

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

Water Dispensing System

U.S Pure Water Corp.
Michael Davis
20 Galli Drive, Suite E
Novato, CA 94949
E-mail:mdwater@uspurewater.com

Date: 12-20-10
Buyer Name: Pamela Olivier
Term contract: 88200
City Blanket No. BPSF 00003328
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	01-01-07	12-31-09	\$1,000,000	
1	No Change	No Change		added additional new items & Added Food Service Waste Reduction Requirement
2	No Change	No Change		added additional new items
3	No Change	No Change		added additional new items
4	01-01-10	12-31-10		Contract extension
5	01-01-11	12-31-11		Contract extension Updated contract conditions

This modification 5 changes the contract as follows:

- It extends the contract from January 1, 2011 to December 31, 2011.
- Update Language in Section 24 "Non-Discrimination" & Section No. 58 "First Source Hiring Program." (See Attachment "A")

All other terms and conditions remain the same.

Approved by the City:

Naomi Kelly, Director of OCA and Purchaser

12/20/2010
Date

Approved by Contractor:

Signature

12/20/2010
Date

Name and title

Michael Davis / President

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

P-280 (11/20/09)

Attachment "A"
Contract No. 88200
Contract Modification No. 5
Water Dispensing System
December 15, 2010

Bid and Contract Conditions No. 24. Nondiscrimination; Penalties has been revised.

a. **Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. **Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) 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 Agreement.

c. **Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, 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, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

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 Commission.

e. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C 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 Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) 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 Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

Attachment "A"
Contract No. 88200
Contract Modification No. 5
Water Dispensing System
December 15, 2010

General Conditions No. 58. First Source Hiring Program has been revised.

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

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December 15, 2010

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;

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Water Dispensing System
December 15, 2010

(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.

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Water Dispensing System
December 15, 2010

(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.

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Contract Modification 4

Water Dispensing System

U.S Pure Water Corp.
Michael Davis
20 Galli Drive, Suite E
Novato, CA 94949
E-mail:mdwater@uspurewater.com

Date: 01-14-10
Buyer Name: Deirdre Darley
Term contract: \$8200
City Blanket No. BPSF 00003328
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	01-01-07	12-31-09	\$1,000,000	
1				added additional new items & term condition
2				added additional new items
3				added additional new items
4	01-01-10	12-31-10		

This modification 4 changes the contract as follows:

It extends the contract from January 1, 2010 TO December 31, 2010.

All other terms and conditions remain the same.

Approved by the City:

Naomi Kelly, Director of OCA and Purchaser
Date: 1-27-10

Approved by Contractor:

Signature
Date: 1/27/10

Name and title

Michael Davis, President US Pure Water

City and County of San Francisco
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CONTRACT MODIFICATION NO. 3

Indefinite Quantity

U.S Pure Water Corp,
20 Gall Drive, Suite E
Novato, CA 94949
Attn: Michael Davis

Date February 13, 2008

Contract Proposal No. 88200

Estimated Amount Indefinite

The City and County of San Francisco does hereby accept your offer to modify the contract 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 Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

ADD ITEMS

For furnishing and delivering **Water Dispensing System**.

In accordance with Special Condition No. 79 - Additional New Items, and Special Condition No. 72 - Price, the following items have been added to Contract No. 88200 for, Filter and Labor Charge for Purchased Systems Only. (See Attachment A).

All other prices, terms and conditions remain the same.

Acknowledge receipt and acceptance of this Contract Modification in the space below. Return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco, CA, 94102-4685. **DUPLICATE COPY IS FOR YOUR FILES.**

Ben Jones 2-20-08
Date the duly appointed Purchaser Date
of the City and County of San Francisco

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor U.S. Pure Water Corp.
By *Michael Davis* President
Signature Title
Date 2/21/08

Attachment "A"
Contract 88200
Contract Modification No. 3
Water Dispensing System
February 13, 2008

Additional Items: Filters and Labor Charge

Item 10

Filters for items 5 & 6 only. (Purchased Systems) Both filters are required

F1645 - 10" Inline Sed 90 ¼ \$11.95/ea

F1642 - 10" Inline Gac 90 ¼ \$14.95/ea

Item 11

Labor Charge for Items 5 & 6 only. (Purchased Systems)

\$75.00 Per individual location

\$20.00 Additional per cooler if multiple coolers at the same location

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



CONTRACT MODIFICATION NO. 2

Indefinite Quantity

U.S Pure Water Corp.
20 Galli Drive, Suite E
Novato, CA 94949
Attn: Michael Davis

Date October 25, 2007

Contract Proposal No 88200

Estimated Amount Indefinite

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

ADD ITEMS

For furnishing and delivering **Water Dispensing System**.

In accordance with Special Condition No. 79 - Additional New Items, and Special Condition No. 72 - Price, the following items have been added to Contract No. 88200 for, New Additional Purchase Items Short Counter Top rental and lease. (See Attachment A).

All other prices, terms and conditions remain the same.

Acknowledge receipt and acceptance of this Contract Modification in the space below. Return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco, CA, 94102-4685. DUPLICATE COPY IS FOR YOUR FILES

Ben Jones 10-26-07
As the duly appointed Purchaser Date
of the City and County of San Francisco

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor U.S. Pure Water Corp.
By Michael Davis President
Signature Title
Date 10/26/07

Additional Items: Short Counter Top

Item 8

Alvalanche Short Counter Top

Rental per month
\$ 38.00

Item 9

Alvalanche Short Counter Top

Purchase \$475.00/ea

Dimension 330W x 368D x 419Hmm

Dimension 13.0"W x 14.5" D x16.5" H

Warranty: Dispenser (two years)

on sealed refrigeration system

Warranty: Dispenser (18 months)

All other components

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



CONTRACT MODIFICATION NO. 1

Indefinite Quantity

U.S Pure Water Corp.
20 Galli Drive, Suite E
Novato, CA 94949
Attn: Michael Davis

Date September 4, 2007
Contract Proposal No. 88200
Estimated Amount Indefinite

The City and County of San Francisco does hereby accept your offer to modify the contract 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 Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

ADD ITEMS

For furnishing and delivering **Water Dispensing System**.

In accordance with Special Condition No. 79 -- Additional New Items, and Special Condition No. 72 -- Price, the following items have been added to Contract No. 88200 for Additional Items Standing Dispenser (See Attachment A); for New items Counter Top Dispenser, (See Attachment B); and for New Additional Purchase Items (See Attachment C).

The following Conditions have been added to Contract 88200 (See Attachment D)

All other prices, terms and conditions remain the same.

Acknowledge receipt and acceptance of this Contract Modification in the space below. Return to Purchaser, 1 Dr. Carlton B Goodlett Place, Room 430, San Francisco, CA, 94102-4685. DUPLICATE COPY IS FOR YOUR FILES.

Bill Jensen 9-7-07
As the duly appointed Purchaser Date
of the City and County of San Francisco

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contract of US Pure Water Corp.
By *Michael Davis* President
Date 9/10/07

Additional Items: Standing Dispenser

	<u>Quantity</u>	<u>Quantity</u>	<u>Quantity</u>
Item 1			
Hot / Cold Dispenser (Without Additional Treatment) City and County of San Francisco Will Install Units: Standard Color: Almond Additional \$2.00 per month For Black or Grey Dimensions: 41 "H x 12 "D x 12" W	0-10 Dispenser Rental per month <u>\$ 18.00</u>	11-20 Dispenser Rental per month <u>\$ 18.00</u>	Over 21 Dispenser Rental per month <u>\$ 18.00</u>
Item 1 A			
Hot / Cold Dispenser (Without Additional Treatment) Vendor Will Install Units Standard Color: Almond Additional \$2.00 per month For Black or Grey Dimensions: 41 "H x 12 "D x 12" W	0-10 Dispenser Rental per month <u>\$ 21.00</u>	11-20 Dispenser Rental per month <u>\$ 20.00</u>	Over 21 Dispenser Rental per month <u>\$ 19.00</u>
Item 2			
Hot /Cold Dispenser (Meets NSF/ANSI Standard 42 Effects) City and County of San Francisco Will Install Units Standard Color: Almond Additional \$2.00 per month For Black or Grey Dimensions: 41 "H x 12 "D x 12" W	0-10 Dispenser Rental per month <u>\$ 28.00</u>	11-20 Dispenser Rental per month <u>\$ 28.00</u>	Over 21 Dispenser Rental per month <u>\$ 28.00</u>
Item 2 A			
Hot /Cold Dispenser (Meets NSF/ANSI Standard 42 Effects) Vendor Will Install Units: Standard Color: Almond Additional \$2.00 per month For Black or Grey Dimensions: 41 "H x 12 "D x 12" W	0-10 Dispenser Rental per month <u>\$ 31.00</u>	11-20 Dispenser Rental per month <u>\$ 30.00</u>	Over 21 Dispenser Rental per month <u>\$ 29.00</u>

New Items: Counter Top Dispenser

	<u>Quantity</u>	<u>Quantity</u>	<u>Quantity</u>
Item 3			
Hot / Cold Dispenser (Without Additional Treatment) City and County of San Francisco Will Install Units: Standard Color Almond Additional \$1.00 per month For Grey Dimensions: 13 "W x 15 "D x 19.5" H	0-10 Dispenser Rental per month <u>\$ 21.00</u>	11-20 Dispenser Rental per month <u>\$ 21.00</u>	Over 21 Dispenser Rental per month <u>\$ 21.00</u>
Item 3 A			
Hot / Cold Dispenser (Without Additional Treatment) Vendor Will Install Units Standard Color: Almond Additional \$1.00 per month For Grey Dimensions: 13 "W x 15 "D x 19.5" H	0-10 Dispenser Rental per month <u>\$ 24.00</u>	11-20 Dispenser Rental per month <u>\$ 23.00</u>	Over 21 Dispenser Rental per month <u>\$ 22.00</u>
Item 4			
Hot /Cold Dispenser (Meets NSF/ANSI Standard 42 Effects) City and County of San Francisco Will Install Units Standard Color: Almond Additional \$1.00 per month For Grey Dimensions: 13 "W x 15 "D x 19.5" H	0-10 Dispenser Rental per month <u>\$ 31.00</u>	11-20 Dispenser Rental per month <u>\$ 31.00</u>	Over 21 Dispenser Rental per month <u>\$ 31.00</u>
Item 4A			
Hot /Cold Dispenser (Meets NSF/ANSI Standard 42 Effects) Vendor Will Install Units: Standard Color: Almond Additional \$1.00 per month For Grey Dimensions: 13 "W x 15 "D x 19.5" H	0-10 Dispenser Rental per month <u>\$ 34.00</u>	11-20 Dispenser Rental per month <u>\$ 34.00</u>	Over 21 Dispenser Rental per month <u>\$ 32.00</u>

New Additional Purchase Items

Item 5

Purchase Counter Top Dispensers: \$395.00/ea

Dimension 13"W x 15" D x 19.5" H

Warranty: Dispenser (one year)

Compressor (three years)

Standard Color: Almond

Grey Color: Additional \$20.00 \$ 415.00/ea

Installation \$ 100.00

Item 6

Purchase Standing Dispensers: \$360.00/ea

Dimension 41"T x 12" W x 12 D

Warranty: Five Years

Standard Color: White

Black or Grey Color: Additional \$20.00 \$ 380.00/ea

Installation \$ 100.00

Item 7

Leak Prevention Device:: \$45.00/ea

(Purchase or leased item)

85. 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.