City of Seattle

Consultant Contract Cover Page

Place this cover page on top of the contract package, and post package into Summit.
Transmit an original Contract with this Cover page to City Clerk.
Seattle City Clerk MS: CH-03-10 3rd Floor City Hall

Agreement # DIT **/ Amendment #** **/ P.O. #** DCD 130149	
Consultant Legal Business Name	Microsoft Corporation
Consultant Doing Business As Name	Same
Contract Title	SharePoint OnLine Event Request Development
Execution Date (last signature)	12/6/13
Contract Expiration	☐ When work is done ☒ Specified Date 6/30/14
Department / Division	DIT D1102
Department Contact/Phone	Ann Kelson 206-684-0539
Contract Type (check one)	☒ Standard (Non-Roster) ☐ Roster Agreement
Solicitation Type check one	☐ Advertisement ☐ Roster (Informal Solicitation or Direct Selection from Roster) ☐ Sole Source ☐ Emergency ☐ Adverse Effect ☒ Direct Appointment (under $47,000)
Amendment Reason check all that apply	☐ Time Extension ☐ Revised Scope of Work ☐ Revised Payment ☐ Other:

Original Contract Amount	$ 46,079.00
Total for this Amendment	$ N/A
Amended Amounts to date	$ N/A
TOTAL CONTRACT AMOUNT	**$ 46,079.00**

Microsoft Consulting Services Work Order

(For Microsoft Internal Purposes Only)	Work Order Number: WO 13122188
MCS (WO Type 1 - lite)- (Public Sector)	Project Code:
	Client ID: U5929087
	Client Type: SLG/EDU
	Vertical Industry: SLG
	Customer Purchase Order Number: DIT DCD 130149

This work order is made pursuant to the Microsoft Master Services Agreement U#5929087 (the "**agreement**") effective as of December 18, 2007, by and between the undersigned customer City of Seattle ("**you**") and the undersigned Microsoft affiliate ("**we**," "**us**," or "**our**"). The terms of the agreement are incorporated herein by this reference. Any terms not otherwise defined herein will assume the meanings set forth in the agreement. This work order is comprised of this cover page and the work order terms below, which are incorporated herein by this reference.

Customer Invoice Information

Name of Customer City of Seattle			A/P Contact Name (This person receives invoices under this work order.) Jason Goetz
Street Address **PO Box 94709**			Contact E-mail Address jason.goetz@seattle.gov
City Seattle		State/Province WA	Phone 206-684-4687
Country	USA	Postal Code 98124-4709	Fax

Invoicing

We will invoice you according to our fiscal monthly billing schedule for services performed and expenses incurred during the previous period. Our invoices for payment will be directed to your representative for payment at the address shown above. **Customer must Select One:**

Customer requires Purchase Order for payment of invoice: Please indicate Purchase Order No. here and send actual PO to Microsoft. _____

X Customer does not require Purchase Order for payment of invoice. Provide Accounts Payable Name and Phone No. _____

Source to confirm Per Diem limits – hotel, rental car, meals, etc. (if applicable): NOT APPLICABLE

Contact Name:	Contact E-mail address:	Contact phone No.:
Web site address:		

Period of Performance

Services under this work order will commence on the Effective date. This work order will expire on June 30, 2014. In order for us to continue work after the expiration date, you and we must agree in writing to a new work order or an amendment to this work order identifying the new expiration date and any other terms upon which you and we agree.

Payments to Microsoft should be made to the following, include reference to our invoice number:
By Check: Microsoft Enterprise Services, P.O. Box 844510, Dallas, TX 75284-4510, or if by overnight delivery, Microsoft Enterprise Services, Lockbox #844510, 1401 Elm Street, Fifth Floor, Dallas, TX 75202
By Wire: Microsoft Enterprise Services #844510, Acct 3750825354/ ABA#0260-0959-3, Bank of America, N.A.

☐ **Attachments required with Invoice (Status Reports/Time /Expense Breakouts, Other):**

Place of Performance/Project Point of Contact(Customer Satisfaction Contact)			
City of Seattle		Project leader (This person is your point of contact for all service-related matters under this work order.) Bruce Blood	
Street Address 700 5th Avenue, Suite 2700		Contact E-mail Address	Bruce.blood@seattle.gov
City Seattle	State/Province CA	Phone	(206) 386-1758
Country USA	Postal Code 98104	Fax	

By signing below the parties acknowledge and agree to be bound to the terms of the agreement and this work order.

Customer	*Microsoft Affiliate*
Name of Customer (please print) **City of Seattle**	Name **Microsoft Corporation**
Signature	Signature C5F4FFFE6A2E45D David T. Gallagher DocuSigned By: David T. Gallagher
Name of person signing (please print) Erin Devoto	Name of person signing (please print) David T. Gallagher
Title of person signing (please print) Chief Technology Officer	Title of person signing (please print) Director of Contracts
Signature date 12/5/13	Effective date 12/6/2013

1. ***Services.*** We will perform the services identified in the **City of Seattle, SharePoint Online Event Request for Development Assistance Statement of Work (SOW)** which is attached and incorporated herein by reference. Any dates provided are estimates only. Most of the services will be performed at the place of performance identified on the cover page or at such other facility as you specify in writing. Some services may be performed off-site at our facilities. All off-site services will be coordinated with your project leader for the services.

2. ***Fees.*** You will pay the following hourly rates and any reasonable out of pocket travel and living expenses (if any) for the individuals assigned. We reserve the right to utilize whichever labor categories in whatever quantities we determine, in our sole discretion, are appropriate to perform the services. Any total fee and labor hours stated are estimates only. The fees do not include fees for products. Unless otherwise specified in the invoice, you will pay us within 30 calendar days of the date of our invoice.

FY14 Rates SharePoint Online Event Project

Resource	Units	Description	Published Hourly Rates	Fully-Burdend Rates*	Proposed Price
Architectural Consultant	0	Hours	$288.00	$0.00	$0.00
Principal Consultant	0	Hours	$274.00	$0.00	$0.00
General Manager	0	Hours	$288.00	$0.00	$0.00
Practice Manager	0	Hours	$274.00	$0.00	$0.00
Engagement Manager	15	Hours	$259.00	$0.00	$3,885.00
Project Manager	0	Hours	$259.00	$0.00	$0.00
Senior Consultant*	**146**	**Hours**	**$259.00**	**$289.00**	**$42,194.00**
Consultant	0	Hours	$234.00	$0.00	$0.00
Associate Consultant	0	Hours	$205.00	$0.00	$0.00
Technician V	0	Hours	$250.00	$0.00	$0.00
Technician IV	0	Hours	$232.00	$0.00	$0.00
Technician III	0	Hours	$206.00	$0.00	$0.00
Technician II	0	Hours	$180.00	$0.00	$0.00
Technician I	0	Hours	$155.00	$0.00	$0.00
Technician	0	Hours	$129.00	$0.00	$0.00
Associate Technician	0	Hours	$103.00	$0.00	$0.00
	161	**Total Estimated Hours**			**$46,079.00**
Estimated Travel Cost:					
Estimated Total					**$46,079.00**

* Per your request, the totals referenced above were calculated using "Fully-Burdened Rates" for the labor category identified. The services component of this fully-burdened rate is equal to the "Published Hourly Rate" from Microsoft's Public Sector Services Published Price List for FY14 and includes all travel and labor. This fully-burdened rate is provided at your request and is in compliance with your procurement policies, laws, rules and regulations.

3. ***Your responsibilities.*** In addition to your responsibilities described in Section 1, "Services", above, you will, at your expense, provide us the following:

   a. access to all necessary on-site facilities, including office space, internet access, and test and monitoring equipment;
   b. access to and copies of relevant technical information;
   c. access to and sufficient time with your technical, management, and other personnel as necessary for us to perform the services; and agreed by the City.
   d. a project leader as your primary point of contact with us and to provide technical direction to our personnel performing the services.

4. ***Cost or Pricing Data.*** We will not, under any circumstances, accept work that would require the submission of cost or pricing data.

5. ***Background Check.*** *Prior to assigning any Microsoft employee who would require unescorted access on your site to provide Services pursuant to this Agreement, Microsoft will arrange for and pay all related fess to conduct a background check consisting of a Social Security number trace and criminal record check. The criminal record check will include a seven (7) year felony and misdemeanor criminal records' check of federal, state and county records (as applicable). Microsoft shall not assign a Microsoft employee who has been convicted of a job-related crime in the last 7 years. Job-related crimes are determined by the nature and gravity of the offense or offenses, the time which has passed since the offense(s), and the nature of the work assignment. Job-related crimes include, but are not limited to, crimes of violence (e.g., murder, aggravated assault), crimes of fraud, sabotage, terrorism or theft (e.g., grand theft, grand larceny, and identity theft). Microsoft will provide a letter of certification to the City of Seattle from its Global Security advising that each assigned employee has successfully completed the background check prior to the performance of services.*

Microsoft

City of Seattle – SharePoint Online Event Request assistance SOW

SharePoint Online Event Request development assistance

Prepared for

City of Seattle

5-Dec-13

Version 1.0 Final

Prepared by

Craig Riter

Architect

criter@microsoft.com

Contributors

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Introduction

This Statement of Work (SOW) and any exhibits, appendices, schedules, and attachments to it is made pursuant to the work order No. 13122188, the terms of which are incorporated herein by reference, by and between City of Seattle ("Customer", "you", "your") and Microsoft Corporation, ("Microsoft", "us", "we", "our"), or our affiliate, and sets forth the services to be performed by us related to ("project"). This SOW, together with the work order, represents the complete baseline for scope and services applicable to this project. This SOW, together with the Work Order to which it attaches, expires one month after its publication date, unless it has been duly executed, in which case it is valid for the stated engagement duration. All changes to this document will be managed in accordance with the Change Management Process defined below. Any terms not otherwise defined herein will assume the meanings set forth in the work order.

Under this arrangement, Microsoft will provide staff augmentation assistance. You are responsible for providing overall direction and control of the project team and its activities, managing the project schedule and estimates, and for overall project success

The City of Seattle has an Office 365 tenant and the Mayor Elect's transition team is looking at utilizing the SharePoint Online functionatily available in that service. The team has plans to develop some SharePoint collaboration solutions using list, libraries and workflow. The Department of IT (DoIT) is planning on supporting this initial development of these SharePoint solutions by utilizing experienced SharePoint developers to work with the team. This approach will expose the DoIT resources to gain experience in developing and supporting SharePoint Online solutions.

1 Project Objectives and Scope

1.1 Objectives

Microsoft Services will provide resource(s) that will assist with:

- Developing SharePoint Online solutions as defined by the transition team.
- Working along side the DoIT team to help with informal knowledge transfer regarding SharePoint Online development.
- Discussing any aspects of recommended usage for SharePoint Online.

1.2 Areas Within Scope

Microsoft will provide resources to support the SharePoint Online development. Microsoft will leverage recommended practices and development guidelines to assist with this implementation.

- Assist with the development of SharePoint Online solutions
- Informal knowledge transfer on SharePoint Online development practices
- Microsoft will provide a SharePoint consultant experienced in SharePoint Online development.

1.3 Areas Out of Scope

Areas that are considered out of scope for this Statement of Work include but are not limited to the following:

- Project Management
- Architecture of the overall SharePoint tenant (overall system design, security, performance or operations)
- Creating Deployment Packages
- Application Deployment
- Hardware Setup for Development, QA and Production Environments
- Network Design
- Use of competing, non-Microsoft tools

Anything else not excluded in this section and not listed in the above "Areas within Scope" is also considered out of scope for this SOW.

2 Project Approach, Timeline and Service Deliverables

2.1 Approach

Microsoft will supplement your technical staff for this project and provide assistance as directed by your designated Project Manager, utilizing your designated project methodologies. Your project manager will provide direction to the overall project team, of which Microsoft will be a part. Should changes be needed to the agreed upon staffing mix, you will work with the Microsoft Engagement Manager to execute a Change Request

2.2 Timeline

The project plan has been defined by your project manager. Any updates to project milestones and timeframes will be managed by your project manager. The Microsoft resource is anticipated to start on December 9th, working full-time December 9th-10th, part time December 11th and then full-time December 16th-20th with the remainder of the hours defined in the work-order to be worked at a time mutually agreed between the Microsoft Engagement Manager and the City of Seattle Project Manager.

2.3 Work Products

Microsoft has **no** specific project service deliverables requiring formal acceptance

During the course of the project, your project manager will assign tasks to the joint project team. We anticipate working with your team toward the completion of the following work products:

- SharePoint Online solution to support the list data and workflow capabilities as defined by the transition team.

2.4 Project Governance Approach

Your project manager will define the project management approach that will be followed by the Microsoft team. However, Microsoft assumes the following general processes will be followed

- Regular status meetings
- Management and communication of project priorities
- Management and communication of project risks

Remember, the effort is staff augmentation and the related City of Seattle project(s) are being managed by the City of Seattle, not Microsoft.

2.4.1 Communication Plan

A formal process will be employed to facilitate communication during the Project between the Microsoft Engagement Manager and your project manager. There will be two key vehicles for providing this communication: a weekly status report and a bi-weekly status meeting (every other week).

- All full-time consultants will compile weekly status reports for distribution to both City of Seattle and Microsoft management.
- Team status meetings will be held every other week to review overall status, the Project schedule and open issues noted in the status report.

The Engagement manager will produce a monthly summary status report and will meet with the appropriate client sponsor once a month to review the status and progress of project

2.4.2 Issue/Risk Management Procedure

The Microsoft Engagement Manager will assist your project manager in identifying and managing Project issues and risks.

2.4.3 Change Management Process

During the project, either party may request, in writing, additions, deletions, or modifications to the services described in this SOW ("change request").

For all change requests, regardless of origin, we shall submit to you our standard Change Request Form, which shall describe the proposed change(s) to the project, including the impact of the change(s) on the project scope, schedule, fees and expenses.

For all change requests which you originate, we shall have a minimum of 3 business days from receipt of the change request to research and document the proposed change, and prepare the Change Request Form.

You shall have 3 business days from your receipt of a completed Change Request Form to accept the proposed change(s) by signing and returning the Change Request Form. If you do

not sign and return the Change Request Form within the time period prescribed above, the change request will be deemed rejected and we will not perform the proposed change(s).

No change to this project shall be made unless it is requested and accepted in accordance with the process described in this section. We shall have no obligation to perform or commence work in connection with any proposed change until a Change Request Form is approved and signed by the designated Project Managers from both parties

2.4.4 Escalation Process

The Microsoft Project Manager will work closely with your Project Manager, Sponsor and other designees to manage Project issues, risks and Change Requests, as described in Sections 2.4.2 and 2.4.3 above. The standard escalation process for review and approval and/or dispute resolution is as follows:

Escalation Path:

- Project Team member (Microsoft or City of Seattle)
- Project/Engagement Manager (Microsoft and City of Seattle)
- Technical Leadership Team

2.5 Project Completion

This Time and Materials based contract will be considered complete when the hours specified in the related WO have been delivered. The Project will be considered complete when either:

- The fee provisions of the Work Order have been met; or
- This agreement is terminated under the provisions of the Master Services Agreement

3 Project Organization and Staffing

3.1 Project Organization Structure

For the reporting purposes of this project, the Microsoft team will receive overall project direction from your Project Manager team

3.2 Project Roles and Responsibilities

This section provides a brief overview of key project role responsibilities.

Role	Responsibilities
Microsoft Engagement Manager	• Responsible for deliverable quality and your overall satisfaction with our services • Single point of contact for billing issues, personnel matters, contract extensions and MCS project status
Microsoft SharePoint consultant	• Provides technical experience in SharePoint practices • Implements solution components

Table 1. Microsoft Roles and Responsibilities

4 General City of Seattle Responsibilities and Project Assumptions

4.1 General City of Seattle Responsibilities

Our delivery of the services are dependent on your involvement in all aspects of the services, your ability to provide accurate and complete information as needed, your timely and effective completion of the responsibilities as identified herein, the accuracy and completeness of the Assumptions, and timely decisions and approvals by your management. In addition to any City of Seattle activities identified in the Approach section, you will perform the tasks, furnish the personnel, provide the resources, or undertake the responsibilities specified below.

1. You are responsible for:
   a. Project management and assigning a Project Manager
   b. Project planning and execution including schedule and cost
   c. Overall technical direction
   d. Overall status reporting
2. You will provide, as you deem appropriate, workspace for each team member including desk, phone, network connection, internet access, print services, and PC space.
3. You will provide documentation required to successfully execute/complete this engagement which is accessible and accurate.
4. You will provide access to systems and personnel as required by Microsoft and our partners.
5. You will handle project risk mitigation.
6. Provide, as needed, personnel knowledgeable in the current City of Seattle systems.
7. Provide business user representatives as required by project plan.
8. Provide, all test cases, test data, procedures, and personnel needed to conduct the acceptance testing of the solution, including interfaces.

9. Provide necessary work site access as well as necessary City of Seattle systems log-on and passwords.
10. Provide access to other materials and resources as needed, and as advised by us in advance.
11. Provide suitable work area spaces with desks, chairs, and telephones, etc.
12. Provide LAN connections that enable access to the Internet and e-mail for Microsoft on-site team..
13. Assume responsibility for management of all non-Microsoft managed vendors.
14. Provide access with proper licenses to all necessary tools and third party products required for Microsoft to complete its assigned tasks.
15. Acquire and install the appropriate server capacity to support the development and test environments.

In performing our services under this SOW and the applicable WO, we will rely upon any instructions, authorizations, approvals or other information provided to us by your project Manager or by any other personnel identified by your Project Manager.

4.2 Project Assumptions

The Services, fees and delivery schedule for this project are based upon the following assumptions.

- This Statement of Work is considered the baseline scope document outlining Microsoft's responsibilities for the assistance. Any changes to those responsibilities will be considered a change in scope for the engagement. Any proposed change to the project scope must be put into written format and be submitted to Microsoft during this engagement for review and consideration.
- This SOW is generated based upon currently known information deemed to be accurate and correct.
- Each full time Microsoft and Partner consultant will reserve one hour per week for writing a brief, weekly status report.
- All project resources will have the appropriate level of security access required to complete project-related efforts.
- Holidays, vacation and training time have not been factored into this statement of work.

- Microsoft and the City will work together to mutually agree on scheduling of work, recognizing that consultant effort on a particular work product is typically contiguously and full time.
- Changes to the hardware for the production and testing environments will be addressed quickly to support the short timeline of the project.
- There will be no data migration or any kind of data validation of the current system.
- Source code repository will be provided to support tracking of solution components.
- City of Seattle will be able to make timely decisions when presented with solution options.
- The standard work day for the Project (e.g., between 8:00 AM and 5:00 PM, Monday through Friday, except for scheduled holidays)

Microsoft Master Services Agreement – State and Local Non-Standard

Microsoft Master Services Agreement Number *Microsoft affiliate to complete*	
City of Seattle Agreement Number	**DIT Enterprise 001**

This Microsoft Master Services Agreement is entered into between the following entities as of the effective date identified below. This agreement is comprised of this cover page and the attached terms and conditions, the terms of which are incorporated herein by this reference.

This agreement contains terms of the relationship between you and us. If you contract for services from us under this agreement, the specific terms of those transactions will be contained in this agreement and any statement of services incorporating this agreement.

If the first statement of service entered into under this agreement is given an effective date that is earlier than the effective date of this agreement, the effective date of this agreement will be that earlier date for the purposes of that statement of service.

By signing below, each party acknowledges that it has read and understood the terms of this agreement and agrees to be bound by these terms.

Customer	***Microsoft Affiliate***
Name of Customer (please print) **City of Seattle**	Name **Microsoft Corporation**
Signature	Signature David T. Gallagher
Name of person signing (please print) William M. Schrier ERIN DEVOTO	Name of person signing (please print) David T. Gallagher
Title of person signing (please print) Chief Technology Officer DEP DIRECTOR	Title of person signing (please print) Director of Contracts
Signature date 12/18/07	Signature date (may be different than Effective Date) 12-13-07
	Effective Date (may be different than Signature Date)

Contact information. Each party will notify the other in writing if any of the information in the following table changes. The * indicates required fields. By providing contact information, you consent to its use for purposes of administering this agreement by us, our affiliates, and other parties that help us administer this agreement.

Customer		
Name of Customer * **City of Seattle**		Contact Name *(This person receives notices under this agreement pursuant to Section 12 (Notices). William M. Schrier
Street Address * 700 5th AVE #2700		Contact Email Address * bill.schrier@seattle.gov
City * Seattle	State/Province * WA	Phone 206-684-0600
Country * USA	Postal Code * 98104	Fax 206-684-0911

Microsoft	
Notices to Microsoft should be sent to (*Microsoft affiliate to complete*): * Kiersten Keester One Microsoft Way Samm-D/4605 Attn: Jeremy Danielson Redmond, WA 98052 Tel: (916) 781-0685 Email: kkeest@microsoft.com Fax: (425) 936-7329	**Copies should be sent to:** Microsoft Law and Corporate Affairs One Microsoft Way Redmond, WA 98052 USA Services Attorney (425) 936-7329 fax

Microsoft Seattle Business License Customer Number: 137262
Microsoft State of Washington UBI: 600413485
Microsoft City of Seattle Vendor Number: pending

Terms and Conditions

1. Definitions. In this agreement, a "party" or "parties" means you and/or us as the context requires. "You" means the entity that has entered into this agreement and may also refer, as the context requires, to your affiliates who enter into a statement of services under this agreement. "**We**", "**us**", or "**our**" means, the Microsoft entity that has entered into this agreement and may also refer, as the context requires, to our affiliates. In addition, the following definitions apply:

"**affiliate**" means (i) with regard to you, any government agency, department, office, instrumentality, division, unit or other entity of your state or local government that is supervised by or is part of you, or which supervises you or of which you are a part, or which is under common supervision with you; together with, as mandated by law, any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality located within your state's jurisdiction and geographic boundaries; provided that a state and its affiliates shall not, for purposes of this definition, be considered to be affiliates of the federal government and its affiliates; and (ii) with regard to us, any legal entity that we own, which owns us, or which is under common ownership with us. "**Ownership**" means more than 50% ownership.

"**contractor(s)**" means any third party supplier or other provider of computer technology or related services;

"**developments**" means any computer code or materials (other than products, fixes or pre-existing work) developed by us or in collaboration with you which is provided to you in the course of performance of a statement of services;

"**fixes**" means product fixes, modifications or enhancements or their derivatives that we either release generally, (such as commercial product service packs) or that we provide to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds);

"**joint ownership**" means each party has the right to independently exercise any and all rights of ownership now known or here after created or recognized, including without limitation the rights to use, reproduce, modify and distribute the developments for any purpose, without the need for further authorization to exercise any such rights or any obligation of accounting or payment of royalties;

"**open source license terms**" means license terms that require computer code to be generally (i) disclosed in source code form to third parties; (ii) licensed to third parties for the purpose of making derivative works; or (iii) redistributable to third parties at no charge;

"**pre-existing work**" means computer code or materials (other than products and fixes) developed or otherwise obtained independently of the efforts of a party under a Statement of Services;

"**product**" means any computer code, web-based services, or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing we make available to you for license which is published by us, our affiliates, or a third party;

"**service deliverables**" means any computer code or materials, other than products or fixes, that we leave with you at the conclusion of our performance of services;

"**services**" means all support, consulting and other services or advice, including any resulting deliverables provided to you under the terms and conditions of this agreement;

"**statement of services**" means any work orders, services descriptions, or other statement of services referencing this agreement.

2. Services. The precise scope of the services will be specified in a statement of services. You or any of your affiliates may enter into statements of services under this agreement with our local affiliate. Our ability to deliver the services depends upon your full and timely cooperation, as well as the accuracy and completeness of any information you provide. This agreement does not obligate either party or its affiliates to enter into any statements of services.

3. ***Ownership and license of service deliverables.***

a. ***Products and fixes***. All products, related solutions and fixes provided under a statement of services will be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product. You are responsible for paying any licensing fees associated with products.

b. ***Pre-existing work***. All pre-existing work will remain the sole property of the party providing the pre-existing work. During the performance of services, each party grants to the other (and our contractors as necessary) a temporary, non-exclusive license to use, reproduce and modify any of its pre-existing work provided to the other party solely for the performance of such services.

Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full, we grant you a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify (if applicable) our pre-existing work in the form delivered to you as part of the service deliverables only for your internal business operations.

The perpetual license to our pre-existing work that we leave to you at the conclusion of our performance of the services is conditioned upon your compliance with the terms of this agreement and the applicable statement of services.

c. ***Developments.*** Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full we grant you joint ownership in the developments. You agree to exercise your rights for your internal business operations only and you will not resell or distribute the developments to any third party. Each party shall be the sole owner of any modifications that it makes based upon the developments.

d. ***Affiliates rights and sublicensing to affiliates.*** Except as may be otherwise explicitly agreed to in a statement of services, you may sublicense the rights to the service deliverables granted hereunder to your affiliates, but you or your affiliates may not further sublicense these rights.

Any sublicensing of the service deliverables to your affiliates, if permitted, must be consistent with the license terms in this agreement or in any statement of services.

e. ***Open source license restrictions.*** Because certain third party software is subject to open source license terms, the license rights that each party has granted to any computer code (or any intellectual property associated therewith) do not include any license, right, power or authority to incorporate, modify, combine and/or distribute that computer code with any other computer code in a manner which would subject the other's computer code to open source license terms. Furthermore, each party warrants that it will not provide or give to the other party computer code that is governed by open source license terms.

f. ***Reservation of Rights.*** All rights not expressly granted in this section are reserved.

4. ***Restrictions on use.*** You may not:

a) Rent, lease, lend, host or otherwise distribute service deliverables or fixes, except as otherwise provided in a statement of services; or

b) Reverse engineer, de-compile or disassemble fixes or service deliverables, except to the extent expressly permitted by applicable law despite this limitation

Fixes and service deliverables licensed under this agreement are subject to U.S. export jurisdiction. You must comply with all domestic and international export laws and regulations that apply to the products, fixes and service deliverables. Such laws include restrictions on destinations, end-users, and end-use. For additional information, see http://microsoft.com/exporting.

5. ***Supportability.*** We may add support for new products or discontinue support for existing products from time-to-time. If we discontinue support for a product, we will inform you six months in advance of the discontinuation by posting the information at http://support.microsoft.com or any successor site. If we sell a product to another company, we will give you notice of the sale and at the time of such notice will either (i) arrange for the other company to continue the support; or (ii) continue support ourselves for 90 days to give you time to make alternative arrangements.

There may be cases where your implementation of our products cannot be effectively supported. As part of providing the support services, we will notify you if we reach that conclusion. If you do not modify the implementation to make it effectively supportable within 30 calendar days after the notice, we will not be obligated to provide additional support services for that implementation, however we will continue to provide support for your other supportable implementations covered by the statement of services.

For statements of services for support, we will use commercially reasonable efforts to provide the support services for those products covered in the statement of services, provided they are validly licensed by you.

6. ***Fees.*** You agree to pay us (or our designees) the fees described in each statement of services. The fees do not include fees for products. Unless otherwise stated in a statement of services, (i) you agree to pay within 30 calendar days of the date of our invoice; and (ii) we will not change our hourly rates identified in a statement of services during its term, but we may adjust our hourly rates prior to entering any new or amended statement of services. Our fees exclude any taxes, duties, tariffs, levies or other governmental charges or expenses (including, without limitation, any value added taxes), which will be billed to and paid by you. We are responsible for taxes based upon our personal property ownership and net income. We may, at our option, assess a finance charge of the lesser of 18% per annum, accrued, calculated and payable monthly or the highest amount allowed by law on all past due amounts. We will have no obligation to continue to provide services if you fail to make timely payment.

7. **Confidentiality and Proprietary Information**

The parties agree that they will not permit the duplication or disclosure of any agreement information designated in advance by the other party as "Confidential" or "Proprietary" to any person other than authorized persons unless such duplication, use or disclosure is specifically authorized in writing by the other party or is required by law. "Confidential" and "Proprietary" information does not include ideas, concepts, know-how or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Agreement. Likewise, "Confidential" and "Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality. "Authorized persons" means the party's own employees, agents, or representatives who must have such information for the performance of that party's obligations hereunder,

a) Our Understanding and Obligations

1) We understand that any records (including but not limited to bid or proposal submittals, the agreement, and any other agreement materials) we submit to you, or that are used by you even if we possess the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. We also understand that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

2) We must separate and clearly mark as "confidential" or "proprietary" all records related to this agreement or the performance of this agreement that we believe are exempt from disclosure. We are familiar with potentially-applicable public-disclosure

exemptions and the limits of those exemptions, and will mark as "confidential" or "proprietary" only information that we believe legitimately fits within an exemption and will state the statutory exemption upon which we are relying.

3). If you notify us of a public disclosure request, and we believe the records are exempt from disclosure, it is our responsibility to make such determination and pursue a lawsuit under RCW 42.56 to enjoin disclosure. We must obtain the injunction and serve it on you before the close of business on the tenth business day after you sent notification to us. It is our discretionary decision whether to file the lawsuit.

4) If we do not timely obtain and serve an injunction, we will be deemed to have authorized releasing the record.

5) Notwithstanding the above, we must not take any action that would affect (a) your ability to use goods and services provided under this agreement or (b) our obligations under this agreement.

6) We will fully cooperate with you in identifying and assembling records in case of any public disclosure request.

b) Your Obligations

1) You will disclose those parts of records that we have marked as "confidential" or "proprietary" only to authorized persons unless:

(a) you receive a public disclosure request, in which case steps 2 and 3 below are exercised before release of the information; or

(b) we have given you express advance written permission to disclose the records.

2. If you receive a public disclosure request for records that we have marked as "confidential" or "proprietary," you may promptly notify us of the request. You will postpone disclosing these records for ten business days after it has sent notification to us, in order to allow us to file a lawsuit under RCW 42.56 to enjoin disclosure. It is our discretionary decision whether to file the lawsuit.

3) If you have notified us of a public disclosure request, and we have not obtained an injunction and served you with that injunction by the close of business on the tenth business day after you sent notice, you will disclose the record.

4) You have no other obligations concerning records we has marked as "confidential" or "proprietary" under this agreement. You have no obligation to claim any exemption from disclosure. You are not obligated or liable to us for any records that you release in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

8. Warranties.

a. Services. We warrant that all services will be performed with professional care and skill.

b. No other warranties. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM AND EXCLUDE ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS WHETHER EXPRESS, IMPLIED OR STATUTORY OTHER THAN THOSE IDENTIFIED EXPRESSLY IN THIS AGREEMENT (INCLUDING ANY STATEMENT OF SERVICES THAT INCORPORATES THESE TERMS), INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF TITLE,

NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PRODUCTS, FIXES, SERVICE DELIVERABLES, RELATED MATERIALS AND SERVICES. WE WILL NOT BE LIABLE FOR ANY SERVICE(S) OR PRODUCT(S) PROVIDED BY THIRD PARTY VENDORS, DEVELOPERS OR CONSULTANTS IDENTIFIED OR REFERRED TO YOU BY US UNLESS SUCH THIRD PARTY PRODUCTS OR SERVICES ARE PROVIDED UNDER OUR WRITTEN AGREEMENT BETWEEN YOU AND US, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN THIS AGREEMENT.

9. Defense of infringement and misappropriation claim. We will defend you against any claims made by an unaffiliated third party that any service deliverable infringes its patent, copyright, or trademark or misappropriates its trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent).

You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance in defending the claim, and we will reimburse you for reasonable out of pocket expenses that you incur in providing that assistance. The terms "**misappropriation**" and "**trade secret**" are used as defined in the Uniform Trade Secrets Act.

Our obligations will not apply to the extent that any claim or adverse final judgment is based on (i) computer code or materials (e.g. specifications) you provide; (ii) your use of a fix or service deliverables after we notify you to discontinue use due to such a claim; (iii) your combining a fix or service deliverables with a non-Microsoft product, data or business process; (iv) damages attributable to the value of the use of a non-Microsoft product, data or business process; (v) an alteration of fixes or service deliverables by someone other than us or our contractors; (vi) your distribution of the fix or services deliverables to, or its use for the benefit of, any third party other than permitted by an applicable statement of services; (vii) your use of our trademark(s) without express written consent to do so; or (viii) any trade secret claim that is a result of your acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than us or our affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. You will reimburse us for any costs or damages that result from these actions.

If we receive information concerning an infringement claim related to a fix or service deliverables, we may, at our expense and without obligation to do so, either (i) procure for you the right to continue to use the allegedly infringing fix or service deliverables as permitted by the applicable statement of services; or (ii) modify the fix or service deliverables or replace it with a non-infringing functional equivalent, to make it non-infringing, in which case you will stop using the allegedly infringing fix or service deliverables immediately. If as a result of an infringement claim, your use of a fix or service deliverables is enjoined by a court of competent jurisdiction, we will, at our option, either i) procure the right to continue its use; ii) modify it to make it non-infringing; iii) replace it with a non-infringing functional equivalent; or iv) refund the amount paid for the infringing fix or service deliverables and terminate the license for (or as applicable, your ownership rights in) the infringing fix or service deliverable.

If any other type of third party claim is brought against you regarding our intellectual property, you must notify us promptly in writing. We may, at our option, choose to treat these claims as being covered by this Section 9. This Section 9 provides your exclusive remedy for third party infringement and trade secret misappropriation claims.

10. Limitations of liability.

a. Limitation on Direct Damages. There may be situations in which you have a right to claim damages or payment from us. Except as otherwise specifically provided in this paragraph, whatever the legal basis for your claims, our total liability (and that of our contractors) will be limited, to the maximum extent permitted by applicable law, to direct damages up to the amount you have paid under the applicable statement of services for the services giving rise to the claims. In the event services or any service deliverables are provided to you on a

gratuitous or no-charge basis, our total liability to you will not exceed US$5000. The limitations contained in this paragraph will not apply with respect to the following:

(i) our obligations under Section 9;

(ii) our liability for damages for gross negligence or willful misconduct, to the extent caused by us or our contractors and awarded by a court of final adjudication; and

(iii) our obligations under Section 6;

(iv) our waiver as follows: We waive any immunity we may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. We acknowledge that this waiver of immunity was mutually negotiated and agree that the waiver provided in this subsection shall survive any termination or expiration of this agreement.

b. ***NO LIABILITY FOR CERTAIN DAMAGES.*** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY NOR THEIR AFFILIATES, SUPPLIERS OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, DAMAGES FOR LOSS OF PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION), ARISING IN CONNECTION WITH THIS AGREEMENT, ANY STATEMENT OF SERVICES, SERVICES, SERVICE DELIVERABLES, FIXES, PRODUCTS, OR ANY OTHER MATERIALS OR INFORMATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. THIS EXCLUSION OF LIABILITY DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATION, REDISTRIBUTION OR OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

c. ***Application.*** Except as specified expressly in this Section 10, the limitations on and exclusions of liability for damages in this agreement apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory.

11. Term and termination. This agreement will remain in effect until terminated. The parties signing the cover page of this agreement may terminate it at any time by giving the other party at least 60 calendar days prior written notice.

Either party signing the cover page may terminate this agreement if the other party is in material breach or default of any obligation that is not cured within 30 calendar day's notice of such breach.

The sole effect of terminating this agreement will be to terminate the ability of either party to enter into subsequent statements of services that incorporate the terms of this agreement. Termination of this agreement will not, by itself, result in the termination of any statements of services previously entered into (or extensions of the same) that incorporate the terms of this agreement, and the terms of this agreement will continue in effect for purposes of such statements of services unless and until the statement of services itself is terminated or expires.

The term of any statement of services will be set forth in an applicable statement of services. In addition, unless otherwise provided in a statement of services, your affiliate that signed the statement of services may terminate it for any reason by giving our affiliate that signed the statement of services 30 calendar days' prior written notice. Either party signing a statement of services may terminate it if the other party is (i) in material breach or default of any obligation that is not cured within 30 calendar days notice of such breach or (ii) fails to pay any invoice that is more than 60 calendar days outstanding. You agree to pay all fees for services performed and expenses incurred prior to termination and any additional amounts that may be specified in a statement of services.

12. ***Notices.*** All notices, authorizations, and requests given or made in connection with this agreement must be sent by post, express courier, facsimile or email to the addresses indicated on the cover page of this agreement or on an applicable statement of services, if different. Notices will be deemed delivered on the date shown on the postal return receipt or on the courier, or facsimile or email confirmation of delivery.

13. ***Insurance.*** We will procure and maintain insurance as required by you pursuant to Attachment A to this agreement. We have received and accepted your Letter of Self Insurance dated December 3, 2007 as evidence of insurance.

14. ***Miscellaneous.***

a. ***Assignment and right to subcontract.*** Neither party may assign this agreement or any statement of services without the written consent of the other. We may use contractors to perform services and we will be responsible for their performance subject to the terms of this agreement.

b. ***Independent contractor.*** We provide our services as an independent contractor, and will be responsible for any and all social security, unemployment, workers' compensation and other withholding taxes for all of our employees. You and we are free to develop products independently without the use of the other's confidential information. Neither you nor we are obligated to restrict the future work assignments of people who have had access to confidential information. In addition, you, we and these people are free to use the information that these people remember related to information technology, including ideas, concepts, know-how or techniques, so long as confidential information of the other party is not disclosed in violation of this agreement in the course of such use. This use shall not grant either party any rights under the other's copyrights or patents and does not require payment of royalties or separate license.

c. ***Applicable law; dispute resolution.*** This agreement together with the applicable statement of services will be governed by the laws of your state, without giving effect to its conflict of law provisions. Disputes relating to this agreement will be subject to applicable mandatory dispute resolution statutes and regulations of your state.

d. ***Entire agreement.*** This agreement and the statements of services constitute the parties' entire agreement concerning the subject matter hereof, and supersede any other prior and contemporaneous communications. The terms of these documents will control in the following order: (i) this agreement; and (ii) any statement of services. Any terms and conditions maintained by you or your affiliates or contained in any purchase order, other than those mandatory terms required by law, will not apply. The parties signing the cover page of this agreement may amend this agreement only in writing when signed by both parties. The parties signing a statement of services may amend the statement of services only in writing when signed by both parties.

e. ***Survival.*** The sections regarding ownership and license, restrictions on use, fees, confidentiality, no other warranties, defense of infringement and misappropriation claims, limitations of liability, term and termination, notices, and miscellaneous of this agreement will survive any termination or expiration of this agreement or any statement of services. Additionally, as provided in Section 11 above, if this agreement is terminated all its terms shall survive termination for purposes of any remaining statement of services in existence at the time this agreement is terminated.

f. ***Severability.*** If a court holds any provision of this agreement or a statement of services to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend the agreement or statement of services to give effect to the stricken clause to the maximum extent possible.

g. ***Waiver.*** No waiver of any breach of this agreement or statement of services will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

h. ***Force majeure.*** To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's control, then that party will not be liable, so long as it resumes performance as soon as practicable after the reason preventing or delaying performance no longer exists.

i. ***Counterparts.*** This agreement and any statements of services may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute one and the same instrument. Execution may be effected by delivery of facsimiles of signature pages (and the parties will follow such delivery by prompt delivery of originals of such pages).

j. ***Cost or pricing data.*** We will not, under any circumstances, accept any statement of services that would require the submission of cost or pricing data.

k. ***Non-exclusivity.*** This agreement (including any statement of services incorporating these terms) is non-exclusive. Nothing contained in it requires you to license, use or promote Microsoft software or services exclusively. You may, if you choose, enter into agreements with other parties to license, use or promote non-Microsoft software or services.

l. ***Use of Recycled Content Paper.*** Whenever practicable, we shall use reusable products including recycled content paper on all documents submitted to you. We shall duplex all documents that are prepared for you under this agreement, whether such materials are printed or copied except when impracticable to do so due to the nature of the product being produced. We shall are to use 100% post consumer recycled content, chlorine-free paper in any documents that are produced for you, whenever practicable, and to use other paper-saving and recycling measures in performance of this agreement with and for you.

m. ***Americans with Disabilities Act.*** We shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 as amended (ADA) in performing its obligations under this agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this agreement.

n. ***Fair Contracting Practices Ordinance.*** We shall comply with the Fair Contracting Practices Ordinance of Seattle Municipal Code (SMC) Chapter 14.10.

15. *Equal Employment Opportunity and Outreach.*

a. We shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. We shall take affirmative efforts to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap. Such efforts shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship.

b. If we hire employees for this agreement, we shall make affirmative efforts to recruit minority and women candidates. Affirmative efforts may include the use of advertisements in

publications directed to minority communities and other targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.

c. Record-Keeping: We shall maintain, for at least 24 months after the expiration or earlier termination of this agreement and permit access to our records of employment, employment advertisements, application forms and other pertinent data and records requested by you *that are directly related to the performance under this Agreement* for the purposes of investigation to determine compliance with the requirements of this section.

d. We, by executing this agreement, are affirming that the we comply with all applicable federal, state, and local non-discrimination laws, particularly the requirements of SMC Ch. 20.42 as incorporated in this agreement. Any violation of the requirements of the provisions of this section noted in Paragraphs B and C above shall be a material breach of agreement for which we may be subject to damages and sanctions provided for by the agreement and by applicable law, including but not limited to debarment from your contracting activities in accordance with SMC Ch. 20.70.

e. The foregoing provisions of this section shall be inserted in all subcontracts for the Work covered by this agreement.

16. Affirmative Efforts to Use Women and Minority Business Enterprises

a. If we intend to subcontract out any part of this agreement instead of performing the work ourselves, then the following requirement applies: We shall use affirmative efforts to promote and encourage participation by women and minority businesses on subcontracting opportunities within the agreement's scope of work. We agree to make such efforts as a condition of the agreement.

b. Outreach efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making other useful schedule or requirements modifications that are likely to assist small or WMBE businesses to compete, targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.

c. Record-Keeping: We shall maintain, for at least 24 months after the expiration or earlier termination of this agreement, relevant records and information necessary to document all of our solicitations to subconsultants and suppliers, all subconsultant and supplier proposals received, and all subconsultants and suppliers actually utilized under this agreement. You shall have the right to inspect and copy such records.

d. We shall ensure that all employees, particularly supervisors, are aware of, and adhere to their obligation to maintain a working environment free from discriminatory conduct, including but not limited to harassment and intimidation of minorities, women, or WMBE businesses.

e. Non-Discrimination: We shall not create barriers to open and fair opportunities for WMBEs to participate in any of your contracts and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

f. Sanctions for Violation: Any violation of the paragraphs A, B, C, D or E of this section, or a violation of SMC Ch. 14.04 (Fair Employment), SMC Ch. 14.10 (Fair Contracting), SMC Ch. 20.42 (Equality in Contracting), or other local, state or federal non-discrimination laws shall be a material breach of contract for which the we may be subject to damages and sanctions provided for by the agreement and by applicable law. If we are found to be in violation of the requirements, we may be subject to debarment from your contracting activities in accordance with SMC Ch. 20.70.

17. Non-Discrimination in Employee Benefits.

A. Compliance with SMC Ch. 20.45: You have waived the requirement that we comply with SMC Ch. 20.45 with respect to providing equal benefits to our employees with opposite sex domestic partners. For employees with same sex domestic partners, we shall comply with the requirements of SMC Ch.20.45 and Equal Benefits Program Rules implementing such requirements, under which we are obligated to provide the same or equivalent benefits ("equal benefits") to employees with same sex domestic partners as we provide to employees with spouses. At your request, we shall provide complete information and verification of our compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this agreement.

B. Remedies for Violations of SMC Ch. 20.45: Except for the waiver you granted, any violation by us of this Section 17 shall be a material breach of the agreement for which you may:

(1) Require us to pay liquidated damages for each day that we are in violation of SMC Ch. 20.45 during the term of the agreement; or
(2) Terminate the agreement; or
(3) Disqualify us from bidding on or being awarded agreements with you for a period of up to five (5) years; or
(4) Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder, or as provided in this Agreement.

18. Debarment

In accordance with SMC Ch. 20.70, you may debar us and prevent us from entering into a contract with you or from acting as a subconsultant on any contract with us for up to five years after determining that any of the following reasons exist:

1) We have received overall performance evaluations of deficient, inadequate, or substandard performance on three or more of our contracts with *the City of Seattle.*

2) We have failed to comply with your ordinances or contract terms, including but not limited to, ordinance or contract terms relating to small business utilization, discrimination, or equal benefits.

3) We have abandoned, surrendered, or failed to complete or to perform work on or in connection with one of your contracts.

4) We have failed to comply with contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.

5) We have submitted false or intentionally misleading documents, reports, invoices, or other statements to you in connection with a contract.

6) We have colluded with another firm to restrain competition.

7) We have committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for you or any other government entity.

8) We have failed to cooperate in one of your debarment investigations.

9) We have failed to comply with SMC 14.04, SMC Ch. 14.10, SMC Ch. 20.42, or SMC Ch. 20.45, or other local, State, or federal non-discrimination laws.

You may issue an Order of Debarment in accordance with the procedures specified in SMC 20.70.050. Your rights and remedies under these debarment provisions are in addition to any other rights and remedies provided by law or under the agreement.

19. Use of this Agreement by Your Affiliates: We will provide you with electronic copies of all statements of services between us and your affiliates within 30 days of their execution. The copies will be sent

to:

Patrick Dadosio, Strategic Advisor
Department of Information Technology
PO Box 94709
Seattle, WA 98124-4709
206-684-0573

Attachment A to DIT Enterprise Agreement 001
2007 CONSULTANT CONTRACT
INSURANCE REQUIREMENTS AND TRANSMITTAL FORM

THIS FORM MUST BE ATTACHED TO INSURANCE CERTIFICATION SUBMITTED TO THE CITY

FOR CITY USE ONLY
Contract: Microsoft Master Service Agreement **Contract Number:** DIT Enterprise 001
Contract Manager: Ann Kelson **Department:** DOIT **Telephone:** 206-684-0539

THIS SECTION TO BE COMPLETED BY CONSULTANT'S INSURANCE BROKER:
Name: Title:
Name of Company:
Email: Telephone: Fax:
ATTACH CERTIFICATION AND ADDITIONAL INSURED WORDING TO THIS FORM. SEND TO:

☒ The City of Seattle
Risk Management Division
700 5th Avenue, Suite 4350
P. O. Box 94669
Seattle, WA 98124-4669
Fax: (206) 470-1279 or (206) 615-0065
Email: riskmanagement@seattle.gov

☒ The City of Seattle
Ann Kelson, Contracts Manager
Department of Information Technology
PO Box 94709
Seattle, WA 98124-4709
206-684-0539
Email: ann.kelson@seattle.gov

A. **INSURANCE REQUIRED:** The Consultant shall maintain continuously throughout the term of this Agreement, at no expense to the City, the following insurance coverage and limits as checked:

1. ☒ **Commercial General Liability (CGL)** or equivalent insurance including coverage for:
   — Premises/Operations
   — Products/Completed Operations
   ☐ Products/Completed Operations Additional Insured (if checked, see paragraph B.3.)
   — Personal/Advertising Injury
   — Contractual
   — Independent Contractors
   — Stop Gap/Employers Liability (coverage may be provided under separate policy)
   Minimum limits of liability shall be $ 1,000,000 each occurrence combined single limit bodily injury and property damage except:
   — $ 1,000,000 each offence Personal & Advertising Injury
   — $ 1,000,000 each accident/disease Stop Gap/Employers Liability:
   — $ 100,000 each occurrence Fire/Tenant Legal

2. ☒ **Automobile Liability** insurance for owned, non-owned, leased or hired vehicles, as applicable with a minimum limit of liability of $500,000 each occurrence combined single limit bodily injury and property damage unless this box is checked: ☐ $1,000,000 each occurrence combined single limit bodily injury and property damage.

3. ☒ **Worker's Compensation** insurance for Washington State as required by Title 51 RCW Industrial Insurance and (if checked) ☐ U.S. L.& H. ☐ Jones Act.

4. ☐ **Professional Liability (Errors & Omissions)** insurance appropriate to the consultant's profession. The minimum limit of liability shall be ☐ $1,000,000 ☐ $ each claim.

5. ☒ **Technology Errors and Omissions Liability** for programming errors, software performance, or the failure of consultant's work to perform as promised in your contract. The minimum limit of liability shall be ☒ $1,000,000 ☐ $ each claim.

6. ☐ **Umbrella or Excess Liability** insurance over primary CGL and Automobile Liability insurance limits, if necessary, to provide total minimum limits of liability of ☐ $2,000,000 ☐ $5,000,000 ☐ $ e ach occurrence combined single limit bodily injury and property damage. These required total minimum limits of liability may be satisfied with primary limits or any combination of primary and umbrella/excess limits.

7. **Other:** with minimum limits of liability of $

Attachment A to DIT Enterprise Agreement 001 continued

ONLY PARAGRAPH G. OF THE FOLLOWING CONDITIONS APPLIES TO WASHINGTON STATE WORKER'S COMPENSATION:

B. CITY AS ADDITIONAL INSURED; PRODUCTS-COMPLETED OPERATIONS: As respects CGL and Automobile Liability insurance, the City of Seattle shall be included as an additional insured subject to a standard "Separation of Insureds" clause. As respects CGL insurance, additional insured status for the City:

1. Must be established either by an appropriate additional insured endorsement issued and attached to the policy or by appropriate blanket additional insured policy wording,
2. Shall be primary and non-contributory with any insurance or self-insurance coverage maintained by the City, and
3. If paragraph A.1. is checked for Products and Completed Operations Additional Insured, additional insured status for the City of Seattle shall be provided per ISO CG 20 10 11 85 or CG 20 37 endorsements or equivalent endorsements or blanket additional insured language for a period of not less three (3) years following completion of the scope of work.

C. NO LIMITATION OF LIABILITY: The limits of liability specified herein are minimum limits of liability only and, except for the policy limits, shall not be construed to limit the liability of the Consultant or any of the Consultant's insurers. The City shall be an additional insured as required in paragraph B. above as respects the total limits of liability maintained, whether such limits are primary, excess, contingent or otherwise.

D. NOTICE OF CANCELLATION: Coverages shall not be canceled without thirty (30) days prior written notice to the City, except ten (10) days notice for non-payment of premium.

E. CLAIMS MADE FORM: If any insurance policy is issued on a "claims made" basis, the retroactive date shall be prior to or coincident with the effective date of this Agreement. The Consultant shall either maintain "claims made" forms coverage for a minimum of three years following the expiration or earlier termination of this Agreement, providing the City with a Renewal Certificate of Insurance annually; purchase an extended reporting period ("tail") for the same period; or execute another form of guarantee acceptable to the City to assure the Consultant's financial responsibility for liability for services performed.

F. INSURER'S A.M. BEST'S RATING: Each insurance policy shall be issued by an insurer rated A-: VII or higher in the A.M. Best's Key Rating Guide, unless a surplus lines placement by an licensed Washington State surplus lines broker, or as may otherwise be approved by the City.

G. SELF-INSURANCE: The City acknowledges that the Consultant may employ self-insured and/or alternative risk financing and/or capital market risk financing programs for some or all of its coverages. The term "insurance" wherever used herein shall include any such self-insured and/or alternative risk financing and/or capital market risk financing programs. The Consultant shall be liable for any self-insured retention or deductible portion of any claim for which insurance is required.

H. EVIDENCE OF INSURANCE: The Consultant or its authorized representative shall deliver in the manner described an **Acord Certificate and Additional Insured Endorsement or Blanket Policy Wording** that complies with coverages, limits and conditions as required herein. (NOTE: A Copy of the actual additional insured endorsement or blanket additional insured policy wording to the CGL policy **MUST** BE ATTACHED TO THE CERTIFICATE to verify additional insured status.)

CGL INSURANCE WILL NOT BE APPROVED WITHOUT ADDITIONAL INSURED ENDORSEMENT OR BLANKET ADDITIONAL INSURED WORDING ATTACHED TO THE CERTIFICATE!

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399

Tel 425 882 8080
Fax 425 936 7329
http://www.microsoft.com/

Microsoft

CERTIFICATE OF SELF INSURANCE

December 3, 2007

Mr. William S. Vaughn
Department of Executive Administration
City of Seattle
Seattle Municipal Tower
PO Box 94669
Seattle, WA 98124

Re: City of Seattle Insurance requirements of Microsoft Corporation

Microsoft relies on its global risk financing program rather than purchase insurance. This letter is to guarantee self-insurance obligations for Microsoft contracts, permits, and events required of Microsoft Corporation by the City of Seattle. Further, Microsoft will comply with all the terms and conditions in these agreements in the same manner as if a standard liability insurance policy were in place with Microsoft as the Named Insured.

This certificate of self insurance is valid continuously unless otherwise cancelled by a thirty (30) day notice to the City. Should you have any questions or concerns, please contact Molly Johnson at 425-706-4049.

Yours truly,

Lori Jorgenson
Senior Director – Risk Management