

## Electronic payment

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

1. All City suppliers receiving new contracts, contract renewals, contract extensions, or purchase order awards must sign up to receive electronic payments.
2. Electronic payments are processed every business day and are safe and secure.
3. To sign up for electronic payments, visit <https://sfcitypartner.sfgov.org/>
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: [sfcitypartner@sfgov.org](mailto:sfcitypartner@sfgov.org)

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## General and Special Conditions (Bid and Contract)

All General Conditions (G1 through G52) and any checked Special Conditions (S1 through S29) apply. Return this document with bid if supplying data required by any General Condition, or checked Special Condition.

### General Bid Conditions

#### G1. Bids: Receipt by Bid Due Date; Fax Bids; Use City's Bid Forms

To receive consideration, bids must be submitted before the time set for bid opening, and any bidder wishing to submit a proposal must select the "Accept Invite" button for the solicitation within the City's eProcurement system. If Special Condition 1 (S1) is checked, faxed, hand-delivered or e-mailed bids will not be accepted. Bids should be submitted on the forms provided by the City (either in hardcopy or as files uploaded via the City's eProcurement system). Bids submitted in other formats (including letterhead only), unless otherwise invited, may be rejected as non-responsive.

#### G2. Opening of Bids

Due to the ongoing COVID-19 pandemic and the City and County of San Francisco's current Stay-Safe-At-Home Order, in-person public bid opening is cancelled for this solicitation. Bidders may inspect the bids after tabulation, unless the bid has been cancelled.

#### G3. Bid Evaluation

Purchasing will attempt to evaluate the bid package within thirty (30) days after receipt of bid(s). If Purchasing requires additional evaluation time, all bidders will be notified in writing of the new expected award date.

#### G4. Prices

Prices quoted must be firm except as otherwise specified in this document. Any bid requiring receipt of order in less than 30 days after the Bid Due date may be unacceptable unless otherwise specified herein.

#### G5. Price List Discounts

When bids are based on the prices contained in a catalog or price list, bidder shall furnish copies as required herein. Contractor shall furnish additional lists as required. Bids will be considered offering discounts from a price list other than specified provided the alternate price list can be readily compared on an overall basis with the specified price list. Bidder's price list must remain firm during the term of the contract.

#### G6. Cash Discounts; Terms of Payment (Commodities and Equipment only)

Cash discount (discount for prompt payment) will be taken into consideration in determining the low bid under the following conditions:

- a. Discount period must be at least 30 days. Example: "1%, 30 days. Net 31."

b. The maximum cash payment discount that will be considered when determining the lowest bid will be 2%.

c. The discount period will start upon date of completion of delivery of all items on any Purchaser Order or other authorization certified by Controller, or upon date of receipt of properly prepared invoices covering such deliveries, whichever is later.

d. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the City's check.

Whether or not the discount is taken into consideration in determining the low bid, it will be deducted from the invoice amount in accordance with the provision of "c." and "d." above, unless otherwise provided by bidder. No additional charge shall accrue against City in the event that City does not make payment within any time specified by bidder.

#### G7. Bidding on Separate Items

Any bidder may bid separately for any item unless otherwise provided.

#### G8. Alternates

When the name of a manufacturer, brand or make, with or without model number, is used in describing any item in this document, bids for similar articles will be considered unless otherwise stated. Purchasing shall be the sole judge as to whether such alternate articles are acceptable. Unless the bidder states to the contrary, articles offered will be assumed to be the specific articles named in this document. Purchasing reserves the right to permit deviations from the specifications if any article offered is substantially in accord with the specifications and is deemed by Purchasing to be of as good quality and as fully satisfactory for its intended use as an article fully meeting specifications. Unless exceptions are noted by bidder, the article offered will be assumed to be in accord with specifications.

#### G9. Separate and Aggregate Awards; Rejection of Bids

Purchasing may make awards on separate items or in an aggregate of several or all items unless otherwise specified herein, and reserves the right to reject any and all bids.

#### G10. Place of Manufacture

No article furnished hereunder shall have been made in prison or by convict labor, except articles purchased for use by City's detention facilities.

#### G11. Samples

Articles offered as equal to "City sample" must fully conform thereto. "City samples" may be inspected at the place designated by Purchasing. Samples submitted by successful bidders may be retained for testing or check against deliveries, in which case allowance will be made to Contractor. Each sample shall be plainly marked in a durable manner with the name of the bidder; the contract proposal number; and the item number. Submitted sample will be assumed to be exactly what bidder proposes to furnish unless otherwise clearly indicated by the bidder. Sufficiency of sample will be determined by Purchasing. Sample shall not be enclosed with the bid, and the bid shall not be wrapped in package with sample.

#### G12. Electrical Products

Articles and services must comply with applicable laws, ordinances and other legal requirements, including (among others) the Cal-OSHA regulations in Title 8 of the Code of Regulations and, for electrical products, Sections 110.2 and 110.3 (B) of the S.F. Electrical Code. In addition, if an electrical item has not been tested by a lab approved by City's Department of Building Inspection (DBI) or Department of Public Works (DPW), Contractor shall notify the requesting department before delivery by writing the department at the "Deliver to" address on the front of the Purchase Order. Approved testing labs are posted on Purchasing's website at <http://www.sfgov.org/oca/>. When a non-tested item is delivered, the department will request approval from DPW. If the department is unable to obtain approval, City reserves the right to cancel the transaction and return the item to Contractor, at no charge to City.

#### G13. Condition of Articles

Articles offered and furnished must be new and previously unused, and of manufacturer's latest model, unless otherwise specified herein.

#### G14. Inspection

All articles supplied shall be subject to inspection and acceptance or rejection by Purchasing or any department official charged with such duty. Non-conforming or rejected goods may be subject to reasonable storage fees.

**G15. F.O.B. Point**

F.O.B destination in San Francisco, and other locations required by the city freight prepaid and allowed, unless otherwise specified.

**G16. Failure to Deliver**

If Contractor fails to deliver an article or service of the quality, in the manner or within the time called for by this contract, such article or service may be bought from any source by Purchasing and if a greater price than that named in the contract be paid for such article or service, the excess price will be charged to and collected from Contractor or sureties on its bond if bond has been required; or, the City may terminate the contract for default; or, the City may return deliveries already made and receive a refund.

**G17. Material Safety Data Sheets**

Where required by law, contractor will include Material Safety Data Sheets (MSDSs) with delivery for applicable items. Failure to include the MSDSs for such items will constitute a material breach of contract and may result in refusal to accept delivery.

**G18. Taxes**

City is exempt from federal taxes except on articles for resale. Contractor will enter state and local sales or use tax, and excise tax if applicable, on invoices.

**G19. LBE Ordinance**

To qualify for a bid discount on this bid under the provisions of Admin. Code Chapter 14B, an LBE must be certified by the Contract Monitoring Division (CMD) as of the Bid Due date. The certification application is available from CMD, (415) 581-2310, and at www.sfgov.org/CMD.

**G20. Claim for Bid Discount**

If you are claiming the LBE Ordinance's bid discount, check one of the following:

\_\_\_\_\_ CMD has issued us Certification No. \_\_\_\_\_.

\_\_\_\_\_ We submitted LBE Certification Application with documentation to CMD on \_\_\_\_\_.

**G21. Bid Preference for Brokerage Services**

Pursuant to Section 14B.7 of the Admin. Code, a bid preference will only be awarded to an LBE directly responsible for providing materials, equipment, supplies or services to the City as required by the bid solicitation. An LBE will be deemed to be directly responsible for providing the required commodity or service only if it regularly does business as a manufacturer, or authorized manufacturer's representative, stocking distributor, franchisee, licensee, service provider, or has another direct agency relationship with the manufacturer or provider of the solicited commodity or service, and has been so certified by CMD. An LBE will be considered to be "regularly doing business," as that term is used in the foregoing paragraph, if in the normal course of business, it stocks, warehouses or distributes commodities to businesses or entities other than public entities having a local business preference program. Such a determination will be subject to audit by CMD. No preference will be given to an LBE engaging in brokerage, referral or temporary employment services not meeting this definition, unless those services are required and specifically requested by the department.

**G22.** Within ten (10) working days after tentative notification of award, vendor's not meeting all City's requirements including, without limitation to Business Tax, Compliance Affidavit (CMD Form3), information concerning CMD's documented approval of vendor's compliance with Chapter 12B on nondiscrimination in contracts and benefits, may cause Bidder's bid to be non-responsive. Purchaser reserves the right to reject the bid.

**G23. Additional Purchases**

In the future, the City may wish to purchase additional quantities of the same items stated in this solicitation. Please indicate below if your bid includes the option to purchase additional quantities and for how long. Agree to sell additional quantities (up to the number in this bid) at the same price, terms, and conditions.

Yes  No

If yes, for how long? \_\_\_\_\_ Calendar date or number of days.

**G24. Bid Instructions**

- a. Do not include sales or excise taxes in bid prices.

- b. Bid adjustment for sales tax in accordance with Administrative Code Chapter 21.32, for bid evaluation purposes purchasing will reduce your bid based on any sales tax revenue the City would receive from the purchase.
- c. All attached documents are incorporated into this invitation to bid.
- d. Upon receipt of authorized purchase order, purchase order release or contract acceptance, the bidder agrees to furnish all articles or service.

**General Contract Conditions****G25. Budget and Fiscal Provisions**

This contract is subject to the budget and fiscal provisions of City's Charter. Charges will accrue only after prior written authorization certified by City's Controller and amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This section shall control against any and all other provisions of this contract.

**G26. Guaranteed Maximum Costs**

- a. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.
- b. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.
- c. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.
- d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

**G27. 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. 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.

**G28. Hold Harmless and Indemnification**

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of contractor or loss of or damage to property, arising directly or indirectly from contractor's performance of this contract, including, but not limited to, contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this contract, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations

are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this contract.

### **G29. Liability of City**

CITY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED UNDER THIS CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

**G30. Termination and Termination for Convenience.** In the event Contractor fails to perform any of its obligations under this contract, in addition to any other remedies available to City, this contract may be terminated and all of Contractor's rights hereunder ended. Termination will be effective after ten days' written notice to Contractor. No new work will be undertaken, and no new deliveries will be made, after the date of receipt of any notice of termination, or five days after the date of the notice, whichever is earlier. In the event of such termination, Contractor will be paid for those services performed, or deliveries made, under this contract to the satisfaction of the City, up to the date of termination. However, City may offset from any such amounts due Contractor any liquidated damages or other costs City has or will incur due to Contractor's nonperformance. Any such offset by City will not constitute a waiver of any other remedies City may have against Contractor for financial injury or otherwise. City may terminate this Contract for City's convenience and without cause at any time by giving Contractor thirty days' written notice of such termination. In the event of such termination, Contractor will be paid for those services performed, or deliveries made, pursuant to this contract, to the satisfaction of the City up to the date of termination. In no event will City be liable for costs incurred by Contractor after receipt of a notice of termination. Such non-recoverable costs include, but are not limited to, anticipated profits on this contract, post-termination employee salaries, post-termination administrative expenses, or any other cost which is not reasonable or authorized under this section. This section shall not prevent Contractor from recovering costs necessarily incurred in discontinuing further work, or canceling further deliveries, under the contract after receipt of the termination notice.

### **G31. Proprietary or Confidential Information of City**

Contractor understands and agrees that, in the performance of the work or services under this Contract or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Contract. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

### **G32. Consideration of Criminal History in Hiring 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 [www.sfgov.org/olse/fco](http://www.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, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

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 17(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.

### **G33. Local Business Enterprise 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.

**b. 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 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.

#### **G34. Nondiscrimination; Penalties**

**a. Contractor Shall Not Discriminate.** In the performance of this contract, Contractor agrees not to discriminate on the basis of the fact or perception of a person’s race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Contractor, in any of Contractor’s operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

**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 S.F. Administrative Code 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 contract.

**c. Nondiscrimination in Benefits.** Contractor does not as of the date of this contract and will not during the term of this contract, 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 S.F. Administrative Code.

**d. Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the S.F. Administrative Code are incorporated in this Section by reference and made a part of this contract as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this contract 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) of the S.F. 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 contract may be assessed against Contractor and/or deducted from any payments due Contractor.

#### **G35. MacBride Principles--Northern Ireland**

The City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

#### **G36. Tropical Hardwoods**

The City urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the S.F. Environment Code is incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Environment Code Secs. 802(b) and 803(b), Contractor shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood product, virgin redwood or virgin redwood

product. Failure of Contractor to comply with any part of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

#### **G37. Resource Conservation**

Contractor agrees to comply fully with the San Francisco Environment Code, Chapter 5 (“Resource Conservation”), as amended from time to time. Said provisions are incorporated herein by reference and made a part of this contract as though fully set forth. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

#### **G38. Drug-Free Workplace Policy**

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents, or assigns will be deemed a material breach of this Contract.

#### **G39. Compliance with Americans with Disabilities Act**

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Contract in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Contract.

#### **G40. Sunshine Ordinance**

In accordance with §67.24(e) of the S.F. Admin. Code, contracts, contractors’ bids, responses to RFPs and all other records of communications between City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

#### **G41. Limitations on Contributions**

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 or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer of the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until the later of either (1) the termination of negotiations for such contract or (2) three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

#### **G42. Minimum Compensation Ordinance (“MCO”) – Service Contracts Only**

**a.** Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Contractor’s obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

**b.** The MCO requires Contractor to pay Contractor’s employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor’s obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

**c.** Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights

under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, 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, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. 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 MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

**G43. Health Care Accountability Ordinance (HCAO) – Service contracts including agreements between a Tenant or Subtenant lasting 1 year or more only**

Chapter 12Q of the S.F. Admin. Code is incorporated herein by reference, and Contractor agrees to comply with the HCAO in performing this contract. The text of the HCAO is available on the Living Wage/Living Health Division website at [www.sfgov.org/olse](http://www.sfgov.org/olse). The following is a general description of Contractor's responsibilities for providing health coverage to covered employees. See Chapter 12Q for specific requirements, exemptions, other obligations, etc.

a. For covered employees who live in San Francisco, or who provide covered services in San Francisco or at the S.F. Airport or at the San Bruno Jail, Contractor must do one of the following: (1) Offer health plan benefits that meet minimum standards set by the City; (2) Pay the City \$1.50 for each hour a covered employee works on this contract, not to exceed \$60 per week; (3) Participate in a health benefits program developed by the City.

b. For covered employees who do not live in San Francisco and who provide covered services outside of San Francisco, not at the S.F. Airport, and not at the San Bruno Jail, Contractor must do either of the following: (1) Offer health plan benefits that meet minimum standards set by the City; (2) Pay the covered employee \$1.50 for each hour a covered employee works on this contract, not to exceed \$60 per week.

**G44. First Source Hiring Program [if contract is greater than \$50,000]**

a. **Incorporation of Administrative Code 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 Contract as though fully set forth herein. Capitalized terms used in this Section shall have the meanings assigned to such terms in Chapter 83.

**b. First Source Hiring Agreement.**

(1) Contractor will comply with First Source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the exclusive opportunity to initially provide Qualified Economically Disadvantaged Individuals for consideration for employment for Entry Level Positions. The duration of the First Source interviewing requirement shall be ten (10) days, unless business necessity requires a shorter period of time;

(2) Contractor will comply with requirements for providing timely, appropriate 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;

(3) Contractor agrees to use good faith efforts to comply with the First Source hiring requirements. A Contractor may establish its good faith efforts by filling: i) its first available Entry Level Position with a job applicant referred through the First Source Program; and ii) 50% of its subsequent available Entry Level Positions with job applicants referred through the San Francisco Workforce Development System. Failure to meet this target, while not imputing bad faith, may result in a review of the Contractor's employment records.

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 ("FSHA") may grant an exception to any of 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.** 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.

**G45. 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.

**G46. Preservative-Treated Wood Containing Arsenic**

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this contract unless an exemption from the requirements of Chapter 21G is obtained from the Department of Environment under Section 21G.5 of the Administrative Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

**G47. Use of City Opinion**

Contractor shall not quote, paraphrase, or otherwise refer to or use any opinion of City, its officers or agents, regarding Contractor or Contractor's performance under this contract without prior written permission of Purchasing.

**G48. Contract Interpretation; Choice of Law/Venue; Assignment**

Should any questions arise as to the meaning and intent of the contract, the matter shall be referred to Purchasing, who shall decide the true meaning and intent of the contract. This contract shall be deemed to be made in, and shall be construed in accordance with the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this contract shall be in San Francisco. This contract may be assigned only with the written approval of Purchasing.

**G49. Services Provided by Attorneys**

Any services to be provided by a law firm or attorney must be reviewed and

approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

**G50. Nondisclosure of Private Information**

Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

(a) Neither Contractor nor any of its Subcontractors shall disclose Private Information obtained from the City in the performance of this Agreement to any other Subcontractor, person, or other entity, unless one of the following is true:

- (i) The disclosure is authorized by this Agreement;
- (ii) The Contractor received advance written approval from the Contracting Department to disclose the information; or
- (iii) The disclosure is required by law or judicial order.

(b) Any disclosure or use of Private Information authorized by this Agreement shall be in accordance with any conditions or restrictions stated in this Agreement. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.

(c) Private Information shall mean any information that: (1) could be used to identify an individual, including without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.

(d) Any failure of Contractor to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, debar Contractor, or bring a false claim action against Contractor.

**G51. Sugar-Sweetened Beverage Prohibition.** Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

**G52. Ban on City Contracts involving States with anti-abortion, anti-lesbian, gay, bisexual, and transgender (LGBT) laws.** Subject to certain exceptions, Proposers are hereby advised that this Contract is subject to the requirements of Administrative Code Chapter 12X, which prohibits the City from entering into a contract with a contractor that has its headquarters in a state that has enacted a law or laws that perpetuate discrimination against LGBT people and/or has enacted a law that prohibits abortion prior to the viability of the fetus, or a contractor that will perform any or all of the work on the contract in such a state. Chapter 12X requires the City Administrator to maintain a list of such states, defined as "Covered States" under Administrative Code Sections 12X.2 and 12X.12. The list of Covered States is available on the website of the City Administrator (<https://sfgsa.org/chapter-12x-state-ban-list>). Proposers will be required to certify compliance with Chapter 12X as part of its proposal, unless the City determines that a statutory exception applies.

## Special Bid Conditions

Only checked items apply to this bid and contract.

- S1. Faxed, hand-delivered or emailed bids are not acceptable.
- S2. Award will be made in the aggregate or aggregates as indicated. Bidders must bid on all lines to be responsive.
- S3. Award will be made on a line-item basis.
- S4. Alternates will be considered, but only those that meet the specifications and are a City Approved Equal.
- S5. No substitute.
- S6. Samples may be required prior to award. If bidder fails to furnish samples within 5 business days of being notified, Purchasing may reject the offer.
- S7. City sample or copy may be seen in \_\_\_\_\_.
- S8. All bidders should visit job site to determine exact nature of requirements. To inspect job site, please call \_\_\_\_\_.
- S9. Dimensions given are exact; deviations must be indicated in your bid.
- S10. Questions concerning specifications should be addressed to the buyer, in writing, no later than Friday June 19, 2020 12:00PM (PT).
- S11. Submit with bid descriptive data on items you propose to furnish if other than specified. Purchasing may reject alternates if adequate data needed to evaluate them is unavailable.
- S12. Bidders may be required to submit shop drawings and manufacturer's written specifications, prior to award. If bidder fails to do so within 5 days of request, Purchasing may reject bidder's offer.
- S13. Specially fabricated items must be made and assembled in accordance with the best practices of the trade.
- S14. \_\_\_\_\_ must bear UL, ETL, ARL or FM Label, or else department will seek waiver from Dept. of Public Works. Does item offered bear a label?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- S15. Purchasing may require any testing, inspection or documentation necessary to determine suitability of alternates offered. All such testing, inspection or documentation shall be at the bidder's expense. Failure to provide same within 30 days of notification to do so shall be considered a withdrawal of bidder's offer.
- S16. What is your warranty period? \_\_\_\_\_
- S17. If successful bidder is not the manufacturer, bidder may be requested to furnish a manufacturer's written guarantee (on manufacturer's letterhead addressed to the City) that the manufacturer's warranty and service will be passed on to the City. Failure to provide such guarantee within three (3) business days of written notification may result in rejection of the bidder's bid.
- S18. If bidder is not the manufacturer, bidder must be an authorized dealer/service facility for product offered. Upon request, bidder shall furnish a written letter (on manufacturer's letterhead)
- S19. Purchasing may, when evaluating bids, to consider factors other than bid prices. Such other factors include but are not limited to:
- a. Adequacy of bidder's service department (equipment and personnel) where warranty and other repair work would be performed.
- b. Location of bidder's service department. To minimize City's subsequent expenditure of time and money, locations within 25 road miles of San Francisco are preferred.
- S20. All material must be delivered set-up, ready for immediate use at location indicated within building, and all packing material removed.
- S21. Bidders may be required to show a similar installation that they have installed prior to award. If the bidder fails to do so within 5 business days of notification to do so, Purchasing may reject bidder's offer.
- S22. Each bidder must furnish a copy of a completed MSDS (Material Safety Data Sheet) with its bid. Failure to furnish a completed MSDS form may result in rejection of the bid.
- S23. Delivery time shall be no longer than 6 (six) weeks after receipt of order.
- S24. Insurance required; see Insurance and Endorsement Requirements.
- S25. The following is considered essential:
- San Francisco Administrative Code Section 21C.6 is applicable to this contract, and requires that prevailing wage rates be paid for workers engaged in moving services. More details can be found in the following link: <https://sfgov.org/olse/prevailing-wage-non-construction>
- Please confirm that you understand and will comply with Section 21C.6 and provide your workers performing the moving services associated with this solicitation the minimum prevailing wages detailed in the link above.
- S26. All bidders should attend Bidder's Conference on \_\_\_\_\_ at \_\_\_\_\_ located at \_\_\_\_\_
- S27. Contractor **must** contact department 72 hours prior to attempting delivery.

### Special Contract Conditions required by San Francisco Environment Code, Chapter 5 Resource Conservation Ordinance

- S28. This bid is for printing, or writing paper products or services. Contractor certifies that these paper products meet the minimum content of post-consumer materials set forth in §506(a)(1) of the Environment Code.
- S29. This bid is for printing. In the performance of the contract, Contractor agrees to use paper products meeting the standards set forth in §506(a)(2) of the Environment Code, and unless excepted by written permission of City, to print on both sides of the paper.

For more information, call the buyer whose name appears on the first page of this bid package.