

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

# CONTRACT MODIFICATION NO. 1

Indefinite Quantity

Basic Chemical Solutions, LLC  
12522 Los Nietos Road  
Santa Fe Springs, CA 90670  
Attn: Mary Rose Gamber

Date February 11, 2008

Contract Proposal No. 66375

Estimated Amount: Indefinite

The City and County of San Francisco does hereby accept your offer to modify the prices and furnish the Articles indicated below. Such Articles are to be delivered in the manner and the form and at the times and prices set forth in the above numbered Contract Bid Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

## PRICE INCREASE

For furnishing and delivering **SODIUM BISULFITE**.

By mutual agreement, prices have increased in accordance with Special Condition Number 77, Price Escalation for Raw Material and Number 78, Price Escalation for Fuel Cost; effective January 1, 2008 (See Attachment "A").

The following Conditions have been modified to Contract 66375 (See Attachment "A")

- 25. DBE Utilization: Liquidated Damages (Old Condition)  
Replaced with LBE Utilization: Liquidated Damages
- 40. DBE Ordinance (Old Condition)  
Replaced with LBE Ordinance
- 43. DBE Subcontracting (Old Condition)  
Replaced with LBE Subcontracting
- 64. Nondisclosure of Private Information (Old Condition)  
Replaced with Protection of Private Information

The following condition has been added to Contract 66375 (See Attachment "A").

- 96. Food Service Waste Reduction Requirements

All other terms and conditions remain the same.

Acknowledge receipt of this Contract Acceptance in the space below and return to Purchaser, 1 Dr. Carlton B. Goodlett, Room 430, San Francisco, California, 94102. **DUPLICATE COPY IS FOR YOUR FILES.**

MS

*[Handwritten Signature]*

2-22-08

As the duly appointed Purchaser of the  
City and County of San Francisco

Date

### RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor BASIC CHEMICAL SOLUTIONS, LLC

By *[Handwritten Signature]* Bid/Contracts

Signature

Title

Print Name: Mary Rose Gamber

Received Feb. 29, 2008 10:52AM No. 7075

Attachment "A"  
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Item No.	Product/Description	Price Per Dry Ton Active SO <sub>2</sub>	New Price Per Dry Ton Active SO <sub>2</sub>
1.	<u>Sodium Bisulfite</u> F.O.B. Destination, various water pollution control facilities and water supply & treatment facilities, freight prepaid and allowed.	<u>\$679.34</u> Per Dry Ton Active SO <sub>2</sub>	<u>\$756.53</u> Per Dry Ton Active SO <sub>2</sub>
1a.	<u>Emergency Surcharge</u> Delivery within twenty-four (24) hours	NO AWARD Per Dry ton Active SO <sub>2</sub>	

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Item No.	Product/Description	Price Per Gallon	New Price Per Gallon
2.	<u>Sodium Bisulfite</u> F.O.B. Destination Treasure Island, 1001 Avenue M freight prepaid and allowed.	<u>\$1.39</u> Per Gallon SO <sub>2</sub>	<u>\$1.55</u> Per Gallon SO <sub>2</sub>
2a.	<u>Emergency Surcharge</u> - Delivery within twenty-four (24) hours of phone order.	NO AWARD Per Gallon SO <sub>2</sub>	
3.	<u>Sodium Bisulfite</u> in accordance with General Condition 69, F.O.B. Destination Sunol Valley Chloramination Facilities, adjacent to 5555 Calaveras Rd, Sunol, freight prepaid and allowed.	<u>\$1.39</u> Per Gallon SO <sub>2</sub>	<u>\$1.55</u> Per Gallon SO <sub>2</sub>
3a.	<u>Emergency Surcharge</u> - Delivery within twenty-four (24) hours of phone order.	NO AWARD Per Gallon SO <sub>2</sub>	

The following conditions have been modified to read as follows:

**25. LBE Utilization: Liquidated Damages**

- a. **The LBE Ordinance.** Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement 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.

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**b. Compliance and Enforcement.**

**Enforcement.** If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the LBE 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 LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this Agreement, 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 LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

**40. LBE Ordinance**

To qualify for a bid discount under the provisions of Admin. Code Chapter 14B, an LBE must be certified by the Human Rights Commission by the Bid Due date.

The certification application is available from HRC (415) 262-2500, and on the web at:

[www.sfhrc.org](http://www.sfhrc.org)

Click on 14B (LBE) Requirements & Forms.

Click on appropriate LBE Certification Application.

**43. LBE Subcontracting**

**A. Subcontracting to LBEs**

Bidder is encouraged to make good faith efforts to award subcontracts to City and County of San Francisco-certified LBEs. This can be achieved through subcontracting, sub-consulting 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 LBEs.

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- (2) Providing written notice to potential LBE 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 LBEs that are interested in participating in the project.
- (4) Following up on initial notices the Contractor sent to LBEs by contacting the LBEs to determine whether they were interested in performing specific parts of the project.
- (5) Providing interested LBEs with information about the scope of work.
- (6) Negotiating in good faith with the LBEs, and not unjustifiably rejecting as unsatisfactory proposals prepared by any LBEs, as determined by the City.
- (7) Where applicable, advising and making efforts to assist interested LBEs in obtaining insurance required by the City and the prime contractor.
- (8) Making efforts to obtain LBE 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 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 order;
- (3) services of the carrier who delivers the City's orders;
- (4) Pro rata share of LBE spending which is part of the vendor's general and administrative expenses, if the vendor 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 LBE 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 LBEs and to meet the percentage goal.

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E. HRC Data on LBEs

Contractor will obtain from HRC a copy of HRC's database of LBEs, and this or other information from HRC, shall be the basis for determining whether a LBE is confirmed with HRC. Contractor will obtain an updated copy of HRC's database at least quarterly. Please call HRC at (415) 262-2500.

64. **Protection of Private Information**

Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

The following condition has been added to Contract 66375.

96. **Food Service Waste Reduction Requirements**

Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.