

(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.

General Condition 52 has been revised and is hereby replaced in its entirety to read as follows:

52. 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.

General Condition 54 has been revised and is hereby replaced in its entirety to read as follows:

54. 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 section 12Q.5.1 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. 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 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.

General Condition 57 has been revised and is hereby replaced in its entirety to read as follows:

57. Prohibition on Political Activity with City Funds. 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.

General Condition 61 has been revised and is hereby replaced in its entirety to read as follows:

61. 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.

JANITORIAL AND RECYCLING SERVICES, CANDLESTICK PARK

For the Term Aug 1, 2011 through July 31, 2012

| Line Item Number | Estimated Number of Events | Estimated Annual Attendance | Description of Req. Cleaning Duties | Cleaning Cost/Event (2.63% increase over Mod 5 rate) | Recycling (2.63% increase over Mod 5 rate) | Total Extended Cleaning Cost |
|------------------|----------------------------|-----------------------------|-------------------------------------|--|--|------------------------------|
| 1 | 1 | 5 - 10,000 | N/A | \$18,709.32 | \$1,673.49 | \$ 20,382.81 |
| 2 | 1 | 10 - 15,000 | N/A | \$19,466.62 | \$1,827.88 | \$ 21,294.50 |
| 3 | 1 | 15 - 20,000 | N/A | \$21,806.13 | \$2,135.54 | \$ 23,941.66 |
| 4 | 1 | 20 - 30,000 | N/A | \$23,956.32 | \$2,626.88 | \$ 26,583.19 |
| 5 | 1 | 30 - 40,000 | N/A | \$27,293.16 | \$2,937.92 | \$ 30,231.08 |
| 6 | 2 | 40 - 60,000 | N/A | \$31,279.12 | \$3,632.10 | \$ 69,822.43 |
| 7 | 10 | 60 - 70,000 | N/A | \$33,341.41 | \$3,925.10 | \$ 372,665.08 |

Total Cleaning Cost for Line Items 1-7

\$ 564,920.75

| Line Items | Estimated Number of Events | Estimated Annual Attendance | Description of Req. Cleaning | Cleaning Cost/Event (2.64% increase over Mod 5 rate) | Total Extended Cleaning Cost |
|------------|----------------------------|-----------------------------|---|--|------------------------------|
| 8 | 12 | N/A | Complete cleaning of all Luxury Boxes, Luxury Concourses and Luxury Box Restrooms | \$ 7,868.23 | \$ 94,418.75 |
| 9 | 2 | N/A | Shampoo Carpets Press Box Floors | \$ 995.08 | \$ 1,990.17 |
| 10 | 4 | N/A | Shampoo all Luxury Carpets | \$ 1,913.52 | \$ 7,654.10 |
| 11 | 12 | N/A | Clean and maintain Gate Areas | \$ 1,476.28 | \$ 17,715.38 |
| 12 | 12 | N/A | Clean and maintain all areas outside main Stadium Area, excluding main parking area, for pre and post Events (continued below) | \$ 846.33 | \$ 10,155.90 |

Contract 83717: Contact Modification No. 12
 Costless Maintenance Services Co., Inc.
 Janitorial and Recycling Services for Candlestick Park
 Jan 8, 2013

| Line Items | Estimated Number of Events | Estimated Annual Attendance | Description of Req. Cleaning | Cleaning Cost/Event (2.64% increase over Mod 5 rate) | Total Extended Cleaning Cost |
|-------------------|----------------------------------|-----------------------------------|---|---|---------------------------------|
| | | | TOTAL CLEANING COST FOR LINE ITEMS 8 TO 12 | | \$ 131,934.29 |
| | | | COMBINED TOTAL CLEANING COST OF ITEM 1 TO 12 | | \$ 696,855.05 |
| Flat Rate: | | | | | |
| | | | RATE FOR JANITORIAL SERVICES FOR EMERGENCY AND OTHER SERVICES (PER HOUR) (2.64% increase over Mod 5 rate) | | \$ 28.07 |
| | | | For call of 2 hours or less, 2 hours charge emergency rate | | |
| | | | For call of more than 2 hours, charge for actual hours work | | |
| | | | RATE FOR WASTE DIVERSION (Segregate the recyclable, compostable, and landfill trash) (PER HOUR) (2.64% increase over Mod 5 rate) | | \$ 28.07 |

Rate Increase - Prevailing Wage
 Effective August 1, 2011 through July 31, 2012

| Personnel Classification | Old Rate Effective 8/1/2010 | New Rate Effective 8/1/11 | Total Hours Season | Total Amount Increase |
|--|-----------------------------------|---------------------------------|--------------------------|-----------------------|
| Regular -permanent | 18.25 | 18.65 | 2500 | \$ 1,000.00 |
| Regular- (Progression Increase) | 16.38 | 16.735 | 4200 | \$ 1,491.00 |
| Supplemental - (Progression Increase) | 16.38 | 16.735 | 3190 | \$ 1,132.45 |
| Supplemental - (Progression Increase) | 14.5 | 14.81 | 9370 | \$ 2,904.70 |
| Supplemental- returning | 12.63 | 12.895 | 17461 | \$ 4,627.16 |
| Supplemental - New hires | 12.63 | 12.895 | 4750 | \$ 1,258.75 |
| Total amount of increase | | | | <u>\$ 12,414.07</u> |
| Payroll Tax | 18.5% | | | 2,296.60 |
| Workers' Comp/ Gen. Liab/Auto Ins.+ | 28.5% | | | 3,538.01 |
| Health & Welfare | \$1,085.67 | \$1,157.00 | | 71.33 |
| Total amount | | | | <u>\$ 18,320.01</u> |
| Current Contract amended per Mod 5 Increase based on labor cost | | | | \$ 679,011.28 |
| New Total | | | | <u>\$ 697,331.29</u> |
| Percent Increase | | | | 2.63% |