

File No. 190335

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date April 17, 2019

Board of Supervisors Meeting

Date _____

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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date April 12, 2019

Completed by: Linda Wong

Date _____

1 [Contract Amendment - Ferrara Fire Apparatus, Inc. - Equipment Purchase - Not to Exceed
2 \$15,000,000]

3 **Resolution approving Modification No. 2 to the contract between the Office of Contract**
4 **Administration and Ferrara Fire Apparatus, Inc. to purchase equipment for the Fire**
5 **Department; to increase the amount by \$5,500,000 for a total not to exceed amount of**
6 **\$15,000,000; and to extend the term by two years to commence August 26, 2019, for a**
7 **total contract term of August 26, 2016, through August 25, 2021.**

8
9 WHEREAS, The City and County of San Francisco uses term contracts to purchase
10 equipment on an as-needed basis; and

11 WHEREAS, In 2016, the Office of Contract Administration awarded a contract to
12 Ferrara Fire Apparatus, Inc. to purchase triple combination pumpers for the San Francisco
13 Fire Department and that contract was for an initial term of three years with a not-to-exceed
14 amount of \$9,500,000 with two one-year options to extend; and

15 WHEREAS, In 2018, the Office of Contract Administration modified the contract to
16 update pricing and modify specifications pursuant to the needs of the San Francisco Fire
17 Department; and

18 WHEREAS, The original contract and Modification No. 1 are on file with the Clerk of
19 the Board of Supervisors in File No. 190335 which is hereby declared to be part of this
20 Resolution as if set forth fully herein; and

21 WHEREAS, The Annual Appropriation Ordinance for FYs 2018-2019 and 2019-2020
22 appropriated funding to the Fire Department sufficient to purchase five vehicles in FY2018-
23 2019 and three vehicles in FY2019-2020; and

1 WHEREAS, These expenditures will exceed the maximum contract amount of
2 \$9,500,000 and Charter, Section 9.118, requires the Board of Supervisors to approve
3 contracts that exceed \$10,000,000; and

4 WHEREAS, Based on previous expenditures and current appropriations, there is
5 currently \$13,100,000 in budget authority through FY2019-2020; and

6 WHEREAS, The City and County of San Francisco wishes to plan effectively for future
7 equipment needs that may be appropriated in future years; now, therefore, be it

8 RESOLVED, That the Board of Supervisors authorizes the Office of Contract
9 Administration to amend its contract with Ferrara Fire Apparatus, Inc. to increase the amount
10 by \$5,500,000 for a total not to exceed amount of \$15,000,000; and extend the term by two
11 years to commence August 26, 2019, for a total contract term of August 26, 2016, through
12 August 25, 2021;

13 FURTHER RESOLVED, That within thirty (30) days of the modification being fully
14 executed by all parties, the Office of Contract Administration shall provide a copy of the
15 modification to the Clerk of the Board for inclusion into the official file.

Item 4 File 19-0335	Department: Office of Contract Administration (OCA), San Francisco Fire Department (SFFD)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve Modification No. 2 to the contract between the Office of Contract Administration (OCA) and Ferrara Fire Apparatus, Inc. to purchase triple combination pumper fire engines for the San Francisco Fire Department (SFFD), extending the contract by two years, for a total five-year term from August 26, 2016 through August 25, 2021, and increasing the not-to-exceed amount by \$5,500,000, from \$9,500,000 to \$15,000,000. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • In June 2016, OCA issued a Request for Proposals (RFP) to solicit vendors to enter a purchasing contract for triple combination pumper fire engines for SFFD. Ferrara Fire Apparatus was deemed the highest scoring responsive and responsible proposer. OCA awarded Ferrara a contract for a term of three years, from August 26, 2016 through August 25, 2019, and a total not to exceed \$9,500,000. • OCA has made two purchases to date from Ferrara for a total of 14 fire engines and a total cost of \$7,973,792, for an average total cost of \$569,557 per engine. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed resolution would increase the not-to-exceed amount of the contract by \$5,500,000, for a total not to exceed \$15,000,000. • Upon approval of the proposed resolution, OCA plans to purchase an additional six fire engines at a total cost of \$3,485,242. Sufficient funding is available in the SFFD FY 2018-19 General Fund budget. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • The cost proposal submitted by Ferrara includes a one percent payment discount for payment within 30 days of invoice. The payment discount has not been applied to either purchase to date. Had the discount been applied, SFFD would have saved approximately \$79,736 on the 14 engines that were purchased. The Budget and Legislative Analyst recommends that future purchase orders utilize the one percent payment discount. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

In June 2016, the Office of Contract Administration (OCA) issued a Request for Proposals (RFP) to solicit vendors to enter a purchasing contract for triple combination pumper fire engines for the San Francisco Fire Department (SFFD). Three proposers responded to the RFP, and a five-member panel evaluated the proposals, as shown in Table 1 below.

Table 1: Proposers and Scores from RFP

Proposer	Project Approach (out of 15)	Experience of Firm (out of 15)	Technical Proposal (out of 40)	Price Proposal (out of 30)	Total (out of 100)
Ferrara Fire Apparatus, Inc.	13.8	14.8	35.6	30.0	94.2
Pierce Manufacturing	8.2	8.4	11.0	29.0	56.6
Hi-Tech Emergency Vehicle Service	3.4	6.2	8.6	28.3	46.5

Ferrara Fire Apparatus, Inc. was selected as the highest scoring responsive and responsible proposer. Ferrara also had the lowest cost of the three proposers, at a total cost of \$584,816 per fire engine.¹ OCA awarded Ferrara a contract for a term of three years, from August 26, 2016 through August 25, 2019, and an amount not to exceed \$9,500,000, with two one-year options to extend through August 25, 2021, for a total not to exceed \$15,000,000.

In September 2016, OCA ordered eight fire engines from Ferrara. According to Mr. Mark Farley, OCA Supervising Purchaser, the total cost per fire engine was reduced to \$565,295, due to a change order.

In February 2018, OCA and Ferrara executed Modification No. 1 to the contract, modifying specifications and updating the total cost per fire engine to \$575,239. OCA purchased six engines at this price in March 2018.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 2 to the contract between OCA and Ferrara, authorizing the options to extend the term by two years through August 25, 2021, and increasing the not-to-exceed amount from \$9,500,000 to \$15,000,000. According to Mr. Farley, OCA plans to purchase six additional engines at a total cost of \$580,874 per engine.

¹ The total cost includes the base price of \$535,988, 8.5 percent sales tax, and \$14 California tire tax.

FISCAL IMPACT

The Department has previously purchased 14 engines at a total cost of \$7,973,792. The proposed purchase of six additional fire engines would have a total cost of \$3,485,242, bringing the total amount spent on the contract to \$11,459,034. The cost breakdown is shown in Table 2 below.

Table 2: Fire Engine Costs

Order	Base Price	Sales Tax (8.5%)	Subtotal per Engine	CA Tire Tax	Total Cost per Engine	Engines Purchased	Total Cost
September 2016	\$520,996	\$44,285	\$565,281	\$14	\$565,295	8	\$4,522,359
March 2018	\$530,161	\$45,064	\$575,225	\$14	\$575,239	6	3,451,433
<i>Total Spent to Date</i>						14	\$7,973,792
Future Order	\$535,355	\$45,505	\$580,860	\$14	\$580,874	6	3,485,242
Total						20	\$11,459,034

According to Mr. Farley, sufficient funding is available in the SFFD FY 2018-19 General Fund budget for the purchase of six additional fire engines. After the purchase of the six engines, the remaining contract authority would be approximately \$3,540,966 to allow for future fire equipment purchases.

POLICY CONSIDERATION

The cost proposal submitted by Ferrara includes a one percent discount for payment within 30 days. According to Mr. Farley, the payment discount has not been applied to either of the purchases submitted to date, which were ordered by other staff. Had the discount been applied, SFFD would have saved approximately \$79,736 over the 14 engines purchased from Ferrara. The Budget and Legislative Analyst recommends that future purchase orders utilize the one percent discount.

RECOMMENDATION

Approve the proposed resolution.

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



Contract Modification 2

Triple Combination Pumpers

Vendor Name Ferrara Fire Apparatus	Date:	November 1, 2018
Sales Rep Mike Doran	Buyer Name:	Mark Farley
Address 27855 James Chapel Road	Term Contract:	72222
Address Holden, LA 70744	City Blanket No.	1000001642
E-mail: MikeD@ferrarafire.com	Type:	Indefinite quantity
	Not-to-exceed amount:	\$15,000,000

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

Modification	Start date	End date	NTE Amount	Other changes
Original contract	8/26/16	8/25/19	\$9,500,000	
Modification No. 1	2/22/18		No change	Modifies Award Specifications Updates Contract Award Pricing
Modification No. 2	11/01/18		\$15,000,000	Increases Not to Exceed Amount

This modification 2 changes the contract as follows:

- It increases the contract Not to Exceed Amount from \$9,500,000 to \$15,000,000

All other terms and conditions and pricing will remain unchanged.

Approved by the City: _____
 Alaric Degrafinried, Director of OCA and Purchaser _____
Date

Approved by Contractor: _____
 Signature _____
Date

Name and title (Print) _____

72222

AWARD
Triple Combination Pumper
For the Term August 26, 2016 Through August 25, 2019

COMPANY INFORMATION

WARNING
Do not use any term contracts to purchase goods and/or services when using Federal, State or Special Funds. Term contracts may contain provisions that conflict with Federal or State provisions. City departments must contact their assigned City Attorney for applicable provisions, procedures and relevant fund requirements.

Name of Company: Ferrara Fire Apparatus Inc.
Address: 27855 James Chapel Road
PO Box 249
City, State, Zip: Holden, LA 70744
Contact: Mr. Mike Doran, Senior Vice President
Telephone Number: (800) 443-9006
Cell Number: (225) 907-7101
Fax Number: (225) 567-7679
E-mail: miked@ferrarafire.com
Payment Terms: 1%30, Net31
Federal Tax I.D. Number: 72-1129363
Vendor Number: 57199
CBPO Number: BPSF00004275

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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 routing and account numbers

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 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

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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 on Separate Items and in the Aggregate.** Bidders may bid separately for any item unless otherwise provided. Bidders may make an offer on one, some or all items, unless otherwise provided.
10. **Prices.** Prices quoted must be fixed except as otherwise specified in this document. Any bid requiring receipt of order in less than 30 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:

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- 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.

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

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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 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

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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 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

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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.

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

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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 CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (formerly San Francisco Human Rights Commission).

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

(1) Enforcement. If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Contract Monitoring Division (CMD) or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the “Director of CMD”) may also impose other sanctions against Contractor authorized in the LBE Ordinance,

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including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

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://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent

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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.

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 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 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

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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

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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 August 26, 2016, 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 Administrative Code Chapter 14B, an LBE must be certified by the Contracts Monitoring Division (formerly 'Human Rights Commission') by the Bid Due date. The certification application is available from CMD (415) 581-2310, and on the web. CMD's home page is:

<http://sfgsa.org/index.aspx?page=6130>

Click on the "LBE Certification" tab.

42. Claim for Preference. To claim preference under the LBE Ordinance, see Bid Questionnaire attached.

If Bidder is claiming LBE preference as a supplier, it must comply with Administrative Code Chapter 14B Rules and Regulations VI D - Criteria for Suppliers (2):

"2) *A supplier must have a direct relationship with manufacturers for the materials, equipment, and supplies for which they seek certification, demonstrating that:*

a) *The supplier has an agreement with the manufacturer authorizing the supplier to distribute their products.*

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b) *The supplier is able to provide a manufacturer's warranty."*

To comply, at the time of the bid, bidders must include proof of the required relationships as an authorized dealer. Failure to provide adequate proof may result in a nonresponsive determination.

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 the City as required by the Bid solicitation. An LBE will be deemed to be directly responsible for providing the required commodity or service only if it regularly does business as a manufacturer, or authorized manufacturer's representative, 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 the Contracts Monitoring Division. An LBE will be considered to be "regularly doing business", as that term is used in the foregoing paragraph, if in the normal course of business, it stocks, warehouses or distributes commodities to businesses or entities other than public entities having a local business preference program. Such a determination will be subject to audit by CMD. No preference will be given to an LBE engaging in brokerage, referral or temporary employment services not meeting this definition, unless those services are required and specifically requested by the department.

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.

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(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 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. CMD Data on LBEs. Contractor will obtain from CMD a copy of CMD's database of LBEs, and this or other information from CMD, shall be the basis for determining whether a LBE is confirmed with CMD. Contractor will obtain an updated copy of CMD's database at least **quarterly**. Please call CMD at (415) 581-2310.

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.

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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 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 Contracts

Each year, no later than February 15; Contractor shall submit a soft copy report of the total items ordered, by month, under this contract during the preceding calendar year (January 1 – December 31). The report must be in a format acceptable to City and must list by department or location the following: (1) all 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, and any usage reports required prior to the extension of a Contract or Contract Modification. Emailed reports must not be larger than **10MB**.

Contractor shall email reports to:

OCAVendor.Reports@sfgov.org

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

Contractor shall mail the reports to:

OCA Vendor Reporting
Re: Term Contract No. 72222
City and County of San Francisco
Office of Contract Administration – Purchasing
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685

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

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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.

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 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:

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(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 non-duplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or

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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 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

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exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

a. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

b. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year; therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

F. Subcontracts. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

60. Consideration Of Criminal History in Hiring and Employment Decisions

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

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

C. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

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

E. Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection 60(d), above. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

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

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

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

AWARD
Triple Combination Pumper
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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. 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.

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64. Lease/Purchase. The City may intend to lease/purchase the equipment covered by this contract. The bidder agrees to sell the equipment specified in the contract to a 3rd party lessor of the City's choice. The bidder also agrees that the benefit of any and all warranties shall be passed through to the City. The "Dealer's Report of Sale" must show the following Lien holder, unless notified otherwise:

U.S. Bank National Association
Corporate Trust Services, Mail Code SF-CA-SFCT
One California Street, 10th Floor, Suite 1000
San Francisco, CA 94111

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.

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

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

AWARD
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68. Purpose. The purpose of this contract is to provide the City with Triple Combination Pumper, a custom emergency response vehicle.

69. Pre-Bid Conference. Not Applicable.

70. Specifications. The Triple Combination Pumper Specifications are per Appendix A – Equipment Specifications, dated 06/21/2016.

71. Bidder's/Contractors Qualifications and Requirements

A. Minimum Qualifications

The following outlines the minimum qualifications from proposers who wish to be considered for award of the Triple Combination Pumper contract. Proposals that do not demonstrate that the proposer meets these minimum requirements at the time the proposal is submitted will be considered non-responsive and will not be eligible for award of the contract. In order to be considered, proposers must submit documentation that substantiates the following:

1. Proposer shall either be the emergency response vehicle manufacturer or an authorized dealer and service facility for the manufacturer and have sufficient knowledge and experience in the equipment and services covered by the contract.
2. If the proposer is the emergency response vehicle manufacturer, the company must have experience in building Triple Combination Pumps. The manufacturer shall have built Triple Combination Pumps for at least five (5) years and have built at least ten (10) units that are in service and shall provide references for at least three (3) companies that have taken delivery of said units.
3. If the proposer is an authorized dealer and service facility for the manufacturer for the vehicle offered, the proposer must provide written certification with its proposal from the manufacturer (on manufacturer's letterhead) stating such authorization. Proposer must have a minimum of five (5) years of relevant experience in sales and servicing of Triple Combination Pumps.
4. In order to ensure continuity of quality and warranty, the manufacturer shall be the manufacturer of the entire apparatus. The manufacturing and mounting of the apparatus body shall not be performed at a location or by employees other than that of the manufacturer to whom the proposal is awarded. The City does not wish to purchase a prototype or non-proven body.
5. The successful proposer must comply with all applicable California Department of Motor Vehicles licensing requirements such as but not limited to vehicle manufacturer, vehicle dealer for vehicle sales, and vehicle salesperson. Questions regarding licensing requirements may be directed to:

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California Department of Motor Vehicles
Occupational Licensing, Inspections and Compliance Programs
Phone: 916-229-3151

6. Proposer must be able to demonstrate to the City's satisfaction their capabilities including evidence that they possess adequate facilities to fully comply with the requirements of the contract prior to award and at any time during the contract term of extension thereof. Also, proposer's experience record regarding past performance and the ability to perform on schedule may be requested. The proposer shall furnish any documentation requested by the City within seven (7) business days from the date of request.
7. The City reserves the right to inspect the proposer's place of business prior to award or at any time during the contract term or any extension thereof, to determine the proposer's capabilities and qualifications.
8. The City reserves the right to reject any proposal if the documentation submitted by the proposer fails to satisfy City and/or proposer is unable to supply the documentation within the time period requested. Also, the City reserves the right to terminate the contract after the award if any of the documentation is found later to be misleading or the proposer has misinterpreted their qualifications and experience.

72. Scope of Work

The objective of this Scope of Work is to outline the requirements and general functional areas believed to be necessary to successfully perform this contract. The Scope of Work is to be used as a general guide and is not intended to be a complete list of all work or requirements necessary to complete the project.

- A. The City and County of San Francisco is seeking a qualified candidate to provide two (2) Triple Combination Pumpers that meet the equipment specifications listed in Appendix A of this RFP. Subsequent quantities may be ordered at a later date.
- B. The qualified candidate must assume complete responsibility for all component parts of the entire vehicle. This responsibility shall include design, construction, inspection, performance testing and servicing. The qualified candidate must be capable of furnishing parts, repairs and technical assistance for the normal life of the vehicle (seven (7) years).
- C. The qualified candidate must provide high quality equipment, components, and parts designed for emergency response vehicles that are new and of current manufacture. The use of military surplus, used, obsolete or discontinued items shall not be acceptable.
- D. The qualified candidate must also be responsible for assuring that the vehicle itself and its emergency response systems meet the specified performance criteria. All major components

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shall have the manufacturer's approval/recommendation for this type of service and the manufacturer's ratings shall not be exceeded by actual imposed loads.

- E. The qualified candidate or authorized dealer of the City's choice shall be responsible to the City for all warranty service, parts, labor, and travel costs applicable to the equipment provided by the qualified candidate. The responsible qualified candidate or authorized dealer shall be responsible for ensuring that warranty work is performed and that services, parts, labor and travel are available and provided to meet the City's schedules. This does not limit or reduce in any manner the manufacturer's warranty or use of manufacturer's warranty service. Warranty repairs and parts shall be initiated within 48 hours of initial notification by the City. All work required under warranty shall be promptly accomplished at no expense to the City. An adequate stock of repair parts shall be available within 24 hours from notification by the City for the equipment offered.
- F. The qualified candidate shall be required to send the City a written confirmation of receipt on all orders within 5 business days after receipt of the City's purchase orders. This confirmation may be in the form of a "Manufacturer's Acknowledgement of Dealer's Order". Confirmation must show the date the order was placed with the manufacturer, City's purchase order number, the quantity of units, vehicle make and model with specified options, and the dealer/manufacturer order number.
- G. The qualified candidate shall send the City written notification of all manufacturer's recalls of equipment purchased and all service bulletins.
- H. The qualified candidate must be able to provide warranties on all equipment, parts and materials furnished under this proposal and guarantee that they will meet all contract requirements and are free of defects in equipment, material, or workmanship and are fit for its intended purpose. The qualified candidate shall be fully responsible for all warranty work on the purchased equipment which includes but is not limited to after-market installations as required by the equipment specifications. The warranty period shall commence at the time the vehicles are accepted by the City. Delivery of the vehicle does not constitute acceptance.
- I. The qualified candidate must be able to provide training, technical support and assistance as required.
- J. The qualified candidate must be able to deliver the required vehicles as awarded no later than 330 calendar days after the receipt of the first purchase order. Actual delivery date will be determined by the City at the time the purchase order is issued.
- K. The qualified candidate will be required to furnish evidence of insurance as required by Special Condition 85 of Appendix D – Sample P-240 Term Contract Agreement and the following bonds within ten (10) business days from the receipt of the Notice of Conditional Award/Notice of Tentative Award.

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1. A performance bond on a form furnished by the City in the amount of 100% of the contract to guarantee the faithful performance of the contract.
2. A Payment (Labor and Materials) bond on a form furnished by the City in the amount of 100% of the contract amount to guarantee the payment of wages for services engaged and for bills contracted for materials, supplies and equipment used in the performance of this contract.

Each bond must be in a form that is approved by the City Attorney. Each bond must be approved by the City Controller for sufficiency and qualification. The bonds must be renewed annually.

73. Delivery. The successful proposer must deliver the required vehicles as awarded according to the following schedule:

- A. Delivery of the first unit shall be no later than 330 calendar days after receipt of the purchase order (authorization to proceed). Actual delivery dates will be determined by the City at the time of purchase order (authorization to proceed).
- B. Delivery of the 2nd unit shall be no later than 360 calendar days after receipt of the purchase order (authorization to proceed). Actual delivery dates will be determined by the City at the time of purchase order (authorization to proceed).
- C. Delivery of subsequent purchases shall be no later than 360 calendar days after receipt of the purchase order (authorization to proceed). Actual delivery dates will be determined by the City at the time of purchase order (authorization to proceed).

74. Price. Shall be firm for the initial two (2) vehicles and any additional vehicles purchased under Section 9.I of the Request for Proposals document, and shall not be subject to escalation for the duration of the contract unless otherwise stated.

75. Price adjustment. In addition to the optional vehicles in Section I. at a fixed bid price, the Contractor agrees that the City may, in its sole discretion, exercise the option to purchase up to twenty-two (22) additional vehicles for a period of up to five (5) years after award of the contract. Any percentage increase to the proposal price for such additional purchases shall not exceed the percent (%) increase in the U.S. Department of Labor Bureau of Labor Statistics Producer Price Index (PPI) Commodity Data, Series ID: WPU141302, Not Seasonally Adjusted, Group: Transportation Equipment, Item: Completed Vehicles on Purchased Chassis, Base Date: 198212 based on the final data of the 12 months prior to the date of the purchase. If the PPI is no longer in existence, such other applicable index or similar method of calculation in place will be used at the time of the additional purchase. The estimated quantities are non-binding quantities subject to the City's budget process and the City's priorities.

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For Example:

ABC Fire Equipment Supply Company meets all of the requirements of this RFP, their proposal receives the highest score of all the proposals received and is awarded Term Contract #72222. The fixed bid price for the initial vehicle is \$200,000.00. The City and County of San Francisco purchases one (1) additional vehicle during the first 12 months of the contract (Year 1). During the second 12 months of the contract (Year 2) the City and County of San Francisco purchases one (1) additional vehicle and there was a three (3) percent increase in PPI ID: WPU141302 based on the final data of the 12 months prior to the date of the purchase. During the third 12 months of the contract (Year 3) the City and County of San Francisco purchases one (1) additional vehicle and there was a five (5) percent increase in PPI ID: WPU141302 based on the final data of the 12 months prior to the date of the purchase.

Contract Year	Description	Proposal Price	% Increase in PPI	Adjusted Price
Year 1	Purchase of one (1) initial vehicle	\$200,000.00	Not applicable	\$200,000.00 Price increase not allowable.
Year 1	Purchase of one (1) additional vehicle	\$200,000.00	Not applicable	\$200,000.00 Price increase not allowable.
Year 2	Purchase of one (1) additional vehicle	\$200,000.00	3%	\$206,000.00
Year 3	Purchase of one (1) additional vehicle	\$200,000.00	5%	\$210,000.00

76. Bid Evaluation. The Selection Committee will evaluate each proposal meeting the minimum qualification requirements set forth in Section 5 of this RFP on a scale of 100 points. The Selection Committee will be comprised of staff from the Office of Contract Administration and from the Fire Department. The evaluation will be conducted in two (2) phases: (1) minimum qualification review (pass/fail) and (2) evaluation of technical requirements, pricing and written proposals. Additional points of up to 10% will be given for certified Local Business Enterprises (LBEs) and a 1.25% price adjustment will be applied for any sales tax revenue the City would receive from this purchase in accordance with the Administrative Code Chapter 21.32. Maximum total points, including additional preference points are 111.25. Any false, incomplete or otherwise unresponsive statements in connection with a proposal or any documentation or other information supplied to the City by the proposer may be cause for rejection by the City of the proposal or disqualification of the proposer at the City's sole discretion. Any judgment as to the significance of any falsity, incompleteness or unresponsiveness shall be the prerogative of the City and its judgment is final. The City will evaluate the proposals in accordance with the criteria below. The evaluation of the proposals shall be within the sole judgment and discretion of the Selection Committee.

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Proposers may be required to submit additional information to clarify their proposals at any time throughout the evaluation process.

- 1. Project Approach (maximum 15 points)**
Proposers will be evaluated on the effectiveness of the proposer's organizational project management structure and their facility capabilities to be used in executing and managing the project. This will include the overall approach for coordinating and managing all work activities to meet project schedules and managing quality control.
 - 2. Experience of Firm (maximum 15 points)**
Evaluation will include relevant experience and qualifications, key personnel, record of past performance (including references), quality of recently completed projects, including adherence to schedules, deadlines and budgets and experience with similar projects.
 - 3. Technical Proposal (maximum 40 points)**
Proposers will be evaluated on their understanding and compliance of the equipment specifications, exceptions taken, technical capabilities for performing each section of the specifications, and drawings of the vehicle as required.
 - 4. Price Proposal (maximum 30 points)**
The lowest responsive price proposal shall receive the full 30 points. The next lowest responsive price proposal shall receive a portion of the full 30 points equivalent to the percentage between the lowest and next lowest price proposal (i.e., if Proposal X submits the lowest responsive price proposal of \$80 and Proposal Y submits the next lowest responsive price proposal of \$100, Proposal X receives 30 points and Proposal Y receives 30 points x (\$80/\$100) or 24 points).
- 77. Adjustment of Bid Price for Sales Tax.** In accordance with Administrative Code Chapter 21.32, for bid purposes, Purchasing will reduce your bid based on any sales tax revenue the City would receive from this purchase.
- 78. Award.** The Office of Contract Administration and San Francisco Fire Department will select a proposer with whom they shall commence contract negotiations. The selection of any proposal shall not imply acceptance by the City of all terms of the proposal, which may be subject to further negotiations and approvals before the City may be legally bound thereby. If a satisfactory contract cannot be negotiated in a reasonable time the City, in its sole discretion, may terminate negotiations with the highest ranked proposer and begin contract negotiations with the next highest ranked proposer.
- 79. Awarded Items.** If during the term of the contract, a contract item is determined to be unacceptable for a particular use, and such is documented by a City Department and as determined by Purchasing, it is understood and agreed that the item will be canceled and removed from the contract without penalty to the City. The City's sole obligation to the vendor is payment of deliveries made prior to the cancellation date. City shall give the vendor ten days' notice prior to any cancellation. The City will purchase the required replacement item from any source and in the manner as determined by

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Purchasing. If a contracted item has been discontinued by the manufacturer or is deemed temporarily unavailable, it will be the responsibility of the Contractor to search the marketplace and find an acceptable equal substitute in the time required for delivery and at the contract price. Contractor must notify Purchasing by certified mail, 30 days in advance of any changes in the description of article, brand, product code or packaging. Any changes made without the approval of Purchasing will constitute default and result in the City invoking General Condition No. 19.

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

81. Payment. 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. 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.

82. Additional Items. 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. 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. 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. All additional items or services added to the contract shall be approved through issuance of a contract modification. 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.

83. Bid Security

- a. Each proposal must be accompanied by an original bid bond or money order or a cashier's check or certified check in the total of \$10,000, payable to the City and County of San Francisco, to guarantee the filing of Performance and Labor and Material Bonds, Insurance Certificates, and to guarantee the proper execution of the contract. The bid security must be from the intended awarded vendor. Faxed copies of the bid bond, personal or company checks will not be accepted. Any proposal submitted without the proper bid security shall be determined to be non-responsive and result in the rejection of the proposal.

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- b. After the successful proposer has furnished the required documents or the City has rejected the proposals, all bid securities except those which may have been forfeited will be returned to the respective proposers whose proposals they accompanied.

84. Performance Bond. The successful bidder will be required to furnish a performance bond on the form furnished by City, in a sum of not less than 100% of the annual amount of the contract to guarantee the faithful performance of this contract. The bond must be approved as to sufficiency and qualifications of the surety by the Controller.

The term of the performance bond of this contract shall begin on the date that the contract is awarded and shall extend for one (1) year from the date of acceptance of each vehicle. In such a case that any additional vehicles have been ordered or are under construction, there shall be no lapse in coverage of the performance bond. In this case the performance bond shall be renewed. The primary contractor will be fully responsible for the successful performance of this contract.

The performance bond provisions of this section of contract 72222 shall take precedence over and shall prevail over the performance bond provisions included in Appendix A – Equipment Specifications, dated 06/21/2016, or in any other documents associated with contract 72222.

85. Payment (Labor and Materials) Bond. The successful bidder will be required to furnish a payment (labor and materials) bond on the form furnished by City, in a sum of not less than 100% of the amount of the contract to guarantee the payment of wages for services engaged and for bills contracted for materials, supplies, and equipment used in the performance of this contract. The bond must be approved as to sufficiency and qualifications of the surety by the Controller.

The term of the payment (labor and materials) bond of this contract shall begin on the date that the contract is awarded and shall extend for one (1) year from the date of acceptance of each vehicle. In such a case that any additional vehicles have been ordered or are under construction, there shall be no lapse in coverage of the payment (labor and materials) bond. In this case the payment (labor and materials) bond shall be renewed. The primary contractor will be fully responsible for the successful performance of this contract.

The payment (labor and materials) bond provisions of this section of contract 72222 shall take precedence over and shall prevail over the payment (labor and materials) bond provisions included in Appendix A – Equipment Specifications, dated 06/21/2016, or in any other documents associated with contract 72222.

86. 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:

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(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, Agents, and Employees.

(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. Thirty (30) days' advance written notice shall be provided to the City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment for which no less than ten (10) days' notice shall be provided to the City. 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

D. Contractor hereby agrees to waive Workers' Compensation subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

E. 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.

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F. 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.

G. 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.

H. 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.

I. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

J. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insured.

87. Failure to Execute Contract. Within ten business days of the receipt of a notice of award, the bidder to whom the contract is awarded shall deliver the performance bond and/or specified insurance certificates to City. If the bidder fails or refuses to furnish the required bond and/or insurance within ten 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 and City shall notify the bidder's surety and collect on the bidder's bond (or the check accompanying its bid shall be deposited with the Treasurer of the City and County of San Francisco for collection) and the proceeds thereof shall be retained by City as partial liquidated damages for failure of such bidder to properly file the bonds and insurance herein required. The foregoing in no way limits the damages which are recoverable by City whether or not defined elsewhere in the contract documents.

88. Reserved.

89. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions.

90. Questions. Any questions or clarifications concerning the requirements in this bid proposal must be submitted, in writing, and received by OCA no less than five business 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

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91. Bid Submittal Instructions.

A. Proposals must be received by June 29, 2016 at 4:00PM. Postmarks will not be considered in judging the timeliness of submissions. Proposals may be delivered in person or mailed to:

Whitney D. Bagby, Principal Administrative Analyst II
City and County of San Francisco
Office of Contract Administration
1 Dr. Carlton B. Goodlett Place
City Hall, Room 430
San Francisco, CA 94102
Reference: RFP# 72222, Triple Combination Pumpers

Proposers shall submit one (1) original and four (4) copies of the proposal, which must be separately bound with the pages numbered accordingly, in a sealed box clearly marked "RFP #72222, Triple Combination Pumper" to the above location. The original document must be clearly marked as "Original" and the copies must be clearly marked as "Copy". Each proposal received will be screened to ensure that the information required in this RFP is included. Partial or complete omission of any of these items from a proposal may disqualify proposals from further consideration. Proposals submitted by fax or email/electronic communication will not be accepted. Late submissions will not be considered.

B. Format and Content of Proposals

Please submit your proposal in a three-ring binder, printed on recycled paper, double-sided to the maximum extent that is practical. Please do not bind proposal with spiral binding, glued binding or any similar type of binding. You may use tabs or other separators within the document. All proposals must include a Table of Contents.

END OF SPECIAL CONDITION

AWARD
Triple Combination Pumper
For the Term August 26, 2016 Through August 25, 2019

Appendices:

- A. Equipment Specifications dated 06/21/2016
- B. Price Proposal Sheet
- C. Bid Questionnaire
- D. Sample P-240 Term Contract Agreement
- E. Standard Bid Forms
- F. Insurance Certificate and Additional Insured Endorsements
- G. Proposal Requirements Checklist
- H. Warranty Information
- I. Performance Bond
- J. Payment (Labor and Material) Bond
- K. RFP for Term Contract 72222 and Bid Addenda 1 through 2

Contract Proposal 72222
 Modification No. 1
 February 22, 2018

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



Contract Modification 1

Triple Combination Pumper

Vendor name Ferrara Fire Apparatus	Date	February 22, 2018
Sales rep Mike Doran	Buyer Name:	Lin Repola
Address 27855 James Chapel Road	Term Contract:	72222
Address Holden, LA 70744	City Blanket No.	1000001642
E-mail: Miked@ferrarafire.com	Type:	Indefinite quantity
	Not-to-exceed amount:	\$9,500,000

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

Modification	Date	Start date	End date	Amount	Other changes
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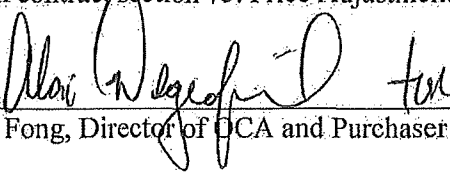
The history of this contract and its modifications is as follows:

Original contract		08-26-16	08-25-19	\$9,500,000	
Modification No. 1	2-22-18	No Change		No Change	Updates Pricing Modifies Specifications

This modification changes the contract as follows:

- Decreases the unit price per vehicle based on changes to the vehicle specifications and allows for price adjustment in accord with contract section 75. Price Adjustment.

Approved by the City:


 Jaci Fong, Director of OCA and Purchaser

3/1/2018
 Date

Approved by Contractor:

Chris Ferrara, Ferrara Fire

Date

Contract Proposal 72222
Modification No. 1
February 22, 2018

The following changes are incorporated into Term Contract 72222 Triple Combination Pumper:

Appendix A: Equipment Specifications Triple Combination Pumper dated 06/21/2016 and revised as of 02/22/2018.

Appendix B: Price Proposal Sheet

Modification No. 1
Contract 72222

Triple Combination Pumpers
Modification No. 1, Contract Proposal #72222
Specification changes incorporated February 22, 2018

Spec Line #	Changes
876	Inferno door ajar panel
1071 & 1130	Delete (6) spare tires
1237	Add fold and hold to rear crew seats (2)
1285	Cut rear seat riser 2"
1526	Change Kussmaul battery charger to Blue Sea
1808	Delete Code 3 Back up Camera
1808	Add FRC 360 Camera
2145	Delete Motorola 6500 package
2145	Add Johnny Ray swivel - parts and labor. Standard Quote Writer price. Price agreed to on 8/4/17
2149	Delete TK790 VHF antenna
2156	Credit for MDT install- SFFD supplied
2164	Sierra Wireless comm
2309	Delete storage under rear facing seats
2386	Bell mount credits
2586	Add lift style pump panel drains
3124	Delete storage boxes in hosebed
3124	Add (1) pike pole tube
3146	Delete (1) adjustable shelf L-1
3150	Delete (2) shelves B1
3167	Storage in R3- extinguisher Wine rack style
3194	18" On Scene light upper body B2
3200	(2) seatbelts in B2
3200	Delete (1) shelf in center rear compartment
3246	Credit for unistruts- for SCBA mount (struts not installed)
3283	Delete (1) folding step
3284	Delete (2) folding steps
3295	Gleason brackets/ belts not installed
3323	Add storage boxes in hosebed
3370	Delete 2 tone paint
3385	Paint body extrusions- front edge of the hose body, and front pump house.
3498	Delete (6) Code 3 step lights
3498	Delete (2) underbody lights (12 in the order, only 10 were installed)
3505	Deleted (4) Whelen OS lights

Modification No. 1
Contract 72222

3519	Credit for (2) cab dome lights (6 in the order, 4 installed)
3561	Add plates behind the headlight buckets for the Code 3 warning lights
3689	Change the solar panels to Kussmaul
3700	Change wheel chock mounts. Moved as originally approved- from (2) mounted in L3 under the shelf, to (1) each L3/R3
3701 -3703	Extinguisher brackets not required
No Line #	Install customer GPS
No Line #	Delete (1) OS light
No Line #	Install only 5 of the original 12 shelves in specification
No Line #	Compression fittings



Appendix B – Price Proposal Sheet Addendum No. 1
RFP for Term Contract #72222
Triple Combination Pumper
 Must be returned with Proposal
 Revised: 06/21/2016
Modification No. 1
02/22/2018

Triple Combination Pumper per Specifications dated
 06/21/2016– Appendix A, Addendum No. 1
 02/22/2018 - Modification No. 1

\$530,161.17

Per unit

The City reserves the right to purchase up to twenty-two (22) additional vehicles for a period of up to five (5) years after original award in accord with the Price adjustment in section 75 of the contract.

Please indicate payment terms for this contract:

% Cash Discount for Payment in Days, Net Days

Name of Proposer: Ferrara Fire Apparatus, Inc.

Federal Tax ID Number: 72-1129363

Name of person authorized to represent the proposer: Chris Ferrara

Phone Number: 800-443-9006

Email Address: cferrara@ferrarafire.com

Title of person authorized to represent the proposer: President/CEO

Signature of person authorized to represent the proposer: _____

Date: February 22, 2018



OFFICE OF THE CITY ADMINISTRATOR



London N. Breed, Mayor
Naomi M. Kelly, City Administrator

MEMORANDUM

To: Clerk of the Board of Supervisors

From: Bill Barnes ^R
Senior Advisor, Office of the City Administrator

Re: Legislative Introduction
Contract Amendment—Ferrara Fire Equipment

CC: Alaric Degrafinried
Purchaser and Director, Office of Contract Administration

Date: March 18, 2019

BY
2019 MAR 18 AM 11:52
RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

Attached, please find a resolution authorizing the Office of Contract Administration to amend a contract with Ferrara Fire Equipment in an amount not-to-exceed \$15,000,000. This term contract would provide triple combination pumpers to the Fire Department.

Please contact Mark Farley of the Office of Contract Administration at 415-554-6257 or Mark.Farley@sfgov.org with questions about this contract.

We respectfully request the contract be placed on the next available calendar of the Budget and Finance Sub-Committee.

FORM SFEC-126
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Government Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly)</i>	
Name of City elective officer(s): Members, San Francisco Board of Supervisors	City elective office(s) held: Members, San Francisco Board of Supervisors

Contractor Information <i>(Please print clearly)</i>	
Name of Contractor: Ferrara Fire Apparatus, Inc.	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor.</i>	
1) Board of Directors: Paul Bamatter, Jean Marie Canan, Dino Cusumano, Charles Duril, Justin Fish, Kim Marvin, Donn Viola, Joel Rotroff 2) CEO: Timothy W. Sullivan; CFO: Dean J. Nolden; COO: Ian Walsh 3) No persons with ownership of more than 20 percent. 4) No subcontractors are listed in the bid or contract. 5) The contractor does not sponsor or control a political committee.	
Contractor address: 27855 James Chapel Road, PO Box 249, Holden, LA 70744	
Date that contract was approved:	Amount of contract: Not to exceed \$15,000,000
Describe the nature of the contract that was approved: Purchase of equipment for the Fire Department, including Triple Combination Pumper Fire Engines.	
Comments:	

This contract was approved by (check applicable)

The City elective officer(s) identified on this form

A board on which the City elective officer(s) serves

San Francisco Board of Supervisors

Print Name of Board

The board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on the form sits

Print Name of Board

Filer Information <i>(Please print clearly)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of the Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if Submitted by Board Secretary or Clerk)

Date Signed