

#400615

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



Contract Modification 2

Street Sweeper Brooms

United Rotary Brush
Greg Molotky
160 Enterprise Court
Suite "A"
Galt, CA 95632
E-mail: gregm@united-rotary.com

Date: 08-24-10
Buyer Name: Darlene Frohm
Term contract: 84715
City Blanket No. BPSF 00003219
Type: Indefinite quantity
Not-to-exceed amount: \$ 1,000,000

The history of this contract and its modifications is as follows:

Modification	Start date	End date	Amount	Other changes
Original contract	05-01-06	04-30-09	\$ 1,000,000	
1	05-01-09	04-30-10	n/c	price increase & add items
2	05-01-10	04-30-11	n/c	price increase & revised/added Conditions

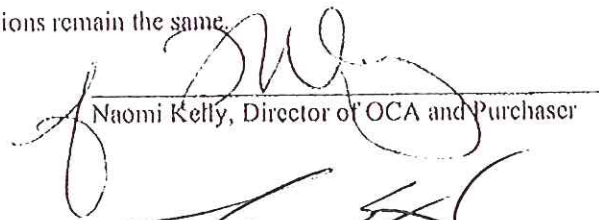
This modification 2 changes the contract as follows:

It extends the contract from MAY 1, 2010 TO APRIL 30, 2011.

The items prices have been increased by 3%. See Attachment A. Conditions have been revised and added to the contract. See Attachment B.

All other terms and conditions remain the same.

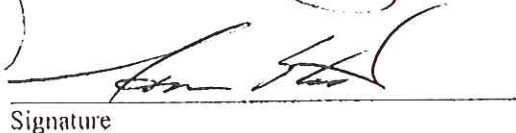
Approved by the City:



Naomi Kelly, Director of OCA and Purchaser

9/1/2010
Date

Approved by Contractor:



Signature

9-15-10
Date

Name and title

CONTRACTS & PRODUCT COMPLIANCE

Contract Modification No. 2
 Contract 84715
 Attachment "A"
 Street and Sewer Brooms
 August 24, 2010

Item No.	Unit of Measure	Description	Old Price	New Price
1.	Each	Disposable Gutter Broom for Tymco 600 New P/N 41-PATMOP4	\$ 66.95	\$ 68.96
2.	Each	Disposable Gutter Broom for Johnson 4000 New P/N 41-PATWAP4	\$ 70.26	\$ 72.37
3.	Each	Disposable Gutter Broom for Tenant 830 New P/N 41-PATEW1	\$ 196.03	\$ 201.91
4.	Each	Main Broom for Elgin Bear Sweeper New P/N 20-120580AP	\$ 306.23	\$ 315.42
5.	Each	In order to use the same Broom on both the Elgin Road Wizzard and Elgin Eagle Sweepers, must use this upgraded P/N 20-120600AP	\$ 323.86	\$ 333.58
6.	Each	Main Broom for Schwarze M600 New P/N 20-120580AP	\$ 306.23	\$ 315.42
7.	Each	Main Broom for Tenant 830 Sweeper New P/N 21-082450TEP	\$ 268.57	\$ 276.63
8.	Each	Main Broom for Johnston 4000 New P/N 21-053256VNP	\$ 218.36	\$ 224.91
9.	Each	Disposable Gutter Broom for Tymco 435(Split of Item #1) P/N 41-PATELP4	\$ 75.25	\$ 77.51
10.	Each	Gutter Broom for Elgin Eagle Sweepers P/N 41-PATELP5	\$ 87.86	\$ 90.50

Section 58. First Source Hiring Program has been revised and replaced with the following:

First Source Hiring Program

- 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 Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement 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:
 - (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 may be 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. 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;
 - (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 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

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.

Section 64. Non-Disclosure of Private Information has been revised and replaced with the following:

Protection of Private Information.

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

Adding the following conditions:

99. 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.

100. Cooperative Agreement

Contractor agrees X 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.

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



Contract Modification 1

Street Sweeper Brooms

United Rotary Brush
Greg Mololky
160 Enterprise Court
Suite "A"
E-mail: gregm@united-rotary.com

Date: 06-04-09
Buyer Name: Carlos Chavez
Term contract: 84715
Type: Indefinite quantity
Not-to-exceed amount: \$ 1,000,000

The history of this contract and its modifications is as follows:

Modification	Start date	End date	Amount	Other changes
Original contract	05-01-06	04-30-09	\$ 816.00	
1	05-01-09	04-30-10	n/c	price increase & add items

This modification 1 changes the contract as follows:

It extends the contract from April 30, 2009 to April 30, 2010.

The following items prices have been increased by 3% and items have been added to Contract 84715. See Attachment A for new prices and new items. *The Revised prices for the items listed on Attachment "A" are incorporated into the contract and will become effective date upon final execution of this modification.*

The following condition has been added to the contract. See Attachment B.

All other terms and conditions remain the same.

Approved by the City:

Naomi Kelly
Naomi Kelly, Director of OCA and Purchaser

6-5-09
Date

Approved by Contractor:

Greg Mololky
Signature

6-8-09
Date

Name and title

Greg MOLOLKY, FSM

Please sign and return one original. The second original is for your records.

Contract Modification No. 1
 Contract 84715
 Attachment "A"
 Street and Sewer Brooms
 June 4, 2009

Items No.	Unit of Measure	Description	Old Price	New Price
1.	Each	Disposable Gutter Broom for Tymco 600 New P/N 41-PATMOP4	\$ 65.00	\$ 66.95
2.	Each	Disposable Gutter Broom for Johnson 4000 New P/N 41-PATWAP4	\$ 68.21	\$ 70.26
3.	Each	Disposable Gutter Broom for Tenant 830 New P/N 41-PATEW1	\$ 190.32	\$ 196.03
4.	Each	Main Broom for Elgin Bear Sweeper New P/N 20-120580AP	\$ 297.31	\$ 306.23
5.	Each	In order to use the same Broom on both the Elgin Road Wizzard and Elgin Eagle Sweepers, must use this upgraded P/N 20-120600AP	\$ 217.04	\$ 323.86 (Upgraded Item)
6.	Each	Main Broom for Schwarze M600 New P/N 20-120580AP	\$ 297.31	\$ 306.23
7.	Each	Main Broom for Tenant 830 Sweeper New P/N 21-082450TEP	\$ 260.75	\$ 268.57
8.	Each	Main Broom for Johnston 4000 New P/N 21-053256VNP	\$ 212.00	\$ 218.36
9.	Each	Disposable Gutter Broom for Tymco 435(Split of Item #1) P/N 41-PATELP4	New item (Complements Item 1)	\$ 75.25
10.	Each	Gutter Broom for Elgin Eagle Sweepers	New Item	\$ 87.86

Contract Modification No. 1
Contract 84715
Attachment "B"
Street and Sewer Brooms
June 4, 2009

99. 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.