



VENDOR CONTRACT

The City of Seattle
PURCHASING SERVICES
 700 – 5th Ave Ste 4112
 P.O. Box 94687
 Seattle, WA 98124-4687

Vendor Contract # 0000001619	Date 6/22/09	Change Order # 2
Payment Terms 1%, 10 Days	Freight Terms Prepaid & Allowed; FOB Destination	
Buyer: Sharon Rothwell	FAX: 206-386-0068	Phone: 206-684-8310

Vendor #: 0000063028
 J&S Marlowe Inc.
 DBA: Eden Advanced Pest Technologies
 3425 Stoll Road
 Olympia, WA 98501

Contact: Jim Flemming
 Phone #: 206-282-8988
 Cell #: 206-510-6289
 Fax #: 360-438-1663
 E-mail: jimf@edenpest.com

Ship To: CITY DEPARTMENTS
Bill To: SEE BELOW

Eden Advanced Pest Technologies was awarded a Sole Source contract for providing the City of Seattle CITY DEPARTMENTS with Mosquito Pest Control Services to be ordered on an "as needed" basis in accordance with attached Agreement, Attachment #1 and Pricing, Attachment #2 During the term of this agreement either party may propose changes provided that thirty (30) days advanced written notice is furnished.

Original Contract Period: 07/10/06 – 07/09/07
 Change Order #1 Contract Period: 07/10/07 – 07/09/09
 Change Order # 2 Extend contract: 07/10/09 – 07/09/14

Orders shall be placed by SEATTLE PUBLIC UTILITIES AND OTHER CITY DEPARTMENTS. Invoices shall be mailed in duplicate to the ordering City department address as attached. Each invoice shall indicate Contract #0000001619.

This contract was extended by mutual agreement J. Flemming and S. Rothwell on 6/22/09. In all other respects this contract remains unchanged.

PREVAILING WAGE

The awarded Contractor and all subcontractors shall file an "Intent to Pay Prevailing Wage" concurrent with the execution of the contract. The Buyer will give the award Contractor(s) a Contract Number, and the Contractor and their subcontractor(s) shall then promptly submit the "Intent to Pay Prevailing Wage" to the Department of Labor & Industries for approval. The City requests this be done on-line to allow the City a rapid mechanism to verify submittal of forms. <http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp>. However; the City will accept documentation submitted through paper procedures. If the Contractor utilizes paper submittal, a copy shall be promptly provided to the Buyer.

Authorized Signature/Date
 7/9/09 

VENDOR CONTRACT

Affidavit of Wages Paid: Upon contract completion, Contractor and each subcontractor shall then file the Affidavit of Wages Paid (form L700-007-000) approved by the Industrial Statistician of Washington State L&I. This may be performed on-line if the Contractor has initiated the original Intent to Pay Prevailing Wage process on line. The receipt of the approved affidavit is required before Seattle can pay the final invoice

The City does not guarantee utilization of this contract. This contract is subject to cancellation by either party upon thirty (30) days advanced written notice. The City may award contracts to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the City.

City of Seattle
City Department

SEE BELOW

Contract # 2012-0001
Phone # 206-386-2000
Fax # 206-386-2000
E-mail: [redacted]

This Agreement is made this 1st day of February, 2012, between the City of Seattle and [redacted] for the purpose of providing [redacted] services to the City of Seattle. The City of Seattle has awarded a contract to [redacted] for the purpose of providing [redacted] services to the City of Seattle. The City of Seattle has awarded a contract to [redacted] for the purpose of providing [redacted] services to the City of Seattle.

Original Contract # [redacted]
Contract # [redacted]
Change Order # [redacted]

The City of Seattle has awarded a contract to [redacted] for the purpose of providing [redacted] services to the City of Seattle. The City of Seattle has awarded a contract to [redacted] for the purpose of providing [redacted] services to the City of Seattle.

The contract was awarded to [redacted] for the purpose of providing [redacted] services to the City of Seattle. The contract was awarded to [redacted] for the purpose of providing [redacted] services to the City of Seattle.

The contract was awarded to [redacted] for the purpose of providing [redacted] services to the City of Seattle. The contract was awarded to [redacted] for the purpose of providing [redacted] services to the City of Seattle.

Authorized Signature/Date

City of Seattle
CONTRACT FOR MOSQUITO PEST CONTROL

This Contract is made effective July 10, 2006 (the "Effective Date"), and entered into by and between the City of Seattle ("Seattle"), a Washington municipal corporation; and Eden Advanced Pet Technologies ("Contractor"), a **corporation** of the State of Washington, and authorized to do business in the State of Washington.

Contractor Business	J&S Marlowe Inc. dba Eden Advanced Pest Technologies
Name of Representative	Jack Marlowe
Contractor Address	3425 Stoll Road, Olympia, WA 98501
Contractor Phone	(360) 456-0287
Contractor Fax	(360) 438-1663
Contractor E-mail	jackmarlowe@edenpest.com

WHEREAS, the purpose of this contract is to establish a contract Mosquito Breeding Grounds Control Services to prevent and/or control mosquito borne West Nile Virus ("WNV");

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made a part hereof, Seattle and Contractor mutually agree as follows:

- 1. Entire Agreement:** This Contract, including all Attachments, amendments and subsequently issued change notices, comprises the entire agreement between Seattle and the Contractor. Where there are conflicts between these documents, the controlling document will first be this Contract as amended, then the Contractor's proposal, and Addenda.
- 2. Term of Contract.** This contract was initially for one (1) year, with two extensions allowed, at one-year each due to the need to have contingency capacity this sole source contract is extended for five years. Such extensions shall be automatic, and shall go into effect with or without written confirmation from the City to the Contractor, unless the City provides the Contractor advance notice of the intention to not renew. Such notice shall be given prior to the otherwise automatic renewal date.
- 3. Time of Beginning and Completion** Contractor shall begin the work stated in the "Scope of Work" ("work") section upon receipt of written notice to proceed from Seattle. Seattle will acknowledge in writing when work is complete. Time limits established pursuant to this Contract shall not be extended because of delays for which Contractor is responsible, but may be extended by Seattle, in writing, for its convenience or for conditions beyond Contractor's control.

4. Scope of Work.

Contractor shall provide the following products and/or services as specified below and/or as attached. These services shall be termed "work" herein.

- 4.1 **Minimum Qualifications:** Contractor must have and maintain during the life of the contract, a licensed Commercial Pest Control Operator in the State of Washington. The contractor must be qualified by the State of Washington to apply larvicide to water.
- 4.2 **Scope of Services:** The Contractor shall provide Services as follows during a time specified by SPU as the pilot project begin date or as requested by SPU.

Scheduled Services

- **Sampling:** Unless otherwise directed by Seattle Public Utilities (SPU), the Contractor shall perform sampling activities to verify the amount of mosquito larvae. This sampling will occur as follows:
 - To meet State Aquatic Mosquito Control NPDES permit conditions, the catch basins must meet or exceed the State's threshold of more than one larvae per three dip samples taken in order for larviciding to occur.
 - The Contractor shall sample each catch basins. Larviciding may commence if the threshold requirements are met.
 - Any catch basin that does not meet the State's minimum larvae count threshold shall not be treated.
 - The Contractor shall report to the City any catch basin that did not meet the larvae count threshold.
 - The Contractor shall maintain records of which catch basin were not treated due to failure to meet the larvae count threshold.
 - The Contractor shall keep accurate records of the dip sampling counts for each basin sampled, and shall provide the records to SPU on a weekly basis.
 - The Contractor and any of its employees that will perform field duties for the City will be required to attend a half day to one-day (4-8 hour) training session to learn about City sampling techniques, drainage infrastructure and other information about the City and its West Nile Virus response program. The Contractor's administrative and non-field employees who will perform work related to the City contract are encouraged to attend this training
- **Larviciding:** The Contractor will perform scheduled larviciding of catch basins within the pilot area for SPU. The number of basins varies depending on the area chosen. The catch basin in these areas are based on older mapping and may change if additional, or fewer catch basins are located during actual field work.
 - **Application Methodology:** The Contractor shall develop application methodology in consultation with, and approved by, the City before larvicide applications shall commence.
 - **Application:** The Contractor shall apply the larvicide in compliance with all applicable federal, state, local laws, regulations, and ordinances all manufactures' instructions/directions, and the City's Integrated Pest Management Plan (IPM). The larvicide applications must also comply with the City's conditions for coverage under the State Aquatic Mosquito Control

National Pollution Discharge Elimination System (NPDES) Waste Discharge General Permit (WAG-992005) and with the conditions of all other permits and authorizations required for performing the work.

- **Product Selection:** The Contractor shall use the larvicide product designated by the City, primarily Bacillus Sphaericus.
- **Signage:** The Contractor shall post notification in larvicide treatment areas as required by applicable local, state, federal laws regulations, and ordinances and in compliance with the city's coverage conditions of the NPDES permit and with the conditions of all other permits and authorizations required for performing the work. The City shall determine appropriate signage, wording and posting procedures to meet NPDES permit conditions. The Contractor, for example, might be required to set up temporary, portable signage in the street or on the sidewalks in treatment areas, which can be removed when treatment activities are completed.
- **Material Safety Data Sheets:** The Contractor shall maintain and in advance of application, shall provide the City with the manufacturer's current Material Safety Data Sheet(s) that comply with OSHA and WISHA guidelines for Hazard Communications Standards for items identified as hazardous materials or items that in normal use produce a hazardous material.
- **Efficient Treatment Plan:** The Contractor shall participate in developing and implementing an efficient treatment plan which Contractor shall then follow. This plan includes but is not limited to scheduling and coordinating with other contractors, SPU Operations crews and the SPU West Nile Virus (WNV) team. This may also include experimenting with different application methods to determine the most efficient methodologies and working with the SPU WNV team to implement efficiencies.
- Contractor will participate in the City's West Nile Virus team. This team will meet prior to the pilot starting and at least once during the pilot and then after the completion of the pilot.
- **Recordkeeping:** The Contractor shall work with the City to develop a database record of sampling and larvicide application information that the City must provide to Ecology (in a form specified by the City, most likely within an Excel spread sheet) as a condition of the applicable NPDES permit. The Contractor will provide, but not be limited to providing, the following information:
 - The name and address of the person applying the larvicides (Employee and Contractor name, and Contractor address);
 - The center point of latitude and longitude to at least three decimal places of each application site (sites will be defined by SPU – in the case of on-call treatments, GPS coordinates for each catch basin or other individual drainage structure shall be provided);
 - The site identifying number (provided by SPU) or, if responding to an on-call request, the address of the location;
 - The type of larvicide used and its EPA registration number;
 - The total amount of larvicide applied at each site – if Bs granules, total pounds applied; if Bti briquettes, total number of briquettes applied. If other larvicide product, provide amounts quantified in consultation with the City.

- In addition, if requested by the City, the contractor shall provide GPS coordinates for each catch basin treated (this may be requested as a separate file).
- The Contractor shall provide weekly reports to SPU that contain this information.
- At the end of the treatment period the Contractor shall provide a comprehensive report containing the following information about all larvicide application data, including routine and on-call treatments:
 - Total amounts of larvicide used (quantified as discussed above) and their EPA registration number;
 - Total number of catch basins treated;
 - Listing of all treated sites by identifying site number or address;
 - Date range to complete all larvicide activities.
- The Contractor shall create, retain and distribute any required records to comply with all applicable local, state and federal laws, regulations and ordinances. By December 1, 2006, the Contractor shall provide to the City copies of any records about the City's sampling and larvicide applications that the contractor creates in order to comply with its own licensing and/or permitting requirements, and/or to comply with applicable laws and regulations.
- **Scheduled Larviciding Services for Other City Departments:** The Contractor may perform mosquito control services for other City departments upon request so long as performing those services does not delay, interrupt or otherwise negatively impact its performance of scheduled and/or on-call services to SPU.

On-Call Services

- **On-Call Services Schedule:** Contractor shall be notified of On-Call Services as emerging situations arise as directed by SPU which includes but is not limited to at times of outbreaks or customer complaints.
- **Sampling:** Unless otherwise directed by the City, the Contractor shall perform dip sampling of each individual catch basin or other individual drainage facility to determine the presence of mosquito larvae:
 - Three dip samples will be taken using SPU Best Management Practices techniques.
 - The Contractor will verify the presence of more than one mosquito larvae per three dips before larviciding can commence.
 - The Contractor shall keep accurate records of the dip sampling counts for each basin sampled, and shall provide the records to SPU on a weekly basis.
 - The Contractor and any of its employees that will perform field duties for the City will be required to attend a half-day to one-day (4-8 hours) training session to learn about City sampling techniques, drainage infrastructure

and other important information about the City and its West Nile Virus response program. The Contractor's administrative and non-field employees are encouraged to attend this training.

- **Larviciding:** As part of SPU's comprehensive larviciding program, the Contractor shall perform larviciding services for SPU upon request, including larviciding catch basins, detention ponds, ditches, or other infrastructure.
 - The Contractor shall follow all larviciding requirements as mentioned above.
 - The Contractor shall follow all recordkeeping requirements as mentioned above.
- **Larviciding Services for Other City Departments:** The Contractor may perform on-call mosquito control services for other City departments upon request so long as performing those services does not delay, interrupt or otherwise negatively impact its performance of scheduled and/or on-call services to SPU.

Additional Tasks

- **SPU Research Assistance:** If requested, the Contractor shall assist with ongoing SPU research. This assistance may include, but is not limited to, purchasing larvicide, applying larvicide to specific locations and monitoring catch basins after larvicide treatment.
- **SPU GPS/Data Collection:** If requested, the Contractor shall assist with SPU's information gathering regarding catch basins. This may include, but is not limited to, using a handheld device to get GPS coordinates for each catch basin, pinpointing (using device) where catch basins are & are not, docking device daily to download information to City (this docking may occur at a City location) and recording other observable issues regarding catch basins.
- For these additional tasks, estimate of costs or hours shall be provided in advance to the requesting department.

Additional Services

At the City's sole discretion, the scope of services may be expanded or revised to include other mosquito control treatments, data collection, or other identified services as authorized by the Buyer.

5. Payment/Payment Procedures.

Seattle agrees to compensate as specified herein or attached, in consideration of acceptable Contractor performance. Payment shall only be made for services performed and/or product delivered, after receipt, review and authorization by the City. Such payment shall be paid according to early payment discount terms, or if no early payment discount is offered, thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery an acceptance of all goods ordered, the acceptance by the City of completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract. All dollars referenced in this Contract and attachments are US Dollars.

6. Invoices.

Invoices must show a breakdown of services or products provided and price for each. **Invoices must specify the Name and Phone Number of the City employee that placed the order.**

7. Taxes, Fees and Licenses.

- A. Taxes: Where required by state statute, ordinance or regulation, Contractor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, Seattle agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. No charge by the Contractor shall be made for federal excise taxes and Seattle agrees to furnish Contractor with an exemption certificate where appropriate.
- B. Fees and Licenses: Contractor shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the Contractor's sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or charges and to immediately comply with said changes during the entire term of this Contract. Contractor must pay all custom duties, brokerage or import fees where applicable as part of the contract price. Contractor shall take all necessary actions to ensure that materials or equipment purchased are expedited through customs.
- C. Supplier is to calculate and enter the appropriate Washington State and local sales tax on the invoice. Tax is to be computed on new items after deduction of any trade-in, in accordance with WAC 458-20-247.

8. Pricing.

Any adjustments in pricing shall be consistent to the solicitation specifications. If none, the following section shall apply:

Pricing shall be fixed and firm throughout the original one-year contract term. At that time, the Contractor may submit a written request for a price increase. The written request is to be at least 45-days in advance. Thereafter, written request for price increases shall only be considered upon the contract anniversary date (at least 45-days prior to the contract anniversary date). Such requests shall consider the following:

- Price request shall be no greater than the total of changes to the CPI Index for King County or other pricing index appropriate to the particular product herein;
- Not produce a higher profit margin than that on the original contract;
- Clearly identify the items impacted by the increase;
- Be accompanied by documentation acceptable to the Buyer sufficient to warrant the increase;
- And remain firm for a minimum of 365 days.

The request shall be considered by the Buyer and may be accepted or rejected. Failure to submit a price request at least 45-days prior to the contract anniversary date, shall result in a continuation of all existing pricing on the contract until the next contract anniversary date. The decision to accept any price increase will be at the sole discretion of the Buyer.

The Buyer may exempt these requirements for extraordinary conditions that could not have been known by either party at the time of bid or for other circumstances beyond the control of both parties, in the opinion of the Buyer.

For solicitations that include and provide instructions for annual Prevailing Wage adjustments, pricing adjustments shall additionally be consistent with such instructions.

9. Identification.

All invoices, packing slips, packages, instruction manuals, correspondence, shipping notices, shipping

Eden Advanced Pest Technologies
Attachment #1, Change Order #2 (Extension)
Vendor Contract 0000001619
7/10/09 – 7/9/14

containers, and other written documents affecting this contract shall be identified by the applicable purchase order number. Packing lists shall be enclosed with each shipment, indicating the contents therein.

10. Charges for handling.

No charges will be allowed for handling that includes but is not limited to packing, wrapping, bags, containers, or reels, unless otherwise stated herein.

11. Contract Notices, Deliverable Materials and Invoices Delivery

Official Contract notices shall be delivered to the following addresses (or such other address (es) as either party may designate in writing):

If delivered by the U.S. Postal Service, it must be addressed to:

Sharon Rothwell
City of Seattle Purchasing and Contracting Services
PO Box 94687
Seattle, WA 98124-4687

If delivered by other than the U.S. Postal Service, it must be addressed to:

Sharon Rothwell
City of Seattle Purchasing and Contracting Services
Seattle Municipal Tower
700 5th Ave., #4112
Seattle, WA 98104-5042
Phone: (206) 615-1123
Fax: (206) 233-5155
E-Mail: Sharon.rothwell@seattle.gov

Project work, invoices and communications shall be delivered to the City Project Manager:
City of Seattle
Attention: Shannon Kelleher (206) 684-8745

12. Representations.

Contractor represents and warrants that it has the requisite training, skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.

13. Warranties.

- A. Product: Contractor warrants that all materials, equipment, and/or services provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, are properly package, proper instructions and warnings are supplied, that all goods comply with applicable safety and health standards, that an MSDS Sheet is supplied as required by law, and that products or services conform to the requirements and specifications herein. Acceptance of any service and inspection incidental thereto by Seattle shall not alter or affect the obligations of the Contractor or the rights of Seattle.
- B. Price: Contractor warrants that prices of materials, equipment, and services set forth herein do not exceed those charged by the Contractor to any other customer purchasing the same goods or services under similar conditions and in like or similar quantities.

14. Independent Contractor.

It is the intention and understanding of the Parties that Contractor shall be an independent contractor and that Seattle shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of the Contractor shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that Seattle is not the exclusive user of the services that Contractor provides.

15. Inspection.

The Work shall be subject, at all times, to inspection by and with approval of Seattle, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Work in accordance with this Contract, notwithstanding Seattle's knowledge of defective or noncomplying performance, its substantiality or the ease of its discovery. Contractor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

16. Title, Risk of Loss, Freight, Overages or Underages.

Title of goods received under this contract shall remain with the Contractor until they are delivered to the address specified, at which time title passes to Seattle. Regardless of FOB point, Contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein which occur prior to delivery and acceptance. Such loss, injury, or destruction shall not release Contractor from any obligations under. Prices include freight prepaid and allowed. Contractor assumes the risk of every increase, and receives the benefit of every decrease, in delivery rates and charges. Shipments shall correspond with the Contract; any unauthorized advance or excess shipment is returnable at Contractor's expense.

17. Performance.

Acceptance by Seattle of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach, or terminate the contract, nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

18. Affirmative Efforts for Utilization of Women and Minority Subcontracting and Employment, Non discrimination in providing services

- A. **Employment Actions:** Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, promotion, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices as provided by the City setting forth the provisions of this nondiscrimination clause.

- B. Recordkeeping for Employment Actions: The Contractor shall furnish to the Director of Executive Administration (or his/her designee), upon request and on such form as may be provided therefore, a report of the affirmative action taken by the Contractor in implementing the requirements of affirmative efforts in employment actions, and will permit access to the Contractor's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director of Executive Administration for the purposes of investigation to determine compliance with the requirements of affirmative efforts in employment actions.
- C. Affirmative Efforts in Subcontracting: The Contractor shall utilize affirmative efforts to promote and encourage participation by women-owned and minority-owned businesses on subcontracting opportunities within the Vendor Contract scope of work. Contractor agrees to such efforts as a condition of this Vendor Contract. Affirmative efforts shall include those included in the Contractor's bid.
- D. Record-Keeping for Subcontracts: The Contractor shall maintain, for at least 12 months after expiration or earlier termination of the term of this Vendor Contract, relevant records and information necessary to document the Contractor's affirmative efforts to achieve women and minority business participation, including solutions to subcontractors and suppliers, all subcontractor and supplier proposals received, and all subcontractors or suppliers utilized under this Vendor Contract. The City shall have the right to inspect and copy such records. Additionally, the Contractor shall furnish to the Director of Executive Administration (or his/her designee), upon request and on such form as may be provided therefore, a report of the affirmative action taken by the Contractor in implementing the requirements of affirmative efforts in subcontracting for the purposes of investigation to determine compliance with the requirements affirmative efforts in subcontracting.
- E. Non-Discrimination in Providing Services: The Contractor shall not create barriers to open and fair opportunities for women-owned and minority-owned businesses to participate in any City contract and to obtain or compete for contracts and subcontracts as sources of supplies, materials, equipment, and services. The Contractor shall ensure that all of its employees, particularly supervisors, are aware of and adhere to their obligations to maintain a working environment free from discriminatory conduct, including but not limited to harassment and intimidate of minorities, women, and women-owned and minority-owned businesses.
- F. Investigation: If upon investigation, the Director of Executive Administration finds probable cause to believe that the Contractor has failed to comply with any of the requirements of this Section, the Contractor shall be so notified in writing. The Director of Executive Administration shall give the Contractor an opportunity to be heard, after ten calendar days' notice. If, after the Contractor's opportunity to be heard, the Director of Executive Administration still finds probable cause, he/she may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the Contractor with the requirements of this Section.
- G. Sanctions for Violation: Any violation of the mandatory requirements of this Section, or a violation of Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.10 (Fair Contracting Practices), Chapter 20.45 (City Contracts – Non-Discrimination in Benefits), or other local, state, or federal non-discrimination laws, shall be a material of contract for which the Contractor may be subject to damages and sanctions provided for by the Vendor Contract and by applicable law. In the event the Contractor is in violation of this Section shall be subject to debarment from City contracting activities in accordance with Seattle Municipal Code Section 20.70 (Debarment).

19. Equal Benefits.

Compliance with SMC Ch. 20.45: The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as the Contractor provides to its employees with spouses. At Seattle's request, the Contractor shall provide complete information and verification of the Contractor's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. (For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules call (206) 684-0430 or review information at [http://cityofseattle.net/contract/equalbenefits/.](http://cityofseattle.net/contract/equalbenefits/))

Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:

- A. Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; or
- B. Terminate the Contract; or
- C. Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; or
- D. Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

20. Publicity.

No news release, advertisement, promotional material, tour, or demonstration related to Seattle's purchase or use of the Contractor's product or services performed pursuant to this Contract shall be produced, distributed, or take place, without the prior, specific written approval of the City's Project Manager or his/her designee.

21. General Legal Requirements.

- A. **General Requirement:** Contractor, at no expense to Seattle, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Without limiting the generality of this paragraph, the Contractor shall specifically comply with the following requirements of this section.
- B. **Licenses and Similar Authorizations:** Contractor, at no expense to Seattle, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.
- C. **Taxes:** The Contractor shall pay, before delinquency, all taxes, import duties, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.

22. American with Disabilities Act.

Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs or activities to Seattle employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities, to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

23. OSHA/WISHA

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with the acts and standards thereunder and for the failure of the items furnished under this order to so comply.

24. Indemnification.

To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, or trade secret arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of the City. As to the City of Seattle, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker's Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

25. Insurance.

- a. Contractor shall at all times during the term of this Contract maintain the insurance and/or self-insurance coverage's in force as attached. If not attached, insurance specified below, shall apply.
- b. Contractor shall specify any deductible or self-insured retention in excess of \$100,000. Payment of any such deductible or self-insured retention shall be the responsibility of Contractor except to the extent to which Seattle may be liable.
- c. Contractor and Seattle agree that the risk of accidental loss required to be covered by insurance or self-insurance under this Section 12 shall not be subject to any limitation of liability or similar provision.

- d. Certification of insurance shall be issued to:
 - City of Seattle
 - Risk Management Division
 - P.O. Box 94669
 - Seattle, WA 98124-4669
 - Email: riskmanagement@seattle.gov
 - Fax: (206) 615-0065

Certification shall:

- Include either an additional insured endorsement or a copy of blanket additional insured policy wording that documents Seattle's status as an additional insured (1); should third party legal liability insurance be self-insured, Contractor shall disclose the self-insured retention(s), state that Seattle would be protected under the self-insurance as an additional insured to the same extent as if a primary commercial liability insurance policy had been issued and shall provide the address to which a tender of claim should be directed.
- State that coverage shall not be cancelable without forty-five (45) days prior written notice of cancellation, except ten (10) days notice with respect to non-payment of premium.

- e. Should the City not provide any insurance requirements to the contrary within the RFP and/or attached, the following requirements shall be in effect. Contractor shall maintain at its own expense at all times during the term of this Contract the following insurance with limits of liability consistent with those generally carried by similarly situated enterprise:
- (1) **Commercial General Liability** insurance, including premises/operations, products/completed operations, personal/advertising injury, contractual liability, fire legal/tenant liability, stop gap/employer's liability and independent contractors liability; (2) if any vehicle, watercraft or aircraft is used in the performance of this Purchase Order/Vendor Contract, of a minimum of \$1,000,000 per occurrence;
 - (2) **Automobile Liability, Watercraft Liability and/or Aircraft Liability** insurance, including coverage for owned, non-owned, leased or hired vehicles, watercraft and aircraft, as appropriate of a minimum of \$500,000 per occurrence;; and
 - (3) **Worker's Compensation** ("Industrial Insurance") as required by Title 51 of the Revised Code of Washington.
 - (4) The insurance as provided under items (1) and (2) above shall include by endorsement the City of Seattle as an additional insured (as respects item (1), per ISO form CG 20 10 or CG 20 26 or equivalent additional insured endorsement wording, or equivalent blanket additional insured policy wording) and such additional insured status for the City shall apply as respects the full limits of all valid and collectible Automobile Liability, Watercraft Liability and/or Aircraft Liability insurance, whether primary, excess, contingent, or otherwise; shall be primary insurance as respects the City, and any other insurance or self-insurance maintained by the City shall be excess and non-contributory with the Contractor's insurance; and, shall be placed with insurers with not less than an A- VII A.M. Best's rating unless insurance has been procured under the provisions of chapter 48.15 RCW (Unauthorized "Surplus Lines" Insurers). It is specifically agreed that the insurance requirements in this section 2.18 shall override any limitation of liability or similar provision in any agreement or statement of work between the City and the Contractor and that no Contractor's insurer shall assert the right to invoke any such limitation.
 - (5) Contractor shall not be required to provide evidence of insurance, unless required to do so under the terms of a Request For Quotation (RFQ) or a Request For Proposal (RFP), and should additional insurance requirements (including but not limited to higher limits of liability) be specified in an RFQ or RFP, those requirements shall apply.

26. Audit.

Upon request, Contractor shall permit Seattle, and any other governmental agency involved in the funding of the Work ("Agency"), to inspect and audit all pertinent books and records of Contractor, any subcontractor, or any other person or entity that performed work in connection with or related to the Work, at any and all times deemed necessary by Seattle or Agency, including up to six years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in King County, Washington or other such reasonable location as Seattle or Agency selects. The Contractor shall supply Seattle with, or shall permit Seattle to make, a copy of any books and records and any portion thereof. The Contractor shall ensure that such inspection, audit and copying right of Seattle and Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work under this Contract.

27. Contractual Relationship

The relationship of Contractor to Seattle by reason of this Contract shall be that of an independent contractor. This Contract does not authorize Contractor to act as the agent or legal representative of Seattle for any purpose whatsoever. Contractor is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of Seattle or to bind Seattle in any manner or thing whatsoever.

28. Assignment and Subcontracting

Contractor shall not assign or subcontract any of its obligations under this Contract without Seattle's written consent, which may be granted or withheld in Seattle's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except for Equal Benefit provisions. Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions. Seattle's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.

29. Supervision and Coordination

Contractor shall:

- Competently and efficiently, supervise and direct the implementation and completion of all contract requirements specified herein.
- Designate in its bid or proposal to Seattle, a representative(s) with the authority to legally commit Contractor's firm. All communications given or received from the Contractor's representative shall be binding on the Contractor.
- Promote and offer to Purchasers only those materials, equipment and/or services as stated herein and allowed for by contractual requirements. Violation of this condition will be grounds for contract termination.

30. Involvement of Former City Employees

Contractor shall promptly notify Seattle in writing of any person who is expected to perform any of the Work and who, during the twelve (12) months immediately prior to the expected commencement date of such work or subcontract, was a City officer or employee. Contractor shall ensure that no Work or matter related to the Work is performed by any person (employee, subcontractor, or otherwise) who was a City officer or employee within the past twelve (12) months; and as such was officially involved in, participated in, or acted upon any matter related to the Work, or is otherwise prohibited from such performance by SMC 4.16.075.

31. Anti-Trust

Seattle maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore the Contractor hereby assigns to Seattle any and all claims for such overcharges except overcharges which result from antitrust violations commencing after the price is established under this contract and which are not passed on to Seattle under an escalation clause.

32. No Conflict of Interest

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

33. No Gifts or Gratuities

Contractor shall not directly or indirectly offer gifts and resources to any person employed by the City that is intended, or may be reasonably intended, to benefit the Vendor by way of award, administration, or in any other way to influence purchasing decisions of the City. This includes but is

not limited to, City Purchasing office employees and City employees that do business with, order, purchase or are part of decision-making for business, contract or purchase decisions. The Vendor shall not offer meals, gifts, gratuities, loans, trips, favors, bonuses, donations, special discounts, work, or anything of economic value to any such City employees. This does not prohibit distribution of promotional items that are less than \$25 when provided as part of routine business activity such as trade shows. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

34. Errors & Omissions: Correction.

Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Contractor under this Contract. The Contractor, without additional compensation, shall correct or revise any errors or omissions in the designs, drawings, specifications, and/or other Contractor services immediately upon notification by Seattle. The obligation provided for in this section with respect to any acts or omissions during the term of this Contract shall survive any termination or expiration of this Contract and shall be in addition to all other obligations and liabilities of the Contractor.

35. Intellectual Property Rights.

Patents: Contractor hereby assigns to Seattle all rights in any invention, improvement, or discovery, together with all related information, including but not limited to, designs, specifications, data, patent rights and findings developed in connection with the performance of Contract or any subcontract hereunder. Notwithstanding the above, the Contractor does not convey to Seattle, nor does Seattle obtain, any right to any document or material utilized by Contractor that was created or produced separate from this Contract or was preexisting material (not already owned by Seattle), provided that the Contractor has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the Contractor grants Seattle an irrevocable, non-exclusive, fully paid, royalty-free right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

Copyrights: For materials and documents prepared by Contractor in connection with the Work, Contractor shall retain the copyright (including the right of reuse) whether or not the Work is completed. Contractor grants to Seattle a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the Contractor for Seattle under this Contract. If requested by Seattle, a copy of all drawing, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs and other storage facilities), software programs or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials which are developed solely for, and paid for by, Seattle in connection with the performance of the Work, shall be promptly delivered to Seattle.

Seattle may make and retain copies of such documents for its information and reference in connection with their use on the project. The Contractor does not represent or warrant that such documents are suitable for reuse by Seattle, or others, on extensions of the project, or on any other project. Contractor represents and warrants that it has all necessary legal authority to make the assignments and grant the licenses required by this Section.

36. Proprietary and Confidential Information.

The parties agree that they will not permit the duplication or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own

employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) 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 Contract. 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.

Contractor's Understanding and Obligations

1. Contractor understands that any records (including but not limited to bid or proposal submittals, the Contract, and any other contract materials) it submits to Seattle, or that are used by Seattle even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.17. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.
2. Contractor must separate and clearly mark as "proprietary" information all records related to this Contract or the performance of this Contract that the Contractor believes are exempt from disclosure. Contractor is to be familiar with potentially-applicable public-disclosure exemptions and the limits of those exemptions, and will mark as "proprietary" only information that the Contractor believes legitimately fits within an exemption and will state the statutory exception upon which it is relying.
3. If Seattle notifies the Contractor of a public disclosure request, and the Contractor believes records are exempt from disclosure, it is the Contractor responsibility to make its own determination and pursue a lawsuit under RCW 42.17.330 to enjoin disclosure. The Contractor must obtain the injunction and serve it on Seattle before the close of business on the tenth business day after Seattle sent notification to the Contractor. It is the Contractor's discretionary decision whether to file the lawsuit.
4. If Contractor does not timely obtain and serve an injunction, the Contractor is deemed to have authorized releasing the record.
5. Notwithstanding the above, the Contractor must not take any action that would affect (a) Seattle's ability to use goods and services provided under this Contract or (b) the Contractor's obligations under this Contract.
6. Contractor will fully cooperate with Seattle in identifying and assembling records in case of any public disclosure request.

Seattle's Obligations

1. Seattle will disclose those parts of records the Contractor has marked as "proprietary information" only to authorized persons unless: (a) Seattle discloses the records in response to a public disclosure request or (b) the Contractor has given Seattle express advance written permission to disclose the records. "Authorized persons" means those City officers, employees, contractors and consultants for whom the proprietary information is necessary to perform their duties or obligations to Seattle. The term "proprietary information" does not include ideas, concepts, know-how or techniques related to any

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 a breach of this Contract.

2. If Seattle receives a public disclosure request for records that Contractor has marked as "proprietary information", Seattle may promptly notify the Contractor of the request. Seattle may postpone disclosing these records for ten business days after it has sent notification to the Contractor, in order to allow the Contractor to file a lawsuit under RCW 42.17.330 to enjoin disclosure. It is the Contractor's discretionary decision whether to file the lawsuit.
3. If Seattle has notified Contractor of a public disclosure request, and the Contractor has not obtained an injunction and served Seattle with that injunction by the close of business on the tenth business day after Seattle sent notice, Seattle may disclose the record.
4. Seattle has no other obligations concerning records the Contractor has marked as "proprietary information" under this Contract. Seattle has no obligation to claim any exemption from disclosure. Seattle is not obligated or liable to the Contractor for any records that Seattle releases in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

37. Interlocal Cooperation Act.

RCW 39.34 allows cooperative purchasing between public agencies, non profits and other political subdivisions. Public agencies that file an Intergovernmental Cooperative Purchasing Agreement with the City of Seattle may purchase from Contracts established by Seattle. Unless Contractor declines on the Contractor Offer to City, the vendor agrees to sell additional items at the bid prices, terms and conditions, to other eligible governmental agencies that have such agreements with Seattle. Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies. Should Contractor require additional pricing for such purchases, the Contractor is to name such additional pricing upon Offer to Seattle.

38. Extra Work.

Extra work shall be defined to include additional products or services ordered in connection with this project other than that expressly provided for in the "Scope of Work" section of this Contract. Contractor shall not proceed with extra work unless authorized by a written amendment issued by the RFP Coordinator. Such extra work may be authorized by a Contractor proposal and a written acceptance from the City through a Change Order issued to the Contractor, or may be authorized by a Change Order signed by both parties, whichever the City Buyer requires. Any costs incurred due to the performance of extra work prior to execution of an amendment will not be reimbursed under this Contract or an amendment. Notwithstanding the foregoing, the RFP Coordinator may make reasonable and immaterial changes to this Contract, including place of delivery, installation or inspection, the method of shipment or packing, labeling and identification, extension of the contract, and ancillary matters that Contractor may accommodate without substantial additional expense to Seattle.

39. Key Persons.

Contractor shall not transfer or reassign any individual designated in this Contract as essential to the Work, without the express written consent of Seattle, which consent shall not be unreasonably withheld. If, during the term of this Contract, any such individual leaves the Contractor's employment, the Contractor shall present to Seattle one or more individual(s) with greater or equal qualifications as a replacement, subject to Seattle's approval, which shall not be unreasonably withheld. Seattle's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

40. Disputes.

The parties shall endeavor to resolve any dispute or misunderstanding that may arise under this Contract concerning Contractor's performance, if mutually agreed to be appropriate, through negotiations between the Contractor's Project Manager and Seattle's Project Manager, or if mutually agreed, referred to the City's named representative and the Contractor's senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes including termination as allowed for within the contract, or may by mutual agreement pursue other dispute alternatives such as alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the contract for cause or convenience.

Notwithstanding all above, if Seattle believes in good faith that some portion of Work has not been completed satisfactorily, Seattle may require Contractor to correct such work prior to Seattle payment. In such event, Seattle will provide to Contractor an explanation of the concern and the remedy that Seattle expects. Seattle may withhold from any payment that is otherwise due, an amount that Seattle in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, Seattle may retain the amount equal to the cost to Seattle for otherwise correcting or remedying the work not properly completed.

41. Termination.

- A. **For Cause:** Seattle may terminate this Contract if the Contractor is in material breach of any of the terms of this Contract, and such breach has not been corrected to Seattle's reasonable satisfaction in a timely manner.
- B. **For City's Convenience:** Seattle may terminate this Contract at any time, without cause and for any reason including Seattle's convenience, upon written notice to the Contractor.
- C. **Nonappropriation of Funds:** Seattle may terminate this Contract at any time without notice due to nonappropriation of funds, whether such funds are local, state or federal grants, and no such notice shall be required notwithstanding any notice requirements that may be agreed upon for other causes of termination.
- D. **Acts of Insolvency:** Seattle may terminate this Contract by written notice to Contractor if the Contractor becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise.
- E. **Termination for Gratuities:** Seattle may terminate this Contract by written notice to Contractor if Seattle finds that any gratuity in the form of entertainment, a gift, or otherwise, was offered to or given by the Contractor or any agent therefor to any City official, officer or employee.
- F. **Notice:** Seattle is not required to provide advance notice of termination. Notwithstanding, the Buyer may issue a termination notice with an effective date later than the termination notice itself. In such case, the Contractor shall continue to provide products and services as required by the Buyer until the effective date provided in the termination notice.
- G. **Actions Upon Termination:** In the event of termination not the fault of the Contractor, Contractor shall be paid for the services properly performed prior to the effective termination date that has been specified by the Buyer, together with any reimbursable expenses then due, but in no event

shall such compensation exceed the maximum compensation to be paid under the Contract. Contractor agrees that this payment shall fully and adequately compensate Contractor and all subcontractors for all profits, costs, expenses, losses, liabilities, damages, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Contract. Upon termination for any reason, Contractor shall provide Seattle with the most current design documents, contract documents, writings and other product it has completed to the date of termination, along with copies of all project-related correspondence and similar items. Seattle shall have the same rights to use these materials as if termination had not occurred.

42. Force Majeure – Suspension and Termination.

In the event that either party is unable to perform any of its material obligations under this Agreement because of a natural disaster or action or decree of a superior governmental body (hereinafter referred to as a "Force Majeure Event" or "Event"), the party that has been so affected immediately shall give notice to the other party and shall do everything possible to resume performance.

Upon receipt of such notice, the affected party shall be excused from such performance as is affected by the Force Majeure Event for the period of such Event. If such Event affects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such Event.

43. Debarment.

In accordance with SMC Ch. 20.70, the Director of Executive Administration or designee may debar a Vendor from entering into a Contract with the City or from acting as a subcontractor on any Contract with the City for up to five years after determining that any of the following reasons exist:

- a. Contractor has received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City Contracts.
- b. Contractor failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, prevailing wage requirements, equal benefits, or apprentice utilization.
- c. Contractor abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.
- d. Contractor failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.
- e. Contractor submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.
- f. Contractor colluded with another contractor to restrain competition.
- g. Contractor committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.
- h. Contractor failed to cooperate in a City debarment investigation.
- i. Contractor 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.

The Director may issue an Order of Debarment following the procedures specified in SMC 20.70.050. The rights and remedies of the City under these provisions are in addition to any other rights and remedies provided by law or under the Contract.

44. Recycle Products Requirements.

remedy at law or in equity.

- G. Captions: All titles, including sections or subsections, are for convenience only and do not define or limit the contents.
- H. Severability: Any term or provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Contract.
- I. Waiver: No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by Seattle of any performance by the Contractor after the time the same shall have become due nor payment to the Contractor for any portion of the Work shall constitute a waiver by Seattle of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Seattle, in writing. The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.
- J. Entire Contract: This document, along with any attachments and work orders, constitutes the entire agreement between the parties with respect to the Work. No verbal agreement or conversation between any officer, agent, associate or employee of Seattle and any officer, agency, employee or associate of the Contractor prior to the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.
- K. Negotiated Contract: The parties acknowledge that this is a negotiated Contract, that they have had the opportunity to have this Contract reviewed by their respective legal counsel, and that the terms and conditions of this Contract are not to be construed against any party on the basis of such party's draftsmanship thereof.
- L. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Contract by having their authorized representatives affix their signatures below.

(Contractor)

City of Seattle

By Shannon Torgerson 8/3/09
Signature Date

By Signature on File, dated 7/18/06
Signature Date

Shannon Torgerson
(Printed Name)

NANCY LOCKE, Purchasing Manager

Eden Advanced Pest Technologies
Attachment #1, Change Order #2 (Extension)
Vendor Contract 0000001619
7/10/09 - 7/9/14

Title
Washington State Unified Business Identifier Number (UBI):
Federal Tax ID Number:

91-2138734