

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 5

### Sodium Bisulfite

**Basic Chemical Solutions, LLC**  
 Mary Rose Gamber, Bid/Contract Specialist  
 12522 Los Nietos Road  
 Santa Fe Springs, CA 90670  
 E-mail: mgamber@basicllc.com

Date: October 6, 2010  
 Buyer Name: Gwen Williams  
 Term contract: 66375  
 City Blanket No. BPSF00003320  
 Type: Indefinite quantity  
 Not-to-exceed amount: \$4,000,000

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

Modification	Start date	End date	Amount	Other changes
Original contract	10/01/06	10/31/09	\$3,000,000	
1	01/01/08	12/31/08		Price Increase
2	04/01/09	10/31/10		Price Increase & Revised/Add Conditions
3	11/01/09	10/31/10		Extension
4	11/01/09	10/31/11		5% Price Reduction, one (1) year extension, delete Special Condition 77 and 78
5	10/01/10	10/31/11	\$4,000,000	Increase the "Not to exceed Amount" by \$1,000,000, updated General Conditions 58

This modification 5 changes the contract as follows:

Increased the "Not to Exceed Amount" from \$3,000,000 to \$4,000,000.

The following General Condition has been revised to Term Contract 66375 (See Attachment A):

**58. First Source Hiring Program**

All other terms and conditions remain the same.

*Handwritten initials*

Approved by the City:

*Signature of Naomi Kelly*  
 \_\_\_\_\_  
 Naomi Kelly, Director of OCA and Purchaser

*10/13/2010*  
 \_\_\_\_\_  
 Date

Approved by Contractor:

*Signature of James Molica*  
 \_\_\_\_\_  
 Signature

*10/13/10*  
 \_\_\_\_\_  
 Date

Name and title

James Molica, Bulk Sales Manager - Western Region

Sign and return one original. The duplicate original is for your files.

P-280 (11/20-09)

**Attachment A  
Term Contract 66375  
Basic Chemical Solutions, LLC  
Contract Modification 5  
October 6, 2010**

**General Conditions**

**58. 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

**Attachment A  
Term Contract 66375  
Basic Chemical Solutions, LLC  
Contract Modification 5  
October 6, 2010**

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;

Attachment A  
Term Contract 66375  
Basic Chemical Solutions, LLC  
Contract Modification 5  
October 6, 2010

(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

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TX Count 002616

RX Count 001719

# : Batch  
M : Memory  
S : Standard  
Y : Reduction  
Q : RX Notice Req.  
F : Folder

C : Confidential  
L : Send later  
D : Detail  
H : Stored/D. Server  
A : RX Notice

\$ : Transfer  
@ : Forwarding  
F : Fine  
x : LAN-Fax  
M : Mail

P : SEP Code  
E : ECM  
U : Super Fine  
+ : Delivery  
<-> : IP-FAX

**Attachment A**  
**Term Contract 66375**  
**Basic Chemical Solutions, LLC.**  
**Contract Modification 5**  
**October 6, 2010**

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.

Mar. 30. 2010 3:24PM

No. 8916 P. 2/3

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 4

## Sodium Bisulfite

Basic Chemical Solutions, LLC  
Mary Rose Gamber, Bid/Contract Specialist  
12522 Los Nietos Road  
Santa Fe Springs, CA 90670  
E-mail: mgamber@basillc.com

Date: March 26, 2010  
Buyer Name: Gwen Williams  
Term contract: 66375  
City Blanket No. BPSF00003320  
Type: Indefinite quantity  
Not-to-exceed amount: \$3,000,000

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

Modification	Start date	End date	Amount	Other changes
Original contract	10/01/06	10/31/09	\$3,000,000	
1	01/01/08	12/31/08		Price Increase
2	04/01/09	10/31/10		Price Increase & Revised/Add Conditions
3	11/01/09	10/31/10		Extension
4	11/01/09	10/31/11		5% Price Reduction, one (1) year extension, delete Special Conditions 77 and 78

This modification 4 changes the contract as follows:

Effective April 1, 2010, all contract line item prices will be reduced by 5% (See Attachment A) and contract will be extended for one additional year from November 1, 2010 to October 31, 2011. The 5% reduced prices will be firm for the contract period from April 1, 2010 through October 31, 2011. During the contract period April 1, 2010 through October 31, 2011, Special Conditions #77 "Price Escalation for Raw Material" and #78, "Price Escalation for Fuel Cost" in the contract will be deleted and will not apply.


All other terms and conditions remain the same.

Approved by the City:

  
Naomi Kelly, Director of OCA and Purchaser

3-30-10  
Date

Approved by Contractor:

  
Signature

3-31-10  
Date

Name and title:

James Molica, Bulk Sales Manager-Western Region

Sign and return one original. The duplicate original is for your files.

P-280 (11/20-09)

Mar. 30. 2010 . 3:24PM

No. 8916 P. 3/3

Attachment A  
 Contract No. 66375  
 Contract Modification No.4  
 Basic Chemical Solutions, LLC  
 Date: March 26, 2010

Effective April 1, 2010, all contract bid line items will be reduced by 5% as indicated below:

<b>Item No. Per</b>	<b>Product/Description</b>	<b>Previous Price Active SO<sub>2</sub> Per Dry Ton</b>	<b>New Price Active SO<sub>2</sub> Dry Ton</b>
1.	Sodium Bisulfite, F.O.B. Destination, Various water pollution control facilities and water supply and treatment facilities, Freight prepaid and allowed.	\$1,036.16 Per Dry Ton	\$984.35 Per Dry Ton
		<b>Previous Price Per Gallon</b>	<b>New Price Per Gallon</b>
2.	Sodium Bisulfite, F.O.B. Destination Treasure Island, 1001 Avenue M Freight prepaid and allowed	\$2.13 Per Gallon SO <sub>2</sub>	\$2.02 Per Gallon SO <sub>2</sub>
3.	Sodium Bisulfite in accordance with General Condition 69, F.O.B. Destination Sunol Valley Chloramination Facilities, Adjacent to 5555 Calaveras Rd., Sunol Freight prepaid and allowed.	\$2.13 Per Gallon SO <sub>2</sub>	\$2.02 Per Gallon SO <sub>2</sub>

Sign and return one original. The duplicate original is for your files.

P-280 (11/20-09)

Received Time Mar. 31. 2010 10:42AM No. 8926



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

ORIGINAL



## Contract Modification 3

### Sodium Bisulfite

**Basic Chemical Solutions, LLC**  
Mary Rose Gamber, Bid/Contract Specialist  
12522 Los Nietos Road  
Santa Fe Springs, CA 90670

Date: 09-09-09  
Buyer Name: Gloria Gill  
Term contract: 66375  
Type: Indefinite quantity  
Not-to-exceed amount: \$3,000,000

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

Modification	Start date	End date	Amount	Other changes
Original contract	11/01/06	10/31/09	\$3,000,000	
1	01/01/08	12/31/08		Price Increase
2	04/01/09	10/31/10		Price Increase & Revised/Add Conditions
3	11/01/09	10/31/10		Extension

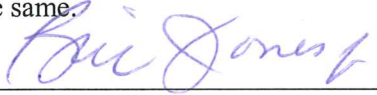
This modification 3 changes the contract as follows:

It extends the contract from November 1, 2009 through October 31, 2010.

*The City reserves the right to delete any items from the contract with 30-day advance written notification to contractor.*

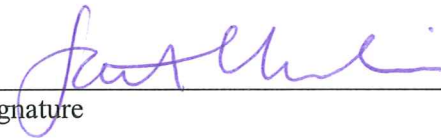
All other terms and conditions remain the same.

Approved by the City:

  
\_\_\_\_\_  
Naomi Kelly, Director of OCA and Purchaser

9-14-09  
Date

Approved by Contractor:

  
\_\_\_\_\_  
Signature

9-21-09  
Date

Name and title

James Molica, Regional Bulk Sales Manager

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

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

# CONTRACT MODIFICATION NO. 2

Indefinite Quantity

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

Date April 1, 2009

Contract Proposal No. **66375**

Estimated Amount: Indefinite

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

## Price Increase/Revised Special Condition

**For furnishing and delivering SODIUM BISULFITE.**

By mutual agreement, the contract is hereby modified as follows:

1. In accordance with Special Condition Number 77, Price Escalation for Raw Material and Number 78, Price Escalation for Fuel Cost; Effective March 1, 2009. (See Attachment "A").
2. Special Condition No. 77 (Price Escalation for Raw Materials): The U.S. Bureau of Labor Statistics Producer Price Index for Caustic Soda, ID #pcu3251813281813, (Preliminary Data Only) has been replaced with the revised index for Caustic Soda of #pcu3251813251814 (Preliminary Data Only).

All other terms and conditions remain the same.

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

MS  
mg

*Bill Shivers* 4-7-09  
As the duly appointed Purchaser of the Date  
City and County of San Francisco

**RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:**

Contractor Basic Chemical Solutions, LLC

By *Stephen Molica* Director of Mini-Bulk Sales, Western Region  
Signature Title

Print Name: Stephen Molica

Date April 7, 2009

Attachment "A"  
 Contract Modification No. 1  
 Contract No. 68375  
 Basic Chemical Solutions, LLC  
 April 1, 2009

Item No.	Product/Description	Price Per Dry Ton Active SO <sub>2</sub>	New Price Per Dry Ton Active SO <sub>2</sub>
1.	<u>Sodium Bisulfite</u> F.O.B. Destination, various water pollution control facilities and water supply & treatment facilities, freight prepaid and allowed.	<u>\$756.53</u> Per Dry Ton Active SO <sub>2</sub>	<u>\$1,036.16</u> Per Dry Ton Active SO <sub>2</sub>
1a.	<u>Emergency Surcharge</u> Delivery within twenty-four (24) hours	NO AWARD Per Dry ton Active SO <sub>2</sub>	

Item No.	Product/Description	Price Per Gallon	New Price Per Gallon
2.	<u>Sodium Bisulfite</u> F.O.B. Destination Treasure Island, 1001 Avenue M freight prepaid and allowed.	<u>\$1.55</u> Per Gallon SO <sub>2</sub>	<u>\$2.13</u> Per Gallon SO <sub>2</sub>
2a.	<u>Emergency Surcharge</u> - Delivery within twenty-four (24) hours of phone order.	NO AWARD Per Gallon SO <sub>2</sub>	
3.	<u>Sodium Bisulfite</u> in accordance with General Condition 69, F.O.B. Destination Sunol Valley Chloramination Facilities, adjacent to 5555 Calaveras Rd, Sunol, freight prepaid and allowed.	<u>\$1.55</u> Per Gallon SO <sub>2</sub>	<u>\$2.13</u> Per Gallon SO <sub>2</sub>
3a.	<u>Emergency Surcharge</u> - Delivery within twenty-four (24) hours of phone order.	NO AWARD Per Gallon SO <sub>2</sub>	

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

# CONTRACT MODIFICATION NO. 1

Indefinite Quantity

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

Date February 11, 2008

Contract Proposal No. 66375

Estimated Amount: Indefinite

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

## PRICE INCREASE

For furnishing and delivering **SODIUM BISULFITE**.

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

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

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

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

- 96. Food Service Waste Reduction Requirements

All other terms and conditions remain the same.

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

MS

*[Handwritten Signature]*

2-22-08

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

Date

**RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:**

Contractor BASIC CHEMICAL SOLUTIONS, LLC

By *[Handwritten Signature]* Bid/Contracts  
Signature Title

Print Name: Mary Rose Gamber

Received February 29, 2008  
T re - Feb. 29. -2008-10:52AM - No. 7075

Attachment "A"  
 Contract Modification No. 1  
 Contract No. 66375  
 Basic Chemical Solutions, LLC  
 February 11, 2008

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

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

The following conditions have been modified to read as follows:

**25. LBE Utilization: Liquidated Damages**

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

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**b. Compliance and Enforcement.**

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

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

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

**40. LBE Ordinance**

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

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

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

Click on 14B (LBE) Requirements & Forms.

Click on appropriate LBE Certification Application.

**43. LBE Subcontracting**

**A. Subcontracting to LBEs**

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

**B. Examples of Good Faith Efforts**

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

- (1) Identifying and selecting specific products or services which can be subcontracted to certified LBEs.

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- (2) Providing written notice to potential LBE subcontractors that Bidder will be bidding on this Contract and will be seeking subcontractors.
- (3) Advertising in one or more daily or weekly newspapers, trade association publications, trade oriented publications, trade journals, or other media specified by the City, for LBEs that are interested in participating in the project.
- (4) Following up on initial notices the Contractor sent to LBEs by contacting the LBEs to determine whether they were interested in performing specific parts of the project.
- (5) Providing interested LBEs with information about the scope of work.
- (6) Negotiating in good faith with the LBEs, and not unjustifiably rejecting as unsatisfactory proposals prepared by any LBEs, as determined by the City.
- (7) Where applicable, advising and making efforts to assist interested LBEs in obtaining insurance required by the City and the prime contractor.
- (8) Making efforts to obtain LBE participation that the City could reasonably expect would produce a level of participation sufficient to meet the City's goals and requirements.

**C. Examples of Subcontracting**

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

- (1) the products or services which the vendor in turn sells to the City, or components of those products; (see Page 1 of the bid sheet);
- (2) packing containers and materials used to ship the City's order;
- (3) services of the carrier who delivers the City's orders;
- (4) Pro rata share of LBE spending which is part of the vendor's general and administrative expenses, if the vendor can show that the pro rata share can be reasonably allocated to this contract.

**D. Reports**

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

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**E. HRC Data on LBEs**

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

**64. Protection of Private Information**

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

The following condition has been added to Contract 66375.

**96. Food Service Waste Reduction Requirements**

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