



King County

Finance and Business Operations Division
Procurement and Contract Services Section
Department of Executive Services

CNK-ES-0340
3rd Floor
401 5th Avenue
Seattle, WA 98104

206-263-9400
206-296-7676 Fax
TTY Relay: 771
www.kingcounty.gov

VENDOR:

WESTLAKE ELECTRONIC SUPPLY INC
PO BOX 9546
SEATTLE, WA 98109

SHIP TO

KC DEPARTMENT OF EXEC SERVICES
PROCUREMENT-GOODS & SERVICES
401 5TH AVE, CNK-ES0340
SEATTLE, WA 98104
United States

BILL TO

KC DEPT OF EXECUTIVE SERVICES
ACCOUNTS PAYABLE, 3RD FLOOR
401 5TH AVE, CNK-ES0320
SEATTLE, WA 98104
United States

Purchase Order

PURCHASE ORDER NO.	REVISION	PAGE
526792	0	1
THIS PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKING LISTS, CARTONS AND CORRESPONDENCES RELATED TO THIS ORDER.		
CREATION DATE	BUYER	
17-OCT-11	J Jungnitz	
DATE OF REVISION	BUYER	

CUSTOMER ACCT #	VENDOR NO.	PAYMENT TERMS	FREIGHT TERMS	FOB	SHIP VIA
	W02393	Net30days	Prepaid	Destination	SELLER CHOOSES

CONFIRM TO / TELEPHONE	REQUESTOR / DELIVER TO
(206) 622-6600	

LINE	PART NUMBER / DESCRIPTION	DELIVERY DATE	QUANTITY	UNIT	UNIT PRICE	EXTENSION
	TERM PURCHASE AGREEMENT FURNISH MISCELLANEOUS ELECTRONIC SUPPLIES AS REQUESTED BY VARIOUS AUTHORIZED KING COUNTY DEPARTMENTS, DIVISIONS AND AGENCIES IN ACCORDANCE WITH THE CITY OF SEATTLE CONTRACT NUMBER 0000002926, INCORPORATED BY REFERENCE AS IF FULLY SET FORTH HEREIN. ESTIMATED ANNUAL CONTRACT VALUE \$30,000.00 Purchase Agreement Effective From: 01-OCT-11 To: 30-SEP-16					
		Amount Agreed:				

SEE REVERSE SIDE FOR ADDITIONAL TERMS AND CONDITIONS. THIS ORDER IS SUBJECT TO ALL THE TERMS AND CONDITIONS ON THE FRONT AND BACK HEREOF.

Required invoice information: Ship to Address, Mailstop, Requestor's Name, Purchase Order Number, Contract Number (if applicable), Line Item Number, description and Unit Price as stated on the purchase order. Missing information may result in payment delays.

ACCEPTANCE:

This purchase order expressly limits acceptance to the terms and conditions stated herein.

TOTAL

[Handwritten Signature]
Authorized signature

PURCHASE ORDER
GENERAL TERMS AND CONDITIONS

Compliance: By acceptance of this order, the vendor warrants full compliance with all applicable local, state or federal laws and regulations including specific statutory requirements of Federal Agencies. Upon request, the purchasing agent will provide applicable contract terms and conditions.

Acceptance/Changes: All goods or materials purchased hereunder are subject to approval by King County. No substitutions or changes of any nature under this purchase order will be accepted unless approved in writing by King County.

Inspections: By acceptance of this order, vendor grants the right to Buyer to make periodic visits to the vendor's plant or their subcontractor's for inspection of materials or to determine actual progress of manufacture.

Change Orders: Change orders modifying the terms and conditions herein will be without effect unless issued and authorized in writing by King County.

Cancellation: The County may cancel any purchase order or any part thereof by written notice at any time, without penalty, if the vendor fails to comply with the terms, specifications, delivery/completion date or to perform the work with diligence.

Invoices: Invoices must reference the purchase order number.

All vendors licensed to do business in Washington State must bill King County for applicable tax. Indicate discount terms to the County for prompt payment. Discount period to be extended if the invoice is returned for correction or clarification.

Shipping Instructions: All shipments must contain a packing slip. Unless otherwise specified, all goods are to be shipped prepaid, FOB Destination. Where shipping addresses indicate room numbers, the Vendor shall make delivery to that location at no additional charge, including, but not limited to delivery, packing and or crating.

Warranty: The Vendor warrants that all products delivered under this purchase order shall be free from defects in material and workmanship, and shall be fit for the intended purpose. This warranty is in addition to any standard warranty or guarantee given by vendor to the County. All products determined by King County to be defective shall be replaced within 15 days of notice by King County.

All costs of replacement, including shipping charges shall be borne by the Vendor. Vendor warrants that the merchandise is free and clear of all liens and encumbrances and that vendor has a good and marketable title to same. Vendor warrants that the equipment, materials or service on this order do not infringe any patent, registered trademark or copyright and agrees to hold King County harmless in the event of any infringement or claim thereof.

Certification Regarding Debarment, Suspension and Other Responsibility

Matters: By providing goods or services under this purchase order, the Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Order of Precedence: When this purchase order is issued subsequent to the results of a request for bid or proposal, the terms and conditions contained in the solicitation or resulting contract shall control.



City Purchasing

Current Contract Information

General Information 206-684-0444

ALERTS

**This contract is not intended for anything that is more properly classified as Public Works.
 This contract is limited to only those items expressly provided for in this contract.
 Do not use for federally funded purchases without a specific review for your grant funding requirements.**

Contract Title: Miscellaneous Electronic Supplies		Contract # 2926	
Buyer	Name: Michael Mears	Phone: 206-684-4570	E-Mail: michael.mears@seattle.gov
Vendor (name/address)	Westlake Electronic Supply, Inc. 14071 NE 200 th St Ste B Woodinville, WA 98072		Vendor ID# 0000001456
Vendor Contact	Contact: Matt Granard		
	Phone: 425-286-1905	Fax: 206-628-0508	E-Mail: matt@westlake1.com
WMBE Status	No WMBE ownership		
Description	• This contract is a result of an Invitation to Bid #CTY-24 issued 8/11/11		
Contract Term	10/01/11 through 9/30/16		
Future Extension Option	1 additional 2-year period.		
Freight Terms	FOB Destination Prepaid and Add		
Prompt Pay Discount	Net 30 days		
Delivery ARO	As required		
Order Instructions	For Use By: All City Departments	Order Limit: None	
Contracting Options	<input type="checkbox"/> This is the only City contract for this product. Unless a separate competitive process is undertaken, this contract must be used when a product is sought that matches contract offerings. Call the Buyer for advice. <input checked="" type="checkbox"/> This is one of several contracts awarded for this product. The City may select among any of the following: Vetco Electronics VC #2925		
Comprehensive Contract	Current Pricing  Westlake Pricing.pdf	Original ITB  ITBCTY24.doc	



City Purchasing

Current Contract Information

General Information 206-684-0444

Contract History	Contract Start Date	10/01/11
Vendor Emergency Contact Information		
Emergency Contact Name	Matt Granard	
Emergency Phone Number	425-343-4082	
Back-Up Emergency Phone Number	206-295-1649	
Contact information for company locations areas outside Seattle that can be called upon in an emergency Alternative Address		

Contract Expansion

The manufactures listed in this contract are currently the brands most commonly purchased by the City although this does not represent all products that may be required from year to year. Therefore, this contract may be expanded to cover products of other manufactures provided that such products are normally furnished by the vendor, and that the vendor agrees to provide these other products using similar discounts.

B. PRICING & OTHER INFORMATION

Pricing

Vendor is an authorized reseller of the following manufactures and agrees to furnish same at a minimum discount from the manufacture's published list price. At any time, the Vendor may increase this discount where volume of purchases or special market conditions warrants it.

Manufacture	% Minimum Discount
Spaun USA	15%
Amphenol RF Division	15%
Belden Wire & Cable	15%
Electrovoice	15%
Eveready	15%
Greenlee Tools	15%
Ideal Industries	15%
Klein Tools	15%
Panduit	15%
Radio Design Labs	15%
Shure	15%
Tripplite	15%
Weller/Cooper Tools	15%
Vac.	15%
Cooper Bussman	15%
Switchcraft	15%
3M	15%
NTE Electronics	15%
Amphenol	15%
Amphenol Fiber Optic Products	15%
Brooks Electronis	15%
Multicore Solder	15%
Duracell	15%
Paladin Corp.	15%
Phillips ECG	15%

Vendor Contract #0000002926
Attachment #1, Contract Provisions & Pricing

AJA Video Systems	15%
Datak	15%
ADC Telecommunications	15%
CRC Industries	15%
Telex Communications	15%
Yussa Exide	15%
Middle Atlantic Rack Mounts	15%
Telecast Fiber Systems	15%
American Power Conversions	15%
TV Logic	15%
Marshall Electronics	15%
Nvision	15%
Ikegami Electronics	15%
Sennheiser	15%
Kramer Electronics	15%
Neutrik	15%
Tripp-Lite	15%

Other Information:

Payment Terms: N30 days
Freight Terms: F.O.B. Destination; Prepay & Add

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Radio Design Labs	15%
Shure	15%
Triplite	15%
Weller/Cooper Tools	15%
Vac	15%
Cooper Bussman	15%
Switchcraft	15%
3M	15%
NTE Electronics	15%
Amphenol	15%
Amphenol Fiber Optic Products	15%
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TV Logic	15%
Marshall Electronics	15%
Nvision	15%
Ikegami Electronics	15%
Sennheiser	15%
Kramer Electronics	15%
Neutrik	15%
Tripp-Lite	15%

Other Information:

Payment Terms. N30 days
Freight Terms. F.O.B. Destination; Prepay & Add



The City of Seattle
PURCHASING SERVICES
 700 - 5th Ave. #4112
 PO Box 94687
 Seattle, WA 98124-4687

VENDOR CONTRACT

Vendor Contract # 000002926	Date 9/28/11	Change Order #
Payment Terms Net 30 Days	Freight Terms F.O.B Destination/Pre-Paid & Addt	
Buyer: Michael Mears	FAX: 206-233-5155	Phone: 206-684-4570

Vendor #: 000001456
WESTLAKE ELECTRONIC SUPPLY
 14071 NE 200th St Ste B
 Woodinville, WA 98072

Contact: Matt Granard
 Phone #: 425-286-1905
 Fax #: 206-628-0508
 E-Mail: matt@westlake1.com

Ship To:
 ORDERING CITY DEPARTMENT

Bill To:
 ORDERING CITY DEPARTMENT
 (SEE BELOW)

Westlake Electronic Supply, Inc. is awarded a five (5) year contract for furnishing to City Departments MISCELLANEOUS ELECTRONIC SUPPLIES to be ordered on an "as needed" basis in accordance with Attachment #1 and City of Seattle Terms and Conditions, in receipt.

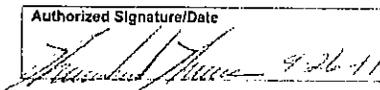
Contract Period: 10/01/11 through 09/30/16 with option to extend for one (1) additional 2-year period.

Orders shall be placed by City Departments. Invoices shall be mailed in duplicate to the City Department, Attn: Accounts Payable, per attached list. Each invoice shall indicate Vendor Contract #000002926. There are no maximum dollar limitations per order.

This contract is an acceptance of your offer dated 9/08/11. Any equipment, services or supplies provided as a result of this acceptance will be subject to the Terms and Conditions of the City of Seattle Invitation to Bid #CTY-24.

The City of Seattle has entered into Interlocal Purchase Agreements with other governmental agencies pursuant to RCW 39.34. The Contractor agrees to furnish the same goods at the same discounts, terms and conditions to other governmental agencies until further notice. The City of Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies.

For all contractual matters, please contact Michael Mears, Purchasing Services at 206-684-4570 or michael.mears@seattle.gov

Authorized Signature/Date
 9/26/11

Vendor Contract #000002926
Attachment #1, Contract Provisions & Pricing

Westlake Electronic Supply, Inc.
14071 NE 200th St Ste B
Woodinville, WA 98072
Contact: Matt Granard
Phone: 425-286-1905 Fax: 206-628-0506 E-mail: matt@westlake1.com

A. CONTRACT PROVISIONS

Scope of Work:

The Vendor shall furnish miscellaneous electronic supplies to be ordered by City departments on an "as needed" basis.

Contract Term:

This contract shall be for a term of five years, with one two-year extension allowed at the option of the City. Such extensions shall be automatic, and shall go into effect without written confirmation, unless the City provides advance notice of the intention to not renew. The Vendor may also provide a notice to not extend, but must provide such notice at least 45 days prior to the otherwise automatic renewal date.

No Guaranteed Utilization:

The City does not guarantee utilization of this contract. The City reserves the right to multiple or partial awards. The City reserves the right to use other appropriate contract sources to obtain these products, such as State of Washington Contracts. If needed, the City may also periodically invite additional Vendors to submit bids or proposals for award to insure sufficient availability of product. Use of such supplemental contracts does not limit the right of the City to terminate existing contracts for convenience.

Trial Period and Right to Award to Next Low Vendor:

A ninety (90) day trial period shall apply to this contract. During the trial period, the Vendor must perform in accordance with all terms and conditions of the contract. Failure to perform during this trial period may result in the immediate cancellation of the contract. In the event of dispute or discrepancy as to the acceptability of product or service, the City's decision shall prevail. The City agrees to pay only for authorized orders received up to the date of termination. If the contract is terminated within the trial period, the City reserves the option to award the contract to the next low responsive Vendor by mutual agreement with such Vendor. Any new award will be for the remainder of the contract and will also be subject to this trial period.

No Minimum Order:

There is no minimum order size for this contract unless for non-stocked special order items.

Warranty:

The Vendor shall warrant all materials and workmanship delivered under any resulting contract to be free from defects, damage or failure for any reason whatsoever which the City may reasonably determine is the responsibility of the Vendor, for a duration offered by the manufacturer starting from the date of purchase and without cost to the City for labor, materials, parts, installation or any other costs except where longer periods of warranty of guarantees are specified.

Ordering Procedure

Orders will be placed directly by City departments either in person, by phone, mail, e-mail or fax. The Vendor shall be required to maintain adequate local stock to ensure timely delivery upon request. There will be no maximum dollar limitations per order.

Delivery of Product

Most orders will be picked-up at Vendor's facility. If shipping is specified by the ordering Department, the freight terms will be F.O.B. Destination; Prepaid & Add to Invoice

Quality Assurance

The City shall reject any defective product delivered by Vendor and will be replaced by the Vendor within two (2) business days with same product at no additional cost to the City.

Right to Replace Products & Product Discontinuance

The City may allow the Vendor to provide a substitute product, upon confirmation that the product has been discontinued. Pricing for such a product replacement or substitute must be the same discount rate as provided to the City on the original product.

Cancellation of Orders

The City may cancel an order before delivery without penalty or charge, providing that the Vendor has not incurred any special production costs such as custom fabrication in fulfilling the order. If the City cancels the order after production has begun for a non-standard or custom order, then the Contractor may charge the customer a cancellation penalty up to but not to exceed 10% penalty computed on the net contract price of the cancelled purchase item(s).

Returns and Restocking

- Vendor Error: No restocking charge for items ordered due to Vendor error. Vendor pays all shipping costs.
- Standard Stock Items: No restocking penalty applies if new, unused, in original packaging and shipped back within 30 days of receipt by the City. Customer pays the shipping cost.
- Non-Standard Items: Item(s) may be returned if new, unused, in original packaging and shipped back within 30 days of receipt. Vendor may charge the purchaser a penalty up to but not to exceed 10% penalty computed on the net contract price of the returned item(s). Customer pays the shipping cost.
- Custom Items: Items which are custom manufactured and conforming to City specifications can be returned to vendor within thirty (30) days of receipt if:
 1. the item(s) are defective and/or damaged due to no fault of the City.
 2. the item(s) are conforming and the Vendor advises, at the time of order, the custom items are returnable and in which case the Vendor may charge the purchaser a penalty up to, but not exceeding 10%.
In all other cases, custom manufactured items purchased are subject to Vendor's return policy.

Usage Reports

The Vendor shall furnish usage reports to Purchasing Services annually within thirty (30) days from the request. The report will be in a Word or Excel document and sent electronically. The report will include the following information:

- manufacturer
- model/stock number
- description
- annual quantity purchased
- unit of measure
- City's unit price
- manufacturer's suggested list unit price, if any

Discounts

Price discounts shown in the contract shall be firm-fixed throughout the term of any resulting contract. At any time, the Vendor may increase this discount where volume of purchases or special market conditions warrants it.

The City of Seattle will not be bound by prices contained in an invoice derived by a discount lower than what is stated on the contract.

Invoicing

After the item(s) have been furnished to and accepted by the ordering department, the Vendor will submit the invoice to same, Attn: Accounts Payable.

Vendor Contract #0000002926

Attachment #1, Contract Provisions & Pricing

Contract Expansion

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Tripplite	15%
Weller/Cooper Tools	15%
Vac	15%
Cooper Bussman	15%
Switchcraft	15%
3M	15%
NTE Electronics	15%
Amphenol	15%
Amphenol Fiber Optic Products	15%
Brooks Electronis	15%
Multicore Solder	15%
Duracell	15%
Paladin Corp.	15%
Philips ECG	15%

Vendor Contract #0000002926

Attachment #1. Contract Provisions & Pricing

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American Power Conversions	15%
TV Logic	15%
Marshall Electronics	15%
Nvision	15%
Ikegami Electronics	15%
Sennheiser	15%
Kramer Electronics	15%
Neutrik	15%
Tripp-Lite	15%

Other Information:

Payment Terms: N30 days

Freight Terms: F.O.B. Destination; Prepay & Add

City of Seattle
CONTRACT
Miscellaneous Electronic Supplies
Terms and Conditions

1. **Entire Agreement.** This Contract comprises the entire agreement between the City of Seattle (Seattle) and the Contractor. The contract is defined to explicitly include the City's Purchase Order, Contractor Offer including all attachments, Addendum to the Bid, the Bid specifications, the Bid instructions and Bid Attachments. Where there are conflicts between these documents, the controlling documents will be in that same sequence, with the first taking priority over the last listed.
2. **Mutual Acceptance:** This Contract has been accepted by both parties upon signature by the City of Seattle. The Contractor may provide an adjoining signature, or may indicate mutual acceptance by receiving the Contract from the City without objection. If the Contractor objects, the Contractor must provide immediate written notice to the City Purchasing Department upon receipt of the Contract.
3. **Term:** This contract shall be for the term of five (5) years with one (1) 2-year extension allowed at the option of the City. Such extensions shall be automatic, and shall go into effect without written confirmation, unless the City provides advance notice of the intention to not renew. The Contractor may provide also provide a notice to not extend, but must provide such notice at least 45 days prior to the otherwise automatic renewal date.
4. **Schedule:** Unless the City Buyer issues a written change, Contractor shall deliver the items or render the services by the "Last Item Due Date" stated on the Contract signature page. At the City's option, Contractor's failure to timely deliver or to perform may require expedited shipping at Contractor's expense, or may be cause for termination of the Contract and the return of all or part of the items at Contractor's expense. If Contractor anticipates difficulty in meeting the schedule, the Contractor shall promptly notify the City's Buyer of such difficulty and the length of the anticipated delay.
5. **Changes and Expansion Authority:** No modification of this Contract shall be effective unless in writing and signed by an authorized representative of the City. The only person authorized to make amendments on behalf of the City is the designated Buyer from City Purchasing, Department of Finance and Administrative Services. The City Buyer may also be termed as the City RFP Coordinator. The City Buyer shall issue change notices to Contractor, and such notices shall take be considered to take effect and be mutually acceptable, upon sole signature of the City Buyer, unless written objection of the notice is received by the Contractor upon Contractor receipt of the change notice.
6. **Expansion:** This contract may be expanded as mutually agreed, if such expansion is approved by the City Buyer. Expansions must be issued in writing from the City Buyer in a formal notice. The Buyer will ensure the expansion meets the following criteria collectively: (a) it could not be separately bid, (b) the change is for a reasonable purpose, (c) the change was not reasonably known to either the City or Contractors at time of bid or else was mentioned as a possibility in the bid (such as a change in environmental regulation or other law), (d) the change is not significant enough to be reasonably regarded as an independent body of work; (e) the change could not have attracted a different field of competition; and (f) the change does not vary the essential identity or main purpose of the contract. The Buyer shall make this determination, and may make exceptions for immaterial changes, emergency or sole source conditions, or for other situations as required in the opinion of the Buyer. Note that certain changes are not considered an expansion of scope, including an increase in quantities ordered, the exercise of options and alternates in the bid, or ordering of work originally identified within the originating solicitation. If such changes are approved, changes are conducted as a written order issued by the City Purchasing Buyer in writing to the Contractor.
7. **Invoices:** Invoices must show line item detail and price for each. Invoices must provide the name of the City employee that placed the order, and the City Contract Number.
8. **Payment:** 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 the acceptance date after delivery of all goods, City acceptance after 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. Also see "Dispute" section for payment of items in Dispute.

9. **Late Invoice Payment:** If the City pays an invoice after the 30 day allowance, the Contractor may charge the City no more than 1% interest calculated upon the total invoice amount. The Contractor is not entitled to any late fees or penalties for late payments. Per RCW Chapter 39.76.010.
10. **Taxes, Fees and Licenses.**
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.

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.

Withholding payment for taxes/business license fees due the City of Seattle: If specified by Seattle Municipal Code the Director of the Department of Finance and Administrative Services may withhold payment due a City contractor pending satisfactory resolution of unpaid taxes and fees due the City.

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.

11. **Pricing:** Pricing reflects the following agreements. The Buyer may exempt these requirements for extraordinary conditions that could not have been known by either party at the time of bid or other circumstances beyond the control of both parties, as determined in the opinion of the Buyer. Such changes (whether increases or decreases) may only be issued by the City Purchasing Buyer (Department of Finance and Administrative Services). No other individual or City Department is authorized to approve such modifications. Changes shall be issued in writing by the City Purchasing Buyer. Absent a written contract document, such changes shall not be considered effective. The Change Order shall not require joint signature, and implies concurrence unless the Contractor rejects in writing immediately upon receipt of such a Change Order.
12. **Intentionally Left Blank**
13. **Intentionally Left Blank**
14. **Price Discounts:** Discounts from manufacturer's list prices shall be firm-fixed throughout the term of the contract. At any time, the Vendor may increase these discounts where volume of purchases or special market conditions warrants it.
15. **Treatment of Higher or Additional Prices, Fees or other Charges:**
 The City will not be bound by prices, fees, or other charges, excluding those mandated by a governmental entity, contained in an invoice that are higher than or in addition to those in the contract. Unless the higher or additional prices, charges or fees have been accepted by the City and the contract amended, the invoice may be rejected and returned to the Vendor for correction.
16. **Intentionally Left Blank**



17. **Contract Notices:** Contract notices shall be delivered to the Buyer at the addresses specified in the solicitation.
18. **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.
19. **Warranties:** 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 packaged, 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.
20. **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.
21. **Inspection:** 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 non-complying 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.
22. **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.
23. **Affirmative Efforts:**
- **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 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.
 - In accordance with Seattle Municipal Code Chapter 20.42, Contractor shall actively solicit the employment and subcontracting of women and minority group members when there are commercially useful purposes for fulfilling the scope of work.
 - In the event Subcontracting is considered appropriate and feasible to contract performance, the Contractor shall develop a Subcontracting Plan, which also may be referred to as an Outreach Plan. The Subcontracting (Outreach) Plan shall specify the Contractor's affirmative efforts and an agreement to the City for subcontracting to women and minority businesses, and/or diverse employment. The Subcontracting (Outreach) Plan, as submitted and/or as agreed upon with the City thereafter, shall be incorporated as a material part of the Contract. In preparing the Subcontracting (Outreach) Plan, Contractors shall actively solicit qualified, available and capable women and minority-owned businesses to perform the subcontracting work for the contract. The Contractor shall submit the Subcontracting (Outreach) Plan to the City with the solicitation and/or prior to contract execution. At the request of the City, Contractor shall promptly furnish evidence of the Contractor's compliance with these requirements, which

- may include a list of all subcontractors and/or WMBE subcontractors, and may include a request for copies of the executed agreements between the Contractor and subcontractors, invoices and/or performance reports.
- If upon investigation, the Director of Finance and Administrative Services finds probable cause to believe that the Contractor has failed to comply with the requirements of this Section, the Contractor shall notified in writing. The Director of Finance and Administrative Services shall give Contractor an opportunity to be heard, after ten calendar days' notice. If, after the Contractor's opportunity to be heard, the Director of Finance and Administrative Services still finds probable cause, s/he 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.
 - 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 breach of contract for which the Contractor may be subject to damages and sanctions provided for by the Contractor 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)
24. **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 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.
25. **Involvement of Current and Former City Employees.** If a Contractor has any current or former City employees, official or volunteer, working or assisting on solicitation of City business or on completion of an awarded contract, you must provide written notice to City Purchasing of the current or former City official, employee or volunteer's name. The Vendor Questionnaire within your bid documents prompts you to answer that question. You must continue to update that information to City Purchasing during the full course of the contract. The Vendor is to be aware and familiar with the Ethics Code, and educate vendor workers accordingly.
26. **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/>.)
 - 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 the 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 the 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 there under.
27. **Publicity:** No news release, advertisement, promotional material, tour, or demonstration related to the City's purchase or use of the Contractor's product or any work performed pursuant to this Contract shall be produced, distributed or take place without the prior, specific written approval of the City's Project Director or his/her designee.

28. Proprietary and Confidential Information:

1. Contractor understands that any records (including but not limited to bid or proposal submittals, the Agreement, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses 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. The Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

2. If the City receives a public disclosure request made pursuant to RCW 42.56, the City will not assert an exemption from disclosure on behalf of the Contractor. For materials that the Contractor has properly marked, the City may notify the Contractor of the request and postpone disclosure for ten business days to allow the Contractor to file a lawsuit seeking an injunction preventing the release of documents pursuant to RCW 42.56.540. Any notification is provided as a courtesy and is not an obligation on behalf of the City. Unless the Contractor obtains and serves an injunction upon the City before the close of business on the tenth business day after the date of the notification, the City may release the documents. It is the Contractor's discretionary decision whether to file the lawsuit.

3. In order to request that material not be disclosed until receipt of notification of a public disclosure request, you must identify the specific materials and citations very clearly on the City Contractor Questionnaire that you believe are exempt from disclosure. The City will not withhold material for notification if the Contractor simply marked confidential on the document header, footer, stamped on all pages, or offered a generic statement that the entire document is protected. Only material specifically listed and properly cited on the Contractor Questionnaire will be temporarily withheld until the City provides notification of a public disclosure request.

4. If the Contractor does not obtain and serve an injunction upon the City within 10 business days of the date of the City's notification of the request, the Contractor is deemed to have authorized releasing the record.

5. If the Contractor does not submit a request within the Contractor Questionnaire, the Contractor is deemed to have authorized releasing any and all information submitted to the City.

6. Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Agreement or (b) the Contractor's obligations under this Agreement.

7. The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

29. 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 and causes of 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, 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.

30. Insurance: Unless specified otherwise, the following is 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. Minimum Coverages and Limits of Liability. Contractor shall at all times during the term of this Agreement maintain continuously, at its own expense, minimum insurance coverage's and limits of liability as specified below:

A. Commercial General Liability (CGL) insurance, including:
- Premises/Operations

- Products/Completed Operations
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap/Employers Liability

With minimum limits of liability of \$1,000,000 each occurrence combined single limit bodily injury and property damage ("CSL"), except:

\$1,000,000 Personal/Advertising Injury
\$1,000,000 each accident/disease/employee Stop Gap/Employer's Liability

- B. Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of \$1,000,000 CSL.
- C. Worker's Compensation for industrial injury to Contractor's employees in accordance with the provisions of Title 51 of the Revised Code of Washington.
2. Seattle as Additional Insured. The City of Seattle shall be included as an additional insured under CGL and Automobile Liability insurance for primary and non-contributory limits of liability.
3. No Limitation of Liability. The limits of liability specified herein in subparagraph 1.A. are minimum limits of liability only and shall not be deemed to limit the liability of Contractor or any Contractor insurer except as respects the stated limit of liability of each policy. Where required to be an additional insured, the City of Seattle shall be so for the full limits of liability maintained by Contractor, whether such limits are primary, excess, contingent or otherwise.
4. Minimum Security Requirement. All insurers must be rated A- VII or higher in the current A.M. Best's Key Rating Guide and licensed to do business in the State of Washington unless coverage is issued as surplus lines by a Washington Surplus lines broker.
5. Self-Insurance. Any self-insured retention not fronted by an insurer must be disclosed. Any defense costs or claim payments falling within a self-insured retention shall be the responsibility of Contractor.
6. Evidence of Coverage. Prior to performance of any scope of work, Contractor shall provide certification of insurance acceptable to the City evidencing the minimum coverage's and limits of liability and other requirements specified herein. Such certification must include a copy of the policy provision documenting that the City of Seattle is an additional insured for commercial general liability insurance on a primary and non-contributory basis.

