

**AWARD**  
**Binding Library Books, Magazines, Etc.**  
For the Term June 1, 2008 through May 31, 2010

**AWARD SHEET**

**COMPANY INFORMATION**

**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

Name of Company: Houchen Binder Ltd.  
Address: 340 First Street  
City, State, Zip: Utica, NE 68456  
Contact: H. Damon Osborne  
Telephone Number: 402-534-2261  
Fax Number: 402-534-2761  
24-Hour Emergency Number: 402-690-6507  
Toll-Free Number: 1-800-869-0420  
E-mail: gen1@houchenbindery.com  
Payment Terms: N31  
Vendor Number: 50620  
Warehouse Location: 340 First Street  
Utica, NE 68456  
Will-Call Hours: 7:30am to 500 pm  
CBPO Number: BPSF00003443

Award items: Section 2:17 to 40

Note: Accompany this Award is Attachment A, Contract Product/Service Quality Report.  
See General Condition 59

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Name of Company: Roswell Bookbinding  
Address: 2614 N. 29<sup>th</sup>. Avenue  
City, State, Zip: Phoenix, AZ 85009  
Contact: Michael Roswell  
Telephone Number: 602-272-9338  
Fax Number: 602-272-9786  
24-Hour Emergency Number: 1-888-803-8883  
Toll-Free Number: 1-888-803-8883  
E-mail: roswellbookbind@qwest.net  
Payment Terms: N30  
Vendor Number: 15947  
Warehouse Location: 2614 N. 29<sup>th</sup>. Avenue  
Phoenix, AZ 85009  
Will-Call Hours: 7:00am to 500 pm  
CBPO Number: BPSF00003444

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See General Condition 59

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**VENDOR: HOUCHEN BINDER LTD.**

<b>A</b>	<b>PERIODICALS / STANDARD PERIODICALS COLLATION COVERED WITH GROUP F BUCKRAM</b>	<b>Unit Price</b>
<b>17.</b>	<b>Oversewn</b>	<b>\$ <u>10.50</u></b>
<b>18.</b>	<b>Machine-sewn through the fold</b>	<b>\$ <u>12.00</u></b>
<b>19.</b>	<b>Hand-sewn through the fold</b>	<b>\$ <u>20.00</u></b>
<b>20.</b>	<b>Hand Fan gluing</b>	<b>\$ <u>9.00</u></b>
<b>21.</b>	<b>Double-fan adhesive binding</b>	<b>\$ <u>8.10</u></b>
<b>22.</b>	<b>Recasing (Save the Sewing/Gluing)</b>	<b>\$ <u>11.50</u></b>
<b>23.</b>	<b>One time charge for creation of database of rub information for approximately 3,000 titles</b>	<b>\$ <u>n/c</u></b>
	<b>NEWSPAPERS</b>	<b>Unit Price</b>
<b>24.</b>	<b>Hand-sewn through the fold</b>	<b>\$ <u>30.00</u></b>
<b>25</b>	<b>Hand fan gluing</b>	<b>\$ <u>20.00</u></b>
	<b>BOXES,CLIPCASES AND WRAPAROUNDS</b>	<b>Unit Price</b>
<b>26.</b>	<b>Phase Box with Case up to 12" height</b>	<b>\$ <u>15.00</u></b>
<b>27.</b>	<b>Phase Box with Case 12" + height</b>	<b>\$ <u>17.00</u></b>

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28.	Slipcase up to 12" height	\$ <u>15.00</u>
29.	Slipcase 12"+ height	\$ <u>15.00</u>
B	UPCHARGES FOR PERIODICALS	Unit Price
30.	Over 14" height per 1" for monographs and serials	\$ <u>1.00</u>
31.	Over 3" thickness per 0.5" for monographs and serials	\$ <u>1.00</u>
32.	Stiff board pocket	\$ <u>3.00</u>
33.	Stubs per 0.5" thickness	\$ <u>3.00</u>
34.	Benchwork/Paper repair per ¼ hr.	\$ <u>8.00</u>
35.	Call numbers (exceeding 5 lines)	\$ <u>n/c</u>
36.	Lines of lettering (exceeding 12 lines)	\$ <u>n/c</u>
37.	Binding Flush to Bottom	\$ <u>0.50</u>
38.	Round and Backing	\$ <u>n/c</u>
39.	No Trim	\$ <u>0.25</u>
40.	Attaching 3M Tattle-Tapes supplied by Bindery	\$ <u>0.25</u>

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**VENDOR: ROSWELL BOOKBINDING**

<b>A</b>	<b>MONOGRAPHS COVERED WITH GROUP C-1 BOOK CLOTH</b>	<b>Unit Price</b>
<b>1.</b>	<b>Oversewn</b>	<b>\$ <u>8.43</u></b>
<b>2.</b>	<b>Machine-sewn through the fold</b>	<b>\$ <u>10.26</u></b>
<b>3.</b>	<b>Double-fan adhesive binding</b>	<b>\$ <u>6.59</u></b>
<b>4.</b>	<b>Hand Fan Gluing</b>	<b>\$ <u>7.00</u></b>
<b>5.</b>	<b>Recasing (Save the Sewing/Gluing)</b>	<b>\$ <u>7.82</u></b>
	<b>MYLAR HARD COVER PAPERBACKS</b>	<b>Unit Price</b>
<b>6.</b>	<b>Oversewn</b>	<b>\$ <u>6.65</u></b>
<b>7.</b>	<b>Double-fan adhesive</b>	<b>\$ <u>5.07</u></b>
<b>8.</b>	<b>Recasing (Save the Sewing/Gluing)</b>	<b>\$ <u>6.65</u></b>
<b>B</b>	<b>UPCHARGES FOR MONOGRAPHS</b>	<b>Unit Price</b>
<b>9.</b>	<b>Specific choice of colors for monograph covers</b>	<b>\$ <u>N/C</u></b>
<b>10.</b>	<b>Monographs covered in F-grade Buckram</b>	<b>\$ <u>0.95</u></b>
<b>11.</b>	<b>Over 14" height per 1" for monographs and serials</b>	<b>\$ <u>3.66</u></b>

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**VENDOR: ROSWELL BOOKBINDING**

		Unit Price
12.	Over 3" thickness per 0.5" for monographs and serials	\$ <u>1.22</u>
13.	No Trim	\$ <u>N/C</u>
14.	Rush – 2 week turnaround	\$ <u>UPS CHANGES ONLY</u>
15.	Attaching 3M Tattle-Tapes supplied by Bindery	\$ <u>0.42</u>
16.	Benchwork/paper repair per ¼ hr.	\$ <u>8.80</u>

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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. 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 Code of Regulations and, for electrical products, Sections 110.2 and 110.3 (B) of the S.F. Electrical Code. In addition, if an electrical item has not been tested by a lab approved by City's Department of Building Inspection (DBI) or Department of Public Works (DPW), Contractor shall 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 posted on Purchasing's website at <http://www.sfgov.org/oca/>. 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.

**3. 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.

**4. 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.

**5. 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.

**6. CASH DISCOUNTS; TERMS OF PAYMENT**

Cash discount (discount for prompt payment) will not be taken into consideration in determining the low bid. However, cash discounts are encouraged and must meet the following conditions:

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- a. The discount period will start upon date of completion of all services on any Purchase Order or other authorization certified by Controller, or upon date of receipt of properly prepared invoices covering such services, whichever is later.
- b. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the City's check.

The discount will be deducted from the invoice amount in accordance with the provisions of 6a and 6b above, unless the bid states the discount is not available. No additional charge shall accrue against City in the event that City does not make payment within any time specified by bidder.

**7. 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**

**8. 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.

**9. 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



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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.

**10. 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.

**11. 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.

**12. 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

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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.

**13. 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.

**14. 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

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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.

**15. 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.

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- (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.

**16. 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.

**17. 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. Condition to Contract.** As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration Nondiscrimination in Contracts and Benefits" form (form HRc-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights.

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- E. 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.

**18. LOCAL BUSINESS ENTERPRISE 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.

**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

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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.

**19. MACBRIDE PRINCIPLES – NORTHERN IRELAND**

Pursuant to San Francisco Administrative Code § 12F.5, 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. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

**20. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN**

Pursuant to § 804(b) of 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.

**21. 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.

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**22. 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.

**23. 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.

**24. 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.

**25. 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

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on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Contract.

**26. 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.

**27. 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) of the San Francisco Administrative Code, Chapter 21.

**28. 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.

**End Bid and Contract Conditions**



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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.

**29. CONTRACT TERM**

The contract period shall be for Thirty -six (36) months. The initial term of this contract is the period from award execution date, approximately June 1, 2008 or the above-stated term date, whichever is later, through the last day of the month of a twenty-four 36 consecutive month period.

**30. 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.

**31. 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.

**32. COOPERATIVE AGREEMENT**

Contractor agrees \_\_\_\_\_ or does not agree \_\_\_\_\_ (make a selection by an "X" mark) that during the term of this agreement and any authorized extension, the Director of Purchasing may allow other public agencies or non-profits made up of multiple public agencies to utilize this agreement to obtain some or all of the services and/or commodities to be provided by Contractor under the same terms and conditions as the City, pursuant to a Board of Supervisor Resolution.

**33. LEFT BLANK BY AGREEMENT OF THE PARTIES**

**34. 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) 252-2500, and on the web at:

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

Click on 14B (LBE) Requirements & Forms

Click on appropriate LBE Certification Application.

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**GENERAL CONDITIONS (Continued)**

**35. CLAIM FOR PREFERENCE**

To claim preference under the LBE Ordinance, see Bid Questionnaire attached.

**36. BID PREFERENCE FOR BROKERAGE SERVICES**

Pursuant to Section 14B.7 of the Administrative Code, a bid preference will only be awarded to an LBE, or an LBE joint venture where the LBE'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. An LBE 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.

An LBE 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 local business preference program. Such a determination will be subject to audit by HRC.

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

**37. CHAPTER 14B REQUIREMENTS**

**LBE Participation**

The City strongly encourages bids from qualified LBEs. Pursuant to Chapter 14B, the following rating discount will be in effect for the award of this project for any bidders who are certified by HRC as a LBE, or joint ventures where the joint venture partners are in the same discipline and have the specific levels of participation as identified below. Certification applications may be obtained by calling HRC at (415) 252-2500. The rating discount applies at each phase of the selection process. The application of the rating discount is as follows:

- (1) A 10% discount to an LBE; or a joint venture between or among LBEs; or
- (2) A 5% discount to a joint venture with LBE participation that equals or exceeds 35%, but is under 40%; or
- (3) A 7.5% discount to a joint venture with LBE participation that equals or exceeds 40%; or
- (4) A 10% discount to a certified non-profit entity.

If applying for a rating discount as a joint venture: The LBE must be an active partner in the joint venture and perform work, manage the job and take financial risks

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**GENERAL CONDITIONS (Continued)**

in proportion to the required level of participation stated in the bid, and must be responsible for a clearly defined portion of the work to be performed and share in the ownership, control, management responsibilities, risks, and profits of the joint venture. The portion of the LBE joint venture's work shall be set forth in detail separately from the work to be performed by the non-LBE joint venture partner. The LBE joint venture's portion of the contract must be assigned a commercially useful function.

**38. 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 Agreement. 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 Agreement. 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 Agreement 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 Agreement shall have the same rights conferred upon City by this Section.

**39. 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.

**40. 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.

**41. 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.

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**GENERAL CONDITIONS (Continued)**

**42. 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

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.

**43. PROPRIETARY INFORMATION OF CITY**

Contractor understands and agrees that, in the performance of the work or services under this Contract or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary details, the disclosure of which to third parties will be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the contract, except to the extent that Contractor can demonstrate that: (a) the confidential information at the time of disclosure was part of the public domain by publication or otherwise, except by breach of this contract; (b) the confidential information can be established to have been in possession of Contractor at the time of disclosure and was not acquired directly or indirectly from City under another proprietary information obligation; or (c) the confidential information was received from a third party without any restrictions; provided, however that such information was not obtained by said third party, directly or indirectly, in breach of a proprietary information obligation with City.

**44. 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.

**45. 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.

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**GENERAL CONDITIONS (Continued)**

Contractor shall send the reports to:

**Darlene Frohm**, Senior Purchaser  
Re: Term Contract No. **97219**  
Office of Contract Administration  
Purchasing Division  
City Hall, Room 430  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4685

**46. 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

**47. 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.

**48. 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.

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**GENERAL CONDITIONS (Continued)**

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.

**49. 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.

**50. 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.

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.

**51. FIRST SOURCE HIRING PROGRAM (FSHP)**

**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.

**B. First Source Hiring Agreement**

As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

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**GENERAL CONDITIONS (Continued)**

- (1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.
- (2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.
- (3) Set appropriate requirements for providing 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. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.
- (4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement.

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**GENERAL CONDITIONS (Continued)**

To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

- (5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.
- (6) Set the term of the requirements.
- (7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.
- (8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.
- (9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

**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**

Contractor agrees:

- (1) To be liable to the City for liquidated damages as provided in this section;



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**GENERAL CONDITIONS (Continued)**

- (2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;
- (3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.
- (4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;
- (5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:
  - a. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and
  - b. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment

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**GENERAL CONDITIONS (Continued)**

Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

- (6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and
- (7) That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 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.

**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.

**52. MINIMUM COMPENSATION ORDINANCE (“MCO”)**

Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, Contractor agrees to all of the following:

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**GENERAL CONDITIONS (Continued)**

- a. For each hour worked by a Covered Employee during a Pay Period on work funded under the City contract during the term of this Agreement, Contractor shall provide to the Covered Employee no less than the Minimum Compensation, which includes a minimum hourly wage and compensated and uncompensated time off consistent with the requirements of the MCO. For the hourly gross compensation portion of the MCO, Contractor shall pay a minimum of \$10.77 an hour for the term of this Agreement; provided, however, that Contractors that are Nonprofit Corporations or public entities shall pay a minimum of \$9 an hour for the term of this Agreement.

If a Covered Employee of a Nonprofit Corporation works in San Francisco, then that employee is covered by San Francisco's Minimum Wage Ordinance, which is Chapter 12R of the Administrative Code. As of January 1, 2007, Chapter 12R's minimum wage is \$9.14 per hour.

- b. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to Contractor's compliance or anticipated compliance with the requirements of the MCO, for opposing any practice proscribed by the MCO, for participating in proceedings related to the MCO, or for seeking to assert or enforce any rights under the MCO by any lawful means.
- c. Contractor understands and agrees that the failure to comply with the requirements of the MCO shall constitute a material breach by Contractor of the terms of this Agreement. The City, acting through the Contracting Department, shall determine whether such a breach has occurred.
- d. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, 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 diligently to pursue such cure to completion, the City, acting through the Contracting Department, shall have the right to pursue the following rights or remedies and any rights or remedies available under applicable law:
- (1) The right to charge Contractor an amount equal to the difference between the Minimum Compensation and any compensation actually provided to a Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law;
  - (2) The right to set off all or any portion of the amount described in Subsection (d)(1) of this Section against amounts due to Contractor under this Agreement;

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**GENERAL CONDITIONS (Continued)**

- (3) The right to terminate this Agreement in whole or in part;
- (4) In the event of a breach by Contractor of the covenant referred to in Subsection (b) of this Section, the right to seek reinstatement of the employee or to obtain other appropriate equitable relief; and
- (5) The right to bar Contractor from entering into future contracts with the City for three years.

Each of the rights provided in this Subsection (d) shall be exercisable individually or in combination with any other rights or remedies available to the City. Any amounts realized by the City pursuant to this subsection shall be paid to the Covered Employee who failed to receive the required Minimum Compensation.

- e. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.
- f. Contractor shall keep itself informed of the current requirements of the MCO, including increases to the hourly gross compensation due Covered Employees under the MCO, and shall provide prompt written notice to all Covered Employees of any increases in compensation, as well as any written communications received by the Contractor from the City, which communications are marked to indicate that they are to be distributed to Covered Employees.
- g. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the MCO, including reports on subcontractors.
- h. The Contractor shall provide the City with access to pertinent records after receiving a written request from the City to do so and being provided at least five (5) business days to respond.
- i. The City may conduct random audits of Contractor. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten days of the written notice; and (iv) limited to one audit of Contractor every two years for the duration of this Agreement. Nothing in this Agreement is intended to preclude the City from investigating any report of an alleged violation of the MCO.

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**GENERAL CONDITIONS (Continued)**

- j. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. A subcontract means an agreement between the Contractor and a third party which requires the third party to perform all or a portion of the services covered by this Agreement. Contractor shall notify the Department of Administrative Services when it enters into such a subcontract and shall certify to the Department of Administrative Services that it has notified the subcontractor of the obligations under the MCO and has imposed the requirements of the MCO on the subcontractor through the provisions of the subcontract. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.
- k. Each Covered Employee is a third-party beneficiary with respect to the requirements of subsections (a) and (b) of this Section, and may pursue the following remedies in the event of a breach by Contractor of subsections (a) and (b), but only after the Covered Employee has provided the notice, participated in the administrative review hearing, and waited the 21-day period required by the MCO. Contractor understands and agrees that if the Covered Employee prevails in such action, the Covered Employee may be awarded: (1) an amount equal to the difference between the Minimum Compensation and any compensation actually provided to the Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law; (2) in the event of a breach by Contractor of subsections (a) or (b), the right to seek reinstatement or to obtain other appropriate equitable relief; and (3) in the event that the Covered Employee is the prevailing party in any legal action or proceeding against Contractor arising from this Agreement, the right to obtain all costs and expenses, including reasonable attorney's fees and disbursements, incurred by the Covered Employee. Contractor also understands that the MCO provides that if Contractor prevails in any such action, Contractor may be awarded costs and expenses, including reasonable attorney's fees and disbursements, from the Covered Employee if the court determines that the Covered Employee's action was frivolous, vexatious or otherwise an act of bad faith.
- l. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 (\$50,000 for nonprofits) in the fiscal year.

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**GENERAL CONDITIONS (Continued)**

**53. REQUIRING HEALTH BENEFITS FOR COVERED EMPLOYEES**

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

- a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission..
- b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.
- c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, 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 diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.
- d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.
- e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any

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**GENERAL CONDITIONS (Continued)**

practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

- f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.
- g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.
- h. Contractor shall keep itself informed of the current requirements of the HCAO.
- i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.
- j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.
- k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.
- l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.
- m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

**54. 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.

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**GENERAL CONDITIONS (Continued)**

- 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.

**55. LIMITATIONS ON CONTRIBUTIONS**

Through execution of this Agreement, 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, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.



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**GENERAL CONDITIONS (Continued)**

**56. 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.

**57. 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.

**58. SERVICES PROVIDED BY ATTORNEYS**

Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

**59. CONTRACT PRODUCT / SERVICE QUALITY REPORT**

Departments may complete and return o Purchasing 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.

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**GENERAL CONDITIONS (Continued)**

**60. NONDISCLOSURE 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.

**61. GRAFFITI REMOVAL**

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 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.

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**GENERAL CONDITIONS (Continued)**

**62. 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**

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**SPECIAL CONDITIONS (Continued)**

**63. PURPOSE**

The purpose of this contract is to provide a qualified, competitive and reliable contractor for binding books, magazines and miscellaneous library materials for the City and County of San Francisco.

**64. SCOPE OF SERVICES TO BE PERFORMED**

- A. Binding and rebinding of books, periodicals, pamphlets, reports, newspapers, music scores and other materials not otherwise classified must meet the specifications of the ANSI/NISO/LBI Standard for Library Binding, 2000 (Attachment A) and Binding Specification (Attachment B).
- B. Binding of paperbacks must meet the specifications set forth in Mylar Hard Cover Binding Specifications (Attachment C).
- C. **The awarded Contractor shall be responsible for setting up a database of the required binding information for periodicals using the current Contractor's "rub cards" which the Library will supply. *This work must be done within 30 days of receipt of the binding information provided by the Library.*** There will be approximately 3,000 titles. Failure to comply may result in termination of the Contract. Bidder is to state the price for this service, if any, as a lump sum figure under Bid Sheet Item No. 23.

**65. PACKING, PICK-UP AND DELIVERY**

Contractor must accept and process orders for any quantity of contracted items for pick-up and delivery as required by the San Francisco Public Library. In general, the packing requirements and pick-up and delivery schedule to be adhered to shall be as follows:

**Packing**

The Contractor must provide at **no additional charge:**

- a. Carton boxes for the shipping of materials
- b. Tape and an applicator to seal cartons
- c. Address labels for each carton

The Library will pack materials in cartons ready for pick-up. The Contractor must pack the cartons for shipping and pick up the order.

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**SPECIAL CONDITIONS (Continued)**

**Pick-up and Delivery Schedule**

In general, the schedule to be adhered to shall be every four (4) weeks (28 calendar days) that a shipment will be picked up. Within the following four (4) weeks (28 calendar days), delivery of the order to the San Francisco Public Library must be completed. Failure to return the finished items within 28 calendar days may result in declaring Contractor in default with the City invoking the provisions of General Condition 41.

**Pick-up and Delivery Requirements**

The address for all pick-ups and deliveries is Preservation Department, 95 Washburn Street, 1<sup>st</sup> Floor, San Francisco, California, 94103. The loading dock accommodates trucks with up to 15-ft overhead clearance and 28 ft. long trailer rigs. Trucks need to be equipped with a working lift gate. Same day, inside pick-up and delivery is required

**66. PRICE**

Based on the unit descriptions and estimated quantities given, Bidder must submit unit price and total extended price for each line item. At the end of the Bid Sheets, please input the gross grand total for all items.

All prices and discounts quoted by Bidder must be firm for the duration of the contract.

**All prices shall include the cost of packing, pick-up and delivery.**

It is understood that the prices herein apply to both the ordinary volume to be rebound as well as those few volumes which would require more time because of paper conditions, stubbing, collation, unusual thickness, etc. Regardless of the condition of the book, the Library will make the final decision as to what is to be bound.

**67. BID EVALUATION**

For evaluation only, unit prices will be extended based on the estimated quantities given for each line item. Extended prices will be added for all items to arrive at a gross grand total for the complete bid less applicable cash discount payment terms offered (see Bid and Condition 6) and any applicable LBE preference (see General Conditions 34 and 36).

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**SPECIAL CONDITIONS (Continued)**

**68. AWARD**

Award will be made to the lowest responsive and responsible Bidder (s) per section. Sections include 1 A&B and 2 A&B. Therefore, Bidders must quote on all items listed in each section. In determining the award, Purchasing will take into consideration, but will not be limited to:

- A. Price
- B. Capabilities to satisfactorily comply with all requirements of the contract, including:
  - 1.) Full compliance with Product Specifications
  - 2.) Bidder's technical knowledge
  - 3.) Adequate personnel and appropriate equipment to fully meet service requirements
  - 4.) Capability of delivering a finished product of acceptable quality
  - 5.) Any other factors deemed pertinent by Purchasing

**69. AWARD ITEMS**

- A. If, during the term of the contract, contract service is determined to be unacceptable for a particular department, and such is documented by the Purchasing Division, it is understood and agreed that the service will be cancelled and removed from the contract without penalty to City. City's sole obligation to Contractor is payment for services performed prior to cancellation date. City shall give Contractor ten days notice prior to any cancellation. City will purchase the required services from any source and in the manner as determined by Purchasing.
- B. Contractor must notify Purchasing by certified mail, 30 days in advance of any changes in the services required in the contract. Any changes made without the approval of Purchasing will constitute default and will result in invoking General Condition 41.

**70. ORDERING**

- A. Services to be furnished under this contract shall be ordered by issuance of a Direct Purchase Order by City departments during the effective period of the contract.

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**SPECIAL CONDITIONS (Continued)**

- B. All invoices for payments shall show the Direct Purchase Order Release Number, against the Citywide Blanket Purchase Order number assigned by Purchaser, to include the complete description of services and contract pricing.

**71. PAYMENT**

- A. In accordance with the prices quoted in the successful bid and subject to any applicable discount provision contained in said bid, City agrees to pay for all services at said rate. City shall make payments to Contractor in arrears, for services actually performed, throughout the term of the contract.
- B. Invoices submitted by Contractor must be in a form acceptable to Purchasing and Controller. All amounts paid by City to Contractor shall be subject to audit by City.

**72. BIDDER'S/CONTRACTORS QUALIFICATIONS AND REQUIREMENTS**

- A. Contractor must have in-depth technical knowledge and experience in the services covered by the contract.
- B. Demonstrate to the satisfaction of the San Francisco Public Library and the Purchasing Division of the City and County of San Francisco that Bidder possesses adequate equipment, experienced technical personnel, and is capable of processing the required volume of work promptly, efficiently and of acceptable quality.
- C. Contractor must provide during the term of the contract 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, Contractor must provide personnel with in-depth technical knowledge of the products and services Contractor is providing under this contract, to answer questions and offer any assistance required by City personnel during City business hours (8:00 a.m. – 5:00 p.m.)
- D. Contractor must maintain during the term of the contract adequate facilities to allow for immediate completion of orders placed by City departments.
- E. City reserves the right to inspect Contractor's place of business to aid Purchaser in determining Contractor's continuing capabilities and qualifications during the term of the contract.

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**SPECIAL CONDITIONS (Continued)**

- F. Contractor must submit usage reports required under General Condition 44 of this contract.
- G. City may require Contractor to provide within seven business days from the date they are requested to do so, during the term of the contract, information and documentation requested by Purchaser, including but not limited to: sources of supply, distribution, dealership or agency agreements and authorizations from manufacturers they claim to represent, lines of credit with financial institutions and suppliers, number of employees, trade references and any other information to determine Contractor's fitness to supply the contract requirements. Failure to supply information or documentation requested within the seven-day period may result in Contractor being declared in default of the contract.
- H. The margin of error or mistakes made by the contractor during binding should not exceed five (5) per shipment. Items not meeting the specifications of the ANSI/NISO/LBI Standard for Library Binding, 2000 (Attachment A), Binding Specification (Attachment B), and Mylar Hard Cover Binding Specification (Attachment C) will be considered errors.
- I. All items needing corrections will be sent to the vendor COD using overnight delivery. The contractor will return the corrected items to San Francisco Public Library, Preservation Unit, within ten (10) working days from the day they were picked up from SFPL. The contractor is responsible for the expenses of returning the items.
- J. The vendor will acknowledge and address any written or e-mailed correspondence from SFPL about problems with shipments, errors, or mistakes.
- K. If requested, the contractor will download the latest version of LARS (Library Automated Retrieval System) to the Preservation/Bindery Prep computer.

**73. CITY DEPARTMENT'S RESPONSIBILITIES**

The City department ordering items from Contractor shall:

- A. Monitor and document Contractor's performance and furnish Purchaser copies of records, correspondence and all other documentation relevant to Contractor's performance.



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**SPECIAL CONDITIONS (Continued)**

- B. Inspect material received from Contractor immediately upon delivery and reject or return damaged or incorrectly serviced items for correction to current specifications.
- C. Establish quality control measures as applicable to Department's operations and report, through documentation, to Purchaser and Contractor any product defects or premature failures.
- D. Provide the Purchasing Division with documentation of unsatisfactory performance of the contract vendor and receive authorization from the Purchasing Division prior to placing orders with another vendor.
- E. Verify Contractor's invoices and ensure that payment terms reflect any applicable cash discount for payment within 30 days when stated in the contract.
- F. Show any applicable cash discount for payment within 30 days on all ordering and payment documents issued for purchases under the contract, otherwise Purchasing and Controller will reject such documents.
- G. Process invoices in a timely manner so as to benefit the City from any cash discount offered for prompt payment.

**74. SAMPLES**

Within ten days from notification, if requested, Bidder must furnish samples of the following finished and unfinished work:

- A. Samples of work for examination by the Library include:
  - (1) a finished Mylar hardcover paperback book;
  - (2) a selection of enclosures typical of those made by Contractor;
  - (3) 4 text blocks, each which have been 1) double fan adhesive bound, 2) fitted with a new case only (original sewing structure retained), 3) over-sewn; and 4) machine sewn through the fold;

These samples should be marked to indicate the style (s) of binding each represents.

- B. One sample of each type of end sheet used in the bindery.
- C. Provide samples of all forms used by Contractor to communicate between Contractor and the Library.

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**SPECIAL CONDITIONS (Continued)**

Samples must be received by Purchasing within ten working days after receipt of written notification. Samples shall be provided at no cost to City. Samples will not be returned.

**75. GUARANTEE**

Contractor shall rebind, without charge, all books that fail to give satisfactory service through faulty, improper or inferior workmanship or materials, arising or discovered in any part of this work. Books will be sent back to the binder as a correction and bound without charge.

Contractor shall assume full responsibility for any loss or damage to books from the time books are picked up until they are returned to City departments and 1) must reimburse City for all lost or damaged books at City's cost for replacement including processing, or 2) City may have contractor replace missing/damaged books.

City Library staff will monitor and document Contractor's performance. The amount of unacceptable work that must be returned, late deliveries and all other deficiencies will be noted. Such information and documentation will be used to evaluate Contractor's overall reliability and capability to complete the contract.

**76. 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:
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.

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**SPECIAL CONDITIONS (Continued)**

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 for any reason, 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
- 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.

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**SPECIAL CONDITIONS (Continued)**

- 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.
- I. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

**77. 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.
- 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

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**SPECIAL CONDITIONS (Continued)**

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.

**78. ESTIMATED QUANTITIES**

Quantities listed for each item on the Bid Sheets are estimates only. The City and County of San Francisco does not guarantee that orders under the contract will match or exceed the estimated quantities given.

**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 services to the contract during the contract term shall not exceed (20%) of the total estimated value (cost) of the original contract.
- 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, executed and signed by Purchasing and Contractor.
- 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.

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**SPECIAL CONDITIONS (Continued)**

- F. The contract term for the additional services added to the contract after the initial award shall be the remaining term of the existing contract and any extension thereof.

**80. BILLING REQUIREMENTS**

To receive consideration, Bidder must strictly adhere to all bid terms, conditions, and specifications, including the following requirements:

- A. Bid must be made on enclosed Bid Sheets. Prices must be input by typewriter or legibly handwritten with pen and ink. All bids must be unqualified and unconditional.
- B. The bid prices must be firm for the term period of the contract.
- C. Bidder must respond to each of the questions listed on Bid Questionnaire and submit the information requested therein to aid Purchaser in assessing Bidder's qualifications to perform the requirements of the contract.
- D. City reserves the right to request additional information from each Bidder to verify the information provided in the bid.
- E. Any bid requiring receipt of contract award in less than 120 days will be unacceptable.

**81. PRE-BID QUESTIONS AND ANSWERS**

In lieu of an in-person Pre-bid Conference, potential bidders are invited to submit questions by e-mail between the following dates:

February 11, 2008 through February 14, 2008.

The e-mail address is: [darlene.frohman@sfgov.org](mailto:darlene.frohman@sfgov.org)

All questions will be answered in writing and incorporated into a single document that will be e-mailed to Pre-bid Q & A participants and sent by U.S. Postal Service to all other recipients of the Bid Package.

**82. ENTIRE AGREEMENT**

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

**AWARD**  
**Binding Library Books, Magazines, Etc.**  
For the Term June 1, 2008 through May 31, 2010

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**SPECIAL CONDITIONS (Continued)**

**83 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 for items being bid on only.
- C. All questionnaires and forms completed and signed.
- D. 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 OF SPECIAL CONDITIONS**



Gavin Newsom  
Mayor

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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