

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

Alum and Ferric Chlorite Sludge Removal and Disposal Services

S & S Trucking
 Steve Navarro
 477 Roland Way
 Oakland, CA 94521
 Email: stevenavarro1213@aol.com

Date: 08-13-14
 Buyer Name: Carolyn Sladnick
 Term contract: 68393
 City Blanket No. BPSF00003811
 Type: Indefinite quantity
 Not-to-exceed amount: **\$1,500,000**

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

Modification	Start date	End date	Amount	Other changes
Original contract	10-01-11	09-30-14	\$1,500,000	
1	10-01-14	09-30-15		1) One year contract extension 2) Update contract conditions

This modification 1 changes the contract as follows:

- 1) Extends the contract from October 01, 2014 through September 30, 2015
- 2) Updates contract conditions (See Attachment A)

All other terms and conditions remain the same.

Approved by the City:

for Jaci Fong, Director and Purchaser

9/11/14
 Date

Approved by Contractor:

Signature

9-15-14
 Date

Name and title

Frank Sanchez J.P.

- 1) Bid and Contract Condition, **Electronic Payment**, is hereby deleted in its entirety and replaced with:

Getting paid for goods and/or services from the City:

1. Beginning January 2012, all City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through Paymode-X, the City's third party service that provides Automated Clearing House (ACH) payments.
2. Electronic payments are processed every business day and are safe and secure.
3. To sign up for electronic payments, visit www.sfgov.org/ach.
4. The following information is required to sign up:
 - a. The enroller must be their company's authorized financial representative.
 - b. The company's legal name, main telephone number and all physical and remittance addresses used by the company
 - c. The company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor)
 - d. The company's bank account information, including routing and account numbers

If you have questions, please email: ACH.Support@sfgov.org

- 2) Bid and Contract Condition **17d, Nondiscrimination; Penalties –Condition of Contract**, is hereby deleted in its entirety and replaced with:

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

- 3) Bid and Contract Condition **18B, Local Business Enterprise Utilization; Liquidated Damages – Compliance and Enforcement**, is hereby deleted in its entirety and replaced with:

B. Compliance and Enforcement

(1) **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 Contract Monitoring Division (CMD) or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") 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 CMD 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 CMD 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 CMD or the Controller upon request.

(2) **Subcontracting Goals.** The LBE subcontracting participation goal for this contract is **10 %**. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in the CMD Progress Payment Form and the CMD Payment Affidavit. Failure to provide the CMD Progress Payment Form and the CMD Payment Affidavit with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until the CMD Payment Form and the CMD Subcontractor Payment Affidavit are provided by Contractor. Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the LBE Ordinance, for any purpose inconsistent with the provisions of the LBE Ordinance, its implementing rules and regulations, or this Section.

(3) **Subcontract Language Requirements.** Contractor shall incorporate the LBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors. Contractor shall include in all subcontracts with LBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any LBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the LBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of CMD and contract awarding authority to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction. Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of CMD or the Controller upon request.

(4) **Payment of Subcontractors.** Contractor shall pay its subcontractors within three working days after receiving payment from the City unless Contractor notifies the Director of CMD in writing within ten working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount. Contractor further agrees, within ten working days following receipt of payment from the City, to file the CMD Payment Affidavit with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code §14B.17.

- 4) Bid and Contract Condition **22, Submitting False Claims: Monetary Penalties**, has been deleted in its entirety and replaced with:

22. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

- 5) General Condition **36a, Chapter 14B requirements – Subcontracting goals**, is hereby deleted in its entirety and replaced with:

A. Subcontracting goals. The LBE subcontracting goal for this project is **10 %** of the total value of the services to be procured. Each firm responding to this solicitation shall demonstrate in its response that it has used good-faith outreach to select LBE subcontractors as set forth in S.F. Administrative Code §§14B.8 and 14B.9, and shall identify the particular LBE subcontractors solicited and selected to be used in performing the contract. For each LBE identified as a subcontractor, the response must specify the value of the participation as a percentage of the total value of the services to be procured, the type of work to be performed, and such information as may reasonably be required to determine the responsiveness of the bid. LBEs identified as subcontractors must be certified with the San Francisco Contracts Monitoring Division at the time the bid is submitted, and must be contacted by the bidder (prime contractor) prior to listing them as subcontractors in the bid. Any bid that does not meet the requirements of this paragraph will be non-responsive. In addition to demonstrating that it will achieve the level of subcontracting participation required by the contract, a bidder shall also undertake and document in its submittal the good faith efforts required by Chapter 14B.8(C)&(D) and CMD Attachment 3, Requirements for General Services Contracts. Bids which fail to comply with the material requirements of S.F. Administrative Code §§14B.8 and 14B.9, CMD Attachment 3 and this solicitation will be deemed non-responsive and will be rejected. During the term of the contract, any failure to comply with the level of LBE subcontractor participation specified in the contract shall be deemed a material breach of contract. Subcontracting goals can only be met with CMD (HRC)-certified LBEs located in San Francisco.

6) General Condition **44, Reports by Contractor**, is hereby deleted in its entirety and replaced with:

MULTI-YEAR TERM CONTRACT

Each year, no later than February 15; Contractor shall submit a soft copy report of the total services ordered, by month, under this contract during the preceding calendar year (January 1 – December 31). The report must be in a format acceptable to City and must list by department or location the following: (1) all services awarded under this contract; and (2) total quantity and dollar value of each service ordered, including services for which there were no orders. Contractor must also furnish a separate similar report for the total of all services ordered by City which are not part of this Contract, and any usage reports required prior to the extension of a Contract or Contract Modification. Emailed reports must not be larger than **10MB**.

Contractor shall email reports to:

OCAVendor.Reports@sfgov.org

Any report files larger than **10MB** must be submitted in electronic format on CD-ROM or USB drive and mailed to the address shown below with the term contract number and “Annual Vendor Reporting” clearly marked on the envelope/packaging.

Contractor shall mail the reports to:

OCA Vendor Reporting
Re: Term Contract No. 68393
City and County of San Francisco
Office of Contract Administration – Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

7) General Condition **60, Graffiti Removal**, is hereby deleted in its entirety.

8) General Condition, **Consideration of Criminal History in Hiring and Employment Decisions**, is hereby added to the contract:

Consideration of Criminal History in Hiring and Employment Decisions

A. Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T “City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions,” of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of Contractor’s obligations under Chapter 12T is set forth in this Section. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section.

Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

B. The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, and shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement.

C. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, 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.

D. Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

E. Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection 53(d), above. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

F. Contractor or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Contractor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

G. Contractor and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Contractor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

H. Contractor understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.