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

Report Type: Consent

Report ID: 2014-00364

City of SACRAMENTO **14**

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: Contract: Liquid Chlorine in 1-Ton Containers and 150 lb. Cylinders for Drinking Water Treatment (Reviewed 06/05/2014)

Location: Citywide

Recommendation: Pass a Motion 1) awarding a contract for the purchase of Liquid Chlorine in 1-Ton Containers and 150 lb. Cylinders (Bid# B14141111010) to Sierra Chemical Company, for an initial term of one-year with up to four one-year extension options, in an amount not to exceed $2,350,513 for the maximum five-year term; 2) authorizing the City Manager, or the City Manager's designee, to approve the one-year extensions, provided that sufficient funds are available for this purpose in the budget adopted for the applicable fiscal year(s).

Contact: Michael Malone, Operations Manager, (916) 808-6226; Dave A. Phillips, Operations & Maintenance Superintendent, (916) 808-5652, Department of Utilities

Presenter: None

Department: Department Of Utilities
Division: Water Production Operations
Dept ID: 14001111
Attachments:
1-Description/Analysis
2-Background
3-Exhibit A - B14141111010_Chlorine_Sierra
4-Exhibit B- B14141111010_ADDENDUM 1_3-27-14
5-Exhibit C - B14141111010_ADDENDUM 2_3-28-14
6-Exhibit D - IFB_Eval_Form_B14141111010_Chlorine_1 Ton Containers
7-Exhibit E - IFB_Eval_Form_B14141111010_Chlorine_150 lb. Cylinders

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City Attorney Review

Approved as to Form
Michael W. Voss
6/11/2014 9:31:12 AM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 5/30/2014 11:39:45 AM

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Description/Analysis

Issue: The Department of Utilities (DOU) operates two water treatment plants, the Sacramento River Water Treatment Plant (SRWTP) on the Sacramento River and the E.A. Fairbairn Water Treatment Plant (EAFWTP) on the American River and various well sites throughout the City. Because Liquid Chlorine is used during the water treatment process, DOU has an ongoing need to maintain sufficient inventory of this chemical in both 1-ton containers and 150 lb. cylinders to ensure uninterrupted service to its customers.

Policy Considerations: City Council approval is required for contract purchase amounts of $100,000 or more.

Economic Impacts: Not Applicable

Environmental Considerations: The use of Liquid Chlorine is an ongoing activity at the City's water treatment plants and wells. This agreement would not result in any substantial change in the existing operations and processes. The use of Liquid Chlorine is regulated by the State of California, Department of Public Health.

The Community Development Department, Environmental Planning Services has reviewed the proposed purchase and determined that the project is exempt from review under the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment the activity is not subject to CEQA. In addition, the ongoing purchase of supplies is not a "project" under CEQA Guidelines Section 15378(b)(2).

Sustainability: The Liquid Chlorine purchased under this contract complies with Section 8 of the City's Sustainability Master Plan to continue to protect the sources of water.

Commission/Committee Action: Not Applicable

Rationale for Recommendation: DOU advertised for bids through the City Clerk and City Procurement website and City Clerk opened 3 bids on April 16, 2014. The lowest responsible and responsive bidder for Liquid Chlorine in 1 ton containers was Sierra Chemical Company with a bid of $318,500 for one year.

Chlorine - 1 Ton Containers (Unit price - Tons delivered)			
Est. Qty - 700 tons	Sierra Chemical Company	Thatcher Company of CA	Univar USA, Inc.
Unit Price	$455.00	$471.16	NO BID
Annual Total	$318,500.00	$329,812.00	$0.00

The lowest responsible and responsive bidder for Liquid Chlorine in 150 lb. cylinders was Sierra Chemical Company with a bid of $30,117.60 for one year.

Chlorine - 150 lb. Cylinders (Unit price - Each cylinder delivered)			
Est. Qty - 240 cyl	Sierra Chemical Company	Thatcher Company of CA	Univar USA, Inc.
Unit Price	$125.49	NO BID	NO BID
Annual Total	$30,117.60	$0.00	$0.00

Financial Considerations: The proposed contract has an initial one-year term, with the option to extend for up to four additional one-year terms, for a total amount not-to-exceed $2,350,513 for the maximum five-year term. Sufficient funding for the initial one year term, in the amount of $348,617.60 is available in the DOU FY2014/15 proposed operating budget, subject to Council approval of the budget. Extensions of the contract in succeeding fiscal years shall be subject to funding availability in the adopted budgets for each fiscal year.

Local Business Enterprise (LBE): Sierra Chemical Company is not a LBE. Due to a lack of local manufacturers, staff requested a LBE Participation Waiver to ensure competitive bidding in the best interests of the City. The Economic Development Department approved a waiver of the LBE participation requirement for this purchase.

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Background

The Department of Utilities (DOU) operates two water treatment plants, the Sacramento River Water Treatment Plant (SRWTP) on the Sacramento River and the E.A. Fairbairn Water Treatment Plant (EAFWTP) on the American River and various well sites throughout the City. During the water treatment process, Liquid Chlorine is used to treat the water. 1-ton containers are used at the water treatment plants and 150 lb. cylinders are used at the well sites. DOU has an ongoing need for Liquid Chlorine 1-ton container and 150 lb. cylinder inventory.

DOU is requesting approval to obtain a one-year contract, with the option to renew yearly for an additional four years, for a total term of no more than five years. Per Bid #B14141111010, the low bidder's unit price is $455 per 1-ton container delivered at the estimated 700 tons, for an initial one year total of $318,500. The proposed pricing of $455 per ton for 1-ton containers is lower than our current FY 2013/14 pricing of $485 per ton. Sierra Chemical Company was the only bidder to provide a unit price for 150 lb. cylinders with a unit price of $125.49 per 150 lb. cylinder delivered at the estimated 240 cylinders delivered, for an initial one year total of $30,117.60. The proposed pricing of $125.49 per cylinder is lower than our current FY 2013/14 pricing of $128.49 per cylinder.

Pricing for subsequent years is subject to increases or decreases due to market demand and outside costs such as rail or freight expenses. Any increase in price for subsequent years requires written justification and is subject to review and approval by City staff. In addition, amount of chemical quantities used fluctuates from year to year and is dependent on multiple variables (e.g. amount of rainfall, river turbidity, temperature, etc.). In order to cover any potential increases in cost and/or increased quantities of materials used over the next five years, staff has estimated an average 15% increase per year. DOU is requesting a not-to-exceed amount of $2,350,513 for the maximum potential term of five years. The table below indicates potential yearly cost increases, assuming a 15% per year cost increase.

Year 1	Year 2	Year 3	Year 4	Year 5	Total
$348,617.60	$400,910.20	$461,046.80	$530,203.80	$609,734.40	$2,350,513

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CITY OF SACRAMENTO

Department of Utilities, Operations & Maintenance Division
(Responsible Department)

Bid Number: B14141111010

INVITATION FOR BID
And
Contract Specifications for Supplies

FOR: Liquid Chlorine in 1-Ton Containers and 150 lb. Cylinders

Bids Must Be Received Up To The Hour of 2:00 P.M. on April 2, 2014

Bids Must Be Submitted To: Office of the City Clerk
915 I Street, New City Hall
4th Floor Public Counter
Sacramento, CA 95814

Pre-Bid Conference:
Mandatory: [ ] Yes
[X] No

NAME AND ADDRESS OF BIDDER SUBMITTING THIS BID:
(Bidder to complete the following information)

Name of Bidder: Sierra Chemical Co.

Address: 2302 Larkin Circle

City, State, Zip Code: Sparks, NV 89431

Phone Number: 775-358-0888/800-777-8965

Email Address: bids@sierrachem.com

CITY OF SACRAMENTO

Bid No. B14141111010
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SECTION I
REQUIREMENTS

SECTION I – REQUIREMENTS

A. Electronic Bid Document(s) Availability

1. Official Electronic copies of this bid document can be obtained only from the City of Sacramento's official web bid page. http://www.planetbids.com/portal/portal.cfm?CompanyID=15300

2. Any additional information (Addenda, Q&A, etc.) pertaining to this bid will also be found at the above official link.

3. Bid information obtained from third party sources **will not be considered official** and will not fulfill a bidder's responsibility for all official bid information as posted on our official site at the link above.

SECTION I – REQUIREMENTS

B. BID INSTRUCTIONS AND REQUIREMENTS

No Bid Is In Legal Form Unless the Following Instructions Are Fully Complied With

1. **Additional Copies. VENDORS ARE REQUIRED TO SUBMIT AN ORIGINAL BID, INCLUDING ALL REQUIRED ATTACHMENTS SUCH AS BROCHURES AND CATALOGS, TO THE CITY CLERK ON THE DATE AND AT THE TIME AND LOCATION SPECIFIED ON THE COVER SHEET. FAILURE TO DO SO MAY CAUSE YOUR BID TO BE REJECTED.**

2. **Bid Forms. Bid must be submitted on these printed forms and sealed in an appropriate envelope or package. Bid submission envelopes/packages shall exhibit the City's bid name and number, and include the vendor's name and address printed on the outside of the envelope/package**

   a) To obtain an electronic version of this bid go to Procurement's website at http://www.planetbids.com/portal/portal.cfm?CompanyID=15300

   b) Bidders are invited to be present at the opening of bids. Bids will be opened, in public, in the Historic City Hall, Historic Chambers, 915 "I" Street, 2nd Floor, Sacramento, CA at or after 2:00 P.M. on Wednesday, March 26, 2014. After opening, Bids may be inspected in the City Clerk's Office.

   (Note: Bids must be submitted up to 2:00 P.M. on the above date)

   c) All bids shall be clearly and distinctly written without erasure or modification, and properly signed by an authorized party, who shall indicate the capacity in which the signature is executed.

3. **Alternate Bids.** Alternate bids are invalid unless invited and covered by the specifications. **Please note all submissions are subject to rejection when unsolicited alternate bids are submitted.**

4. **Bid Security.** Bid Security is: [ ] Required [X] Not Required

   If required, bid security approved by the City must accompany the bid, in the amount of ___ % of the total amount of the bid. Bid security can be in the form of a cashier's check, certified check, or a bid bond from a surety company authorized to do business in the State of California. Bid securities will be returned to all except the three lowest Bidders within ten days after the opening of bids. The bid security of the two unsuccessful Contractors will be returned after the successful Contractor has executed the contract. Bid security of the successful Contractor will be returned when the contract is signed and all other contract award requirements have been met.

5. **Interest in More Than One Bid**. No bidder shall be interested in more than one bid (submit more than one bid for this solicitation) as provided by City Code Section 3.56.130(D).

6. **Rejection of Bids.** The right to reject any and all bids is reserved by the City, in its absolute discretion.

7. **Right to Waive.** The City reserves the right to waive any informalities or minor irregularities, as determined in its sole discretion, in connection with bids received.

7A. **City's Options.** City reserves the following options:
   1. The right to award in whole or in part.
   2. The right to reject all partial bids.
   3. The right to reject any or all bids or make no award.
   4. The right to issue subsequent Invitation For Bids (IFB).
   5. The right to approve or disapprove the use of particular subcontractors and/or suppliers.
   6. The right to waive any informality or irregularity in the bidding process and any bids.
   7. The right to accept a bidder's signed offer and issue a purchase order directly to the bidder based on the IFB.

8. **City Code.** All provisions of Chapter 3.56 of the City Code are applicable to any bid submitted or contract awarded.

9. **Equipment.** If equipment is bid, it shall be the newest and latest model in current production. Used, re-manufactured, shopworn, demonstrator, prototype or discontinued models are not acceptable unless otherwise stipulated by the City.

10. **Faithful Performance Bond.** A faithful performance bond is: **[X]** Not Required [ ] Required

    If required, the successful bidder must submit a performance bond in a form approved by the City Attorney, in the amount of _____.

11. **Payment Discounts.** Payment discounts offered for payment in less than twenty (20) days will not be considered as a basis of award. Payment discounts offered for payment in twenty (20) or more days will be subtracted from the total bid price for the purposes of bid evaluation. Any payment discount offered by the successful bidder will be accepted by the City of Sacramento, whether or not it was considered as a basis of award.

12. **Mandatory Pre-Bid Conference.** If a mandatory Pre-Bid Conference is indicated on the Invitation for Bid, all bidders are required to attend the conference. Failure to attend this conference will result in rejection of your bid. If a mandatory Pre-Bid Conference is indicated on the Invitation for Bid, bid packages will be made available only through the time and date of the conference. Subsequent addenda, if applicable, will be furnished only to those bidders who attended the Mandatory Pre-Bid Conference.

13. **Bid Inquiries**. Questions regarding this bid should be referred to:

Contractual Questions	Technical Questions
Department of Utilities, O&M Division	*Department of Utilities, O&M Division*
Attention: Deanne Neighbours	*Attention: Rod Frizzell*
Email: dneighbours@cityofsacramento.org	*Email: rfrizzell@cityofsacramento.org*
Phone: (916) 808-3536	*Phone: (916) 808-5165*

    These inquiries must be submitted at least 10 days prior to the bid opening date. Any interpretations by the City will be made in the form of a written amendment. The receipt of such an amendment must be acknowledged in accordance with the directions on the amendment. Oral explanations or instructions given before the award of the contract will not be binding.

14. **Bid Evaluation.** In determining the amount bid by each bidder, the City shall disregard mathematical errors in addition, subtraction, multiplication and division that appear obvious on the face of the Bid. When such a mathematical error appears on the face of the Bid, the City shall have the right to correct such error and to compute the total amount bid by the bidder on the basis of the corrected figure or figures.

    When an item price is required to be set forth in the Bid, and the total for the item set forth separately does not agree with a figure which is derived by multiplying the item price times the City's estimate of the quantity to be provided or performed for said item, the item price shall prevail over the sum set forth as the total for the item unless, in the sole discretion of the City, such a procedure would be inconsistent with the intent of the bid process. The total paid for each such item of work shall be based upon the item price and not the total price.

    Should the Bid contain only a total price for the item and the item price is omitted, the City shall determine the item price by dividing the total price for the item by City's estimate of the estimated quantities to be provided or performed.

    If the Bid contains neither the item price nor the total price for the item, then it shall be deemed incomplete and the Bid shall be disregarded.

    If prospective bidders are bidding an item "or equal" the bidders shall list the manufacturer's name and product number of the item offered in the space provided. If such information is not provided, it will be assumed that the bidder is offering the exact item specified. The City's decision as to whether an item is an equal to the item specified shall be final.

15. **Determination of Lowest Responsible Bidder.** Sacramento City Code '3.56.020 provides that the lowest responsible bidder shall be determined as follows:

    a. In determining whether a bidder is responsible, consideration shall be given to: (i) the quality and performance of the supplies to be provided by the bidder; (ii) the ability, capacity and skill of the bidder to perform the contract or effectuate the transaction; (iii) the ability of the bidder to perform the contract or effectuate the transaction within the time specified, without delay; (iv) the character, integrity, reputation, judgment, experience and efficiency of the bidder; (v) the quality of the bidder's performance on previous purchases by, or contracts with, the City; (vi) the ability of the bidder to provide future maintenance, repair parts and services for the supplies provided.

    b. Based on the information provided in the bids, the City Council or the City Manager, as the case may be, shall identify those bids that are subject at the time of bid opening to the City's local sales or use tax under the provisions of Part 1.5 of Division 2 of the California Revenue and Taxation Code and Chapter 3.24 of the City Code. The lowest responsible bidder shall be determined after the amount of local sales or use tax that would be received by the City is deducted from such bids. This deduction shall be in addition to the application of any bid price preferences authorized by subsection c, below.

    c. The City Council may by resolution, from time to time, adopt programs or procedures for providing bid price preferences, including but not limited to, preferences to promote the participation and utilization of local business enterprises, energy conservation and sustainability in the City's contracting for supplies and nonprofessional services. The lowest responsible bidder shall be the responsible bidder whose bid price is the lowest after all bid prices are calculated to include any such preferences. The calculation of such preferences shall be in addition to any deduction of sales or use tax required by subsection b, above.

16. **Pre-Award Conference.** The apparent lowest responsible bidder may be required to attend a pre-award conference at a mutually acceptable time at which requirements of the Contract will be reviewed. At that time, samples of forms, reports etc., will be submitted by the Contractor for final approval.

17. **Award by Item or Group.** The City reserves the right to increase or decrease quantities listed, make separate awards for any item, line-item or category/group of items to the lowest responsible bidders for such items or category/groups of items.

18. **Multiple Awards.** The City reserves the right to make multiple awards in order to provide alternate sources to insure continuity of supply if meeting the City's requirements within an acceptable time period exceeds the capacity or capability of the primary contractor(s).

19. **Contract Award.** Within ninety (90) days after the bid opening, a contract will be awarded by the City to the lowest responsible bidder, subject to the right of the City to reject all bids or waive informalities or minor irregularities, as it may deem proper. The time for awarding a contract may be extended in the sole discretion of the City, if required to evaluate bids or for such other purposes as the City may determine, unless the Bidder objects to such extension in writing with his/her bid. The City may accept this bid offer by issuance of a Notice of Award Letter, Contract and/or a Purchase order covering award of said bid to Bidder at any time on or before the 90th day following the day of this official bid is opened by the City. This offer shall be irrevocable for 90 days after bid opening or 90 days after City Council awards the bid, whichever comes last, however this period may be extended by mutual agreement of both parties.

20. **Emergency/Declared Disaster Requirements**. In the event of an emergency or if a City facility is declared a disaster area by the county, state or federal government, this contract may be subjected to unusual usage. The consultant/vendor/supplier shall service the City during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the consultant/vendor/supplier shall apply to serving the City's needs regardless of the circumstances. If the consultant/vendor/supplier is unable to supply the goods/services under the terms of the contract because of a disruption in its chain of supply or service, then the consultant/vendor/supplier shall provide proof of such disruption which may include, but not be limited to a copy of a letter from the source of supply or service stating reason for the disruption. Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted.

21. **Acceptable bid format**. All bids must show the full name of the firm bidding and must be on forms furnished by the City of Sacramento. All responses must be written in ink, printed by typewriter or computer generated. Responses made in pencil will not be considered.

22. **Submission of Bids.** The City is not responsible for misaddressed bids. Please assure that you utilize the address appropriate for the method of delivery. Bid submissions made via commercial express courier (FedEx, United Parcel Svs.) must be addressed as follows:

Office of the City Clerk
915 I Street, New City Hall
4th Floor Public Counter
Sacramento, CA 95814

Bid submissions made via personal delivery shall be delivered to:

Office of the City Clerk
915 I Street, New City Hall
4th Floor Public Counter
Sacramento, CA 95814

23. **Bid Protest.** Bid protests must be filled and maintained in accordance with the provisions of Sections 3.60.460 through 3.60.560 of the Sacramento City Code. Bid protests that do not comply with Sections 3.60.460 through 3.60.560 of the Sacramento City Code shall be invalid and shall not be considered. A bid protest fee of $750.00 is required at the time of filing to be considered valid in accordance with City of Sacramento Resolution No. 2003-231 dated April 29, 2003. As used herein, the term "bid protest" includes any bid protest that (1) claims that one or more bidders on this contract should be disqualified or rejected for any reason, or (2) contests a City staff recommendation to award this contract to a particular bidder, or (3) contests a City staff recommendation to disqualify or reject one or more bidders on this contract. Sections 3.60.460 - 3.60.560 of the Sacramento City Code are available at: http://www.qcode.us/codes/sacramento/

SUBJECT TO PARAGRAPH 7 ABOVE, THE CITY CANNOT ACCEPT A BID FAILING TO COMPLY WITH ANY OF THE ABOVE REQUIREMENTS.

SECTION I – REQUIREMENTS

C. BID SIGNATURE PAGE

BID NO. B14141111007

FOR SERVICES/SUPPLIES: Liquid Chlorine 1-Ton Containers and 150 lb. Cylinders

To the City of Sacramento:

The undersigned bidder (hereafter referred to as the "Bidder" or the "Contractor") submits the attached bid, and certifies as follows: that the only persons or parties interested in this bid as principals are those named herein as bidder; that this bid is made without collusion with any other person, firm, or corporation; that in submitting this bid the bidder has examined all of the Contract Documents identified below; that the bidder proposes and agrees that if this bid is accepted, the bidder will execute and fully perform the contract for which bids are called; that the bidder shall perform all the work and/or furnish all the materials specified in the Contract Documents, in the manner and time therein prescribed, and according to the requirements as therein set forth; and that the bidder shall take in full payment therefor, the prices set forth in the attached Pricing Schedule.

CONTRACT DOCUMENTS

Performance of and payment for the contract for which bids are called shall be subject to all terms and conditions of the Invitation for Bid, the Bid Instructions and Requirements, the Bid, the Pricing Schedule(s), the Items Requiring Bidder Response, the Required Submittals, the General Conditions, and any Addenda, Amendments, Special Provisions, Specifications, Plans or other requirements applicable to performance of the work and/or furnishing the materials specified herein. Such documents, referred to herein as the Contract Documents, are fully incorporated herein by this reference and are collectively referred to as the Contract. By submitting this Bid, the Contractor agrees to fully perform each and every provision of the Contract, provided that City awards the Contract to the Contractor, and provided further that City shall have no obligation hereunder unless and until such award is made. Contractor shall not make any changes to this form without City's written approval, and any changes made without such approval shall be void.

To Be Filled Out By Bidder

NAME OF CONTRACTOR: Sierra Chemical Co.

ADDRESS: 2302 Larkin Circle, Sparks, NV 89431

PHONE #: 775-358-0888 FAX #: 775-358-0987 E-MAIL: bids@sierrachem.com

STATE TAX I.D. #: NV195910000258 FED. TAX I.D. #: 88-0086174

City of Sacramento Business Operation Tax Certificate #: 81338
(Contract award will not be processed without a valid and current Certificate Number.)

TYPE OF BUSINESS ENTITY (check one): _____ Individual/Sole Proprietor _____ Partnership
_X_ Corporation _____ Limited Liability Company
_____ Other (please specify: _____)

BY: (signature of authorized person) Ron Espalin

PRINT NAME: Ron Espalin

TITLE: Commerical Manager

Note: All information submitted in or in connection with a bid is submitted under penalty of perjury. The City shall have the right to terminate at any time any contract awarded pursuant to a bid that contains false information.

FOR CITY USE ONLY

The Bid was opened on _____

Bid Bond Required: [X] No, [ ] Yes - Amount $ _____

Received: [ ] Cashiers or Certified Check drawn on a California bank, [ ] Surety Bond

_____
City Clerk

CONTRACT AWARD

Bid Items Included in the Contract: All Items, unless otherwise specified below

Specify: _____

Contract Not-to-Exceed Amount: $ _____

Award Date: _____

CONTRACT APPROVAL

Approved as to Form:	Approved:	Attest:
_____	_____	_____
City Attorney	City Manager (Or Authorized Designee)	City Clerk

D. EQUAL BENEFITS ORDINANCE (EBO) REQUIREMENTS

REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

INTRODUCTION

The Sacramento Non-Discrimination In Employee Benefits Code (the "Ordinance"), codified as Sacramento City Code Chapter 3.54, prohibits City contractors from discriminating in the provision of employee benefits between employees with spouses and employees with domestic partners, and between the spouses and domestic partners of employees.

APPLICATION

The provisions of the Ordinance apply to any contract or agreement (as defined below), between a Contractor and the City of Sacramento, in an amount exceeding $100,000.00. The Ordinance applies to that portion of a contractor's operations that occur: (i) within the City of Sacramento; (ii) on real property outside the City of Sacramento if the property is owned by the City or if the City has a right to occupy the property; or (iii) at any location where a significant amount of work related to a City contract is being performed.

The Ordinance does not apply: to subcontractors or subcontracts of any Contractor or contractors; to transactions entered into pursuant to cooperative purchasing agreements approved by the Sacramento City Council; to legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by the City; where the requirements of the ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement; to permits for excavation or street construction; or to agreements for the use of City right-of-way where a contracting utility has the power of eminent domain.

DEFINITIONS

As set forth in the Ordinance, the following definitions apply:

"Contract" means an agreement for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided, at the expense of the City or to be paid out of moneys deposited in the treasury or out of the trust money under the control or collected by the City. "Contract" also means a written agreement for the exclusive use ("exclusive use" means the right to use or occupy real property to the exclusion of others, other than the right reserved by the fee owner) or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements.

"Contract" shall not include: a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit; excavation, street construction or street use permits; agreements for the use of City right-of-way where a contracting utility has the power of eminent domain; or agreements governing the use of City property that constitute a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas and that are generally protected by the First Amendment to the United States Constitution or that are primarily recreational in nature.

"Contractor" means any person or persons, firm partnership or corporation, company, or combination thereof, that enters into a Contract with the City. "Contractor" does not include a public entity.

"Domestic Partner" means any person who has a currently registered domestic partnership with a governmental entity pursuant to state or local law authorizing the registration.

"Employee Benefits" means bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefit given to employees. "Employee benefits" shall not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state.

CONTRACTOR'S OBLIGATION TO PROVIDE THE CITY WITH DOCUMENTATION AND INFORMATION

Contractor shall provide the City with documentation and information verifying its compliance with the requirements of the Ordinance within ten (10) days of receipt of a request from the City. Contractors shall keep accurate payroll records, showing, for each City Contract, the employee's name, address, Social Security number, work classification, straight time pay rate, overtime pay rate, overtime hours worked, status and exemptions, and benefits for each day and pay period that the employee works on the City Contract. Each request for payroll records shall be accompanied by an affidavit to be completed and returned by the Contractor, as stated, attesting that the information contained in the payroll records is true and correct, and that the Contractor has complied with the requirements of the Ordinance. A violation of the Ordinance or noncompliance with the requirements of the Ordinance shall constitute a breach of contract.

EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS

(a) All contractors seeking a Contract subject to the Ordinance shall submit a completed Declaration of Compliance Form, signed by an authorized representative, with each proposal, bid or application. The Declaration of Compliance shall be made a part of the executed contract, and will be made available for public inspection and copying during regular business hours.

(b) The Contractor shall give each existing employee working directing on a City contract and (at the time of hire), each new employee, a copy of the notification provided as Attachment "A."

(c) Contractor shall post, in a place visible to all employees, a copy of the notice provided as Attachment "B."

ATTACHMENT A

YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

On April 16, 2014 (date), your employer (the "Employer") entered into a contract with the City of Sacramento (the "City") for B141411111010 (contract details), and as a condition of that contract, agreed to abide by the requirements of the City's Non-Discrimination In Employee Benefits Code (Sacramento City Code Section 3.54).

The Ordinance does not require the Employer to provide employee benefits. The Ordinance does require that if certain employee benefits are provided by the Employer, that those benefits be provided without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouse or domestic partner of employees.

The Ordinance covers any employee working on the specific contract referenced above, but only for the period of time while those employees are actually working on this specific contract.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

(Employee Benefits does not include benefits that may be preempted by federal or state law.)

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, or in the application of these employee benefits, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of the Ordinance, and after having exhausted all remedies with your employer,

You May . . .

- O Submit a written complaint to the City of Sacramento, Procurement Services Division, containing the details of the alleged violation. The address is:

  City of Sacramento
  Procurement Services Division
  915 I Street, Second Floor
  Sacramento, CA 95814

- O Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:
  - Reinstatement, injunctive relief, compensatory damages and punitive damages
  - Reasonable attorney's fees and costs

ATTACHMENT B

YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS BY CITY CONTRACTORS ORDINANCE

If your employer provides employee benefits, they must be provided to those employees working on a City of Sacramento contract without discriminating between employees with spouses and employees with domestic partners.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

If you feel you have been discriminated against by your employer . . .

You May . . .

O Submit a written complaint to the City of Sacramento, Procurement Services Division, containing the details of the alleged violation. The address is:

City of Sacramento
Procurement Services Division
915 I Street, Second Floor
Sacramento, CA 95814

O Bring an action in the appropriate division of the Superior Court of the State of California against the employer and obtain reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

Discrimination and Retaliation Prohibited.

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of this Ordinance . . .

You May Also . . .

Submit a written complaint to the City of Sacramento, Procurement Services Division, at the same address, containing the details of the alleged violation.

E. LOCAL BUSINESS ENTERPRISE (LBE) PARTICIPATION REQUIREMENTS

(City Contracts no Federal Funds Used)

I. LBE PARTICIPATION REQUIREMENT

On April 3, 2012, the Sacramento City Council adopted a Local Business Enterprise (LBE) Preference Program to provide enhanced opportunities for the participation of local business enterprises (LBEs) in the City's contracting and procurement activities. On November 19, 2013, City Council increased the LBE preference percentage and authorized City departments to require minimum LBE participation levels in specific contracts. Under City Code section 3.60.270, when the bid specifications for a City contract establish a minimum participation level for LBEs, no bidder on the contract shall be considered responsive unless its bid meets the minimum LBE participation level required by the bid specifications.

The City has established **a minimum 5% participation level for LBEs on this contract**. Pursuant to City Code Section 3.60.270, no bidder on this contract shall be considered responsive unless its bid meets or exceeds this minimum participation level.

Bidders shall submit proof to the City demonstrating that the business and each subcontractor, trucker, material supplier, or other business entity listed on the forms submitted are in compliance with all applicable laws relating to licensing and are not delinquent in payment of any City of Sacramento or County of Sacramento taxes, permits, or fees. Failure to submit the required LBE information may be grounds for finding the bid non-responsive.

II. LBE QUALIFICATION

A. A LBE designated in the bid must be qualified as a LBE prior to the time set for submission of bids.

B. Local Business Enterprise means a business enterprise, including but not limited to, a sole proprietorship, partnership, limited liability company, corporation, or other business entity that has a legitimate business presence in the city or unincorporated county of Sacramento. Proof of legitimate business presence in the city or unincorporated county of Sacramento shall include:

1. Having a current City of Sacramento Business Operation Tax or County of Sacramento Business License for at least twelve (12) consecutive months prior to submission of bid; and
2. Having either of the following types of offices or workspace operating legally within the city or unincorporated county of Sacramento for at least twelve (12) consecutive months prior to submission of bid:
    a. The LBE's principle business office or workspace; or

b. The LBE's regional, branch or satellite office with at least one full time employee located in the city or unincorporated county of Sacramento.

C. A LBE must provide a physical address for the basis of location. This excludes P.O. Box addresses.

D. A LBE must provide a current copy of the City of Sacramento Business Operations Tax Certificate or County of Sacramento Business License.

III. DETERMINATION OF LBE PARTICIPATION LEVEL

A. LBE Participation: The percentage of LBE participation is determined based on the dollar value of the work to be performed or supplies to be furnished by certified LBEs designated in the bidder's Subcontractor and LBE Participation Verification Form, relative to the total dollar amount of the bid.

B. Participation Credit: To receive credit for participation:(1) an LBE subcontractor must be responsible for the execution of a distinct element of the work, must possess any license or certification required for the work, and must actually perform, manage, or supervise the work without subcontracting or otherwise shifting any portion of the work to another subcontractor; and (2) an LBE supplier must furnish materials, equipment, or supplies that the supplier sells as a recurring, although not necessarily primary, part of its business, and that are necessary for performance of the work.

C. Suppliers: Credit for an LBE supplier of materials, equipment, or supplies is counted as one hundred (100) percent of the amount paid to the supplier for the material, equipment, or supplies. To receive this credit, LBE suppliers must be listed on the bidder's Subcontractor and LBE Participation Verification Form.

D. Subcontractors (including truckers): To receive credit for an LBE subcontractor, the subcontractor must be listed on the bidder's Subcontractor and LBE Participation Verification Form.

- Truckers: Credit for an LBE trucker is counted as one hundred (100) percent of the amount paid to the trucker for trucking services, not including any amount paid to the trucker for the cost of any materials, equipment, or supplies being transported by the trucker.

IV. LBE REQUIREMENTS FOR CONTRACTOR

A. LBE Records: The Contractor shall maintain records of all subcontracts with verified LBE subcontractors and records of materials purchased from verified LBE suppliers for one (1) year after receiving final payment from the City. Such records shall show the name and business address of each LBE subcontractor or supplier and the total dollar amount actually paid each LBE subcontractor or supplier.

Not later than 30 days after completion of the work performed under the contract, a summary of these records shall be prepared, certified correct by the Contractor's authorized representative and furnished to the City. The Contractor shall provide

such other information, records, reports, certifications or other documents as may be required by City, to determine compliance with any provision of the LBE program or these specifications.

B. Performance of LBE Subcontractors and Suppliers: The LBEs listed by the Contractor shall perform the work and supply the materials, equipment, and supplies for which they are listed unless the Contractor has received prior written authorization from the City to perform the work with other forces or to obtain the material, equipment, or supplies from other sources. Reasons for requesting such authorization would include:

1. The listed LBE fails to execute a written contract based upon the general terms, conditions, plans, and specifications for the project.

2. The listed LBE becomes bankrupt or insolvent.

3. The listed LBE subcontractor fails to meet the bond requirements of the Contractor.

4. The work performed or the materials/equipment/supplies provided by the listed LBE are unsatisfactory or are not in accordance with the plans and specifications, or the listed LBE fails to perform its contractual obligations.

5. It would be in the best interest of the City.

C. Subcontractor Substitution: No substitution of an LBE subcontractor shall be made at any time without compliance with the Subletting and Subcontracting Fair Practices Act. If an LBE subcontractor is unable to perform successfully and is to be replaced, the Contractor shall make reasonable efforts to replace the original LBE subcontractor with another verified LBE subcontractor. The new LBE subcontractor must be verified at the time of substitution.

D. Reporting and Utilization Requirements and Sanctions: Failure to provide specific information, records, reports, certifications, or any other documents required for compliance with these specifications, or failure to utilize one or more LBEs in substantial compliance with the LBE utilization indicated in the Contractor's bid (unless otherwise authorized by City as provided herein, or when such failure results from changes to the work approved by the City), shall be considered a breach of the contract, and a deduction may be made from the contract amount. The deduction shall be not more than ten (10) percent of the value of the work or materials/equipment/supplies that the subject LBE(s) were listed to perform/provide in the Contractor's bid, and shall be deducted from any payment due to the Contractor. This is in addition to any deduction that may be made under any other provision of the contract, the Sacramento City Code, or State law.

E. Hearing and Review of Division Manager Decision: Prior to making a deduction pursuant to Section IV (D), above, the City shall provide written notice of the proposed deduction to the Contractor, and the Contractor may, not later than five (5) working days after receiving such notice, provide a written request to City for a

hearing to contest the proposed deduction. Upon receipt of a timely written request from the Contractor, the City shall schedule a hearing before the Division Manager (as defined in the City's Standard Specifications for Public Construction), and written notice of the date, time and location of the hearing shall be provided to the Contractor not less than five (5) working days prior to the date of the hearing. The hearing shall be conducted in the manner specified in Section 4-8 of the Standard Specifications, and the Division Manager shall prepare and forward to the Contractor a written decision as soon as practicable after the hearing. The Division Manager's decision shall be subject to review in accordance with the provisions of Section 4-9 of the Standard Specifications. Failure to request such review in compliance with the requirements set forth in Section 4-9 shall constitute acceptance of the Division Manager's decision by the Contractor.

The written notices and requests described above shall be provided by registered or certified mail (return receipt requested), by telecopy, by personal delivery, or by any other method that provides reliable evidence of the date of receipt. Written notice provided by telecopy shall be deemed received on the date that it is transmitted and transmission is confirmed by the transmitting machine. Written notice provided by personal delivery shall be deemed received on the date of delivery.

V. DEFINITIONS

A. Local Business Enterprise (LBE): A business enterprise, including but not limited to, a sole proprietorship, partnership, limited liability company, corporation, or any other business entity that has a legitimate business presence in the city or unincorporated county of Sacramento.

B. Contractor: The sole proprietorship, partnership, limited liability company, corporation, or any other business entity entering into a contract with the City of Sacramento.

C. Subcontractor: The sole proprietorship, partnership, limited liability company, corporation, or other business entity entering into a contract with the prime contractor to perform a portion of the work.

D. Supplier: The sole proprietorship, partnership, limited liability company, corporation, or other business entity to provide materials, equipment, or supplies necessary for performance of the work.

E. Proposal: Any response to a City solicitation for Proposals or Qualifications.

F. Bid: Any response to a City solicitation for bids.

SECTION II
CONTRACT DOCUMENTS

SECTION II – CONTRACT DOCUMENTS

A. GENERAL CONDITIONS

1. Independent Contractor.

A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)

B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.

C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.

D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole

cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.

3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.

4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.

5. **Conflict of Interest.** CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.

6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential, and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

7. **CONTRACTOR Information.**

   A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for

any unauthorized modification or use of such information for other than its intended purpose by CITY.

B. CONTRACTOR shall fully defend, indemnify and hold harmless CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. CITY shall make reasonable efforts to notify CONTRACTOR not later than ten (10) days after CITY is served with any such claim, action, lawsuit or other proceeding, provided that CITY's failure to provide such notice within such time period shall not relieve CONTRACTOR of its obligations hereunder, which shall survive any termination or expiration of this Agreement.

C. All proprietary and other information received from CONTRACTOR by CITY, whether received in connection with CONTRACTOR's proposal to CITY or in connection with any Services performed by CONTRACTOR, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to CITY, CITY shall give notice to CONTRACTOR of any request for the disclosure of such information. The CONTRACTOR shall then have five (5) days from the date it receives such notice to enter into an agreement with the CITY, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by CITY in any legal action to compel the disclosure of such information under the California Public Records Act. The CONTRACTOR shall have sole responsibility for defense of the actual "trade secret" designation of such information.

D. The parties understand and agree that any failure by CONTRACTOR to respond to the notice provided by CITY and/or to enter into an agreement with CITY, in accordance with the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. **Standard of Performance.** CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.

9. **Term; Suspension; Termination.**

A. Termination for Cause. If the City determines that the Contractor's performance is not satisfactory, and notifies the Contractor of such determination in writing, the Contractor shall correct the unsatisfactory condition(s) within 5 days after receiving such notification. If the

Contractor fails to correct the unsatisfactory condition(s) within 5 days, the City may declare the Contract terminated upon 30 days written notice and may, in the City's sole discretion, demand performance by the Contractor's surety, if any, or contract for performance of all or part of the remainder of Contract with another contractor. In the event two such notices of unsatisfactory performance are given in any calendar year, and in the event that Contractor shall again fail to satisfactorily perform pursuant to the Contract, City may thereupon terminate the Contract immediately, with no prior notice. In the event of termination hereunder, the Contractor and/or its surety shall be liable and assessed for any and all costs for re-procurement and completion of the Contract.

B. Termination for Convenience. The City may terminate the Contract, in whole or in part, for its convenience and without cause upon giving written notice to the Contractor. The City shall pay all reasonable costs associated with the Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with such termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned, or any other costs, which have not been incurred, as of the date of termination.

C. Termination After Completion Date. If the Contractor fails to complete its performance of the Contract within the time specified in the Contract (including any approved extension of such time), if any, the Contract may be terminated and, in the event of such termination, the Contractor shall not be paid or allowed any further compensation for any costs incurred after such termination. The City may thereafter proceed to complete the Contract either by rebidding or otherwise, the Contractor and its surety, if any, shall be liable to the City for all loss or damage that the City may suffer on account of the Contractor's failure to complete the Contract on time. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

10. Indemnity.

A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Agreement by CONTRACTOR, any subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of CITY, its agents, servants, or independent contractors who are directly responsible to CITY, except when such agents, servants, or independent contractors are under the direct supervision and control of CONTRACTOR.

B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of

CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

11. Insurance Requirements. During the entire term of this Agreement, CONTRACTOR shall maintain the insurance coverage described in this Section 11.

Full compensation for all premiums that CONTRACTOR is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Services provided by CONTRACTOR under this Agreement. No additional compensation will be provided for CONTRACTOR's insurance premiums.

It is understood and agreed by the CONTRACTOR that its liability to the CITY shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the CONTRACTOR in connection with this Agreement.

A. Minimum Scope & Limits of Insurance Coverage

(1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars ($1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.

(2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars ($1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the CONTRACTOR.

No automobile liability insurance shall be required if CONTRACTOR completes the following certification:

"I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." _____ (CONTRACTOR initials)

(3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars ($1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

__X__ Workers' Compensation waiver of subrogation in favor of the City is required for all work performed by the CONTRACTOR.

No Workers' Compensation insurance shall be required if CONTRACTOR completes the following certification:

"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." _____ (CONTRACTOR initials)

B. <u>Additional Insured Coverage</u>

(1) Commercial General Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured's as respects general liability arising out of activities performed by or on behalf of CONTRACTOR, products and completed operations of CONTRACTOR, and premises owned, leased or used by CONTRACTOR. The general liability additional insured endorsement must be signed by an authorized representative of the insurance carrier for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

__X__ Additional insured endorsement must be signed by an authorized representative of the insurance carrier.

If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

(2) Automobile Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured's as respects auto liability.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(1) CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

(2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees or volunteers.

(3) Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) CITY will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 11 must be declared to and approved by the CITY Risk Management Division in writing prior to execution of this Agreement.

E. Verification of Coverage

(1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an

authorized representative of the insurance carrier.

(2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

CONTRACTOR shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

12. Equal Employment Opportunity. During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".

B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.

C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.

D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:

(1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;

(2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.

13. **Entire Agreement.** The Contract Documents contain the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Contract. No alteration to the terms of this Contract shall be valid unless approved in writing by Contractor, and by City, in accordance with applicable provisions of the Sacramento City Code. In the event of any conflict among the provisions of different Contract Documents, the conflict shall be resolved by giving precedence to the Contract Documents in the following order:

A. Post-Award Amendments.
B. Pricing Schedule(s), as corrected by City, if applicable.
C. Pre-Award Addenda
D. Special Provisions.
E. Bid Instructions and Requirements
F. General Conditions
G. Technical Specifications and/or Plans

14. **Severability**. If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.

18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.

19. **Compliance with Laws.** The Contractor shall be responsible for strict compliance with all applicable laws, regulations, court orders and other legal requirements applicable to the work to be accomplished pursuant to the Contract, including without limitation the California Occupational Safety and Health Act

and all applicable safety orders issued by the Division of Occupational Safety and Health, Department of Industrial Relations, State of California, and all applicable requirements of Underwriters Laboratories and the Federal Communication Commission.

20. **Inspection.** Merchandise will be inspected before acceptance by an authorized representative of the City of Sacramento for workmanship, appearance, proper functioning of all equipment and systems and conformance to all other requirements of the Contract. If deficiencies are found, it shall be the responsibility of the Contractor to pick up the merchandise, make necessary correction and redeliver the merchandise for re-inspection and acceptance. Payment and/or commencement of discount period (if applicable) will not be made until corrective action has been made.

21. **Funding Availability.**

    A. The Contract is subject to the budget and fiscal provisions of the Charter and City Code of the City of Sacramento.

    B. The City's payment obligation under the Contract shall not at any time exceed the amount of funds appropriated and approved for such purpose by the Sacramento City Council.

    C. The Contract shall terminate without penalty at the end of the fiscal year in the event funds to make payment under the Contract are not appropriated and approved for such purpose by the City Council for the succeeding fiscal year. If such funds are appropriated for only a portion of the fiscal year this Contract shall terminate, without penalty, at the end of the term for which funds have been appropriated. In the event of such termination, the Contractor shall not be entitled to recover any costs incurred after termination, subject, further, to the limitation in subsection 11.B. of these General Conditions.

    D. Notwithstanding any provision of the Contract Documents to the contrary, this section shall govern over any other provision of the Contract.

22. **Inspection of Facilities.** If requested by the City, the Contractor shall provide City with an inspection tour of Contractor's facilities at the location where the work under the Contract will be accomplished.

23. **Safety Data Sheets (SDS).** It is mandatory for a manufacturer, Contractor or distributor to supply a SDS with the first shipment of any hazardous material. Also at any time the content of an SDS is revised, the Contractor shall provide new information relevant to the specific material.

24. **Notification of Material Changes in Business**. Contractor agrees that if it experiences any material changes in its business including, without limitation, a reorganization, refinancing, restructuring, leveraged buyout, bankruptcy, loss of key personnel, etc., it will immediately notify the City of the changes. Contractor also agrees to immediately notify the City of any condition which may jeopardize the scheduled delivery or fulfillment of Contractor's contractual obligations to the City. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Procurement Services Division reserves the right at its sole discretion to terminate the Contract either for cause or for convenience as provided in Section 9 of these General Conditions.

25. **Payment and Invoicing.** Unless otherwise specified in the Contract Documents, payment for services rendered or materials provided and accepted by City will be made monthly, in arrears, after receipt of a proper invoice.

26. **Protection of Existing Facilities.** Contractor shall take every precaution to protect all public and private property during the performance of the Contract. Any damages caused by Contractor's

personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Contractor.

27. **Guarantee.** By submitting its bid, the Contractor guarantees that all merchandise delivered and/or work or services performed under the Contract shall meet the minimum requirements set forth herein. If it is determined by the City that the merchandise delivered or work or services performed do not meet the minimum requirements of the Contract, the Contractor shall be required to correct the same at Contractor's sole expense.

SECTION II – CONTRACT DOCUMENTS

B. SPECIAL PROVISIONS

1. **Period of Performance.** Any contracts(s) resulting from this solicitation will be awarded for a one year term beginning on date of award, with the option to extend for up to four additional one-year terms, for a maximum five year term.

2. **Contract Extension.** If mutually agreeable to both parties, any resultant contract may be extended on a year to year basis under the same terms and conditions. However, in no case shall the renewal extend beyond 5 years from the date of award of the original contract.

3. **Estimated Quantities.** The bid quantity specified is based upon current known requirements and is subject to increase or decrease at the same terms and conditions. Contractor agrees to furnish more or less than the estimates at the unit prices quoted in accordance with availability of funds and actual needs as they occur throughout the contract period.

4. **Pricing.** The prices quoted to the City shall be as low or lower than those charged the Contractor's most favored customer for comparable quantities under similar terms and conditions, in addition to any discounts for prompt payment. In the event of a price decline, the benefit of such lower prices shall be immediately extended to the City. Prices are maximum for the one year term of the contract. Upon offer of contract renewal from the City for subsequent terms, Contractor may adjust pricing to the agreement of both parties.

5. **Purchase Order**. A Purchase Order will be issued to the Contractor on behalf of the City organization(s) who will be ordering items/services covered in the contract. The Purchase Order will be enclosed with the resulting contract or will be issued shortly thereafter, and will become an integral part of the resulting contract. Each Purchase Order will cite a specific dollar value to cover a particular item or specified period of time. If a contract is for a specific period of time and extends beyond the close of the City's fiscal year of June 30th a second purchase order may be issued.

   A. The Purchase Order does not supersede any provision of the resulting contract. Performance time and dates are determined solely by the contract and any modification thereto.

   B. Delivery of material and/or services are <u>not</u> to begin until receipt of the Purchase Order and/or other notification by the City Procurement Services Manager.

6. **Invoices.** All Invoices under this Agreement shall be submitted to the City by Contractor and shall contain the following information at a minimum:

   (1) Name of contractor and remit to address
   (2) Invoice number and date
   (3) Contractors Order number
   (4) City's Contract or Purchase Order number
   (5) Name of person placing order
   (3) Description of Item
   (4) Quantity of Item
   (5) Item and invoice amounts

Requests for payment shall be sent to:

Department of Utilities
1391 35th Avenue, Sacramento, CA 95822
Phone (916) 808-1464 Fax (916) 808-7955
Attn: Alaina Jordan

7. **Billing Disputes.** Billing disputes will be addressed on an individual job by job basis. The burden of proof of an incorrect billing shall be on the Contractor. Upon presentation and verification of the information provided by the contractor, the City will review all records and make a final determination and present its finding to the Contractor.

8. **Payment Terms.** Payment terms are net 30 unless Contractor offers a prompt payment discount. All prompt payment discounts if taken shall be computed from the date of delivery or completion and acceptance of material, or from date of receipt of invoice, whichever is latest. Invoices must be submitted as specified at the time of shipping authorization. Partial payments may be made by the City on delivery and acceptance of goods and on receipt of Contractor's invoice.

9. **Additional Services.** Those services not specifically named in the Pricing Schedule shall be negotiated on an individual basis.

10. **Subcontracts and Assignments.** No portion of the work or services, except for the purchase of necessary goods and materials, to be supplied hereunder (including the use of consultants) may be subcontracted in whole or in part, nor assigned by the contractor, nor may assignment of any money due or to become due the contractor under this contract be made without the prior written consent of the City.

    Where authorized by the City, the contractor shall select all subcontractors and suppliers on a competitive basis to the maximum practicable extent consistent with the objectives and requirements of the contract.

11. **Modification of Contract.** The City may order changes in the work herein required and may order extra work In connection with the performance of the contract and the Contractor may comply with such orders, except that:

    A. If changes in requirements, reports, or materials are of such a nature as to increase or decrease the cost of any part of the work, the price fixed in the contract will be increased or decreased by such amount as the Contractor and the Procurement Services Manager may agree upon as the reasonable and proper allowance for the increase or decrease in the cost of work.

    B. No order for any alteration, modification, or extra work which will increase or decrease the cost of the work shall be valid unless the resulting increase or decrease in price shall have been agreed upon in writing and approved by the Procurement Services Manager. No oral statement of any person whomsoever shall in any manner or degree modify or otherwise affect the terms of this contract, including the requirements of the specifications.

12. **Cooperative Purchasing.** If mutually agreeable to both parties, the use of any resulting contract may be extended to other government agencies. It shall be understood that all terms and conditions as specified herein shall apply. The City of Sacramento will not be an agent, partner or representative of any other government agency as it relates to this specification and is not obligated or liable, including, but not limited to, payment for an order placed by any other government agency.

13. **Quantities Unrestricted.** The City is not limited to purchase all of its requirements from any contract resulting from this request.

13. **Points of Contact.** Requests for service(s) may be made by one or several organizational levels within the City.

Contract Manager:	**Deanne Neighbours, Administration Technician**
Department:	**Utilities, Operations & Maintenance Division**
Address	**1391 35th Avenue, Sacramento, CA 95822**
Phone	**(916) 808-3536**
E-Mail	**dneighbours@cityofsacramento.org**
Project Manager:	**David Phillips, O & M Superintendent**
Department:	**Utilities, Operations & Maintenance Division**
Address	**301 Water Street, Sacramento, CA 95811**
Phone	**(916) 808-5652**
E-Mail	**dphillips@cityofsacramento.org**

8. **Authorities / Technical Direction.** The Contractor shall take no direction from any City employee or any other person other than the Procurement Services Manager that changes the terms and condition of the contract action, the Scope of Work, or any change that impacts the cost/price or schedule. Changes authorized by the Procurement Manager will be in the form of a written, official, signed modification to the contract, received by the Contractor before the Contractor will act upon those changes.

9. **Document Protection.** Original documents shall be adequately protected at all times while they are in the possession of the Contractor and returned in the same condition as received.

   The Contractor shall not duplicate or allow for duplication of distribution of electronic data provided to Contractor, or created by the Contractor, and may not provide said files for review or use to any third party without written permission from the City of Sacramento.

17. **Notification of Material Changes in Business.** Contractor agrees that if it experiences any material changes in its business including without limitation, a reorganization, refinancing, restructuring, leveraged buyout, bankruptcy, loss of key personnel, etc., it will immediately notify the City of the changes. Contractor also agrees to immediately notify the City of any condition which may jeopardize the scheduled delivery or fulfillment of Contractor's contractual obligations to the City.

18. **Confidentially of Information.** Contractor shall take all precautions necessary and appropriate to assure the confidentially of City's record information. Contractor shall limit access to City's records only to contractor's authorized employees, except when they are authorized by the City, contractor shall not reproduce any of the City's records. The City shall have the right to review Contractor's procedures for handling City records and may make such inspections as it deems necessary to assure that Contractor is adequately safe-guarding City's record information.

   Contractor acknowledges that in the course of providing services that they will have access to, and/or will be in possession of, confidential information of the City. Confidential information is defined as all information released to the Contractor for the purpose of having the Contractor perform the contracted for services.

The Contractor shall secure the City's confidential records in a manner to ensure that the information remains confidential. Contractor shall have access to the City's confidential information for the purposes of performing the contracted services.

19. **Inspection of Facilities.** The City may require an inspection tour of Contractor's facilities at the location where the work on this contract will be accomplished.

20. **Safety Requirements.** All services and products must comply with current California State Division of Industrial Safety Orders, Cal OSHA, and OSHA.

21. **Termination for Unsatisfactory Performance.** Whenever, in the opinion of the Procurement Services Manager, the Contractor's performance is not satisfactory, the Contractor shall be advised of the reasons. If the Contractor fails to correct the unsatisfactory conditions within 5 days, the Procurement Services Manager may declare this contract terminated upon 30 days written notice and contract with another Contractor. The City shall have no obligation to give more than two notices of unsatisfactory performance in any calendar year. In the event two such notices of unsatisfactory performance are given in any calendar year, and in the event that Contractor(s) shall again fail to satisfactorily perform services pursuant to this contract, City may thereupon terminate this contract immediately. In the event of termination hereunder, the Contractor and/or surety will be liable and assessed for any and all costs for the re-procurement of the contract services.

22. **Environmentally Preferable Procurement**

The City has adopted a "Sustainable Procurement Policy (SPP) and program. The goal is to encourage the procurement of products and services that help minimize environmental impact resulting from use and disposal of these products. Contractors are encouraged to offer Energy Star, Green Seal, EcoLogo, EPEAT, or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. City also encourages contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this IFB. Contractors will offer products that have minimal virgin materials and maximum use of recycled products. Contractor must work with the City to attain these goals.

Notwithstanding the above, the Contractor agrees to supply the City of Sacramento with environmentally preferable and effective products in compliance with the specifications in this solicitation and provide services that help minimize environmental impact resulting from use and disposal of products specified in this bid.

The Contractor further agrees that its products specified in this bid do not contain any items, ingredients or components prohibited under the City's SPP Policy.

The City may terminate this contract or take other appropriate actions if the contractor fails to comply or provide adequate supporting documentation to substantiate compliance with the City's SP Policy and requirements specified in the bid.

The City's SPP Policy is available on line at:
http://www.cityofsacramento.org/generalservices/procurement/documents/Sustainable_Purchasing_Policy_SPP.pdf or by contacting the Procurement Services Division at (916) 808-6240.

SECTION II – CONTRACT DOCUMENTS

C. TECHNICAL SPECIFICATIONS/PLANS/OTHER REQUIREMENTS

SPECIFICATIONS FOR LIQUID CHLORINE IN 1-TON CONTAINERS AND 150 LB. CYLINDERS

The liquid chlorine shall be furnished by the Contractor in accordance with these specifications.

QUALITY

The liquid chlorine shall be in accordance with AWWA Standard B301-10 or the latest revision, except as modified or supplemented herein. The manufacturer or supplier shall provide an affidavit that the liquid chlorine furnished under this specification complies with all applicable requirements of AWWA Standard B301 at the time of delivery.

Also, this material shall be certified as suitable for contact with or treatment of drinking water by an accredited certification organization in accordance with American National Standards Institute (ANSI) / National Sanitation Foundation (NSF) Standard 60, Drinking Water Treatment Chemicals-Health Effects.

Liquid chlorine shall be in accordance with the United States Environmental Protection Agency (USEPA) regulations and shall be registered, labeled, and marked as prescribed by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Each load supplied under this bid shall meet the following criteria:

Product Standards	AWWA/ANSI B301 Chlorine – Liquid
Product Certification	ANSI/NSF Standard 60 Drinking Water Treatment Chemicals – Health Effects
Solution Strength	Shall contain not less than 99.5% pure Chlorine by volume
Clarity	Clear, amber colored liquid or yellowish-greenish colored gas with no visible cloudiness, impurities, or sediment.
Contaminants	Water, shall not exceed 150 ppm (0.015%) by weight
	Non-volatile residue, shall not exceed 50 ppm (0.015%) by weight, including a highly complex chlorinated compound, with high % of hexachlorethane,
	Heavy metals shall not exceed 30 ppm (0.003%) by weight Lead shall not exceed 10 ppm (0.001%) by weight Mercury shall not exceed 1 ppm (0.0001%) by weight Metallic arsenic shall not exceed 3 ppm (0.0003%) by weight Carbon tetrachloride shall not exceed 100 ppm (0.010%) by weight

	Trihalomethanes shall not exceed 300 ppm (0.030%) by weight
Filling Density	Percent ratio of the weight of chlorine in the container to the weight of water at 60°F shall not exceed 125%

SDS, ANALYSIS DATA, AND CERTIFICATION

Bidders shall supply the Safety Data Sheet, an analysis of the chlorine, the manufacturer's specification sheet, and the manufacturer's labeling instructions as part of the bid package together with the location of the manufacturer's plant site. Bidders shall also supply proof with each shipment that the proposed product has been certified as suitable for contact with or treatment of drinking water by an accredited certification organization in accordance with ANSI/NSF 60, Drinking Water Treatment Chemicals – Health Effects.

It is the responsibility of the supplier to inform the City of Sacramento that NSF or UL certification has been revoked or lapsed within 24 hours of the time the supplier receives verbal or written notification. Loss of certification shall constitute sufficient grounds for immediate termination of the contract between City of Sacramento and Contractor.

At any time after unloading, the City reserves the right to perform complete inspections, testing, and to note observed issues to ensure that the items and/or products supplied meet the Environmental Protection Agency (EPA) specifications, AWWA B301 specifications, and the supplemental specifications provided within this document. A combination of two failures to comply with these specifications, whether from shipment rejections as outlined above or from failure to meet specifications as observed during product use and analysis may result in termination of the Contractor's supply contract with the City of Sacramento.

ESTIMATED QUANTITIES

Quantities (or expenditures) shown are merely annual estimates. The quantity specified is based upon current known requirements and is subject to increase or decrease at the same terms and conditions. Contractor agrees to furnish more or less than the estimates at the unit prices quoted in accordance with availability of funds and actual needs as they occur throughout the contract period. The City of Sacramento does not guarantee to purchase minimum quantity, or to purchase any remaining products that Contractor may have acquired in support of this Agreement.

ORDERS

Orders will be made on an "as needed" basis during the contract period.

DELIVERY LOCATIONS AND CONTACTS

All deliveries shall be made in agreement with the primary contact assigned to each location. Secondary contacts may be contacted, if for some reason primary contacts are not available.

1-TON CONTAINERS - Site Contacts:

1-Ton Containers may be delivered to one or both of the Water Treatment Plants.

Sacramento River Water Treatment Plant (SRWTP)
301 Water Street
Sacramento, CA 95811

SRWTP Primary Contact:
Richard Dare, Sr. Plant Operator
Office (916) 808-4961
Cell (916) 798-7587
Email rdare@cityofsacramento.org

SRWTP Secondary Contact:
Rod Frizzell, Supervising Plant Operator
Office (916) 808-5165
Cell (916) 879-8194
Email rfrizzell@cityofsacramento.org

E.A. Fairbairn Water Treatment Plant (EAFWTP)
7501 College Town Drive
Sacramento, CA 95826

EAFWTP Primary Contact:
Howard Moreland, Sr. Plant Operator
Office (916) 808-3120
Cell (916) 798-7582
Email hmoreland@cityofsacramento.org

EAFWTP Secondary Contact:
Mary Krizanosky, Supervising Plant Operator
Office (916) 808-1311
Cell (916) 801-5970
Email mkrizanosky@cityofsacramento.org

150 LB CYLINDERS – Site Contacts:

150 lb. Cylinders may be delivered to Sacramento River Water Treatment Plant, address noted above, or various well sites as instructed by City well operations contact.

Well Operations Primary Contact:
Larry Valim, Sr. Plant Operator
Phone (916) 808-8865
Cell (916) 834-6007
Email lvalim@cityofsacramento.org

Well Operations Secondary Contact:
Amy Kral, Supervising Plant Operator
Phone (916) 808-5651
Cell (916) 715-1675
Email akral@cityofsacramento.org

DELIVERY

Deliveries shall be made in agreement with the Plant Operation's schedule after receipt of orders, typically within three (3) working days, at any time during the contract period. Delivery shall be made in trucks equipped with a system that secures all containers and cylinders to avoid shifting or falls.

Deliveries shall be made Monday through Thursday, between 7:00 a.m. and 2:00 p.m., during which time the City will provide personnel and equipment to assist with unloading the liquid chlorine from delivery truck to receiving storage. City staff currently uses a forklift to unload cylinder pallets, and a 2-ton hoist to unload 1-ton containers. Unless otherwise directed, failure to observe this time constraint may result in a delay of the unloading to the following day, at no additional cost to the City. The City may reject any container with missing, damaged, or open valves/seals or lack of chain of custody paperwork. Any trucks found to be leaking product will not be allowed to enter City property. Due to space constraints, no equipment or trailers shall be left at the plant sites by chlorine delivery personnel.

Contractor is required to provide a minimum of two lead washers per cylinder with every delivery.

Containers, cylinders, trucks, or trailers shall be clean and free of residue that may contaminate the Contractor's product or impede the unloading process. It is the Contractor's responsibility to verify the cleanliness of the transporting equipment before loading. All appurtenant valves, pumps, and discharge hoses used for the delivery of chlorine shall be supplied by the Contractor and shall be clean and free from contaminating material. The City of Sacramento may reject a load if the equipment is not properly cleaned.

The Contractor shall be responsible for any spills resulting from failure of its delivery equipment or from failure of attendant delivery personnel in the proper performance of their duties. Proper performance shall require attendant delivery personnel's constant inspection and observation of unloading operations and knowledgeable response to problems or emergencies, which would most commonly be expected to occur. The City of Sacramento reserves the right to refuse any and all deliveries made with equipment, containers, or cylinders that are poorly maintained and/or leaking chlorine.

The Contractor shall take immediate and appropriate actions to clean up any spilled chlorine. If the spill is not cleaned up, the City will hire a certified hazardous material handling company to clean up the spill and the cost of such service will be charged to the Contractor and deducted from the amount due to the Contractor. If the City of Sacramento's equipment, such as pipes, valves, level indications, or alarms, should fail and the spillage is not the fault of the Contractor, the Contractor shall be relieved of cleanup of the spill.

The liquid chlorine shall be packed in containers which are tamper evident. Packaging shall comply with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) under USEPA regulations and current Hazardous Materials Regulations of the Department of Transportation, Code of Federal Regulations for shipment of chlorine. Containers shall be inspected, reconditioned, cleaned, maintained, and loaded in strict accordance with the Packaging Plant Safety and Operational Guidelines – Revision 1, Pamphlet No. 017 of the Chlorine Institute, Inc.. All delivery transportation must conform to any and all U.S. Department of Transportation (DOT) regulations, including DOT Regulation 49 covering highway transport of chlorine and comply in every respect with current Federal and State Hazardous Materials regulations.

EMERGENCY DELIVERIES

Due to weather events, the City may require emergency deliveries on weekends and holidays from time to time. Contractor shall provide an after -hours contact and phone number. Orders shall be placed with as much notice to the Contractor as possible and Contractor shall make every practicable effort to deliver product as needed.

DELIVERY DOCUMENTATION AND PROTOCOL

The City of Sacramento delivery sites listed require a fax and email from the liquid chlorine supplier the day of delivery, at least an hour prior to arrival. Information listed below shall be faxed and emailed to the delivery facility contacts listed below prior to delivery. The email must contain the following information;

1. Security Information Sheet (Must include the following)
   - Delivery Location
   - Driver Information
   - Estimated Time of Arrival
   - Bill of Lading Number
   - Truck Number
   - License Number
   - Cylinder/Container Numbers

2. Driver Identification with photo

3. Affidavit of Compliance / Certificate of analysis from the manufacturer that shall include the following information:
   - Date and Time of Manufacture
   - Chlorine (Cl) % by Volume
   - Sodium Hydroxide (NaOH) % by Weight
   - Filling Density
   - pH

- Contaminant Concentrations
- AWWA/NSF Compliance

Upon arrival drivers will present the above information for verification by City of Sacramento Water Treatment Plant personnel. Deliveries will not be accepted by the City of Sacramento unless accompanied by Certificate of Analysis for the specific containers and cylinders of liquid chlorine delivered showing the above data and that they conform to the required specifications.

NOTICE OF NON-CONFORMANCE

If the material or its container does not meet the chemical, physical, or safety requirements of the industry and regulatory standards and the City's specifications, notice shall be given to the supplier immediately after observing said non-compliance; but in any case, within 30 days of receipt of shipment. In this event, supplier shall remove the unsuitable product or container from the premises of the purchaser at the City's request and replace it with a like amount of satisfactory liquid chlorine in an acceptable container; or, if there is an appropriate and safe solution for the problem, a price adjustment may be agreed upon between the supplier and the City.

FREIGHT

All items are to be supplied F.O.B. Destination, prepaid and allowed. Contractor will bear and pay freight charges at time of shipment and will hold title to goods up until they are received by the City of Sacramento at the shipping destination. Contractor will be responsible for filing all claims for damaged or lost goods.

SALES TAX

Sales tax is not applicable as this product is used in the production and purification of potable water for resale, California Resale Permit Number SYKH98-021076.

SAFETY PROCEDURES & PROGRAM

Bidders shall supply copies of their safety procedures and/or program as part of the bid package. All services and/or products must comply with current California State Division of Industrial Safety Orders and Cal O.S.H.A. At a minimum, we would like information on the following pieces of your safety procedures/program:

- Contractor's employee Chlorine training records
- Any other training specific to Chlorine
- Injury & Illness Prevention Program (IIPP)
- Hazard Communication Program and/or training

- Hazardous Materials Program and/or training
- Hazardous Material Spills Program and/or training if separate from Hazardous Materials

As part of its Emergency Preparedness Planning and Spill Response Plan, the successful bidder, upon award, shall submit a list of at least two degreed engineers (preferably Chemical Engineers) experienced in liquid chlorine operations to provide emergency support services on a 24/7 basis in the event of a spill, equipment failure, or other emergency. List shall include the following information for each engineer: name, a 24 hour access phone number, degree received, college or university attended, and year of graduation. Failure to submit this list including all of the required information or failure to adhere to this requirement may result in the bid being found non-responsive.

All delivery vehicle drivers shall be U.S. citizens and have a proper commercial driver's license with a Hazardous Material endorsement.

SECURITY PROCEDURES

Contractor shall provide the City with a "CD" containing digital photographs of all of its delivery drivers with names imposed. Contractor shall send the City an updated CD within 24 hours of any change to its drivers. The City of Sacramento shall use the CD to verify whether a driver is actually an employee of the Contractor.

Contractor's drivers shall display their driver's license whenever asked by a City of Sacramento representative during the delivery. Failure to show proper license or failure of driver to be listed on CD provided to the City may result in rejection of delivery and could result in termination of the Contractor's supply agreement.

SECTION III
BIDDER RESPONSE DOCUMENTS

SECTION III – BIDDER RESPONSE DOCUMENTS

A. ITEMS REQUIRING BIDDER RESPONSE

1. LOCAL BUSINESS SALES/USE TAX DEDUCTION

The Sacramento City Code requires the City to identify those bids that are subject to the City's local sales or use tax under the provisions of Part 1.5 of Division 2 of the California Revenue and Taxation Code and Chapter 3.24 of the Sacramento City Code. The lowest responsible bidder shall be determined after the amount of local sales or use tax that would be received by the City is deducted from such bids. The current rate at which such local sales or use tax is received by the City is one percent (1%). Therefore, in evaluating bids to determine the lowest responsible bidder, bids that are subject to this tax at the time of bid opening shall have an amount equal to one percent (1%) of the taxable total deducted from the bids. This deduction shall be in addition to the application of any bid price preferences or other deductions authorized by the City Code. Such deductions shall be made for bid evaluation purposes only. Contract awards shall be made at the actual bid amount.

In order to identify those bids that are subject to the City's local sales or use tax, all bidders shall respond to the following:

Does the bidder have fixed offices or locally taxable distribution points within the boundaries of the City of Sacramento? ___ Yes; or _X_ No

If the answer to Question above is "Yes":

a) Provide the address of the bidder's fixed offices or locally taxable distribution point(s):

_____

_____

Specify: fixed office location or distribution point(s): _____

b) Provide the bidder's current, valid City of Sacramento Business Operations Tax Certificate Number: _____

2. DELIVERY GUARANTEE

Contractor guarantees delivery within _3_ days after receipt of order (ARO).

3. PAYMENT DISCOUNT

Will you offer a prompt payment discount? Yes [ ] or No [X] (Net 30 days)

If Yes, the Payment Discount is _____% for payment within _____ calendar days, which will be computed from the date delivery is made and is accepted by the City, or the date a proper invoice is received, whichever is later.

PAYMENT DISCOUNTS SHALL BE CONSIDERED IN AWARDING THE CONTRACT AS SET FORTH IN THE "BID INSTRUCTIONS AND REQUIREMENTS", PARAGRAPH 11 (ENTITLED "PAYMENT DISCOUNTS").

4. ELECTRONIC FUNDS TRANSFER (EFT) (informational only):

Do you have the ability to accept electronic payments (EFT)? Yes [ ] or No [X]

If Yes, what percentage discount would you offer the City to be paid through EFT? _____%

SECTION III – BIDDER RESPONSE DOCUMENTS

B. ITEMS THAT MUST BE SUBMITTED BY SUCCESSFUL BIDDER PRIOR TO START OF CONTRACT

The following documents are required to be completed and submitted by the successful bidder prior to the award of contract of the contract:

1. CERTIFICATE OF INSURANCE

Successful bidders are REQUIRED to submit the necessary Certificate(s) of Insurance as called for in the General Conditions prior to award of the contract.

2. BUSINESS OPERATIONS TAX CERTIFICATE

Chapter 3.08 of the Sacramento City Code requires that anyone conducting business in the City of Sacramento obtain a **Business Operations Tax Certificate** and pay the applicable tax if necessary. Successful bidders will be REQUIRED to show compliance with this requirement prior to award of the contract.

To obtain information about the Business Operations Tax Certificate, contact the City of Sacramento, Revenue Division, 915 I Street, Room 1214, Sacramento, CA 95814, or telephone (916) 808-8500.

SECTION III – BIDDER RESPONSE DOCUMENTS

C. DECLARATION OF COMPLIANCE
Equal Benefits Ordinance

Name of Contractor: Sierra Chemical Co.

Address: 2302 Larkin Circle, Sparks, NV 89431

The above-named Contractor ("Contractor") hereby declares and agrees as follows:

1. Contractor has read and understands the Requirements of the Non-Discrimination In Employee Benefits Code (the "Requirements") attached hereto as Exhibit F.

2. As a condition of receiving this Contract, Contractor agrees to fully comply with the Requirements, as well as any additional requirements that may be specified in the City of Sacramento's Non-Discrimination In Employee Benefits Code codified at Chapter 3.54 of the Sacramento City Code (the "Ordinance").

3. Contractor understands, to the extent that such benefits are not preempted or prohibited by federal or state law, employee benefits covered by the Ordinance are any of the following:

   a. Bereavement Leave
   b. Disability, life, and other types of insurance
   c. Family medical leave
   d. Health benefits
   e. Membership or membership discounts
   f. Moving expenses
   g. Pension and retirement benefits
   h. Vacation
   i. Travel benefits
   j. Any other benefit offered to employees

   Contractor agrees that if Contractor offers any of the above-listed employee benefits, Contractor will offer those benefits, without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouses and domestic partners of such employees.

4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:

   a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the same benefit to a spouse or domestic partner of an employee, Contractor will not be required to provide the benefit, nor shall it be deemed discriminatory, if Contractor requires the employee to pay the monetary difference in order to provide the benefit to the domestic partner or to the spouse.

   b. If Contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, if Contractor provides the employee with a cash equivalent Contractor will not be deemed to be discriminating in the application of that benefit.

   c. If Contractor provides employee benefits neither to employee's spouses nor to employee's domestic partners.

   d. If Contractor provides employee benefits to employees on a basis unrelated to marital or domestic partner status.

   e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date after the first open enrollment process following the date this Contract is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1)

year from the date this Contract is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.

f. Until administrative steps can be taken to incorporate nondiscrimination in employee benefits. The time allotted for these administrative steps will apply only to those employee benefits for which administrative steps are necessary and may not exceed three (3) months from the date this Contract is executed by the City.

g. Until the expiration of a current collective bargaining agreement(s) if employee benefits are governed by such collective bargaining agreement(s).

h. Contractor takes all reasonable measures to end discrimination in employee benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for Contractor to take whatever steps are necessary to end discrimination in employee benefits or by ending discrimination in employee benefits without reopening the collective bargaining agreement(s).

i. In the event Contractor cannot end discrimination in employee benefits despite taking all reasonable measures to do so, Contractor provides a cash equivalent to eligible employees for whom employee benefits, are not available. Unless otherwise authorized in writing by the City Manager, Contractor understands this cash equivalent must begin at the time the union(s) refuse to allow the collective bargaining agreement(s) to be reopened or not longer than three (3) months after the date this Contract is executed by the City.

5. Contractor understands that failure to comply with the provisions of Section 4(a) through 4(i), above, will subject Contractor to possible suspension and/or termination of this Contract for cause; repayment of any or all of the Contract amount disbursed by the City; debarment for future contracts until all penalties and restitution have been paid in full and/or for up to two (2) years; and/or the imposition of a penalty, payable to the City, in the sum of $50.00 for each employee, for each calendar day during which the employee was discriminated against in violation of the provisions of the Ordinance.

6. Contractor understands and agrees to provide notice to each current employee and, within ten (10) days of hire, to each new employee, of their rights under the Ordinance. Contractor further agrees to maintain a copy of each such letter provided, in an appropriate file for inspection by authorized representatives of the City. Contractor also agrees to prominently display a poster informing each employee of these rights.

7. Contractor understands that Contractor has the right to request a waiver of, or exemption from, the provisions of the Ordinance by submitting a written request to the City's Procurement Services Division prior to Contract award, which request shall identify the provision(s) of the Ordinance authorizing such waiver or exemption and the factual basis for such waiver or exemption. The City shall determine in its sole discretion whether to approve any such request.

8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

The undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that he or she is authorized to bind the Contractor to the provisions of this Declaration.

Signature of Authorized Representative

April 14, 2014
Date

Ron Espalin
Print Name

Commerical Manager
Title

SECTION III – BIDDER RESPONSE DOCUMENTS

D. LOCAL BUSINESS ENTERPRISE (LBE) PARTICIPATION PROGRAM

NOTE: ***Bidders must provide responses where indicated to the following items. Failure to provide a response to each of the items in this section may be grounds for rejection of bid.***

1. LBE FIVE PERCENT (5%) PARTICIPATION

On April 3, 2012, the Sacramento City Council adopted a Local Business Enterprise (LBE) Preference Program to provide enhanced opportunities for the participation of local business enterprises (LBEs) in the City's contracting and procurement activities. On November 19, 2013, City Council increased the LBE preference and authorized City departments to require minimum LBE participation levels in individual contracts. Under City Code section 3.60.270 , when the bid specifications for a City contract establish a minimum participation level for LBEs, no bidder on the contract shall be considered responsive unless its bid meets the minimum LBE participation level required by the bid specifications.

The City has established a minimum 5% participation level for LBEs on this contract. Pursuant to City Code Section 3.60.270, no bidder on this contract shall be considered responsive unless its bid meets or exceeds this minimum participation level.

Local Business Enterprise means a business enterprise, including but not limited to, a sole proprietorship, partnership, limited liability company, corporation, or other business entity that has a legitimate business presence in the city or unincorporated county of Sacramento. Evidence of legitimate business presence in the city or unincorporated county of Sacramento shall include:

1. Having a current City of Sacramento Business Operation Tax or County of Sacramento Business License for at least twelve (12) consecutive months prior to submission of bid; and
2. Having either of the following types of offices or workspace operating legally within the city or unincorporated county of Sacramento for at least twelve (12) consecutive months prior to submission of bid:
    a. The LBE's principle business office or workspace; or
    b. The LBE's regional, branch or satellite office with at least one full time employee located in the city or unincorporated county of Sacramento.

A. LOCAL BUSINESS ENTERPRISE (LBE)

Is the firm submitting the bid qualified as a local business enterprise? Check the appropriate box below:

☐ **YES** - the firm submitting the bid is qualified as a local business enterprise.

☒ **NO** - the firm submitting the bid is not qualified as a local business enterprise.

If the response to the above is YES, provide the City of Sacramento Business Operations Tax Certificate Number and/or County of Sacramento Business License Number:

_____

If the response to the above is **YES**, provide a current copy of the City of Sacramento Business Operations Tax Certificate and/or County of Sacramento Business License.

If the response to the above is YES, provide business office or workspace address*:

_____

_____

_____

* Address must be a physical address for the basis of location, this excludes P.O. Box addresses.

E. PRICING SCHEDULE

For furnishing to the City of Sacramento, liquid chlorine in 1-ton containers and 150 lb. cylinders, as required during the contract period, in accordance with the provision and specifications contained herein.

The bid item listed is for evaluation purposes only. The quantities and item specified are annual estimates only of the City's requirement. Vendor agrees to furnish more or less than the estimates at the unit price quoted in accordance with availability of funds and the actual needs as they occur throughout the contract period.

Prices shall be inclusive, i.e., freight, delivery, etc. Additional charges are not allowed. Sales tax is not applicable as this product is used in the production and purification of potable water for resale, California Resale Permit Number SYKH98-021076.

Liquid Chlorine

Item No.	Quantity/Unit	Description	Unit Price	Extension
1	700 Tons	Liquid Chlorine in 1-ton container per bid technical specifications	$ 455.00	$ 318,500.00
2	240 Cylinders	Liquid Chlorine in 150 lb. cylinder per bid technical specifications	$ 125.49	$ ~~XXXX~~ 30,117.60

NAME OF SUPPLIER/CONTRACTOR: Sierra Chemical Co.

ADDRESS: 2302 Larkin Circle, Sparks, NV 89431

PHONE #: 775-358-0888/800-777-8965 **EMAIL:** bids@sierrachem.com

BY: (signature of authorized person) Ron Espalin

PRINTNAME: Ron Espalin **TITLE:** Commerical Manager

Note: All information submitted in or in connection with a bid is submitted under penalty of perjury. The City shall have the right to terminate at any time any contract awarded pursuant to a bid that contains false information.

City of Sacramento
Department of Utilities

INVITATION FOR BID
B14141111010

LIQUID CHLORINE IN 1-TON CONTAINERS AND 150 LB. CYLINDERS

ADDENDUM #1

The following items shall become part of the Bid Documents:

Issued: March 27, 2014

Revisions: Invitation for Bid title page correctly reflects the bid submission date of Wednesday April 2, 2014. On page 5, B. Bid Instructions and Requirements section 2.b. incorrectly states the submission date as Wednesday March 26, 2014. Addendum #1 corrects the submission date listed on page 5 of the Invitation to Bid and is attached herein.

For Information Contact:
Deanne Neighbours, Administrative Technician
(916) 808-3536 (voice) (916) 808-7955 (fax)
E-Mail: dneighbours@cityofsacramento.org

B. BID INSTRUCTIONS AND REQUIREMENTS

No Bid Is In Legal Form Unless the Following Instructions Are Fully Complied With

1. **Additional Copies. VENDORS ARE REQUIRED TO SUBMIT AN ORIGINAL BID, INCLUDING ALL REQUIRED ATTACHMENTS SUCH AS BROCHURES AND CATALOGS, TO THE CITY CLERK ON THE DATE AND AT THE TIME AND LOCATION SPECIFIED ON THE COVER SHEET. FAILURE TO DO SO MAY CAUSE YOUR BID TO BE REJECTED.**

2. **Bid Forms. Bid must be submitted on these printed forms and sealed in an appropriate envelope or package. Bid submission envelopes/packages shall exhibit the City's bid name and number, and include the vendor's name and address printed on the outside of the envelope/package**

   a) To obtain an electronic version of this bid go to Procurement's website at http://www.planetbids.com/portal/portal.cfm?CompanyID=15300

   b) Bidders are invited to be present at the opening of bids. Bids will be opened, in public, in the Historic City Hall, Historic Chambers, 915 "I" Street, 2nd Floor, Sacramento, CA at or after 2:00 P.M. on Wednesday, April 2, 2014. After opening, Bids may be inspected in the City Clerk's Office.

   (Note: Bids must be submitted up to 2:00 P.M. on the above date)

   c) All bids shall be clearly and distinctly written without erasure or modification, and properly signed by an authorized party, who shall indicate the capacity in which the signature is executed.

3. **Alternate Bids.** Alternate bids are invalid unless invited and covered by the specifications. **Please note all submissions are subject to rejection when unsolicited alternate bids are submitted.**

4. **Bid Security.** Bid Security is: [ ] Required [X] Not Required

   If required, bid security approved by the City must accompany the bid, in the amount of ___ % of the total amount of the bid. Bid security can be in the form of a cashier's check, certified check, or a bid bond from a surety company authorized to do business in the State of California. Bid securities will be returned to all except the three lowest Bidders within ten days after the opening of bids. The bid security of the two unsuccessful Contractors will be returned after the successful Contractor has executed the contract. Bid security of the successful Contractor will be returned when the contract is signed and all other contract award requirements have been met.

5. **Interest in More Than One Bid**. No bidder shall be interested in more than one bid (submit more than one bid for this solicitation) as provided by City Code Section 3.56.130(D).

6. **Rejection of Bids.** The right to reject any and all bids is reserved by the City, in its absolute discretion.

7. **Right to Waive.** The City reserves the right to waive any informalities or minor irregularities, as determined in its sole discretion, in connection with bids received.

7A. City's Options. City reserves the following options:
1. The right to award in whole or in part.
2. The right to reject all partial bids.
3. The right to reject any or all bids or make no award.
4. The right to issue subsequent Invitation For Bids (IFB).
5. The right to approve or disapprove the use of particular subcontractors and/or suppliers.
6. The right to waive any informality or irregularity in the bidding process and any bids.
7. The right to accept a bidder's signed offer and issue a purchase order directly to the bidder based on the IFB.

City of Sacramento
Department of Utilities

INVITATION FOR BID
B14141111010

LIQUID CHLORINE IN 1-TON CONTAINERS AND 150 LB. CYLINDERS

ADDENDUM #2

The following items shall become part of the Bid Documents:

Issued: March 28, 2014

Revisions: Invitation for Bid has been revised as follows. The Local Business Enterprise (LBE) Participation Requirements on pages 15 -18 have been revised to waive and remove the minimum 5% LBE participation level on the contract, which required that bidders have a minimum 5% local participation level to be considered responsive. Second paragraph of Item I. LBE PARTICIPATION REQUIREMENT and Item II. DETERMINATION OF LBE PARTICIPATION LEVEL have been removed.

Bid Due Date: Submittal date of April 2, 2012 by 2:00 P.M. has been extended to **April 16, 2012** by no later than 2:00 P.M. to Office of City Clerk, 915 I Street, New City Hall, 4th Floor Public Counter, Sacramento, CA 95814.

For Information Contact:
Deanne Neighbours, Administrative Technician
(916) 808-3536 (voice) (916) 808-7955 (fax)
E-Mail: dneighbours@cityofsacramento.org

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City of Sacramento
Department of Utilities

INVITATION FOR BID
B14141111010

LIQUID CHLORINE IN 1-TON CONTAINERS AND 150 LB. CYLINDERS

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SECTION I – REQUIREMENTS

B. BID INSTRUCTIONS AND REQUIREMENTS

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City of Sacramento
Department of Utilities

INVITATION FOR BID
B14141111010

LIQUID CHLORINE IN 1-TON CONTAINERS AND 150 LB. CYLINDERS

ADDENDUM #2

The following items shall become part of the Bid Documents:

Issued: March 28, 2014

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IFB Eval Form (Excel)

City Information		Vendor # 1 - Name	Vendor # 2 - Name	Vendor # 3 - Name	Vendor # 4 - Name	Vendor # 5 - Name
Date	4/9/2014	Sierra Chemical	Thatcher	Univar USA		
Bid #	B14141111010	Quote Number	Quote Number	Quote Number	Quote Number	Quote Number
Org. Name	Water Operations					
Req. No.		Phone	Phone	Phone	Phone	Phone
Org. No.	14001111	(775) 358-0888	(916) 759-3385	(916) 759-3385		
Contact	Rod Frizzell	Contact Person	Contact Person	Contact Person	Contact Person	Contact Person
Phone #	808-5165	Ron Espalin	Dennis Moore	Jennifer Perras		
Awarded to		Sierra Chemical				

PRICING SECTION

QTY	Description (All Items/Services/Fees/ Etc.)	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
700	Chlorine - 1 Ton Containers (Unit price - tons delivered)	$ 455.000	$ 318,500.00	$ 471.160	$ 329,812.00	No Bid	#VALUE!		$ -		#VALUE!
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -

BID EVALUATION SECTION

Line 1	Materials/Services/Non-Taxable Items Total (from above Line Items)	$ 318,500.00		$ 329,812.00		#VALUE!		$ -		#VALUE!	
Line 2	Freight, Labor, Warranty, Fees, Etc (Non-taxable Portion of Line 1)										
Line 3	* Enter Prompt Pay Disc % (Lines 1 x Disc %)		$0.00		$0.00		#VALUE!		$0.00		#VALUE!
Line 5	** LBE Preference Deduct (Line 1 x 5%)	N/A	0	N/A	0		0		0		0
Line 6	*** City Sales Tax Deduction (Line 1 x 1%)	N/A	0	N/A	0		0		0		0
Line 7	Sales Tax (Line 1 - Line 2) x 8.50%	$ -		$ -		$ -		$ -		#VALUE!	
Line 8	BID EVALUATION TOTAL (Total of lines 1,3,4,5,6)	$ 318,500.00		$ 329,812.00		NO BID		$ -		#VALUE!	
Line 9	ACTUAL BID TOTAL (Add lines 1 - 6)	$ 318,500.00		$ 329,812.00		#VALUE!		$ -		#VALUE!	

BIDDER INFORMATION SECTION

Notes/Comments	Payment Terms *:	Payment Terms *:	Payment Terms *:	Payment Terms *:	Payment Terms *:
The 5% LBE Participation requirement was waived prior to bid. The 5% LBE preference does not apply as supply contract exceeds $100,000. Sales tax is not applicable as this product is used in the production and purification of potable water for resale, California Resale Permit #SYKH98-021076 so City Sales Tax Deduction is not applicable.					
	F.O.B. Point:	F.O.B. Point:	F.O.B. Point:	F.O.B. Point:	F.O.B. Point:
	Delivery Date:	Delivery Date:	Delivery Date:	Delivery Date:	Delivery Date:

* Include prompt-payment discount (on Line 3) ONLY IF PAYMENT TERMS ARE TWENTY (20) DAYS OR MORE (e.g., 2% - 20 days).

** Include a 5% preference (on Line 4) ONLY IF BUSINESS MEETS LOCAL ENTERPRISE (LBE) PREFERENCE LOCATION STANDARD

*** Include the one-percent (1%) City Sales Tax Preference (on Line 5) ONLY IF THE BUSINESS IS LOCATED WITHIN SACRAMENTO CITY LIMITS.

SBE has been removed. LBE raised to 5%. (11-20-2013)

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IFB Eval Form (Excel)

City Information		Vendor # 1 - Name	Vendor # 2 - Name	Vendor # 3 - Name	Vendor # 4 - Name	Vendor # 5 - Name
Date	4/9/2014	Sierra Chemical	Thatcher	Univar USA		
Bid #	B14141111010	Quote Number	Quote Number	Quote Number	Quote Number	Quote Number
Org. Name	Water Operations					
Req. No.		Phone	Phone	Phone	Phone	Phone
Org. No.	14001111	(775) 358-0888	(916) 759-3385	(916) 759-3385		
Contact	Rod Frizzell	Contact Person	Contact Person	Contact Person	Contact Person	Contact Person
Phone #	808-5165	Ron Espalin	Dennis Moore	Jennifer Perras		
Awarded to		Sierra Chemical				

PRICING SECTION

QTY	Description (All Items/Services/Fees/ Etc.)	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
240	Chlorine - 150 lb. Cylinders (Unit price - each delivered)	$ 125.49	$ 30,117.60	No Bid		No Bid			$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -
			$ -		$ -		$ -		$ -		$ -

BID EVALUATION SECTION

Line 1	Materials/Services/Non-Taxable Items Total (from above Line Items)	$ 30,117.60		$ -		$ -		$ -		$ -	
Line 2	Freight, Labor, Warranty, Fees, Etc (Non-taxable Portion of Line 1)										
Line 3	* Enter Prompt Pay Disc % (Lines 1 x Disc %)		$0.00		$0.00		$0.00		$0.00		$0.00
Line 4	** LBE Preference Deduct (Lines 1 x 5%)	N/A	0		0		0		0		0
Line 5	*** City Sales Tax Deduction (Line 1 x 1%)	N/A	0		0		0		0		0
Line 6	Sales Tax (Line 1 - Line 2) x 8.50%	$ -		$ -		$ -		$ -		$ -	
Line 7	**BID EVALUATION TOTAL** (Total of lines 1,3,4,5,6)	**$ 30,117.60**		NO BID		NO BID		**$ -**		**$ -**	
Line 8	ACTUAL BID TOTAL (Add lines 1 - 6)	$ 30,117.60		$ -		$ -		$ -		$ -	

BIDDER INFORMATION SECTION

Notes/Comments	Payment Terms *:	Payment Terms *:	Payment Terms *:	Payment Terms *:	Payment Terms *:
The 5% LBE Participation requirement was waived prior to bid. The 5% LBE preference does not apply as supply contract exceeds $100,000. Sales tax is not applicable as this product is used in the production and purification of potable water for resale, California Resale Permit #SYKH98-021076 so City Sales Tax Deduction is not applicable.					
	F.O.B. Point:	F.O.B. Point:	F.O.B. Point:	F.O.B. Point:	F.O.B. Point:
	Delivery Date:	Delivery Date:	Delivery Date:	Delivery Date:	Delivery Date:

* Include prompt-payment discount (on Line 3) ONLY IF PAYMENT TERMS ARE TWENTY (20) DAYS OR MORE (e.g., 2% - 20 days).

** Include a 5% preference (on Line 4) ONLY IF BUSINESS MEETS LOCAL ENTERPRISE (LBE) PREFERENCE LOCATION STANDARD

*** Include the one-percent (1%) City Sales Tax Preference (on Line 5) ONLY IF THE BUSINESS IS LOCATED WITHIN SACRAMENTO CITY LIMITS.

SBE has been removed. LBE raised to 5%. (11-20-2013)