



CONTRACT PROPOSAL (Indefinite Quantity)

Office of Contract Administration

Purchasing Division

City and County of San Francisco

City Hall, Room 430

1 Dr. Carlton B. Goodlett Place

San Francisco, CA 94102-4685

SIGN AND RETURN THIS PAGE

88404

**Disposable Food
Containers, Utensils &
Service Items**

Bids will be opened in:

City Hall, Room 430, at **2:00 PM, June 1, 2012 (Friday)**

Sign the bid; put it in the envelope, and write the Contract Proposal Number on the outside. Sign and return this page. Return other pages as indicated. Do not include sales or excise taxes in bid prices.

Upon receipt of a Contract Acceptance, the undersigned hereby agrees to furnish all articles or services within the dates specified, in the manner and at the prices stated, in accordance with the advertisement, specifications, proposal, and bid and contract conditions, all of which are made part of the contract proposal, and together, with the executed Contract Acceptance constitute the Contract between the City and the undersigned when authorized by a Purchase Order, City Blanket Purchase Order, or City Blanket Purchase Order Release certified by the Controller. In the event of any conflict between the contractual documents mentioned above, the order of precedence for resolving such conflict shall be: (1) Contract Acceptance; (2) City Blanket Purchase Order; (3) Purchase Order; (4) City Blanket Purchase Order Release.

Name under which business is conducted: _____

If you are in the City's vendor file, enter your vendor number: _____

If you are not in the City's vendor file, enter the following:

Mailing address: _____

City, State, ZIP: _____

Telephone: _____

E-mail address: _____

Print name: _____

Sign here: _____

Pre-bid Conference

A Pre-Bid Conference will be held on May 18, 2012 (Friday), 10:00 AM
at New Laguna Honda Hospital, Meeting Room B104 in the "Old" Building,
375 Laguna Honda Blvd., San Francisco 94116

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

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

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

Terms Related To Bidding

1. When Bids Are Due; Bid Opening Procedures

Bids must be delivered before time set for bid opening. Bids will be opened by Purchasing at the hour and place stated on the first page of this bid in the presence of bidders who attend, and bid prices will be read upon request as time permits. Bidders may inspect the bids after award.

2. 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 bidder states to the contrary, articles offered will be assumed to be the specific articles named in this document. If not offering the specific article named, bidder should enclose with its bid full information, specifications and descriptive data on items offered. Purchasing reserves the right to permit deviations from the specifications if any article offered is substantially in accord with Purchasing's specifications and is deemed by Purchasing to be of as good quality and as fully satisfactory for its intended use, Bidder is responsible for identifying any deviations from Purchasing's specifications.

3. Articles Furnished

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

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

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.

4. Place of Manufacture

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

5. Condition of Article

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

6. Samples

Articles offered as equal to "City sample" must fully conform thereto; "City samples" may be inspected at the place designated by Purchasing. Samples must be furnished as required in this document. Those submitted by successful bidders may be retained for testing or checked 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 deemed to be exactly what bidder proposes to furnish unless otherwise clearly indicated by the bidder in writing with the submittal of the sample. Sufficiency of sample will be determined by Purchasing. Do not enclose sample with bid, and do not wrap bid in package with sample.

7. FOB Point

F.O.B. destination in San Francisco, freight prepaid and allowed.

8. Price List Discounts

When bids are based on prices from a catalog or price list, bidder shall furnish copies of the catalog or price list as required herein. Contractor shall furnish additional lists as required. Bids will be considered for price lists offered 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 discounts must remain firm during the term of the contract.

9. Bidding in the Aggregate

Bidders must bid on all items.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

10. Prices

Prices quoted must be fixed except as otherwise specified in this document. Any bid requiring receipt of order in less than 60 days will be unacceptable unless otherwise specified herein.

11. Awards; Rejection of Bids

Purchasing may make awards on one, some or all items in a bid. Purchasing reserves the right to reject any and all bids.

12. 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:

- Discount period must be at least 30 days. Example: "1%, 30 days. Net 31."
- The maximum cash payment discount that will be considered when determining the lowest bid will be 2%.
- The discount period will start upon date of completion or delivery of all items on any Purchase Order or other authorization certified by Controller, or upon date of receipt of properly prepared invoices covering such deliveries, whichever is later.
- 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 provisions 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.

13. Sunshine Ordinance

In accordance with Sec. 67.24(e) of the San Francisco Administrative 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.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

Terms Related to the Contract

14. Inspection

All articles supplied shall be subject to inspection and rejection by Purchasing or any department official responsible for inspection.

15. 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; the venue for all claims arising out of this contract shall be in San Francisco. This contract may be assigned only with the written approval of Purchasing.

16. 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, the use of Contractor's 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 attorney's fees, court costs and all other litigation expenses for any infringement of patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequences 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.

17. 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

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

if a greater price than the contract price be paid, the excess price will be charged to and collected from Contractor or sureties on its bond if bond has been required.

18. 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 the Controller, and the 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 Contract will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Contract will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Contract in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Contract.

19. Default; Remedies

On and after any event of default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Contract or to seek specific performance of all or any part of this Contract. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any event of default. Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Contract or any other contract between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such event of default and any liquidated damages due from Contractor pursuant to the terms of this Contract or any other contract. All remedies provided for in this Contract may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

20. Termination for Convenience

City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City.

21. Guaranteed Maximum Costs

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. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. 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.

22. Taxes

Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Contract, or the services delivered pursuant hereto, shall be the obligation of Contractor. Contractor recognizes and understands that this Contract may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Contract entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

- a. Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.
- b. Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extensions, renewal, or assignment of this Contract may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest by this Contract. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.
- c. Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

- d. Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

23. 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.

24. Nondiscrimination; Penalties

- 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.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

- 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.

25. 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. **Compliance and Enforcement. Enforcement.** If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

26. 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.

27. Tropical Hardwood and Virgin Redwood Ban

The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products: (a) Chapter 8 of the 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 Sections 802(B), 803(B), and 804(B) of the Environment Code, Contractor shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c) Failure of Contractor to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

28. Resource Conservation

Contractor agrees to comply fully with the provisions of Chapter 5 of the San Francisco Environment Code (“Resource Conservation”), as amended from time to time. Said provisions are incorporated herein by reference.

29. 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.municode.com/Library/clientCodePage.aspx?clientID=4201>. 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.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

30. Liability of City

CITY'S PAYMENT OBLIGATIONS UNDER THIS CONTRACT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR UNDER THIS CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, 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 CONTRACT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS CONTRACT.

31. 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.

32. 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 Contract 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.

33. Compliance with Laws

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Contract, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

34. Bid Protests

Bid protests for purchases of Commodities in excess of \$50,000 shall be submitted and responded to in accordance with Rules and Regulations 21.3(i) pertaining to the San Francisco Administrative Code, Chapter 21.

35. 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

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

BID AND CONTRACT CONDITIONS

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.

END OF BID AND CONTRACT CONDITIONS

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

These terms and conditions supplement the City's Bid and Contract Conditions. In the event of a conflict between these conditions and the preceding Bid and Contract Conditions, these conditions take precedence.

36. Contract Term

The contract period shall be for thirty-six (36) months. The term of this contract is the period from award execution date, approximately July 1, 2012, or the above stated term date whichever is later, through the last day of the month of a thirty-six (36) consecutive month period.

37. Contract Extension

This contract may be extended, all or in part, for a period or periods up to one year by mutual agreement in writing. The maximum contract period shall not be more than 5 years.

38. Toll-Free Telephone Number

A contractor located outside of San Francisco is encouraged to provide free telephone services for placing orders. This requirement can be met by providing a toll-free telephone number or accepting collect calls. The free service will be a consideration in evaluating this bid.

39. Cooperative Agreement

Contractor agrees _____ or does not agree _____ (make a selection by an "X" mark) that during the term of this agreement and any authorized extension, the Director of Purchasing may allow other public agencies or non-profits made up of multiple public agencies to utilize this agreement to obtain some or all of the services and/or commodities to be provided by Contractor under the same terms and conditions as the City, pursuant to a Board of Supervisor Resolution.

40. Not used

41. LBE Ordinance

To qualify for a bid discount under the provisions of Admin. Code Chapter 14B, an LBE must be certified by the Human Rights Commission by the Bid Due date. The certification application is available from HRC (415) 252-2500, and on the web. HRC's home page is:

www.sf-hrc.org

Click on the "LBE Certification" tab.

42. Claim for Preference

To claim preference under the LBE Ordinance, see Bid Questionnaire attached.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

43. LBE bid discount; Brokerage services

Pursuant to Section 14B.7 of the Administrative Code, a bid discount will only be awarded to an LBE directly responsible for providing materials, equipment, supplies or services to 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, dealer or distributor, 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 HRC. 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 HRC. 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.

44. LBE Subcontracting.

- a. **Subcontracting to LBEs.** Bidder is encouraged to make good faith efforts to award subcontracts to City and County of San Francisco-certified LBEs. This can be achieved through subcontracting, sub-consulting or supply opportunities. With the bid, the bidder is encouraged to provide a description of the type of good faith efforts the bidder estimates it may make under the contract.
- b. **Examples of Good Faith Efforts.** "Good Faith Efforts" include but are not limited to the following:
 - (1) Identifying and selecting specific products or services which can be subcontracted to certified LBEs.
 - (2) Providing written notice to potential LBE subcontractors that Bidder will be bidding on this Contract and will be seeking subcontractors.
 - (3) Advertising in one or more daily or weekly newspapers, trade association publications, trade oriented publications, trade journals, or other media specified by the City, for LBEs that are interested in participating in the project.
 - (4) Following up on initial notices the Contractor sent to LBEs by contacting the LBEs to determine whether they were interested in performing specific parts of the project.
 - (5) Providing interested LBEs with information about the scope of work.
 - (6) Negotiating in good faith with the LBEs, and not unjustifiably rejecting as unsatisfactory proposals prepared by any LBEs, as determined by the City.
 - (7) Where applicable, advising and making efforts to assist interested LBEs in obtaining

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

- insurance required by the City and the prime contractor.
- (8) Making efforts to obtain LBE participation that the City could reasonably expect would produce a level of participation sufficient to meet the City's goals and requirements.
- c. **Examples of Subcontracting.** The following are examples of products which could be subcontracted under this Contract. The list is not intended to be exhaustive:
- (1) the products or services which the vendor in turn sells to the City, or components of those products; (see Page 1 of the bid sheet);
 - (2) packing containers and materials used to ship the City's order;
 - (3) services of the carrier who delivers the City's orders;
 - (4) Pro rata share of LBE spending which is part of the vendor's general and administrative expenses, if the vendor can show that the pro rata share can be reasonably allocated to this contract.
- d. **Reports.** On a quarterly (January 1 – March 31, April 1 – June 30, July 1 – September 30, October 1 – December 31) basis, the Contractor will provide Purchasing with reports on LBE subcontracting under this Contract. The report must include a narrative description of the good faith efforts, if any, the Contractor has made during the quarter to provide subcontracting opportunities to LBEs and to meet the percentage goal.
- e. **HRC Data on LBEs.** Contractor will obtain from HRC a copy of HRC's database of LBEs, and this or other information from HRC, shall be the basis for determining whether a LBE is confirmed with HRC. Contractor will obtain an updated copy of HRC's database at least **quarterly**. Please call HRC at (415) 252-2500.

45. Audit and Inspection of Records

Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

46. Conflict of Interest

Through its execution of this Contract, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Contract.

47. Non-Waiver of Rights

The omission by either party at anytime to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall in any way affect the right of the party to enforce such provisions thereafter.

48. Contractor's Default

If Contractor fails to fulfill its obligations under this contract proposal, whether or not said obligations are specified in this section, Purchasing reserves the right to: (a) terminate this contract at no cost to the City; (b) take action in accordance with Sections 17 and 19, or (c) exercise any other legal or equitable remedy.

49. Bankruptcy

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party this contract shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

50. Incidental and Consequential Damages

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights which City may have under applicable law.

51. Reports by Contractor – Multi-Year Term Contract

a. Annual Usage Report for Contract Administration

Each year, ninety days before each anniversary date of this contract, Contractor must furnish a report of the total items ordered under this contract during the preceding twelve months. The report must be in a format acceptable to the City and must list by department or location the following: (1) all items awarded under this contract; and, (2) total quantity and dollar value of each item ordered, including items for which there were no orders. Contractor must also furnish a separate similar report for the total of all items ordered by City which are not part of this contract.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

Contractor shall send the reports to:

John Danaher, Purchaser
Re: Term Contract No. **88404**
Office of Contract Administration,
Purchasing Division
San Francisco General Hospital, Room GP1
1001 Potrero Avenue
San Francisco, CA 94110
john.danaher@sfdph.org

b. Quarterly Sales Reports for Department of Environment

Sales Reports required by this section are in addition to Reports required by contractor in General Condition 51-a (above).

- i. On a quarterly basis, the Vendor shall provide to the Office of Contract Administration reports for the duration of this contract. *Cumulative reports shall be provided each subsequent quarter*, with a final report provided yearly. Reports will be due and expected 15 days after each quarterly period. Deadlines for these reports are:

April 15 (for January 1 – March 31 quarter)
July 15 (for April 1 – June 30 quarter)
October 15 (for July 1- September 30 quarter)
January 15 (for October 1 – December 31 quarter)

- ii. These reports shall list the following for each purchase (See attached template):

- 1) Invoice Date
- 2) Item price, quantity ordered and extended price
- 3) Name of Departmental Purchaser (or buyer) and e-mail or phone number
- 4) City department location
- 5) Product manufacturer, part number and product name

- iii. The reports shall be submitted in the electronic format prescribed by the City. A copy of the reporting template is included in this solicitation for your review, and contains all of the required fields for the sales report. The required M/S Excel® reporting format to be provided to the vendor by the City shall be completed in its entirety and returned to the City, without changing the format, at the end of each reporting period. Vendors must also report all items ordered by City departments and offices, whether or not they are explicitly part of this contract.

- iv. **NOTE:** Failure to submit reports in a timely fashion, or the submission of inaccurate or incomplete reports, may be considered grounds for suspension of price increases and/or withholding payment for items received, and may result in the application of the vendor's Default Clause (General Condition 48) of this contract.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

Vendor shall e-mail the reports to:

Pamela Olivier, OCA Senior Purchaser
Re: Term Contract No. **88404**
Pamela.Olivier@sfgov.org
(415) 554-6264

52. Notice to Parties

All notices to be given by the parties hereto shall be in writing, and served by depositing same in the United States Post Office, postage paid and registered as follows:

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

53. Subcontracting

Contractor is prohibited from subcontracting the direct supply of commodities under this contract unless such subcontracting is agreed to in writing by Purchasing. No party on the basis of this contract shall in any way contract on behalf of or in the name of the other party of this contract, and violation of this provision shall confer no rights on any party and any action taken shall be void.

54. Independent Contractor

Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Contract. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Contract shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Contract referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Contract.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

55. Severability

Should the application of any provision of this Contract to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Contract shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

56. Emergency - Priority 1 Service

In case of an emergency that affects any part of the San Francisco Bay Area, Contractor will give the City and County of San Francisco Priority 1 service. Contractor will make every good faith effort in attempting to deliver products using all modes of transportation available. Contractor shall provide a 24-hour emergency telephone number of a company representative who is able to receive and process orders for immediate delivery or will call in the event of an emergency. In addition, the Contractor shall charge fair and competitive prices for items and services ordered during an emergency and not covered under the awarded contract.

57. Not used

58. Term Bid – Quantities

This is a term, indefinite quantities contract. Unless otherwise specified herein, deliveries will be required in quantities and at times as ordered during the period of the contract. Estimated quantities are approximate only. City, in its sole discretion, may purchase any greater or lesser quantity. Purchasing may make minor purchases of items requested in City's advertisement for bids or contractor's bid from other vendors when Purchasing determines, in its sole discretion, that the City has an immediate need for such items or that it is not practical to purchase against this contract.

59. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Agreement

As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

- (1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs may be certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.
- (2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.
- (3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English 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.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

- (5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.
- (6) Set the term of the requirements.
- (7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.
- (8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.
- (9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. Hiring Decisions

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. Exceptions

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. Liquidated Damages

Contractor agrees:

- (1) To be liable to the City for liquidated damages as provided in this section;
- (2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;
- (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

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

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

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

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.

60. Earned Income Credit (EIC) Forms

Administrative Code section 120 requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide the Earned Income Credit (EIC) Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which the applicable Contract or Contract Amendment becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in question); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of the Contract. Failure to comply with the foregoing requirement shall constitute a material breach by Contractor of the terms of the Contract. If within 30 days after the Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Contractor fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under the terms of the Contract or under applicable law.

61. 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.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

62. 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.

63. Preservative-Treated Wood Containing Arsenic

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the 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.

64. Not used

65. Protection of Private Information

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

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

GENERAL CONDITIONS

66. Graffiti Removal

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this contract shall constitute a default of this Contract.

67. Modification of Agreement

This Agreement 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 Agreement.

END OF GENERAL CONDITIONS

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

68. Purpose

The purpose of this contract is to provide **Disposable Food Containers, Utensils, Condiment Kits and Other Disposable Food Handling Items** for the City and County of San Francisco Department of Public Health's Laguna Honda Hospital (LHH) and other DPH units and City departments as required.

All items are disposable or "single use" product items. This category includes molded food dishes, closable "to-go" containers, hot and cold beverage cups and eating utensils made of polystyrene petroleum-based plastic, paper, plastic coated paper, wood or aluminum.

All contract items listed on the bid sheets are considered "compostable" in that they are acceptable for San Francisco's municipal composting program. In addition to the standard paper plates, cups, napkins and coated parchment paper sheet items listed on the bid sheet, bid items made from compostable compounds such as clear Polylactic Acid (PLA), potato starch, sugarcane bagasse or PLA lined paper will also be included.

69. Pre-Bid Conference

A Pre-bid Conference will be held as follows:

Location: **Laguna Honda Hospital**
 Meeting Room B104 (located in the "Old" LHH Building)
 375 Laguna Honda Blvd.
 San Francisco, CA 94116

Date and Time: **May 18, 2012 at 10:00 AM**

Though not mandatory, attendance at the conference is strongly urged for all prospective bidders on this contract. The workings of the computerized bid sheets will be explained, which will reconcile bidders' different package quantities for bid items.

It is requested that bidder's questions concerning this Contract Proposal be submitted by mail or FAX at least 72 hours prior to the date and time of the Pre-bid Conference and directed to:

John Danaher, Purchaser
City and County of San Francisco
Office of Contract Administration
Purchasing Division
San Francisco General Hospital, Room GP1
1001 Potrero Avenue, San Francisco, CA 94110
Fax No. (415) 206-6956
E-mail: John.Danaher@sfdph.org
Please reference Contract Proposal No. **88404**.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

The Pre-bid Conference will begin at the time specified, and company representatives are urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Failure to attend the Pre-bid Conference shall not excuse the successful bidder from any obligations of the contract. Written Change Notice will execute any change or addition to the requirements contained in this Contract Proposal, as a result of the Pre-bid Conference. It is the responsibility of the bidder to check for any change notice, which will be posted on the City's [Bid and Contracts](http://mission.sfgov.org/OCABidPublication) website:

<http://mission.sfgov.org/OCABidPublication>

70. Definitions

The City seeks to have consistency in the bid responses for the proposed contract for the “compostable” Food Containers, Utensils and Service Items. Toward that objective, the following definitions are intended to establish a common understanding of the terminology used in the discussion of Recyclable and Compostable Products, particularly those products that are to be included in this contract.

American Society for Testing and Materials (ASTM): ASTM is an international voluntary standards organization that develops and produces technical standards for materials, products, systems and services.

Bagasse (sometimes spelled *bagass*): The biomass after sugarcane stalks are crushed to extract their juice. A sugar factory produces nearly 30% of bagasse out of the total mass of the raw sugarcane crushed. Many research efforts have attempted to use bagasse as a renewable feedstock for power generation and for the production of bio-based materials.

Composting: A managed process that controls the biological decomposition of biodegradable materials into a humus-like substance called compost. The aerobic and mesophilic and thermophilic degradation of organic matter to make compost; the transformation of biologically decomposable materials through a controlled process of bio-oxidation that proceeds through mesophilic and thermophilic phases and results in the production of carbon dioxide, water, minerals and stabilized organic matter (compost or humus).

Compostable: All the materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility that serves San Francisco residents, businesses and City departments. All plastic products claiming to be compostable must be certified compostable by the Biodegradable Products Institute (BPI), Din Certco AIB Vinçotte Inter (Belgium), Japan Bioplastics Association or Australian Environmental Labeling Association proving that the finished product meets ASTM D6400, ASTM D6868, ISO 17088, DIN EN 13432, or AS 4736-2006 standards of compostability. All compostable plastics must meet ASTM standards D6400 and D6868 for compostability.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

Environmentally Preferable Products (EPP): The least environmentally damaging products and services at any given time that are commercially available at a reasonably competitive price and that meet acceptable performance standards. Related terms include “environmentally appropriate,” “environmentally sensitive” and “environmentally sound.”

Genetically Modified Organism (GMO): An organism whose genetic material has been altered using techniques in genetics generally known as recombinant DNA technology. Recombinant DNA technology is the ability to combine DNA molecules from different sources into the one molecule in a test tube. Thus, the abilities or the phenotype of the organism, or the proteins it produces, can be altered through the modification of its genes.

Polylactic acid or Polylactide (PLA): A biodegradable, thermoplastic, aliphatic polyester obtained from lactic acid. Derived from the fermentation of agricultural by-products such as cornstarch or other starch-rich substances like maize, sugar or wheat, PLA is particularly attractive as a sustainable alternative to petrochemical-derived products. Packaging made from PLA is biodegradable and reverts in less than 60 days in ideal conditions, namely in commercial composting installations.

Polystyrene: A type of polymer made from the monomer styrene, a liquid hydrocarbon that is commercially manufactured from petroleum. At room temperature, polystyrene is normally a solid thermoplastic, but can be melted at higher temperature for molding or extrusion, then re-solidified. When molten, it can be expanded to a solid foam form (EPS) through a gaseous blowing agent. EPS is commonly used in disposable food containers such as coffee cups, plates, fast food containers and egg cartons. EPS is commonly called “Styrofoam®” (a registered trademark of Dow Chemical).

Recycling: The process of collecting waste materials such as glass, rubber, steel, fine paper, aluminum and newspapers and manufacturing them into new products.

Recyclable: Material that can be sorted, cleansed, and reconstituted using San Francisco’s available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

Recycled content: Also called “Post-consumer content.” Defined as finished material normally disposed of as solid waste, having reached its intended end-use and completed its life cycle as a consumer item, that is included in the production of new products. When indicating a level of recycled content in products, any reference to recycled content should exclude “in-house” or recovered materials that are routinely reprocessed on the premises as part of the manufacturing process and would never have been sent for disposal.

Targeted Product Category: A broad category of products routinely purchased by the City and County of San Francisco designated as having undesirable environmental health impacts for which alternative products should be identified and substituted.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

71. Specifications

Recognizing its role as a major purchaser of goods and services, the City and County of San Francisco seeks to enhance and drive markets for environmentally preferable products. The City's Environmentally Preferable Purchasing (EPP) Program includes adoption of innovative product standards, specifications and contracts, employee education and cooperative ventures with other governmental jurisdictions. This program is mandated by the "Precautionary Purchasing Ordinance" (Environment Code, Chapter 2) passed by the San Francisco Board of Supervisors on June 17, 2005. The Board has made further refinements to this ordinance relative to the use of disposable food packaging in the "Food Service Waste Reduction Ordinance" approved on November 29, 2006, which prohibits the use and purchase of polystyrene foam food service ware and requires the purchase of products that are accepted in San Francisco' recycling and composting program. General information on this ordinance can be found in the below listed URL:

<http://www.sfgov2.org/index.aspx?page=886>

Non-recyclable, non-compostable disposable food service items are listed as a Tier 1 Targeted Product Category, indicating that such items are of high concern under the City's Precautionary Purchasing Ordinance.

Below are the minimum requirements for products purchased under this contract:

- a. Wherever possible, City departments should purchase products that are made of paper, aluminum foil, bagasse or wood as these products are easily distinguishable from other products as compostable or recyclable. The products on the bid sheet reflect these priorities. When City departments must purchase plastic items: Wherever possible, they should be compostable plastics and other products that may be plastic-like in appearance (such as cutlery) and must be certified as compostable by the Biodegradable Products Institute (BPI), Din Certco AIB Vinçotte Inter (Belgium), Japan Bioplastics Association or Australian Environmental Labeling Association, proving that the finished product meets ASTM D6400, ASTM D6868, ISO 17088, DIN EN 13432, or AS 4736-2006 standards of compostability.
- b. Compostable plastic items must not contain additives that include highly hazardous chemicals, including but not limited to: persistent, bioaccumulative, and toxic (PBT) chemicals; very persistent and very bioaccumulative (vPvB) chemicals; carcinogens; mutagens; reproductive toxins.
- c. Compostable plastic products must not contain polyvinyl chloride (PVC), polystyrene (PS), acrylonitrile butadiene styrene (ABS), polycarbonate (PC), or polyurethane (PU).
- d. No chlorine or chlorine compounds may have been used in the manufacture of compostable plastic products.
- e. Compostable plastic products must be clearly labeled as "compostable," with green lettering or green stripe, and readily distinguishable from any non-compostable plastic products for both users as well as for those handling the products once they are discarded.
- f. For items intended for "hot use," products must not melt, deform or break apart when in contact with hot food or liquids. For those items intended for "hot use" (Bid items 23-25 and

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

30–31), bidder must provide exact temperature tolerances. Please provide with bid submittal separate data sheets or brochures that state this information.

- g. If unable to bid on exact size, bidder may state nearest comparable size. Use the “Brand, P/N & Package Qty.” space on the bid sheet to input the nearest comparable package size data for your company’s offer.
- h. If the compostable product has a shelf life, the expiration date needs to be clearly printed on the packaging or shipping box.
- i. Plastics which are considered “biodegradable” only, “oxy-degradable” or “degradable” and are not third-party certified as compostable or not clearly labeled as compostable will not be considered for this bid.
- j. Bidders will be required to provide samples of bid items offered for evaluation upon request by Purchasing, SF Environment and LHH Food and Nutrition Services. All products offered by bidders must meet generally accepted quality standards for use by commercial and institutional food service facilities.

72. City Department’s Responsibilities

- a. The Environmentally Preferred Purchasing (EPP) Principle promulgated by the City & County of San Francisco is intended to reinforce City policy relating to its goals of protecting the environment and maintaining the high standards of operation of the City’s recycling and composting programs. City user departments are not allowed to purchase or use disposable Styrofoam food serving packages. Departments should be aware of penalties to contractors for violations of the aforementioned “Food Service Waste Reduction Ordinance” (see Special Condition 71—Specifications) as denoted in Subsection 1605(c) of the Environmental Code for the City and County of San Francisco.
- b. Department(s) shall designate a representative to interface, monitor and document Contractor’s performance and furnish Purchaser copies of records, correspondence and all other documentation relevant to Contractor’s performance.
- c. Department(s) shall inspect material received from Contractor immediately upon delivery and reject or return damaged or incorrect material for replacement or credit.
- d. Department(s) shall establish quality control measures as applicable to the Department’s operation and report, through documentation, to Purchaser and Contractor any defective products.
- e. Department(s) shall provide Purchasing with documentation of unsatisfactory performance of the contract vendor and receive authorization from Purchasing prior to placing orders with another vendor. Department(s) experiencing unsatisfactory performance from the contract vendor may recommend to Purchasing remedies and/or alternative measures for implementation. Department(s) shall evaluate vendor’s performance on a quarterly basis and provide documentation of same to Purchasing.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

- f. Department(s) shall verify Contractor's invoices and ensure that payment terms reflect any applicable cash discount for payment within 30 days when stated in the contract.
- g. Department(s) shall show any applicable cash discount for payment within 30 days on all ordering and payment documents issued for purchases under the contract, otherwise Purchasing and Controller will return such documents unapproved.

73. Bidder/Contractor's Qualifications and Requirements

- a. In order to receive consideration, Bidder/Contractor must have in-depth technical knowledge of and marketing experience in the products covered by the contract. A minimum of five (5) years experience in supplying large institution cafeteria customers (hospitals, schools, correctional facilities, ... etc.) is recommended. Contractor must have and maintain throughout the contract term, and any extensions thereof, adequate stocking levels (7 to 10 days inventory) on all products and articles required by the SFDPH Food and Nutrition Services unit at Laguna Honda Hospital. Failure to maintain adequate stock may result in the Purchaser invoking the Contractor's Default clause (General Condition No. 48) of the contract.
- b. Contractor will be responsible for providing technical support and assistance to the City through Contractor's own personnel, equipment and facilities as well as through manufacturer's technical representatives. As part of this technical support and assistance, the Contractor must provide personnel with in-depth technical knowledge of the products the Contractor is providing under this contract, to answer questions and offer any assistance required by City personnel, during City business hours (8:00 AM – 5:00 PM).
- c. Contractor must maintain stock as specified in other sections of this contract and adequate facilities to allow for immediate pick-up of "will-call" orders placed by the SFDPH Food and Nutrition Services units at Laguna Honda Hospital and other City user departments.
- d. Contractor must have a storage warehouse, distribution facility, parking area and will-call counter located within the San Francisco for pick-ups by SFDPH Food and Nutrition Services personnel at Laguna Honda Hospital and other City user departments.
- e. Contractor's warehouse facility shall comply with Title III of the Americans with Disabilities Act Regulations (including Title 3 Accessibility Guidelines), and Title 24, State of California Building Code (California Accessibility Regulations) regarding handicapped persons' accessibility.
- f. The City may require Contractor to provide within seven (7) working business days from the date they are requested to do so, information and documentation requested by Purchaser, including but not limited to: sources of supply, distribution, dealership or agency agreements and authorizations from manufacturer's they claim to represent, lines of credit with financial institutions from manufacturer's they claim to represent, lines of credit with financial

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

institutions and suppliers, numbers of employees, trade references and any other information to determine the Contractor's fitness to supply the contract requirements.

- g. The City reserves the right to reject any bid on which information submitted by Bidder fails to satisfy the City and/or Bidder is unable to supply information and documentation within the period of time requested.
- h. The City reserves the right to inspect Contractor's place of business, including Contractor's existing stock prior to award or during the contract term, to aid Purchaser in determining Contractor's ability to satisfy the terms and conditions of the contract.
- i. Contractor must maintain normal business hours of at least 8:00 AM to 5:00 PM, Monday through Friday throughout the term of the contract, and be open at all times during that period.
- j. Contractor must be capable of producing usage reports required under General Conditions No. [51-a.](#) and [51-b.](#) of this contract.

74. Delivery

- a. Delivery of complete orders is the City's optimal requirement. Backordered items should be noted on contractor's delivery receipt, with entire order delivered within three (3) business days of initial delivery. Contractor should advise LHH Food and Nutritional Services personnel of any backordered items requiring extended lead times.
- b. Price must include delivery to City departments and institutions within the City's jurisdiction, in accordance with specific instructions provided to Contractor by User Department:

(1) Laguna Honda Hospital

375 Laguna Honda Boulevard, SF, CA 94127

All deliveries must be completed before 12:00 Noon.

Loading elevator cannot be used for deliveries between 7:30 AM to 8:30 AM.

Contact: Ed Shiels, LHH Asst. Director, Nutritional Services.

(415) 682-5777

(2) San Francisco Juvenile Probation Department

375 Woodside Avenue, SF, CA 94127

Contact Bob Eggleston, Juvenile Probation Food Services Supervisor,

(415) 753-7808

75. Delivery Requirements

- a. The vendor should have delivery services available which can make shipments to City department's loading dock within three (3) working days after vendor's receipt of an order.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

- b. From time-to-time, special emergency orders will be issued by the department. The awarded vendor should endeavor to make a special effort to deliver these items within a four (4) hour time-frame whenever possible. Charges for expedited delivery are allowable only if approved in advance by authorized user department personnel.
- c. The vendor shall deliver each order individually by order number and deliver all orders to designated delivery points. Orders shall be packaged in such a way so as to secure material from breakage and pilferage. Each order shall have three (3) copies of a priced invoice/packing slip attached.
- d. In the event that the City orders non-contract items from Contractor, the City will issue separate orders based on individual quotes; therefore, invoicing for such non-contract items must be prepared and submitted separately.
- e. It is the vendor's responsibility to be familiar with the site conditions, such as dock heights, hours of operation, ...etc. at each delivery location.
- f. Contractor will be responsible for pick-up of any empty contractor-owned pallets in a timely manner.

76. Price.

- a. Bid prices are to be firm from award date to the first year anniversary date of the contract. After that date, contractor may raise or lower its prices based on the change in the relevant Producer Price Index, maintained by the Department of Labor's Bureau of Labor Statistics. If there is no Producer Price Index applicable to your product, please advise what price index would apply. Only prices that appear on City Contract Proposal Bid Sheets will be considered. No other pages with prices on attached price lists, or catalog prices, will be considered.
- b. Substitute items will be considered subject to LHH Food and Nutrition Services approval. Any substitute items offered must be clearly noted on the bid sheet. Any questions concerning suitability of bid items for substitution must be addressed in writing (e-mail is preferred) to the Purchaser no later than seven (7) calendar days prior to the Bid Due Date.
- c. Purchasing reserves the right to eliminate individual bid items prior to award if it is determined to be in the best interests of the City to do so.

77. Contract Price Adjustments

- a. Prices may be increased or decreased commencing on or after the end of the first twelve (12) month contract period and each twelve (12) month period thereafter during the contract term and for any subsequent extensions upon written approval by the Purchaser.

Disposable Food Containers, Utensils & Service Items

For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

- b. Requests for price increases must be made in writing at least 30 days prior to the anniversary date of the contract. Requests made after that time will not be considered.
- c. Such adjustment shall be equal to the percentage change (increase or decrease) of the base index indicated below, from the Bid Due date to one-year anniversary of Bid Due Date. At no time will the annual increase be more than 5%.
- d. Requests for price increases under this contract for “Disposable Food Containers, Utensils and Service Items” must be supported by the following **Producer Price Index (PPI) “Industry” Data** as published by the U.S. Department of Labor, Bureau of Labor Statistics:

Commodity Series ID: **PCU322215322215**
Group: **Non-folding sanitary food container mfg.**
Item: **Non-folding sanitary food container mfg .**
Base Data: **198506**
Website: **www.bls.gov/data/**

- e. It shall be Contractor’s responsibility to provide documentation satisfactory to the Purchaser to support any increases. Documentation shall include, but is not limited to, all applicable product indices, Contractor’s price calculation worksheets and other direct costs to substantiate Contractor’s request for price increases. Contractor will provide the suggested new prices for those designated items.
- f. Price increase request will not be granted retroactively for past years or years in which the Contractor failed to request price increase(s).
- a. **Example of Price Adjustment Calculation:**

PPI Group	Contractor’s Bid Price	Index on Bid Due Date (e.g., 6-1-09)	Index at 12 Months (e.g., 6-1-10)	Change in Index	Percent Change In Index	Adjusted Price
N-F Food	\$190.00	100.0	106.3	6.3	6.3%	\$201.97

$(\text{Index at 12 Months}) - (\text{Index on Bid Due Date}) = \text{Change in Index}$

$$106.3 - 100.0 = 6.3$$

$(\text{Change in Index}) / \text{Index on Bid due Date} = \text{Percent Change in Index}$

$$6.3/100.0 = .063 \text{ or } 6.3\%$$

$(\text{Percent Change in Index} \times \text{Contractor’s Bid Price}) + \text{Contractor’s Bid Price} = \text{Adjusted Price}$

$$(.063 \times \$190.00) + \$190.00 = \underline{\underline{\$201.97 \text{ Adjusted Price}}}$$

Subsequent rate adjustments will be administered on the anniversary date of the contract and will be equal to the percentage rate increase or decrease of the Producer Price Index (PPI) for “Non-folding sanitary food container mfg.” (see Cond. 78.d above) as developed by the US Department

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

of Labor Bureau of Labor Statistics (BLS). Refer to the BLS website address for the location of these statistics:

<http://stats.bls.gov/cpi/home.htm>

78. Bid Evaluation

Except as otherwise noted on Bid Sheets, bid prices will be evaluated for each item based on the estimated quantity times the bid price per specified unit, less applicable discount payment terms offered (see Bid and Contract Condition 12), less any applicable LBE preference (see General Conditions 41 through 43) and applicable sales tax adjustment (see Special Condition 80). Bidders must provide quotations for **all** items on the Bid Sheet.

a. Bid Prices to be Stated in “Price per Thousand”

To allow for bidders’ differing package quantities, bidders will input their company’s prices for the bid items in **Price per Thousand** (“Price/M”) on the bid sheets. The “Extended Price” totals will be computed utilizing an “**Annual Usage Conversion Multiplier**” developed by Purchasing for each bid item. This “Multiplier” is determined by multiplying the specified Package Quantity for each bid item times the annual number of packages used, then dividing this product by 1,000. The calculation for each bid item’s “Multiplier” will be displayed in small print below this factor.

b. Bids to be Inputted on Computerized Bid Sheet

A Microsoft Excel® spreadsheet emulating the Bid Sheets will be provided to bidders in order to input their “Price/M” bids. The “Extended Price” for each bid item will be automatically calculated.

The Microsoft Excel® spreadsheet file will accompany this proposal announcement and be posted on-line at the City & County of San Francisco Office of Contract Administration’s Bids and Contracts database site. Bidders can download the spreadsheet file at this site. Purchasing will not accept bids developed by any method other than the required Microsoft Excel® spreadsheet.

c. Example of Price Calculation for Annual Quantities greater than 1,000:

For bid items that have large annual quantities (i. e., quantities larger than 1,000) but small value per item (e. g., straws, coffee stir sticks, utensils, ...etc.), the “Annual Usage Conversion Multiplier” will have a value greater than 1. Bidders will be required to enter the **Price per Thousand** (“Price/M”) for those bid items. An example of a bid computation for such items is shown below:

A										B	C	D	E
Item No.	Description, Size & Package Quantity	Annual Usage (est.)	Annual Usage Conversion Multiplier	Brand, P/N & Package Qty. Offered	Pkg Qty Offered same as specified? (Y / N)	Price per Pkg Qty Offered	Price/M	Extended Price	Per Cent Recycled Content				
16	NAPKIN, WHITE, Dispenser type, minimum 10% post-consumer recycled content, 12” x 13”; 5.4M/CS	250 CS	1.350 (5,400 x 250) /1,000	“Kruger” 6700 5.4M/CS.	Y (No Sub)	\$48.34 /CS	\$8.9512 (\$48.34/5,400) x 1,000	\$12,084.12 \$8.9512 x 1,350	0%				

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

d. Example of Price Calculation for Annual Quantities Less than 1,000:

For those bid items of small annual requirements (less than 1,000 used per year), bidders will also be required to enter the Price per Thousand ("Price/M") on the bid sheets. For all such items, the "Annual Usage Conversion Multiplier" will have a value less than 1. An example of a bid computation for such items is shown below:

A										B	C	D	E
Item No.	Description, Size & Package Quantity	Annual Usage (est.)	Annual Usage Conversion Multiplier	Brand, P/N & Package Qty. Offered	Pkg Qty Offered same as specified? (Y / N)	Price per Pkg Qty Offered	Price/M	Extended Price	Per Cent Recycled Content				
57	PAN, Aluminum (Disposable)—1/2-Size, 4” Deep; 100/CS	6 CS	.6 (100 x 6) / 1,000	“Handi-Foil” 201450 100/CS	Y	\$125.57 /CS	\$1255.70 \$125.70 x 10	\$753.42 \$1,255.70 x .6	25%				

e. Example of Price Calculation for Different Package Quantities:

If Bidder's package quantity differs from that specified, Bidders must convert their price to Price per Thousand ("Price/M") on the bid sheets. For different package sizes, the bidders response to "Pkg Qty Offered same as specified? (Y / N)" the response will be "N." An example of a bid computation for Bid Item No. 44, whereby the bidder's package quantity differs from the stated specification, is shown below:

A										B	C	D	E
Item No.	Description, Size & Package Quantity	Annual Usage (est.)	Annual Usage Conversion Multiplier	Brand, P/N & Package Qty. Offered	Pkg Qty Offered same as specified? (Y / N)	Price per Pkg Qty Offered	Price/M	Extended Price	Per Cent Recycled Content				
44	COLD CUP (PLASTIC), 9 oz. size cup, Clear, “Cocktail”, compostable plastic, clearly labeled as compostable; 1M/BX	3 BX	3 1,000 x 3 BX /1,000	“Corn Cups” EPCC95, 125/PKG	N	\$12.00 /PKG	\$96.00 (\$12.00/125) x 1,000	\$288.00 \$96.00 x 3	0%				

RECAPITULATION: FOR ALL ITEMS, Bidders will enter the following information on the Microsoft Excel® spreadsheet in the spaces indicated;

- "Brand, Part No. and Package Quantity Offered"** (except for "No Sub" items),
- "Package Quantity Offered the Same as Specified?"** (Answer Yes-Y or No-N),
- "Price per Package Quantity Offered"** (your company's package price for bid item offered),
- "Price per Thousand"** (input your company's "Price/M" in designated block on spreadsheet),
- "Per Cent Recycled Content"** (enter percentage, if known).

Bidders will be responsible for the accuracy of their bid prices ("Price per Thousand") and the resulting Extended Prices. Check the "Extended Price" result on the spreadsheet to

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

determine if your "Price/M" for the particular bid item is correct. Use "Legal" sized paper (8.5" x 14") to print out your bid results.

Purchasing will attempt to evaluate this contract proposal within sixty (60) days after receipt of bids(s). If Purchasing requires additional evaluation time, all bidders will be notified in writing of the new expected award date.

79. Adjustment of Bid Price for Sales Tax

In accordance with Administrative Code Chapter 21C, for bid purposes, Purchasing will reduce your bid based on any sales tax revenue the City would receive from this purchase.

80. Award

Award will be made to the lowest responsive and responsible bidder in **a single aggregate amount for all items as shown in the Bid Sheets**. Bidders must bid on all items to be considered for award.

Purchasing may, at their discretion, eliminate individual bid listed items from consideration for award. In determining the award, Purchasing will take into consideration, but will not be limited to:

- a. Aggregate Prices (evaluated). This will consist of the aggregate total value for **all items** on the bid sheet as computed by the bidder's Microsoft Excel® spreadsheet.
- b. Satisfactory review of low bidder's qualifications.
- c. Any other factors deemed pertinent.

81. Ordering

Items to be furnished under this contract shall be ordered through a release from the appropriate Citywide Blanket Purchase Order by City departments during the effective period of the contract. All invoices for payments shall show the Citywide Blanket Purchase Order number, complete description of item, quantity and contract price.

82. Payment

- a. The City agrees to pay for all products in accordance with the prices quoted in the successful bid and subject to any applicable discount provisions contained in said bid. Payments shall be made by the City to Contractor in arrears, for **completed orders**, throughout the term of the contract.
- b. Invoices submitted by the Contractor must be in a form acceptable to Purchasing and Controller. All amounts paid by the City to the Contractor shall be subject to the audit by the City.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

83. Additional Items

- a. If, in the satisfaction of governmental interests it is necessary to purchase additional items from Contractor, additional items may be added to this contract by mutual agreement of the parties.
- b. The aggregated cost of all additional items added to the contract, during the contract term, shall not exceed twenty percent (20%) of the total estimated value (cost) of the original contract.
- c. All requests to add additional items to the contract must be submitted by City Departments in writing to the Purchasing Division. All requests must include complete specifications, estimated quantities for the remainder of the contract period and a price quotation provided by the contractor, for each service.
- d. All additional items or services added to the contract shall be approved through issuance of a contract modification.
- e. In the event the aggregated cost of the contract increases by more than 20% of the total estimated value of the original contract, or the increase totals more than \$50,000, the amount over 20% or \$50,000, shall be bid in accordance with Standard Purchasing Procedures. The resulting bid award shall be added to the contract through a contract modification (same Contractor) or the issuance of a new contract (new Contractor) and include Contractor's name and information, complete service description, delivery information and pricing information.
- f. When evaluating new products to add to this contract, Department(s) should endeavor to follow the guidelines of the "Environmentally Preferable Purchasing (EPP) Principle" noted in Special Condition 72(a), whereby the primary goal is to incorporate compostable items to food serving activities whenever possible. Food and Nutrition Services managers and staff should consider the feasibility of introducing compostable items to replace non-compostable contract items whenever these items are available on the market. New compostable food serving items can be evaluated by SF Environment specialists for their ability to meet EPP guidelines.

84. Insurance

Prior to award, the successful bidder or bidders will be required to furnish evidence of insurance as follows:

- a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

- (1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
 - (2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence, \$2,000,000 aggregate for bodily injury, property damage, contractual liability, personal injury, products and completed operations.
 - (3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:
- (1) Name as Additional Insured "the City and County of San Francisco, its Officers, Employees and Agents. "
 - (2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- c. All policies shall provide thirty (30) days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to:
- Director, Office of Contract Administration,
Purchasing Division
City and County of San Francisco
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685
- AND**
- John Danaher, Purchaser
City and County of San Francisco
Office of Contract Administration,
Purchasing Division at
San Francisco General Hospital, Room GP1
1001 Potrero Avenue
San Francisco, CA 94110
- d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

- e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
- f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
- g. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.
- h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

85. Failure to Execute Contract

Within ten (10) days of the receipt of a notice of award, the bidder to whom the contract is awarded shall deliver the specified insurance certificates to City. If the bidder fails or refuses to furnish the required insurance within ten (10) days after receiving notice from Purchasing, Purchasing may, at its option, determine that this bidder has abandoned its bid. Thereupon the tentative award of said contract to this bidder shall be canceled. The foregoing in no way limits the damages which are recoverable by City whether or not defined elsewhere in the contract documents.

86. Questions, Protests

Any questions or objections concerning the requirements in this contract proposal must be submitted in writing and received by the Office of Contract Administration- Purchasing Division no less than five (5) working days prior to the bid opening date and time. Bidders who fail to do so will waive all further rights to protest based on these specifications and conditions.

87. Bid Submittal Instructions

Bids **must** be received at Central Purchasing, City Hall, Room 430, indicated on Page 1 of the Contract Proposal. Bids transmitted by fax or any type of electronic mail will not be accepted.

Return all required documents, which include:

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

SPECIAL CONDITIONS

- Page 1 of the Contract Proposal completed and signed.
- Bid Sheets for Contract items requiring prices.
- Specifications on alternate items bid (include data sheets or brochures).
- All questionnaires and forms including completed and signed, bid addendum or change notice receipts, if applicable.
- Bidders shall mail bid in an envelope clearly marked with the bid number and due date (lower left corner).

Bids must be made on the enclosed bid sheets.

To receive full consideration, your bid should be unqualified and unconditional.

FOR MORE INFORMATION, call or e-mail:

John Danaher, Purchaser
San Francisco General Hospital
(415) 206-3139
John.Danaher@sfdph.org

END OF SPECIAL CONDITIONS

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

Exhibit 1: Quarterly Sales Report Form, per Special Condition 51-b. MS/Excel Spreadsheet for report to be provided to awarded vendor.

IF PRODUCT SOLD WAS NOT LISTED
AS SF APPROVED in COLUMN O or P,
FILL THESE COLUMNS:

VENDORS:															FILL THESE COLUMNS:				
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
Vendor	City of SF Contract No. (report all sales to any city dept., if sale is off-contract, write "off-contract")	DATE OF INVOICE	Invoice No.	Purchase Order No.	Qty	Item price	Extended Price Including Discount (excluding tax)	% Discount	Customer First Name	Customer Last Name	City Dept. (use dropdown)	Customer e-mail	Customer Phone	SF REQUIRED PRODUCTS (click dropdowns below)	SF LIMITED USE PRODUCTS (click dropdowns below)	MANUFACTURER	MFGR PRODUCT NUMBER	PROD NAME	Recyclable, Compostable, OR Styrofoam?

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

Required Information of All Bidders

Bid Questionnaire

1. Are you bidding as specified? YES ____ NO ____
2. Are you bidding as a Manufacturer or as a Distributor? MFR ____ DIST ____
3. Do you have a direct order entry system or other type of system that can facilitate ordering? e.g. fax. If Yes, specify type. ____ YES ____ NO ____
4. Are you able to comply with the delivery requirements per Special Condition 75? YES ____ NO ____
5. Are you claiming LBE preference on this bid per provisions Of Chapter 14B? If YES, see General Condition 41 and check appropriate category below: YES ____ NO ____
____ We are currently certified. HRC has issued us Certification No. ____.
____ We submitted LBE Certification Application to the HRC on ____.
(date)
6. Have you submitted with your bid all the required documents? (See Special Condition 87). YES ____ NO ____
 - a. Page 1 of the Contract Proposal YES ____ NO ____
 - b. Bid Sheets for Items being bid on only YES ____ NO ____
 - k. Specifications on alternate items bid (include data sheets or brochures). YES ____ NO ____
 - d. All questionnaires and forms YES ____ NO ____
 - e. Envelope clearly marked with the bid number and due date in the lower left corner YES ____ NO ____

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

Required Information of All Bidders

COMPANY INFORMATION

Name of Firm: _____

Address: _____

Phone No.: _____ Fax: _____

E-mail address: _____

Toll Free Phone No.: _____

Contact: _____

Title: _____

Signature

Date

Federal I.D. Number: _____

Payment Terms: _____

Person preparing bid: _____

Local Representative: _____

(if other than bid preparer)

Address: _____

Phone: _____

Fax: _____

Where is your warehouse or store's facility from which you intend to furnish contract items?

Address: _____

What are the telephone and fax number for placing orders?

Telephone () _____

Toll Free () _____

Fax () _____

What hours do you provide for Will-Call orders?

_____ (AM/PM) to _____ (PM)

If address for Will-Call is different than above, please specify:

Address: _____

What is your 24-hour emergency telephone number, per General Condition 56?

Telephone () _____

Disposable Food Containers, Utensils & Service Items
For the Term July 1, 2012 through June 30, 2015

Required Information of All Bidders

References

All bidders, including current Contractor, must provide references of a least three organizations of the approximate size and volume of comparable business now being serviced by bidder.

- | | | | |
|----|-----------------------------------|---------|-----------|
| 1. | Name of Company | Contact | Phone No. |
| | _____ | _____ | _____ |
| | Address | | |
| | _____ | | |
| | _____ | | |
| | Number of Years Providing Service | _____ | |
| 2. | Name of Company | Contact | Phone No. |
| | _____ | _____ | _____ |
| | Address | | |
| | _____ | | |
| | _____ | | |
| | Number of Years Providing Service | _____ | |
| 3. | Name of Company | Contact | Phone No. |
| | _____ | _____ | _____ |
| | Address | | |
| | _____ | | |
| | _____ | | |
| | Number of Years Providing Service | _____ | |

Successful bidder may be required to submit a letter of reference from each reference listed within five days of notification. Failure to do so may result in rejection of bid.

Standard Bid Forms

Before the City can award any contract to a vendor, that vendor must file three standard City forms. See the chart on page 2. Because many vendors have already completed these forms, and because some informational forms are rarely revised, the City has not included them in the bid package. Instead, this document describes the forms, where to find them on the Internet (see bottom of page 2), and where to file them. If a vendor cannot get the documents off the Internet, the vendor should call 415.554.6248 or e-mail to Purchasing (purchasing@sfgov.org) and Purchasing can fax, mail or e-mail them to vendor.

If vendor has already filled out items on the chart, the vendor should not do so again unless the vendor's answers have changed. To find out which of those forms have been submitted, the vendor should call Vendor File Support at (415) 554-6702.

If a vendor would like to apply to be certified as a local business enterprise, it must submit item 4. To find out about item 4 and certification, the vendor should call Human Rights Commission (HRC) at (415) 252-2500.

Where the forms are on the Internet

Office of Contract Administration	Homepage:	http://www.sfgov.org/oca Click on "Purchasing"
	Purchasing forms:	Under the "Information for vendors and contractors" banner, click on "Required vendor forms."
Human Rights Commission	Homepage:	http://www.sf-hrc.org
	LBE forms:	On the "Local Business Enterprise" pull-down menu near the top of the page, click on "LBE contracting attachments and forms."
	Nondiscrim. Forms:	On the "Equal Benefits" pull-down menu near the top of the page, click on "Important forms and documents."

Item	Form name and Internet location	Form number	Description	Return the form to; For more information
1	Request for Taxpayer Identification Number and Certification http://www.sfgov.org/site/oca	W-9	The City needs the vendor's taxpayer ID number on this form. If a vendor has already done business with the City, this form is not necessary.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102 (415) 554-6702
2	Business Tax Declaration http://www.sfgov.org/site/oca	P-25	All vendors must sign this form to determine if they must register with the Tax Collector, even if not located in San Francisco. All businesses that qualify as "conducting business in San Francisco" must register with the Tax Collector.	Return form to: Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102 For more information Tax Collector: (415) 554-6718
3	S.F. Administrative Code Chapters 12B and 12C Declaration: Nondiscrimination in Contracts and Benefits http://www.sf-hrc.org	HRC-12B-101	Vendors tell the City if their personnel policies meet the City's requirements for nondiscrimination against protected classes of people, and in the provision of benefits between employees with spouses and employees with domestic partners. Form submission is not complete if it does not include the additional documentation asked for on the form. Other forms may be required depending on the vendor's answers on this form.	Human Rights Comm. 25 Van Ness, Suite 800 San Francisco, CA 94102 (415) 252-2500
4	Small-Micro-Local Business Enterprise Program application http://www.sf-hrc.org	[none]	Local businesses complete this form to be certified by HRC as LBEs. Certified LBEs receive a bid discount pursuant to Chapter 14B when bidding on City contracts. To receive the bid discount, you must already be certified by HRC before the bid opening.	Human Rights Comm. 25 Van Ness, Suite 800 San Francisco, CA 94102 (415) 252-2500