves to properly fund the requirements identified in the solicitation. At City's request, Contractor will promptly provide to City

a copy of Contractor's most recent balance sheet and/or other necessary financial statements to substantiate financial ability to perform.

- 9. In order to do business in the City of San Diego, a current Business Tax Certificate is required. Business Tax Certificates are issued by the City Treasurer's Office. If you do not have one at the time of submission, one must be obtained prior to award.

Business Tax Certificate No.: 3777118 Year Issued: 2022

F. PERFORMANCE HISTORY:

- 1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

- 2. In the past five (5) years, has a public entity terminated your firm's contract for cause prior to contract completion?

Yes  No

If Yes, use Attachment A to explain specific circumstances and provide principal contact information.

- 3. In the past five (5) years, has your firm entered into any settlement agreement for any lawsuit that alleged contract default, breach of contract, or fraud with or against a public entity?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

- 4. Is your firm currently involved in any lawsuit with a government agency in which it is alleged that your firm has defaulted on a contract, breached a contract, or committed fraud?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

- 5. In the past five (5) years, has your firm, or any firm with which any of your firm's owners, partners, or officers is or was associated, been debarred, disqualified, removed, or otherwise prevented from bidding on or completing any government or public agency contract for any reason?

Yes  No

If Yes, use Attachment A to explain specific circumstances.

- 6. In the past five (5) years, has your firm received a notice to cure or a notice of default on a contract with any public agency?

Yes  No

If Yes, use Attachment A to explain specific circumstances and how the matter resolved.

- 7. Performance References:

Please provide a minimum of three (3) references familiar with work performed by your firm which was of a similar size and nature to the subject solicitation within the last five (5) years.

Please note that any references required as part of your bid/proposal submittal are in addition to those references required as part of this form.

Company Name: Texas Arts Commission

Contact Name and Phone Number: Kenneth Williams, Grants Manager

Contact Email: kenneith@arts.state.tx.us

Address: 920 Colorado Street, 5th Floor, Austin, TX 78701

Contract Date: April 1, 2019

Contract Amount: \_\_\_\_\_

Requirements of Contract: Grants Management Software

Company Name: Sacramento Metropolitan Air Quality Management District

Contact Name and Phone Number: Cindy Mahon, Program Supervisor

Contact Email: cmahon@airquality.org

Address: 777 12st Street Suite 300, Sacramento, CA 95814

Contract Date: December 1, 2019

Contract Amount: \_\_\_\_\_

Requirements of Contract: Grants Management System

Company Name: Bay Area Air Quality Management District

Contact Name and Phone Number: Tin Le, Program Manager

Contact Email: tle@baaqmd.gov

Address: 375 Beale Street, 5th Floor, San Francisco, CA 94105

Contract Date: December 1, 2018

Contract Amount: \_\_\_\_\_

Requirements of Contract: Grants Management Software

**G. COMPLIANCE:**

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executive, or manager been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for violating any federal, state, or local law in performance of a contract, including but not limited to, laws regarding health and safety, labor and employment, permitting, and licensing laws?  
 Yes       No

If Yes, use Attachment A to explain specific circumstances surrounding each instance. Include the name of the entity involved, the specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been determined to be non-responsible by a public entity?  
 Yes       No

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the name of the entity involved, the specific infraction, dates, and outcome.

**H. BUSINESS INTEGRITY:**

- 1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or public entity?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the entity involved, specific violation(s), dates, outcome and current status.

- 2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

- 3. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a federal, state, or local crime of fraud, theft, or any other act of dishonesty?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

- 4. Do any of the Principals of your firm have relatives that are either currently employed by the City or were employed by the City in the past five (5) years?

Yes No

If **Yes**, please disclose the names of those relatives in Attachment A.

**I. BUSINESS REPRESENTATION:**

- 1. Are you a local business with a physical address within the County of San Diego?

Yes No

- 2. Are you a certified Small and Local Business Enterprise certified by the City of San Diego?

Yes No

Certification # \_\_\_\_\_

- 3. Are you certified as any of the following:

- a. Disabled Veteran Business Enterprise Certification # \_\_\_\_\_
- b. Woman or Minority Owned Business Enterprise Certification # \_\_\_\_\_
- c. Disadvantaged Business Enterprise Certification # \_\_\_\_\_

**J. WAGE COMPLIANCE:**

In the past five (5) years, has your firm been required to pay back wages or penalties for failure to comply with the federal, state or local **prevailing, minimum, or living wage laws**? Yes No If **Yes**, use Attachment A to explain the specific circumstances of each instance. Include the entity involved, the specific infraction(s), dates, outcome, and current status.

By signing this Pledge of Compliance, your firm is certifying to the City that you will comply with the requirements of the Equal Pay Ordinance set forth in SDMC sections 22.4801 through 22.4809.

**K. STATEMENT OF SUBCONTRACTORS & SUPPLIERS:**

Please provide the names and information for all subcontractors and suppliers used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor. Subcontractors may not be substituted without the written consent of the City. Use Attachment A if additional pages are necessary. If no subcontractors or suppliers will be used, please write "Not Applicable."

Company Name: Not applicable

Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Contractor License No.: \_\_\_\_\_ DIR Registration No.: \_\_\_\_\_

Sub-Contract Dollar Amount: \$ \_\_\_\_\_ (per year) \$ \_\_\_\_\_ (total contract term)

Scope of work subcontractor will perform: \_\_\_\_\_

Identify whether company is a subcontractor or supplier: \_\_\_\_\_

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Contractor License No.: \_\_\_\_\_ DIR Registration No.: \_\_\_\_\_

Sub-Contract Dollar Amount: \$ \_\_\_\_\_ (per year) \$ \_\_\_\_\_ (total contract term)

Scope of work subcontractor will perform: \_\_\_\_\_

Identify whether company is a subcontractor or supplier: \_\_\_\_\_

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

**L. STATEMENT OF AVAILABLE EQUIPMENT:**

A full inventoried list of all necessary equipment to complete the work specified may be a requirement of the bid/proposal submission.

By signing and submitting this form, the Contractor certifies that all required equipment included in this bid or proposal will be made available one week (7 days) before work shall commence. In instances where the required equipment is not owned by the Contractor, Contractor shall explain how the equipment will be made available before the commencement of work. The City of San

Diego reserves the right to reject any response, in its opinion, if the Contractor has not demonstrated he or she will be properly equipped to perform the work in an efficient, effective matter for the duration of the contract period.

M. TYPE OF SUBMISSION: This document is submitted as:

- Initial submission of *Contractor Standards Pledge of Compliance*
- Initial submission of *Contractor Standards Pledge of Compliance* as part of a Cooperative agreement
- Initial submission of *Contractor Standards Pledge of Compliance* as part of a Sole Source agreement
- Update of prior *Contractor Standards Pledge of Compliance* dated 07/26/2022.

**Complete all questions and sign below.**

Under penalty of perjury under the laws of the State of California, I certify that I have read and understand the questions contained in this Pledge of Compliance, that I am responsible for completeness and accuracy of the responses contained herein, and that all information provided is true, full and complete to the best of my knowledge and belief. I agree to provide written notice to the Purchasing Agent within five (5) business days if, at any time, I learn that any portion of this Pledge of Compliance is inaccurate. Failure to timely provide the Purchasing Agent with written notice is grounds for Contract termination.

I, on behalf of the firm, further certify that I and my firm will comply with the following provisions of SDMC section 22.3004:

(a) I and my firm will comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.

(b) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of receiving notice that a government agency has begun an investigation of me or my firm that may result in a finding that I or my firm is or was not in compliance with laws stated in paragraph (a).

(c) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).

(d) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).

(e) I and my firm will cooperate fully with the City during any investigation and to respond to a request for information within ten (10) working days.

**Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed *Pledge of Compliance* is submitted.**

Melissa Caldwell, VP, Customer Experience

Signed by:  
  
146DFC2721094FF...

11/13/2025

Name and Title

Signature

Date

City of San Diego  
CONTRACTOR STANDARDS  
Attachment "A"

Provide additional information in space below. Use additional Attachment "A" pages as needed. Each page must be signed.  
Print in ink or type responses and indicate question being answered.

I have read the matters and statements made in this Contractor Standards Pledge of Compliance and attachments thereto and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Melissa Caldwell, VP, Customer Experience

Print Name, Title

Signed by:

Melissa Caldwell

146DF62721094FF...

Signature

11/13/2025

Date