

**Meeting Date:** 6/17/2014

**Report Type:** Consent

**Report ID:** 2014-00350

**Title: Contract: Prepaid Postage and Related Postage Meter Equipment and Services (Two-Thirds Vote Required)**

**Location:** Citywide

**Recommendation:** Pass 1) a Resolution suspending competitive bidding, in the best interests of the City, for the purchase of prepaid postage and related postage meter equipment and services from Pitney Bowes during FY2014/15; and 2) a Motion awarding a contract to Pitney Bowes for prepaid postage and related postage meter equipment and services during FY2014/15 in an amount not to exceed \$380,000.

**Contact:** Don Tucker, Facilities Manager, (916) 808-8335, Department of General Services

**Presenter:** None

**Department:** General Services

**Division:** Central Services

**Dept ID:** 13001552

**Attachments:**

1-Description/Analysis

2-Resolution

3-Contract

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### **City Attorney Review**

Approved as to Form

Kourtney Burdick

6/11/2014 2:29:52 PM

### **Approvals/Acknowledgements**

Department Director or Designee: Reina Schwartz - 5/29/2014 9:13:44 AM

## Description/Analysis

**Issue Detail:** The Department of General Services, Facilities and Real Property Management Division, provides US mail services to City departments through the division's Central Services section. This includes providing access to Pitney Bowes postage meter equipment with prepaid postage for convenient stamping of US mail. This report recommends actions necessary to authorize expenditures for prepaid postage and related equipment and services, which include postage meter rental and maintenance, with Pitney Bowes from July 1, 2014 through June 30, 2015.

**Policy Considerations:** The recommendations in this report are in accordance with City Code Chapter 3.56 regarding the suspension of competitive bidding, which allows the City Council to suspend competitive bidding, on a two-thirds vote, if the City Council determines it is in the best interests of the City to do so.

**Economic Impacts:** None

### Environmental Considerations:

**California Environmental Quality Act (CEQA):** No environmental review is necessary because the recommendations in this report involve the ongoing purchase of supplies and are not considered to be a project in accordance with Section 15378(b)(2) of the CEQA Guidelines.

**Sustainability:** Not applicable

**Commission/Committee Action:** None

**Rationale for Recommendation:** This report recommends actions necessary to authorize expenditures, in support of City departments, for prepaid postage and related equipment and services, which include postage meter rental and maintenance with Pitney Bowes from July 1, 2014 through June 30, 2015.

Suspending competitive bidding is recommended for the following reasons:

- Central Services has experience with other vendors but has found that Pitney Bowes offers superior service.
- Central Services previously purchased Pitney Bowes mail equipment, which requires that postage also be purchased from Pitney Bowes. Purchasing postage from another source would require purchasing new postage equipment, thereby increasing the overall cost to the City.
- The City receives a discount on the pre-paid postage costs when buying through Pitney Bowes, paying \$0.455 rather than the \$0.48 metered mail rate for each standard letter size envelope mailed.
- Continuing to purchase prepaid postage and the related services of postage meter rental and maintenance from Pitney Bowes will prevent an interruption of this critical service to City departments.

**Financial Considerations:** This report recommends awarding a contract in an amount not to exceed \$380,000 to Pitney Bowes for use during FY2014/15. This amount was determined based on a review of historical expenditures and a consideration of future needs, and includes

estimated expenditures of \$360,000 for prepaid postage, and \$10,000 each for postage meter rental and maintenance.

Funding for these purchases will initially be provided by the Department of General Services FY2014/15 operating budget (General Fund, Fund 1001). Usage by departments is tracked on a monthly basis and departments or capital improvement projects that utilize the service are charged for their share of the cost. Sufficient funding will be available in all these budgets upon adoption of the FY2014/15 budget.

**Local Business Enterprise (LBE):** LBE program requirements have been waived for the recommended purchase because the Facilities and Real Property Management Division has determined that contracting with Pitney Bowes represents the most advantageous purchasing strategy. As stated above, by contracting with Pitney Bowes, the City can avoid purchasing new postage machines and gets a discount on postage. Pitney Bowes is not a local business enterprise.

## **RESOLUTION NO. 2014-**

Adopted by the Sacramento City Council

June 17, 2014

### **SUSPENDING COMPETITIVE BIDDING FOR THE PURCHASE OF PREPAID POSTAGE AND RELATED POSTAGE METER EQUIPMENT AND SERVICES**

#### **BACKGROUND**

- A. The Department of General Services, Facilities and Real Property Management Division, provides US mail services to City departments through the division's Central Services section. This includes providing access to Pitney Bowes postage meter equipment with prepaid postage for convenient stamping of US mail.
- B. City Code section 3.56.230(C) allows the City Council to suspend competitive bidding for any purchase or contract when, upon a two-thirds vote, it is determined that it is in the best interests of the City to do so.
- C. Suspending competitive bidding for the purchase of prepaid postage and related postage meter equipment and services, including postage meter rental and maintenance from Pitney Bowes, is in the best interest of the City for the following reasons:
- The City has experience with other vendors but has found that Pitney Bowes offers superior service.
  - The City previously purchased Pitney Bowes mail equipment, which requires that postage also be purchased from Pitney Bowes. Purchasing postage from another source would require purchasing new postage equipment, thereby increasing the overall cost to the City.
  - The City receives a discount on the pre-paid postage costs when buying through Pitney Bowes, paying \$0.455 rather than the \$0.48 metered mail rate for each standard letter size envelope mailed.
  - Continuing to purchase prepaid postage and the related services of postage meter rental and maintenance from Pitney Bowes will prevent an interruption of this critical service to City departments.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. In the best interests of the City, competitive bidding is suspended for the purchase of prepaid postage and related postage meter equipment and services from Pitney Bowes during FY2014/15.



Requires Council Approval:  No  YES Meeting: 6/17/14

Real Estate  Other Party Signature Needed  Recording Requested

**General Information**

Type: Supplies	PO Type:	Attachment:	No.:
\$ Not to Exceed: \$380,000		Original Doc Number:	
Other Party: Pitney Bowes		Certified Copies of Document::	
Project Name: N/A		Deed: <input type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate	
Project Number: N/A	Bid Transaction #: N/A	E/SBE-DBE-M/WBE: N/A	

**Department Information**

Department: General Services  
 Project Mgr: Don Tucker  
 Contract Services: Pete Jensen Date: 5-21-14  
 PM Phone Number: 808-8335  
 Division: Facilities & Real Property Mgmt  
 Supervisor: Reina J. Schwartz  
 Division Mgr: Don Tucker  
 Org Number: 13001552

Comment:

**Review and Signature Routing**

Department	Signature/Initial	Date
Project Mgr:	<i>Pete Jensen</i> DON TUCKER	5/21/14
Contract Services:	<i>Pete Jensen</i>	5/21/14
Supervisor:		
Division Manager:		
City Attorney	Signature or Initial	Date
City Attorney:	<i>VCB</i>	5/22/14

Call Pete Jensen x 3135  Notify for Pick Up

Authorization	Signature	Date
Schwartz, Reina Department Director:		
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the contract. (01-01-09)

**For City Clerk Processing**

**Finalized:**

Initial: \_\_\_\_\_

Date: \_\_\_\_\_

**Imaged:**

Initial: \_\_\_\_\_

Date: \_\_\_\_\_

**Received:**  
(City Clerk Stamp Here)

**CONTRACT**

**Services/Supplies: Postage and Postal Services**

THIS CONTRACT is made and entered into on \_\_\_\_\_, 2014, by and between the City of Sacramento, a municipal corporation ("City") and Pitney Bowes, Inc., a Delaware corporation headquartered in Stamford, Connecticut ("Contractor"), who agree as follows:

City shall purchase, and Contractor shall supply, in accordance with the attached Terms and Conditions, and the attached Pitney Bowes Terms, the following supplies and/or services:

**Pre-paid postage and mailing equipment rental and maintenance in the Department of General Services through June 30, 2015**

Contract amount not-to-exceed: \$380,000.00

Executed as of the date stated above.

**CONTRACTOR: Pitney Bowes, Inc.**

Address: 1 Elmcroft Road, Stamford CT 06926

Phone #: 480-206-2984

Fax #: 203-460-5758

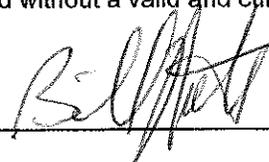
Email: bill.walter@pb.com

State Tax I.D. #: \_\_\_\_\_

Fed. Tax I.D. #: 06-0495050

City of Sacramento Business Operation Tax Certificate #: 3953  
(Contract award will not be processed without a valid and current Certificate Number.)

By: (signature of authorized person)



Print Name: Bill Walter

Title: Government Channel Manager

**CITY OF SACRAMENTO**

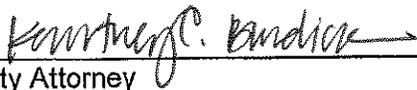
By: \_\_\_\_\_

Print Name/Title: \_\_\_\_\_

For: John F. Shirey, City Manager

Approved As To Form:

Attest:

  
City Attorney

\_\_\_\_\_  
City Clerk

## TERMS AND CONDITIONS

1. **DELIVERY:** If delivery of the commodity or service cannot be made exactly as specified on the date and at the time shown on this Order, notify the City Procurement Services Division immediately for instructions on how to proceed. Do not make delivery except as shown without prior City approval.

2. **MISCELLANEOUS CHARGES:** No additional charges, including without limitation, charges for transportation, containers, packing, etc., will be allowed unless so specified in this Order.

3. **FREIGHT CHARGES:** On shipments sold F.O.B. point of origin, prepay charges and add to invoice. An original copy of paid express or freight bill must be attached to invoice.

4. **HOLD HARMLESS:** The Contractor shall defend, indemnify and hold the City of Sacramento, its officers, agents and employees, harmless from and against any and all claims, actions, costs, proceedings, damages and other liabilities, including attorney fees, caused by defect(s) in the item(s) purchased hereunder, or resulting from the Contractor's or City's use of any composition, process, service, invention, commodity, article or appliance furnished or used under this Order whether or not copyrighted or patented by Contractor or any other party.

5. **EXCISE TAX:** If federal excise tax is applicable to the transaction, it must be so stated and excluded from the price of the article. The City of Sacramento, as a governmental agency, is exempt from the payment of said tax and will issue an exemption certificate upon request.

6. **SALES AND USE TAXES:** Sales tax must be shown on the invoice as a separate item. On out-of-state purchases, the Contractor must show their Use Tax Permit Number issued by the California State Board of Equalization, which authorizes them to charge and collect California sales tax.

7. **BUSINESS OPERATIONS TAX CERTIFICATE:** The Sacramento City Code requires any person or firm conducting business within or with the City of Sacramento to pay a Business Operations Tax and have a current Business Operations Tax Certificate issued by the City Revenue Division.

8. **CONTRACT DOCUMENTS:** A copy of the Notice Inviting Bids or Quotations, the Bid or Quotation, any applicable Specifications, Plans or Drawings, and this Order, including these Terms and Conditions, will remain on file in the Office of the City Procurement Services Division. The Contractor agrees that the foregoing documents shall constitute the Contract when approved by the City Manager or authorized designee, and Contractor shall be bound by each and every provision thereof. If the Contractor's Bid, Quotation or any other documents contain any terms or conditions that conflict or are inconsistent with any provision of the Contract, said terms and conditions shall be considered void unless expressly approved in writing by City.

If you submit additional and/or different terms and conditions or submit a counteroffer to the City, the City's subsequent performance shall not be construed as either acceptance of your additional and/or different terms and conditions or your counteroffer, nor shall the City's subsequent performance be viewed as a willingness to accept any provision of the Uniform Commercial Code, as adopted by any State, that is contrary to any of the terms and conditions listed below. All materials or services supplied by the Contractor shall conform to the applicable requirements of the Sacramento City Charter, Sacramento City Code, and all applicable State and Federal laws,

as well as conforming to the requirements herein. Except as otherwise provided in the Contract, the California Commercial Code shall apply.

9. **DEFAULT:** In case of default by Contractor, the City reserves the right to procure the articles or services from other sources and to hold the Contractor responsible for any additional costs incurred by the City thereby.

10. **PAYMENTS:** Payment terms are NET/30 unless otherwise indicated and accepted by City. All Cash Discounts shall be taken and computed from the date of delivery or completion and acceptance of the material, or from date of receipt of invoice, whichever is latest.

11. **INSPECTION AND ACCEPTANCE:** Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance and after any rejections, risk of loss will be on the Contractor unless loss results solely from the negligence of the City of Sacramento. Notwithstanding the requirements for any City inspection and test contained in specifications applicable to this Contract, except where specialized inspections or tests are specified for performance solely by the City, the Contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the Contract conform to the drawings, specifications and other Contract requirements, including, if applicable, the technical requirements for the manufacturers' part numbers specified herein.

12. **VARIATION IN QUANTITY:** No variation in the quantity of any item called for by this Contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this Contract.

13. **PAYMENTS:** Invoices shall be submitted in triplicate (one copy shall be marked "Original") unless otherwise specified, and shall contain the following information: Contract or order number, item number, description of supplies or services, sizes, quantities, unit prices and extended totals. Bill of lading number and weight of shipment will be shown for shipments on Government Bills of Lading. Unless otherwise specified, payment will be made on partial deliveries accepted by the City when the City determines, in its sole discretion, that the amount due on such partial deliveries so warrants.

14. **COMMERCIAL WARRANTY:** The Contractor agrees that the supplies or services furnished under this Contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the City at law or equity or by any other clause of this Contract.

15. **ASSIGNMENT OF CLAIMS:** Claims for monies due or to become due under this Contract shall be assigned only with prior written consent of the City Manager or his/her designated representative.

16. **MATERIAL SAFETY DATA SHEET (MSDS):** It is mandatory for a manufacturer, supplier, or distributor to supply a MSDS with the first shipment of hazardous material. Also, at any time the content of a MSDS is revised, the vendor is required to provide new information relevant to the specific material.

**GENERAL TERMS**

These General Terms apply to any transaction you enter into with Pitney Bowes. Other provisions in the Pitney Bowes Terms may also apply, depending on your transaction. Please read these provisions carefully as they constitute part of your agreement with Pitney Bowes.

**G1. DEFINITIONS**

The following terms mean:

**"Agreement"** - the Order and any terms referred to in or attached to the Order.

**"Bank"** - The Pitney Bowes Bank, Inc.

**"Consumable Supplies"** - ink, ink rollers, toner and drum cartridges, ribbons and similar items. Product-specific consumable supplies are identified in the operator guides.

**"Covered Equipment"** - the equipment leased, rented or sold to you from PBGFS or PBI that is covered by the SLA as stated on the Order, excluding any Usage-based Equipment, Meter or standalone software.

**"Equipment"** - the equipment listed on the Order, excluding any Meter and standalone software.

**"Excluded Circumstances"** - your negligence, an accident, usage which exceeds our recommendations, use of equipment in a manner not authorized by this Agreement or any operator guide, use of equipment in an environment with unsuitable humidity and/or line voltage, damage in transit, virus contamination or loss of data, loss or fluctuation of power, fire, flood or other natural causes, external forces beyond our control, sabotage or service by anyone other than us, failure to use applicable software updates, use of equipment with any system for which we have advised you we will no longer provide support or which we have advised you is no longer compatible, or use of third party supplies (such as ink), hardware or software that results in (i) damage to equipment (including damage to printheads), (ii) poor indicia, text or image print quality, (iii) indicia readability failures or (iv) a failure to print indicia, text or images.

**"Initial Service Term"** - twelve (12) months, or, if you have a Lease, the Lease Term.

**"Initial Term"** - the period listed on the Order.

**"Lease"** - the Order and the Lease terms and conditions attached to the Order.

**"Lease Term"** - as defined in the Lease.

**"Lockbox Bank"** - any bank through which you transfer funds to the USPS.

**"Meter"** - any postage meter supplied by PBI under the Order, including (i) in the case of a Connect+® mailing system, the postal security device, the application platform, the system controller and the print engine and (ii) in the case of all other mailing systems, the postal security device, the user interface or keyboard and display and the print engine.

**"Normal Working Hours"** - 8 a.m. - 5 p.m., Monday - Friday, excluding PBI-observed U.S. holidays, in the time zone where the Equipment or other items are located.

**"Order"** - the executed order between the applicable Pitney Bowes company and you for the equipment covered by the order.

**"PBGFS"** - Pitney Bowes Global Financial Services LLC or a wholly-owned subsidiary of Pitney Bowes Inc.

**"PBI"** - Pitney Bowes Inc.

**"PBI Equipment"** - PBI-branded equipment.

**"Pitney Bowes"** - PBI, PBGFS and their respective subsidiaries.

**"Reserve Account"** - the Postage By Phone® Reserve Account that you maintain at the Bank.

**"Service"** - the service option for the Covered Equipment selected by you on the Order.

**"SLA"** - the Service Level Agreement.

**"Third Party Equipment"** - equipment manufactured by a party other than us.

**"Usage-based Equipment"** - equipment for which charges are based on volume of use.

**"USPS"** - the United States Postal Service.

**"We," "our," or "us"** - the Pitney Bowes companies with whom you've entered into the Order.

**"You," "your," or "Client"** - the entity identified on the Order.

**G2. WARRANTY**

- G2.1 (a) PBI warrants that the PBI Equipment will be free from defects in material and workmanship and will perform according to the operator guides for a period of ninety

- (90) days from the date the Equipment or other item is installed at your location.
- (b) PBI warrants that the Service will be performed in a professional and workmanlike manner.
- (c) **As your sole remedy in the event of a warranty claim, we will either repair or replace the Equipment or, in the case of defective Service, reperform the Service.**
- (d) A "defect" does not include the failure of rates within a rate update to conform to published rates.
- (e) There is no warranty for Equipment requiring repair or replacement because of any Excluded Circumstance.
- (f) The print engine(s), print engine components, structural components and printed circuit board assemblies supplied with the PBI Equipment may be reclaimed, reconditioned or remanufactured. Any such item is warranted to perform according to the same standards as the equivalent new item.
- (g) The warranty does not cover Consumable Supplies.

G2.2 **EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, WE (ON BEHALF OF OURSELF AND OUR SUPPLIERS) MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE EQUIPMENT OR SERVICES.**

G2.3 PBI MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. PBI AGREES TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.

**G3. LIMITATION OF LIABILITY**

- G3.1 PBI'S TOTAL LIABILITY (INCLUDING ANY LIABILITY OF ITS SUPPLIERS) IS LIMITED TO THE FEES PAID BY YOU FOR THE APPLICABLE EQUIPMENT OR SERVICES.
- G3.2 NEITHER PBI NOR ITS SUPPLIERS IS LIABLE FOR ANY DAMAGE YOU MAY INCUR BY REASON OF YOUR MISUSE OR NEGLIGENT USE OF THE EQUIPMENT, OR YOUR NEGLIGENT ACTS OR OMISSIONS.
- G3.3 NEITHER PBI (INCLUDING ITS SUPPLIERS) NOR YOU WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING COMMERCIAL LOSS, OR LOST PROFITS, DATA, OR GOODWILL, FOR ANY MATTER RELATING TO THIS AGREEMENT.

**G4. DEFAULT AND REMEDIES**

- G4.1 **Default and Remedies.** In the event that you do not make any payment within three days after the due date, you breach any other obligation under this Agreement or under any other agreement with PBI or PBGFS and such breach continues for thirty days after we give you notice or you become insolvent or file for bankruptcy, you shall be in default and we may:
- (a) cancel this Agreement and any other agreements PBGFS or PBI has with you;
- (b) require immediate payment of all payments due under a Lease(s) or other agreements, whether accrued or due in the future;
- (c) disable the Meter;
- (d) require you to return the Equipment, Meter and software;
- (e) if you do not return the Equipment, require you to make immediate payment of an amount equal to the value of the Equipment at such time, as determined by us;
- (f) charge you a late charge for each month that your payment is late;

- (iv) Admission for one person to a PBI mail management seminar.
- (b) Response Time Commitment.
  - (1) If PBI determines that on-site service is necessary, PBI will use commercially reasonable efforts to have a service technician on-site (during Normal Working Hours only) within 4 hours or 8 hours, as specified on the Order, after PBI has determined that it cannot resolve the issue remotely (the "Response Time Commitment").
  - (2) The Response Time Commitment relates solely to the arrival of a technician at your location; it is not a guaranteed resolution of the problem within the Response Time Commitment period, nor does it guarantee that all parts necessary to make a repair will be on-site within this time frame.
  - (3) The Response Time Commitment does not apply to Service designated as service by replacement, relocation services, software maintenance, preventative maintenance, operator training, or other services not essential to repair the Covered Equipment.
  - (4) If the Covered Equipment is moved from its original location, PBI may, at its option, remove the Response Time Commitment. If this happens, you will receive Standard SLA and we will adjust the SLA charges payable by you appropriately.
- (c) Liquidated Damages for Failure to Meet Response Time Commitment.
  - (1) PBI agrees that if it does not meet the Response Time Commitment, PBI will provide you with a credit equal to the difference between the cost of Standard SLA and Performance SLA for three (3) months.
  - (2) You must use a credit request form to request a credit. You may obtain a credit form from your service technician or by calling the Customer Care Center. The credits are limited to credits for four (4) failures to meet the Response Time Commitment in any twelve (12) month period during the Service Term. **These remedies are your sole remedy for PBI's failure to meet the Response Time Commitment.**

**S2. SLA FEES**

- S2.1 You will pay the SLA fees for the Initial Service Term and any Renewal Service Term(s).
- S2.2 We may, after the Initial Service Term, increase SLA fees which will be reflected on your invoice.
- S2.3 If the service technician provides service for repairs caused by any Excluded Circumstance, PBI will charge you for the service at PBI's current hourly rates and for any required parts.

**S3. SERVICE TERM**

- S3.1 Term. PBI will provide you with Service for the Initial Service Term and any Renewal Service Terms.

- S3.2 RENEWAL SERVICE TERM(S). SERVICE AUTOMATICALLY RENEWS FOR CONSECUTIVE ONE (1) YEAR TERMS (EACH, A "RENEWAL SERVICE TERM"), UNLESS:
  - (a) YOU TERMINATE SERVICE UNDER SECTION S3.3; OR
  - (b) THE LEASE EXPIRES OR IS TERMINATED (IN WHICH CASE, THE SERVICE TERM WILL TERMINATE ON THE SAME DAY AS THE LEASE); OR
  - (c) THE RENEWAL IS PROHIBITED BY APPLICABLE LAW.
- S3.3 Ending Your Service.
  - (a) If you do not wish to renew Service, you must deliver a written notice (the "Termination Notice") at least sixty (60) days prior to the renewal of the term to us at 2225 America Drive, Neenah, WI 54956. Your Termination Notice must include your customer account number or CAN and lease number (if applicable).
  - (b) PBI reserves the right not to renew your SLA for any reason.
- S3.4 Service Changes.
  - (a) PBI may modify its Service by giving written notice to you (a "Service Change Notice"), which will state whether the change is material.
  - (b) After receiving a Service Change Notice, if the change is material, you may terminate Service as described in Section S3.3 above.

**S4. EQUIPMENT/METER COVERAGE**

You cannot elect to have Service apply to some but not all of the items of Equipment.

**S5. ADDITIONAL SERVICE TERMS**

These terms apply to all Service options:

- (a) Limitations. Service does not include services and repairs that are made necessary due to any Excluded Circumstance.
- (b) Additional Exclusions. Service excludes the supply of postal and carrier rate changes and Consumable Supplies.
- (c) Replacement Equipment.
  - (i) If you replace any of your Covered Equipment during the Service Term, and the replacement Equipment qualifies for Services, PBI will automatically enroll you for maintenance coverage on the new Equipment at PBI's then current annual rates.
  - (ii) If you acquire an attachment, or add a unit, to your Covered Equipment, PBI will provide coverage for any qualifying attachment or unit and adjust your rate accordingly.
  - (iii) If you choose not to continue coverage on the replacement Equipment, attachment or unit, you may cancel Service for the item within thirty (30) days of the date of your initial invoice for the item from PBI. If you cancel, any further maintenance or repair services on the Equipment, attachment or unit will be subject to PBI's current rates.

**EQUIPMENT AND POSTAGE METER RENTAL TERMS AND CONDITIONS**

The following provisions apply whenever you rent a Meter or Equipment from Pitney Bowes.

**R1. EQUIPMENT/METER RENTAL**

- R1.1 Fees.
  - (a) If you are not leasing the Equipment and paying for it in your lease payment to PBGFS, we will invoice you the Equipment and Meter rental ("rental") fees listed on the Order.
  - (b) After the Initial Term, we may increase the rental fees upon 30 days' prior written notice.
  - (c) When you receive notice of an increase, you may terminate your rental only as of the date the increase becomes effective.
- R1.2 Postage.
  - (a) You may transfer funds to the Bank for deposit into your Reserve Account or you may transfer funds to the USPS through a Lockbox Bank. See the "USPS

- Acknowledgment of Deposit" below for more information.
- (b) Until the end of the Initial Term, we may charge you a fee of up to \$15.00 for refilling your postage. After the Initial Term, we may increase postage refill fees upon 30 days prior written notice.
- (c) If you participate in any PBI, PBGFS, or Bank postage advance programs (such as Purchase Power®), we will advance payment on your behalf to the USPS, subject to repayment by you under the terms of the postage advance program and billed separately from your rental fees.
- R1.3 Meter Repair or Replacement. If the Meter malfunctions or fails due to reasons other than an Excluded Circumstance, we will repair or replace the Meter.
- R1.4 Terms of Use; Federal Regulations.

## PURCHASE POWER® TERMS AND CONDITIONS

The following provisions apply to the Purchase Power Program (the "Program"). Additionally, you will receive from us a set of more specific provisions within thirty (30) days of the date of this Agreement.

P1.1 General. (a) In order to participate in the Program, you must provide the information described in Section P1.8. (b) The Purchase Power credit line is a product of the Bank and is not available to individuals for personal, family, or household purposes.

P1.2 Account Charges. (a) Your Purchase Power account (the "Account") will be charged for the amount of postage, products, and services requested and the related fees, if applicable. (b) Unless prohibited by law, you agree to pay the fees and charges of which the Bank has given you notice, including those relating to: (i) transaction fees, if applicable; (ii) your failure to pay in a timely manner; (iii) your exceeding your credit line; and (iv) fees attributable to the return of any checks.

P1.3 Billing, Payments, and Collection. (a) You will receive a billing statement for each billing cycle in which you have activity on the Account. The Bank may deliver any statement electronically to the email address that is then on file for you. (b) Payments are due by the due date shown on your billing statement. (c) You may pay the entire balance due or a portion of the balance, provided that you pay at least the minimum payment shown on the statement. In the event of a partial payment, you will be responsible for the unpaid balance.

P1.4 Deferred Payment Terms. (a) By using the Program, you agree that whenever there is an unpaid balance outstanding on the Account which is not paid in full by the due date shown on your billing statement, the Bank will charge you, and you will pay, interest on the unpaid balance of the Account from time to time, for each day from the date the transaction is posted to the Account until the date the unpaid balance is paid in full, at a variable rate equal to the Annual Percentage Rate applicable to the Account from time to time. (b) (i) The Annual Percentage Rate applicable to the Account will be: the greater of (a) 22% and (b) the sum of the highest "Prime Rate" published in the "Money Rates" section of *The Wall Street Journal* on the last business day of the month and the margin set forth below (the sum of the margin and the Prime Rate is herein called the "Floating Rate"). (ii) The Annual Percentage Rate will be adjusted on a monthly basis based on any fluctuation in the Floating Rate, if applicable. (iii) Any change in the Annual Percentage Rate based on the calculation described in this section will become effective on the first day of your next billing cycle. (iv) The margin which will be added to the Prime Rate to determine the Floating Rate will be 14.75% (using the Prime Rate in effect as of

March 31, 2013, the daily periodic rate would be .049315% and the corresponding annual percentage rate would be 18.00%). (v) The Account balance that is subject to a finance charge each day will include (a) outstanding balances, minus any payments and credits received by the Bank on the Account that day, and (b) unpaid interest, fees, and other charges on the Account. (vi) The Bank will charge a minimum finance charge of \$1.00 in any billing cycle if the finance charge as calculated above is less than \$1.00. (vii) Each payment that you make will be applied to reduce the outstanding balance of the Account and replenish your available credit line. (viii) The Bank may refuse to extend further credit if the amount of a requested charge plus your existing balance exceeds your credit limit.

P1.5 Account Cancellation and Suspension. (a) The Bank may at any time close or suspend the Account, and may refuse to allow further charges to the Account. (b) Cancellation or suspension will not affect your obligation to pay any amounts you owe.

P1.6 Amendments; Electronic Delivery; Termination. (a) The Bank can amend any of the provisions and terms related to the Program at any time by written notice to you (including by electronic notice via the email address that is then on file for you). You are consenting to electronic delivery of any amendments to the Program terms. (b) Each time you use the Program, you are signifying your acceptance of the terms then in effect. (c) An amendment becomes effective on the date stated in the notice and will apply to any outstanding balance on the Account. (d) The Bank may terminate the Program at any time and will notify you in the event of any termination. (e) Any outstanding obligation will survive termination of the Program.

P1.7 Governing Law. The Program and any advances are governed by and construed in accordance with the laws of the State of Utah and applicable federal law.

P1.8 USA PATRIOT Act. (a) Federal law requires financial institutions to obtain, verify and record information that identifies each person who opens an account. (b) The Bank asks that you provide identifying information, including your address and taxpayer identification number. (c) The Bank may also ask for additional identifying information, where appropriate, including asking that your representative who is opening the Account provide his/her name, address, date of birth, driver's license and/or other documents and information that will allow the Bank to identify him/her.

## PBSMARTPOSTAGE TERMS AND CONDITIONS

If you have ordered pbSmartPostage™, your use of that product will be subject to the Terms of Use which are available at [www.pbsmartpostage.com/terms](http://www.pbsmartpostage.com/terms) and which are incorporated by reference.