AWARD
Water Dispensing System

For the Term January 1, 2007 through December 31, 2009

WARNING

Do not use any term contracts to purchase goods and/or services when using Federal, State or Special Funds. Term contracts may contain provisions that conflict with Federal or State provisions.

City departments must contact their assigned City Attorney for applicable provisions, procedures and relevant fund requirements.

COMPANY INFORMATION

Name of Company:	U.S. PURE WATER CORP.
Address:	20 Galli Drive , Suite E
City, State, Zip:	Novato, CA 94949
Contact:	Michael Davis
Telephone Number:	415-883-9900
Fax Number:	415-883-9909
24-Hour Emergency Number:	415-721-9164
Toll-Free Number:	1-800-776-7654
E-mail:	mdwater@uspurewater.com
Payment Terms:	N30
Vendor Number:	71557
Warehouse Location:	20 Galli Drive , Suite E Novato, CA 94949
Will-Call Hours:	7:00 A.M. to 5:00 P.M.
CBPO Number:	**BPSF00003328**

Note: Accompany this Award is Attachment A, Contract Product/Service Quality Report. See General Condition 63.

AWARD
Water Dispensing System

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AWARD SHEET

	Quantity	Quantity	Quantity
Item 1			
Hot / Cold Dispenser (Without Additional Treatment) City and County of San Francisco Will Install Units:	0-10 Dispenser Rental per month $ 18.00	11-20 Dispenser Rental per month $ 18.00	Over 21 Dispenser Rental per month $ 18.00
Item 1 A			
Hot / Cold Dispenser (Without Additional Treatment) Vendor Will Install Units	0-10 Dispenser Rental per month $ 21.00	11-20 Dispenser Rental per month $ 20.00	Over 21 Dispenser Rental per month $ 19.00
Item 2			
Hot /Cold Dispenser (Meets NSF/ANSI Standard 42 Effects) City and County of San Francisco Will Install Units	0-10 Dispenser Rental per month $ 28.00	11-20 Dispenser Rental per month $ 28.00	Over 21 Dispenser Rental per month $ 28.00
Item 2 A			
Hot /Cold Dispenser (Meets NSF/ANSI Standard 42 Effects) Vendor Will Install Units:	0-10 Dispenser Rental per month $ 31.00	11-20 Dispenser Rental per month $ 30.00	Over 21 Dispenser Rental per month $ 29.00

AWARD
Water Dispensing System

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BID AND CONTRACT CONDITIONS

Terms Related to Bidding

1. WHEN BIDS ARE DUE; BID OPENING PROCEDURES

Bids must be delivered before time set for bid opening. Bids will be opened by Purchasing at the hour and place stated in the ad in the presence of bidders who attend, and bid prices will be read upon request as time permits. Bidders may inspect the bids after award.

2. ALTERNATES

When the name of a manufacturer, brand or make, with or without model number, is used in describing any item in this document, bids for similar articles will be considered unless otherwise stated. Purchasing shall be the sole judge as to whether such alternate articles are acceptable. Unless bidder states to the contrary, articles offered will be assumed to be the specific articles named in this document. If not offering the specific article named, bidder should enclose with its bid full information, specifications and descriptive data on items offered. Purchasing reserves the right to permit deviations from the specifications if any article offered is substantially in accord with Purchasing's specifications and is deemed by Purchasing to be of as good quality and as fully satisfactory for its intended use. Bidder is responsible for identifying any deviations from Purchasing's specifications.

3. ARTICLES FURNISHED

Articles and services must comply with applicable laws, ordinances and other legal requirements, including (among others) the Cal-OSHA regulations in Title 8 of the Calif. Code of Regulations and, for electrical products, Articles 89-6 and 90-71 of the S.F. Electrical Code. In addition, if an electrical item has not been tested by a lab approved by City's Dept. of Public Works (DPW), Contractor will so notify the requesting department before delivery by writing the department at the "Deliver to" address on the front of the Purchase Order. Approved testing labs are: American Gas Assn.; Applied Research Labs; Electro-Test, Inc.; ETS Testing Labs; Factory Mutual Research; Gas and Mechanical Lab; Underwriters Labs. When a non-tested item is delivered, the department will request approval from DPW. If the department is unable to obtain approval, City reserves the right to cancel the transaction and return the item to Contractor, at no charge to City.

4. PLACE OF MANUFACTURE

No article furnished shall have been made in prison or by convict labor, except, for articles purchased for use by City's detention facilities.

5. CONDITION OF ARTICLE

Articles offered and furnished must be new and previously unused, and of manufacturer's latest model, unless otherwise specified herein.

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BID AND CONTRACT CONDITIONS

6. SAMPLES

Articles offered as equal to "City sample" must fully conform thereto; "City samples" may be inspected at the place designated by Purchasing. Samples must be furnished as required in this document. Those submitted by successful bidders may be retained for testing or checked against deliveries, in which case allowance will be made to Contractor. Each sample shall be plainly marked in a durable manner with the name of the bidder, the contract proposal number, and the item number. Submitted sample will be deemed to be exactly what bidder proposes to furnish unless otherwise clearly indicated by the bidder in writing with the submittal of the sample. Sufficiency of sample will be determined by Purchasing. Do not enclose sample with bid, and do not wrap bid in package with sample.

7. FOB POINT

F.O.B. destination in SAN FRANCISCO, FREIGHT PREPAID AND ALLOWED.

8. PRICE LIST DISCOUNTS

When bids are based on prices from a catalog or price list, bidder shall furnish copies of the catalog or price list as required herein. Contractor shall furnish additional lists as required. Bids will be considered for price lists offered other than specified provided the alternate price list can be readily compared on an overall basis with the specified price list. Bidder's price list discounts must remain firm during the term of the contract.

9. BIDDING ON SEPARATE ITEMS AND IN THE AGGREGATE

Bidders may bid separately for any item unless otherwise provided. Bidders may make an offer on one, some or all items, unless otherwise provided.

10. PRICES

Prices quoted must be fixed except as otherwise specified in this document. Any bid requiring receipt of order in less than 30 days will be unacceptable unless otherwise specified herein.

11. AWARDS; REJECTION OF BIDS

Purchasing may make awards on one, some or all services in a bid. Purchasing reserves the right to reject any and all bids.

12. CASH DISCOUNTS; TERMS OF PAYMENT

Cash discount (discount for prompt payment) will be taken into consideration in determining the low bid under the following conditions:

A. Discount period must be at least 30 days.

Example: "1%, 30 days. Net 31."

B. The maximum cash payment discount that will be considered when determining the lowest bid will be %.

C. The discount period will start upon date of completion or delivery of all items on any Purchase Order or other authorization certified by Controller, or upon date of receipt of properly prepared invoices covering such deliveries, whichever is later.

D. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the City's check.

Whether or not the discount is taken into consideration in determining the low bid, it will be deducted from the invoice amount in accordance with the provisions of 12C and 12D above, unless otherwise provided by bidder. No additional charge shall accrue against City in the event that City does not make payment within any time specified by bidder.

13. SUNSHINE ORDINANCE

In accordance with Sec. 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, responses to RFPs and all other records of communications between City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Terms Related to the Contract

14. INSPECTION

All articles supplied shall be subject to inspection and rejection by Purchasing or any department official responsible for inspection.

15. CONTRACT INTERPRETATION: CHOICE OF LAW/VENUE; ASSIGNMENT

Should any questions arise as to the meaning and intent of the contract, the matter shall be referred to Purchasing, who shall decide the true meaning and intent of the contract. This contract shall be deemed to be made in, and shall be construed in accordance with the laws of the State of California; the venue for all claims arising out of this contract shall be in San Francisco. This contract may be assigned only with the written approval of Purchasing

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BID AND CONTRACT CONDITIONS

16. HOLD HARMLESS AND INDEMNIFICATION

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Contract, including, but not limited to, the use of Contractor's facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Contract, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorney's fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Contract.

17. FAILURE TO DELIVER

If Contractor fails to deliver an article or service of the quality, in the manner or within the time called for by this Contract, such article or service may be bought from any source by Purchasing and if a greater price than the contract price be paid, the excess price will be charged to and collected from Contractor or sureties on its bond if bond has been required.

18. BUDGET AND FISCAL PROVISIONS

This Contract is subject to the budget and fiscal provisions of City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Contract will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Contract will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Contract in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Contract.

19. DEFAULT; REMEDIES

On and after any event of default, City shall have the right to exercise its legal and equitable remedies, including without limitation, the right to terminate this Contract or to seek specific performance of all or any part of this Contract. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any event of default. Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Contract or any other contract between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such event of default and any liquidated damages due from Contractor pursuant to the terms of this Contract or any other contract.

All remedies provided for in this Contract may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

20. TERMINATION FOR CONVENIENCE

City shall have the option, in its sole discretion, to terminate this Contract, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City.

21. GUARANTEED MAXIMUM COSTS

A. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

B. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed

upon in the contract unless the contract is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.

C. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.

D. Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

22. TAXES

A. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Contract, or the services delivered pursuant hereto, shall be the obligation of Contractor.

B. Contractor recognizes and understands that this Contract may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Contract entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Contract may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Contract. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

23. USE OF CITY OPINION

Contractor shall not quote, paraphrase, or otherwise refer to or use any opinion of City, its officers or agents, regarding Contractor or Contractor's performance under this Contract without prior written permission of Purchasing.

24. NONDISCRIMINATION; PENALTIES

A. Contractor Shall Not Discriminate. In the performance of this Contract, Contractor agrees 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 AIDS or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Contractor, in any of Contractor's operations within the U.S., or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

B. Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Contract.

C. Nondiscrimination in Benefits. Contractor does not as of the date of this Contract and will not during the term of this Contract, in any of its operations in San Francisco, on real property owned by the City or where work is being performed for the City, 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, and any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, or between the domestic partners and spouses of such employees, if the domestic partnership has been registered with a governmental entity pursuant to

state or local law authorizing such registration, subject to conditions set forth in San Francisco Administrative Code Sec. 12B.2(b).

D. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated by reference and made a part of this Contract as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Contract under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, 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 Contract may be assessed against Contractor and/or deducted from any payments due Contractor.

25. DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION; LIQUIDATED DAMAGES

A. The DBE Ordinance. Contractor shall comply with all the requirements of the Disadvantaged Business Enterprise Ordinance set forth in Chapter 14A of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "DBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Contract. Such provisions of the DBE Ordinance are incorporated by reference and made a part of this Contract as though fully set forth in this section. Contractor's willful failure to comply with any applicable provision of the DBE Ordinance is a material breach of Contractor's obligations under this Contract and shall entitle City, subject to any applicable notice and cure provisions set forth in this Contract, to exercise any of the remedies provided for under this Contract, under the DBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Contract expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

B. Compliance and Enforcement.

Enforcement. If Contractor willfully fails to comply with any of the provisions of the DBE Ordinance, the rules and regulations implementing the DBE Ordinance, or the provisions of this Contract pertaining to DBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Contract, or 10% of the total amount of this Contract or $1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the DBE Ordinance sanctions against Contractor authorized in the DBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the DBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's DBE

certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14A.13(B).

By entering into this Contract, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

Contractor agrees to maintain records necessary for monitoring its compliance with the DBE Ordinance for a period of three years following termination or expiration of this Contract, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

26. MACBRIDE PRINCIPLES – NORTHERN IRELAND

The City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride principles.

27. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN

The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the Environment Code is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, Contractor shall not provide any items to the City in performance of this Contract which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of Contractor to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

28. RESOURCE CONSERVATION

Contractor agrees to comply fully with the provisions of Chapter 5 of the San Francisco Environment Code ("Resource Conservation"), as amended from time to time. Said provisions are incorporated herein by reference.

29. SUBMITTING FALSE CLAIMS; MONETARY PENALTIES

Any contractor, subcontractor or consultant who commits any of the following acts shall be liable to the City for three times the amount of damages which the City sustains because of the act of that contractor, subcontractor or consultant. A contractor, subcontractor or consultant who commits any of the following acts shall also be liable to the City for the costs,

including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to $10,000 for each false claim: (a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval. (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City. (c) Conspires to defraud the City by getting a false claim allowed or paid by the City. (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City. (e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

30. LIABILITY OF CITY

CITY'S PAYMENT OBLIGATIONS UNDER THIS CONTRACT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR UNDER THIS CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, IN NO EVENT SHALL CITY BE LIABLE REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS CONTRACT.

31. DRUG-FREE WORKPLACE POLICY

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents, or assigns will be deemed a material breach of this Contract.

32. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Contract in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Contract and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Contract.

33. COMPLIANCE WITH LAWS

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Contract, and must at all times comply with such local codes,

ordinances, and regulations and all applicable laws as they may be amended from time to time.

34. BID PROTESTS

Bid protests for purchases of Commodities in excess of $50,000 shall be submitted and responded to in accordance with Rules and Regulations 21.3(i) pertaining to the San Francisco Administrative Code, Chapter 21.

End Bid and Contract Conditions

AWARD
Water Dispensing Systems

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GENERAL CONDITIONS

These terms and conditions supplement the City's Bid and Contract Conditions. In the event of a conflict between these conditions and the preceding Bid and Contract Conditions, these conditions shall take precedence.

35. CONTRACT TERM

The contract period shall be for 36 months. The term of this contract is the period from award execution date, approximately January 1, 2007, or the above-stated term date, whichever is later, through the last day of the month of a 36 consecutive month period.

36. CONTRACT EXTENSION

This contract may be extended, all or in part, for a period or periods up to one year by mutual agreement in writing. The maximum contract period shall not be more than 10 years.

37. TOLL-FREE TELEPHONE NUMBER

A contractor located outside of the City and County of San Francisco is encouraged to provide free telephone services for placing orders. This requirement can be met by providing a toll-free telephone number or accepting collect calls. The free service may be a consideration in evaluating this bid.

38. NOT USED

39. NOT USED

40. DBE ORDINANCE

To qualify for a bid discount under the provisions of Administrative Code Chapter 14A, a DBE must be certified by the Human Rights Commission by the Bid Due date.

The certification application is available from HRC (415) 252-2500, and on the web at:

http://www.sfgov.org/site/sfhumanrights

Click DBE, HRC Requirements & Forms.

Click Certification Application (Schedule D).

41. CLAIM FOR PREFERENCE

To claim preference under the DBE Ordinance, See Bid Questionnaire attached.

GENERAL CONDITIONS (Continued)

42. BID PREFERENCE FOR BROKERAGE SERVICES

Pursuant to Section 14A.8 of the Administrative Code, a bid preference will only be awarded to a DBE, or a DBE joint venture where the DBE's participation in the joint venture exceeds 35 percent, directly responsible for providing materials, equipment, supplies or services to City as required by the Bid solicitation. A DBE will be deemed to be directly responsible for providing the required commodity or service only if it regularly does business as a manufacturer, or authorized manufacturer's representative, dealer or distributor, stocking distributor, franchisee, licensee, service provider, or has another direct agency relationship with the manufacturer or provider of the solicited commodity or service, and has been so certified by HRC.

A DBE will be considered to be "regularly doing business", as that term is used in the foregoing paragraph, if in the normal course of business, it stocks, warehouses or distributes commodities to businesses or entities other than public entities having a disadvantaged business preference program. Such a determination will be subject to audit by HRC.

No preference will be given to a DBE engaging in brokerage, referral or temporary employment services not meeting this definition, unless those services are required and specifically requested by the department.

43. DBE SUBCONTRACTING

A. Subcontracting to DBEs

Bidder is encouraged to make good faith efforts to award subcontracts to City and County of San Francisco-certified DBEs. This can be achieved through subcontracting, subconsulting or supply opportunities. With the bid, the bidder is encouraged to provide a description of the type of good faith efforts the bidder estimates it may make under the contract.

B. Examples of Good Faith Efforts

"Good Faith Efforts" include but are not limited to the following:

(1) Identifying and selecting specific products or services which can be subcontracted to certified DBEs;

(2) Providing written notice to potential DBE subcontractors that bidder will be bidding on this Contract and will be seeking subcontractors;

(3) Advertising in one or more daily or weekly newspapers, trade association publications, trade-oriented publications, trade journals, or other media, specified by the City, for DBEs that are interested in participating in the project;

GENERAL CONDITIONS (Continued)

(4) Following up on initial notices the Contractor sent to DBEs by contacting the DBEs to determine whether they were interested in performing specific parts of the project;

(5) Providing interested DBEs with information about the scope of work;

(6) Negotiating in good faith with the DBEs, and not unjustifiably rejecting as unsatisfactory proposals prepared by any DBEs, as determined by the City

(7) Where applicable, advising and making efforts to assist interested DBEs in obtaining insurance required by the City and the prime contractor.

(8) Making efforts to obtain DBE participation that the City could reasonably expect would produce a level of participation sufficient to meet the City's goals and requirements.

C. Examples of Subcontracting

The following are examples of products or services which could be subcontracted under this Contract. The list is not intended to be exhaustive:

(1) the products or services which the vendor in turn sells to the City, or components of those products; (see Page 1 of the Bid Sheet);

(2) packing containers and materials used to ship the City's orders;

(3) services of the carrier who delivers the City's orders;

(4) pro rata share of DBE spending which is part of the Contractor's general and administrative expenses, if the Contractor can show that the pro rata share can be reasonably allocated to this contract.

D. Reports

On a quarterly (January 1 – March 31, April 1 – June 30, July 1 - September 30, October 1 – December 31) basis, the Contractor will provide Purchasing with reports on DBE subcontracting under this Contract. The report must include a narrative description of the good faith efforts, if any, the Contractor has made during the quarter to provide subcontracting opportunities to DBEs and to meet the percentage goal.

E. HRC Data on DBEs

Contractor will obtain from HRC a copy of HRC's database of DBEs, and this or other information from HRC, shall be the basis for determining whether a DBE is confirmed with HRC. Contractor will obtain an updated copy of HRC's database at least quarterly. Please call HRC at (415) 252-2500.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

GENERAL CONDITIONS (Continued)

44. AUDIT AND INSPECTION OF RECORDS

Contractor agrees to maintain and make available to City during business hours accurate books and accounting records relative to its activities under this Contract. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Contract, whether funded in whole or in part under this Contract. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Contract or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject of this Contract shall have the same rights conferred upon City by this Article.

45. CONFLICT OF INTEREST

Through its execution of this Contract, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of any said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Contract.

46. NON-WAIVER OF RIGHTS

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall in any way affect the right of the party to enforce such provisions thereafter.

47. CONTRACTOR'S DEFAULT

If Contractor fails to fulfill its obligations under this Contract Proposal, whether or not said obligations are specified in this section, Purchasing reserves the right to: (a) terminate this contract at no cost to City; (b) take action in accordance with Sections 17 and 19, or (c) exercise any other legal or equitable remedy.

48. BANKRUPTCY

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state

GENERAL CONDITIONS (Continued)

relating to insolvency or the protection of rights of creditors, then at the option of the other party this Contract shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

49. INCIDENTAL AND CONSEQUENTIAL DAMAGES

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Contract shall constitute a waiver or limitation of any rights which City may have under applicable law

50. REPORTS BY CONTRACTOR

MULTI-YEAR TERM CONTRACT

Each year, ninety (90) days before each anniversary date of this contract, Contractor must furnish a report of the total items ordered under this contract during the preceding twelve months. The report must be in a format acceptable to the City and must list by department or location the following: (1) all items awarded under this contract; and, (2) total quantity and dollar value of each item ordered, including items for which there were no orders. Contractor must also furnish a separate similar report for the total of all items ordered by City which are not part of this contract.

Contractor shall send the reports to:

Darlene Frohm , Senior Purchaser
Re: Term Contract No. **88200**
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

51. NOTICE TO PARTIES

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage paid and registered as follows:

Director of Purchasing
City and County of San Francisco
Office of Contract Administration – Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

GENERAL CONDITIONS (Continued)

52. SUBCONTRACTING

Contractor is prohibited from subcontracting the direct supply of commodities under this Contract unless such subcontracting is agreed to in writing by Purchasing. No party on the basis of this Contract shall in any way contract on behalf of or in the name of the other party of this Contract, and violation of this provision shall confer no rights on any party and any action taken shall be void.

53. INDEPENDENT CONTRACTOR

Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Contract. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Contract shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

Any terms in this Contract referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Contract.

54. SEVERABILITY

Should the application of any provision of this Contract to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Contract shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

55. EMERGENCY – PRIORITY 1 SERVICE

In case of an emergency that affects the San Francisco Bay Area, Contractor will give the City and County of San Francisco Priority 1 service. Contractor will make every good faith effort in attempting to deliver products using all modes of transportation available.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

GENERAL CONDITIONS (Continued)

Contractor shall provide a 24-hour emergency telephone number of a company representative who is able to receive and process orders for immediate delivery or will-call in the event of an emergency.

In addition, Contractor shall charge fair and competitive prices for items and services ordered during an emergency and not covered under the awarded contract.

56. REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION – IRS FORM W-9

See attached Form P-225, Standard Bid Forms, Item 1.

57. TERM BID – QUANTITIES

This is a term, indefinite quantities contract. Unless otherwise specified herein, deliveries will be required in quantities and at times as ordered during the period of the contract.

Estimated quantities are approximate only. City, in its sole discretion, may purchase any greater or lesser quantity.

Purchasing may make minor purchases of items requested in City's advertisement for bids or Contractor's bid from other vendors when Purchasing determines, in its sole discretion, that the City has an immediate need for such items or that it is not practical to purchase against this Contract.

58. FIRST SOURCE HIRING PROGRAM (FSHP)

If the contract is for more than $50,000, the successful bidder will be required to agree to comply fully with and be bound by the provisions of the First Source Hiring Program ordinance, as set forth in San Francisco Administrative Code Chapter 83. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this Chapter. For additional information regarding the FSHP, call (415) 401-4935.

A. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Contract as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Contract under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Contract shall have the meanings assigned to such terms in Chapter 83.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

GENERAL CONDITIONS (Continued)

B. First Source Hiring Agreement

(1) Contractor will comply with First Source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the exclusive opportunity to initially provide Qualified Economically Disadvantaged Individuals for consideration for employment for Entry Level Positions. The duration of the First Source interviewing requirement shall be ten (10) days, unless business necessity requires a shorter period of time.

(2) Contractor will comply with requirements for providing timely, appropriate notification of available Entry Level Positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of Qualified Economically Disadvantaged Individuals to participating Employers.

(3) Contractor agrees to use good faith efforts to comply with the First Source hiring requirements. A contractor may establish its good faith efforts by filling: 1) its first available Entry Level Position with a job applicant referred through the First Source Program; and, 2) fifty percent (50%) of its subsequent available Entry Level Positions with job applicants referred through the San Francisco Workforce Development System. Failure to meet this target, while not imputing bad faith, may result in a review of the Contractor's employment records.

C. Hiring Decisions

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

D. Exceptions

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

E. Liquidated Damages

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of $2,070 for every new hire for an Entry Level Position improperly withheld from the First Source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

AWARD
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For the Term January 1, 2007 Through December 31, 2009

GENERAL CONDITIONS (Continued)

F. Subcontracts

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this section.

59. EARNED INCOME CREDIT (EIC) FORMS

Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

A. Contractor shall provide the Earned Income Credit (EIC) Form to each Eligible Employee at each of the following times:

(1) within 30 days following the date on which the applicable Contract or Contract Modification becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in question);

(2) promptly after any Eligible Employee is hired by Contractor; and

(3) annually between January 1 and January 31 of each calendar year during the term of the Contract.

B. Failure to comply with the foregoing requirement shall constitute a material breach by Contractor of the terms of the Contract.

C. If within 30 days after the Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under the terms of the Contract or under applicable law.

60. LIMITATIONS ON CONTRIBUTIONS

Through execution of this Contract, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer of the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until the later of either (1) the termination of negotiations for such contract or (2) three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

GENERAL CONDITIONS (Continued)

61. PROHIBITION ON POLITICAL ACTIVITY WITH CITY FUNDS

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Contract. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this contract, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this Section.

62. PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Contract unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Administrative Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

63. CONTRACT PRODUCT / SERVICE QUALITY REPORT

The attached report form (Attachment A) will be provided to departments using this Contract. Users of the contract may complete and return these reports at any time during the life of the contract. The purpose of the report is to monitor contractor performance and determine supplier successes or shortcomings. Each report will be sent to the awarded supplier/contractor. They will have an opportunity to respond to the information provided by the department. Quality reports that go unresolved to the satisfaction of the Purchaser may be used as a basis for commencement of partial or complete contract default proceedings.

64. NONDISCLOSURE OF PRIVATE INFORMATION

As of March 5, 2005, Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and

GENERAL CONDITIONS (Continued)

made a part of this Contract as though fully set forth. Capitalized terms used in this section and not defined in this Contract shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to the following:

A. Neither Contractor nor any of its Subcontractors shall disclose Private Information obtained from the City in the performance of this Contract to any other Subcontractor, person, or other entity, unless one of the following is true:

1) The disclosure is authorized by this Contract;

2) The Contractor received advance written approval from the Contracting Department to disclose the information; or

3) The disclosure is required by law or judicial order.

B. Any disclosure or use of Private Information authorized by this Contract shall be in accordance with any conditions or restrictions stated in this Contract. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.

C. Private Information shall mean any information that: (1) could be used to identify an individual, including without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.

D. Any failure of Contractor to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Contract, debar Contractor, or bring a false claim action against Contractor.

65. **GRAFFITI REMOVA**L

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty-eight (48) hours of the earlier of

GENERAL CONDITIONS (Continued)

Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent or the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.)

Any failure of Contractor to Comply with this section of this Contract shall constitute a default of this Contract.

66. MODIFICATION OF CONTRACT

This Contract may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Contract.

End General Conditions

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS

67. PURPOSE

The purpose of this contract is to provide Rental Service for Water Dispensing Systems to various departments of the City and County of San Francisco.

68. PRE-BID CONFERENCE

A Pre-bid Conference will be held as follows:

Location:	**City Hall, Room 431** **1 Dr. Carlton B. Goodlett Place** **San Francisco, CA 94102**
Date and Time:	**Tuesday, June 6, 2006, 10:00 A.M.**

Though not mandatory, attendance at the conference is strongly urged for all prospective bidders on this contract.

It is requested that bidder's questions concerning this Contract Proposal be submitted by mail or fax at least 72 hours prior to the date and time of the Pre-bid Conference and directed to:

Darlene Frohm, Senior Purchaser
City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Goodlett Place
San Francisco, CA 94102-4685

Please reference Contract Proposal No. 88200.

The Pre-bid Conference will begin at the time specified, and company representatives are urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Failure to attend the Pre-bid Conference shall not excuse the successful bidder from any obligations of the contract. Written Change Notice will execute any change or addition to the requirements contained in this Contract Proposal, as a result of the Pre-bid Conference.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

69. SPECIFICATIONS

Water Dispensing Systems to include the following:

- One hot/cold dispenser without any additional treatment.
- One hot/cold dispenser that meets minimum NSF/ANSI Standard 42 Aesthetic Effects, in particular Nominal Particulate and Taste & Odor Reduction.

Awarded vendor will be responsible for servicing of units at no charge to the City and County of San Francisco. City will be allowed to add or delete Water Dispensing Systems as required.

Vendor must list the manufacture and price of filters on "Revised Bid Sheet". Awarded vendor will be allowed to make filter changes every six months. If filters are not required to be changed every six months then a credit will be issued.

70. BIDDER'S/CONTRACTORS QUALIFICATIONS AND REQUIREMENTS

A. In order to receive consideration, Bidder/Contractor must have in-depth technical knowledge and experience in the products covered by the contract.

B. Contractor will be responsible for providing technical support and assistance to the City through Contractor's own personnel, equipment and facilities as well as through manufacturer's technical representatives. As part of this technical support and assistance, the Contractor must provide personnel with in-depth technical knowledge of the products the Contractor is providing under this contract, to answer questions and offer any assistance required by City personnel, during City business hours (7:00 A.M. – 5:00 P.M.).

C. The City may require Contractor to provide within seven (7) working business days from the date they are requested to do so, information and documentation requested by Purchaser, including but not limited to: sources of supply, distribution, dealership or agency agreements and authorizations from manufacturer's they claim to represent, lines of credit with financial institutions from manufacturer's they claim to represent, lines of credit with financial institutions and suppliers, numbers of employees, trade references and any other information to determine the Contractor's fitness to supply the contract requirements.

D. The City reserves the right to reject any bid on which information submitted by Bidder fails to satisfy the City and/or Bidder is unable to supply information and documentation within the period of time requested.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

E. The City reserves the right to inspect Contractor's place of business, including Contractor's existing stock prior to award or during the contract term, to aid Purchaser in determining Contractor's ability to satisfy the terms and conditions of the contract.

F. Contractor must maintain normal business hours of at least 7:00 A.M. to 5:00 P.M., Monday through Friday throughout the term of the contract, and be open at all times during that period.

G. Contractor must be capable of producing usage reports required under General Condition No. 50 of this contract.

71. DELIVERY

Awarded vendor will be responsible for delivery to various offices as specified within the City and County of San Francisco, San Mateo County, Alameda County, and the Hetch Hetchy Water and Power Project-Moccasin, CA.

72. PRICE

A. Bid prices are to be firm for the term from award date through December 31, 2009.

B. Only prices that appear on City Contract Proposal Bid Sheets will be considered. No other pages with prices or attached price list, catalog prices, will be considered.

73. BID EVALUATION

Except as otherwise noted on Bid Sheets, bid prices will be evaluated for each item based on the estimated quantity times the bid price per specified unit, less applicable discount payment terms offered (see Bid and Contract Condition 12), less any applicable DBE preference (see General Conditions 40 through 42) and applicable sales tax adjustment (see Special Condition 74).

Purchasing will attempt to evaluate this ("bid package" or "contract proposal" package) within thirty (30) days after receipt of bids(s). If Purchasing requires additional evaluation time, all bidders will be notified in writing of the new expected award date".

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

74. ADJUSTMENT OF BID PRICE FOR SALES TAX

In accordance with Administrative Code Chapter 21C, for bid purposes, Purchasing will reduce your bid based on any sales tax revenue the City would receive from this purchase.

75. AWARD

Award will be made to the lowest responsive and responsible bidder in the aggregate as noted on the bid sheets.

In determining the award, Purchasing will take into consideration, but will not be limited to:

A. Price (evaluated)
B. Satisfactory review of bidders' qualifications.
C. Any other factors deemed pertinent

76. AWARDED ITEMS

A. If during the term of the contract, a contract item is determined to be unacceptable for a particular use, and such is documented by a City Department and as determined by Purchasing, it is understood and agreed that the item will be canceled and removed from the contract without penalty to the City. The City's sole obligation to the vendor is payment of deliveries made prior to the cancellation date. City shall give the vendor ten days' notice prior to any cancellation. The City will purchase the required replacement item from any source and in the manner as determined by Purchasing.

B. If a contracted item has been discontinued by the manufacturer or is deemed temporarily unavailable, it will be the responsibility of the Contractor to search the marketplace and find an acceptable equal substitute in the time required for delivery and at the contract price.

C. Contractor must notify Purchasing by certified mail, 30 days in advance of any changes in the description of article, brand, product code or packaging. Any changes made without the approval of Purchasing will constitute default and result in the City invoking General Condition No. 19.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

77. ORDERING

A. Items to be furnished under this contract shall be ordered through a release from the appropriate Citywide Blanket Purchase Order by City departments during the effective period of the contract.

B. All invoices for payments shall show the Citywide Blanket Purchase Order number, complete description of item, quantity and contract price.

78. PAYMENT

A. The City agrees to pay for all products in accordance with the prices quoted in the successful bid and subject to any applicable discount provisions contained in said bid. Payments shall be made by the City to Contractor in arrears, for completed orders, throughout the term of the contract.

B. Invoices submitted by the Contractor must be in a form acceptable to Purchasing and Controller. All amounts paid by the City to the Contractor shall be subject to the audit by the City.

79. BILLING

All invoices must show the contract Number, citywide Blanket Purchase Order number, contract item number, complete description of services performed, contract payment terms and contract price.

City, on services covered by this contract, will honor o minimum service order charges. Contractor must accept and process, without any extra charges, orders for any service requested by City.

Failure to submit invoices with all the required information, or invoices that contain inaccurate information will not be processed for payment.

All discount periods will begin only when city receives a properly completed invoice containing all the required information. Notice: Invoices must be submitted in triplicate.

79. ADDITIONAL ITEMS

A. If, in the satisfaction of governmental interests it is necessary to purchase additional items from Contractor, additional items may be added to this contract by mutual agreement of the parties.

B. The aggregated cost of all additional items added to the contract, during the contract term, shall not exceed twenty percent (20%) of the total estimated value (cost) of the original contract

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

C. All requests to add additional items to the contract must be submitted by City Departments in writing to the Purchasing Division. All requests must include complete specifications, estimated quantities for the remainder of the contract period and a price quotation provided by the contractor, for each service.

D. All additional services added to the contract shall be approved through issuance of a contract modification.

E. In the event the aggregated cost of the contract increases by more than 20% of the total estimated value of the original contract, or the increase totals more than $50,000, the amount over 20% or $50,000, shall be bid in accordance with Standard Purchasing Procedures.

The resulting bid award shall be added to the contract through a contract modification (same Contractor) or the issuance of a new contract (new Contractor) and include Contractor's name and information, complete service description, delivery information and pricing information.

80. BID SECURITY

Each bid must be accompanied by an original bid bond, or money order, or a cashier's check or certified check in the amount of $1,000.00 payable to the City and County of San Francisco, to guarantee the filing of Performance Bond and Insurance Certificates, and proper execution of the contract. **Personal or company checks will not be accepted.** Any proposal submitted without the proper bid security shall be determined to be non-responsive and result in the rejection of the bid.

After the successful bidder has furnished the required documents or the City has rejected proposals, all bid proposal securities, except those which may have been forfeited, will be returned to the respective bidders whose proposals they accompanied.

81. INSURANCE

Prior to award, the successful bidder or bidders will be required to furnish evidence of insurance as follows:

A. Without in any way limiting Contractor's liability pursuant to the 'Indemnification" section of this contract, Contractor must maintain in force, during the full term of the contract, insurance in the following amounts and coverages:

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

1. Worker's Compensation, with Employers' Liability limits not less than $1,000,000 each accident.

2. Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit Bodily Injury and Property Damage, including Contractual Liability, Independent Contractor, Broad Form Property Damages, Personal Injury, Products and Completed Operations.

3. Commercial Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit Bodily Injury and Property Damage, including Owned and Non-owned and Hired Auto Coverages, as applicable.

B. Commercial General Liability and Commercial Automobile Liability Insurance policies shall be endorsed to provide the following:

1. Name as ADDITIONAL INSUREDS, the City and County of San Francisco, its Officers, Agents, and Employees.

2. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this contract, and that insurance applies separately to each insured against whom claim is made or suite is brought.

C. ALL POLICIES SHALL BE ENDORSED TO PROVIDE:

Thirty days advance written notice to City of cancellation, non-renewal or reduction in coverage, mailed to the following address:

Director, Office of Contract Administration
Purchasing Division
City and County of San Francisco
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

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SPECIAL CONDITIONS (Continued)

D. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this contract and without lapse, for a period of three years beyond the contract expiration, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the contract, such claims shall be covered by such claims-made policies.

E. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

F. Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this Contract effective on the date of such lapse of insurance.

G. Before commencing any operations under this Contract, Contractor shall do the following: (1) furnish to City certificates of insurance and Additional Insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City in form evidencing all coverages set forth above, and (2) furnish complete copies of policies promptly upon City request. Failure to maintain insurance shall constitute a material breach of this contract.

H. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

82. FAILURE TO EXECUTE CONTRACT

A. Within ten days of the receipt of a notice of award, the bidder to whom the contract is awarded shall deliver the performance bond and/or specified insurance certificates to City.

AWARD
Water Dispensing Systems

For the Term January 1, 2007 Through December 31, 2009

SPECIAL CONDITIONS (Continued)

B. If the bidder fails or refuses to furnish the required bond and/or insurance within ten days after receiving notice from Purchasing, Purchasing may, at its option, determine that this bidder has abandoned its bid. Thereupon the tentative award of said contract to this bidder shall be canceled and City shall notify the bidder's surety and collect on the bidder's bond (or the check accompanying its bid shall be deposited with the Treasurer of the City and County of San Francisco for collection) and the proceeds thereof shall be retained by City as partial liquidated damages for failure of such bidder to properly file the bonds and insurance herein required. The foregoing in no way limits the damages which are recoverable by City whether or not defined elsewhere in the contract documents.

83. ENTIRE AGREEMENT

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions.

84. BID SUBMITTAL INSTRUCTIONS

Bids **must** be received at Central Purchasing, City Hall, Room 430, indicated on Page 1 of the Contract Proposal. Bids transmitted by fax or any type of electronic mail will not be accepted.

Bidders are to return all required documents, which include:

A. Page 1 of the Contract Proposal completed and signed.
B. Bid Sheets (Bidder must bid on all items)
C. Specifications on alternate items bid.
D. All questionnaires and forms, completed and signed.
E. Bid Security, if required.
F. Bidders shall mail bid in an envelope clearly marked with the bid number and due date (lower left corner).

Bids must be made on the enclosed bid sheets. Prices should be clearly written by typewriter or pen and ink.

To receive full consideration, your bid should be unqualified and unconditional.

FOR MORE INFORMATION, call: Darlene Frohm, Senior Purchaser,
(415) 554-6257

End Special Conditions

City and County of San Francisco

Gavin Newsom
Mayor

Office of Contract Administration

Naomi Kelly
Director/Purchaser

Purchasing

CONTRACT PRODUCT/SERVICE QUALITY REPORT

"ATTACHMENT A"

For Term Contract No. _____ Date: _____

SOURCE OF REPORT:

Date of Quality Incident: _____

Department & Division: _____

Name: _____

Telephone: _____

This report concerns Contract Item No. _____ and/or Contract Clause No. _____ .

DETAILS: (Describe, to best ability, what is wrong, how and why, circumstances prior to difficulty, description of difficulty, cause, action taken, including disposition, recommendations. Attach copies of supporting documents if appropriate. Continue on separate sheet if necessary.)

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