KingCounty

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

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

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

CONTRACTOR:
SPECIALTY METALS CORP
8300 S 206TH ST

KENT, WA 98032 United States
Fax: (253) 8720437

CONTRACT

CONTRACT NO.	REVISION	PAGE
5834235	1	1 of 1

CREATION DATE	BUYER
09-FEB-2016	PATRICIA REID
DATE OF REVISION	**BUYER**
12-FEB-2016	PATRICIA REID

SHIP TO:
KC DES RJC FACILITIES
401 4TH AVE N, RJC-ES-0007
KENT, WA 98032

BILL TO:
KC DES FBOD ACCOUNTS PAYABLE
401 5TH AVE, CNK-ES-0320
SEATTLE, WA 98104

CONTRACTOR NO	PAYMENT TERMS	FREIGHT TERMS	FOB	SHIP VIA	CONFIRM TO
2293	NET30DAYS	PAID	DESTINATION	Best Way	Telephone: (253) 398-1680

DESCRIPTION

Contract Purchase Agreement

Furnish sheet metal, stainless steel, aluminum and copper as request by King County Facilities Management Division during the period February 9, 2016 through May 31, 2018, in accordance with City of Seattle contract number 0000003085 and the responding bid of Specialty Metals Corporation, both incorporated by reference as if fully set forth herein.

Estimated contract value $30,000.00.

When active, standard purchase orders referencing the contract agreement number will be issued by King County to authorize the purchase and payment of goods and/or services.

All invoices must reference the individual standard purchase order number to avoid delay in payment.

Authorized Signature

VENDOR CONTRACT

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

Vendor Contract #	Date	Change Order #
0000003085	5/31/13	

Payment Terms	Freight Terms
½ Percent Net 10	FOB: Destination; Prepaid & Allowed

Buyer:	FAX:	Phone:
Presley Palmer	206-233-5155	206-233-7158

Vendor ID #: 0000111563
SPECIALTY METALS CORP
8300 S 206TH
KENT, WA 98032

Contact: DOUG JOHNSON
Phone #: 253-872-8000
Fax #: 253-872-0437
E-mail: DJOHNSON@SMCMETAL.NET

Ship To:

CITY DEPARTMENTS

Bill To:

SEE BELOW

Specialty Metals Corp is awarded a contract to provide the City of Seattle with Sheet Metal & Structural Steel to include Mild Steel, Stainless Steel, Aluminum, and Copper in accordance with solicitation #ITB SCL_3085 dated 4/19/13 and per vendor pricing (attachment 1) and City of Seattle Terms and Conditions (attachment 2), in receipt.

Original Term:
Contract Period: 5/31/13 through 5/31/18 with option to extend one (1) additional two (2) year period as mutually agreed.

Orders shall be placed by Seattle City Light (SCL).

This is your confirmation to proceed.

Authorized Signature/Date

Laura Lee 5/31/13

Contract #0000003085
Specialty Metals
Doug Johnson – 253-872-8000
Effective Date 5/31/13 through 5/31/18

Attachment 1

Sheet Metal & Structural Steel Pricing					
Stock#	**Description**	**U/M**	**% off List**	**Per lb Price**	**Extended Price**
Carbon 500# Pricing					
SCL	Sheet CR 12-16 GA x 48 x 120	lb	35%	$0.64	$320.00
SCL	Sheet HR 10-12 GA x 48 x 120	lb	35%	$0.44	$220.00
SCL	A36 Plate to 1" x 48" x 96"	lb	35%	$0.44	$220.00
SCL	Angle – x 20 FT 1 x 1 x .125	lb	35%	$0.52	$260.00
SCL	Angle – x 20 FT 2 x 2 x .125	lb	35%	$0.49	$245.00
SCL	Angle – x 20 FT 2 x 2 x .188	lb	35%	$0.48	$240.00
SCL	Angle – x 20 FT 3 x 3 x .250	lb	35%	$0.48	$240.00
SCL	Channel – x 20 FT – 3" x 4.5#	lb	35%	$0.48	$240.00
SCL	Channel – x 20 FT – 4" x 5.4#	lb	35%	$0.48	$240.00
SCL	Beam – x 20 FT	lb	35%	$0.70	$350.00
SCL	Flat Bar– x 20 FT – .250 x 1	lb	35%	$0.49	$245.00
SCL	Flat Bar– x 20 FT – .250 x 2	lb	35%	$0.49	$245.00
SCL	Flat Bar– x 20 FT – .375 x 1	lb	35%	$0.49	$245.00
SCL	Flat Bar– x 20 FT – .375 x 2	lb	35%	$0.49	$245.00
SCL	Round Bar to ¾" x 20 FT	lb	35%	$0.49	$245.00
SCL	Round Bar to 1" to 2"x 20 FT	lb	35%	$0.49	$245.00
Stainless 300# Pricing					
SCL	Sheet 14-16 GA x 48 x 120 T304	lb	18%	$1.78	$534.00
SCL	Sheet 10-12 GA x 48 x 120 T304	lb	18%	$1.78	$534.00
SCL	Plate to 1" x 48 x 120 T304	lb	18%	$1.64	$492.00
SCL	Angle – x 20 FT R/L 1 x 1 x .125 T304/T304L	lb	18%	$2.02	$606.00
SCL	Angle – x 20 FT R/L 2 x 2 x .125 T304/T304L	lb	18%	$1.85	$555.00
SCL	Angle – x 20 FT R/L 2 x 2 x .250 T304/T304L	lb	18%	$1.85	$555.00
SCL	Angle – x 20 FT R/L 3 x 3 x .250 T304/T304L	lb	18%	$1.85	$555.00
SCL	Channel – x 20 FT R/L	lb	18%	$4.23	$1,269.00
SCL	Bean - x 20 FT R/L	lb	18%	$5.30	$1,590.00
SCL	Flat Bar – x 12 FT R/L - .188 x 1	lb	18%	$1.80	$540.00
SCL	Flat Bar – x 12 FT R/L - .250 x 2	lb	18%	$1.80	$540.00
SCL	Flat Bar – x 12 FT R/L - .375 x 3	lb	18%	$1.80	$540.00
SCL	Round Bar to ¾" x 12 FT R/L	lb	18%	$2.01	$603.00
SCL	Round Bar to1" to 2" x 12 FT R/L	lb	18%	$2.01	$603.00

Updated 5/31/13
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Attachment 2

City of Seattle
Contract

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/Vendor or Blanket Contract, the City's Solicitation and all Addendums and Vendor's Offer. 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**: Any term specified in the solicitation or specification shall prevail. Should this be a one-time purchase, the Contract shall commence on the date the City's Buyer signs the same and shall expire sixty (60) days after delivery and acceptance of last item. If a Contract award, this contract shall be for the term specified in the solicitation, and if not specified shall be 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 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 due date or delivery schedule stated on the Contract. 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. **Limits of Sales to Authorized Products and Services**: Contractor has responsibility to limit sales to those products or services authorized within the Contract, whether authorized by changes and amendments or stated within the original contract scope. The Contractor is responsible for refusing orders that are not properly authorized by the contract or through other proper Purchase Orders issued by authorized persons from the City. If the Contractor has consistent sales of unauthorized products or services, the City reserves the right to use any of the following: terminate the contract in accordance with termination provisions, place the Contractor payments on "hold" for all incoming invoices while the City determines which are authorized items eligible for payment, and/or refuse certain invoices that contain non-authorized items.

6. **Adjustments**: The City Buyer at any time may make reasonable changes in the place of delivery, installation or inspection; the method of shipment or packing; labeling and identification; extension of contract duration, and ancillary matters that Contractor may accommodate without substantial additional expense to the City.

7. **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 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 timely written objection is received from the Contractor..

8. **Contract 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.

9. **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 Contract number. If the pricing structure is based upon a discount below list, or a mark-up above cost, then the Contractor must provide a method for tracking the cost of the item to the City, with the City discount calculation displayed so that pricing discounts

Contract #0000003085
Specialty Metals
Doug Johnson – 253-872-8000
Effective Date 5/31/13 through 5/31/18

Attachment 1

Copper 300# Pricing					
SCL	Sheet – x 36 x 96	lb	15%	$8.10	$2,430.00
SCL	Flat Bar – x 12 FT R/L	lb	15%	$8.94	$2,682.00
SCL	Round Bar – x 12 FT R/L	lb	15%	$8.94	$2,682.00
Aluminum 300# Pricing					
SCL	Sheet .063 to .100 x 48 x 120 5052 H32	lb	22%	$2.43	$729.00
SCL	Sheet .125 to .187 x 48 x 120 5052 H32	lb	22%	$2.43	$729.00
SCL	Plate to 1" x 48 x 144 6061 T651	lb	22%	$2.92	$876.00
SCL	Angle – x 25 FT – 1 X 1 X .125 6061	lb	22%	$2.17	$651.00
SCL	Angle – x 25 FT – 2 X 2 X .188 6061	lb	22%	$2.17	$651.00
SCL	Angle – x 25 FT – 2 X 2 X .250 6061	lb	22%	$2.17	$651.00
SCL	Channel – x 25 FT – 4" X 1/647 x .247 6061 lb	lb	22%	$2.17	$651.00
SCL	Channel – x 25 FT – 6" x .192 x 2 6061	lb	22%	$2.17	$651.00
SCL	Beam – x 25 FT	lb	22%	$2.17	$651.00
SCL	Flat Bar – x 12 FT - .188 x 1 6061	lb	22%	$2.47	$741.00
SCL	Flat Bar – x 12 FT - .250 x 2 6061	lb	22%	$2.17	$651.00
SCL	Round Bar to ¾" x 12 FT 6061	lb	22%	$2.17	$651.00
SCL	Round Bar to 1" to 2" x 12 FT 6061	lb	22%	$2.17	$651.00

Offered Services	Price/Hour:
Water Jet Cutting	$90.00
Laser Cutting	$85.00
Plasma Cutting	$55.00
Machining	$89.00
Forming	$65.00
Fabrication Capabilities	$101.00
Other:	$ Quote

All Terms are per ITB-SCL-3085 dated 4/9/2013

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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.

Requests for Price Decreases: Contractors can offer greater discounts or lower prices at any time when a specific order is placed or when a long-term change in costs allows the Contractor to offer a permanent change to the contract prices. Requests that reduce pricing charged to the City may be delivered to the City Purchasing Buyer at any time during the contract period. Such price reductions should use the same pricing structure as the original contract (i.e. discounts below list, mark-up above, fixed price, or hourly rates). The City may likewise initiate a request to the Contractor for price reductions, subject to mutual agreement of the Contractor.

Requests for Price Increases: Requests that increase costs to the City must be delivered to the City Purchasing Buyer in accordance to the rules below. No other employee may accept a rate increase request on behalf of the City. Any invoice that is sent to the City with pricing above that specified by the City in writing within this Contract or specified within an official written change issued by City Purchasing to this contract, shall be invalid. Payment of an erroneous invoice does not constitute acceptance of the erroneous pricing, and the City would seek reimbursement of the overpayment or would withhold such overpayment from future invoices.

A. **Discount from Manufacturer List Pricing:** The City will not accept requests to change discount rates below Manufacturer List prices or mark-up above wholesale, except for those that are more favorable to the City than the original contract. As manufacturer list prices change, the net price to the City will automatically change in the same percentage as the discount rate to the City.

B. **One-time Purchase Order Prices**: For a one-time purchase, pricing shall be firm and fixed for that purchase, and shall not be subject to requests for price increases by the Contractor. With this said, the Contractor may submit requests to reduce and decrease the price.

C. **Hourly Rates or Service Pricing**: For multi-year contracts that provide services. The Contractor may submit a price reduction that implements a lower and more favorable cost to the City at anytime during the contract. Contractor requests for rate increases must be no sooner than two years after contract signature, are at the discretion of the Buyer; and must be:
   1. The direct result of increases to wage rates and do not exceed the U.S. Dept. of Labor Consumer Price Index (CPI)for All Urban Consumers Seattle-Tacoma-Bremerton or other appropriate service rate index agreed upon between the Buyer and the Contractor.
   2. Calculated over the previous 12-month period.
   3. Not produce a higher profit margin than that on the original contract.
   4. Clearly identify the service titles and the hours of service performed if specified within the contract and the before and after wage rates for such titles.
   5. Be filed with Buyer a minimum of 90 calendar days before the effective date of proposed increase.
   6. Be accompanied by detailed documentation acceptable to the Buyer sufficient to warrant the increase.
   7. The Adjustment (if any) shall remain firm and fixed for at least 365 days after the effective date of the adjustment.
   8. Should not deviate from the original contract pricing scheme/methodology

D. **Fixed Product Pricing:** For contracts that provide on-going, multiple year supply of products,the Contractor may submit notice of a price reduction that provides lower prices to the City, at any time during the contract. Requests by the Contractor to increase pricing shall be no sooner than two years after the execution of the contract, are at the discretion of the Buyer; and must also be:
   1. The direct result of increases at the manufacturer's or supplier's level).
   2. Incurred one (1) year after contract commencement date.
   3. Not produce a higher profit margin than that on the original contract.
   4. Clearly identify the items impacted by the increase.
   5. Be filed with Buyer a minimum of 90 calendar days before the effective date of proposed increase.
   6. Be accompanied by detailed documentation acceptable to the Buyer sufficient to warrant the increase.
   7. The United States published indices such as the The U.S. Dept. Of Labor Consumer Price Index (CPI), Producer Price Index (PPI) or other data may be referenced to help substantiate the Contractor's documentation. The Adjustment (if any) shall remain firm and fixed for at least 365 days after the effective date of the adjustment.
   8. Should not deviate from the original contract pricing scheme/methodology.

17. **Catalogue and Manufacturer List Pricing:** Upon City request, the Contractor shall provide access to the "Manufacturer's Current Price List" in electronic and/or paper format. Such requests may be for current catalogue pricing or for past catalogue that are within the term of the contract.

18. **Order Cancellation - Returns and Restocking:** Unless specified otherwise in the Solicitation the following shall apply:

can be easily tracked and verified by the City. Seattle will not be bound by prices contained in an invoice that are higher than those in the contract. Unless the higher price has been accepted by the City and the contract amended, the invoice may be rejected and returned to the Contractor for corrections.

For contracts where prevailing wages are required, the Contractor must include a statement that certifies Prevailing Wages have been paid by the Contractor and subcontractors, if any.

10. **Delayed Invoice Submittal**: Invoices must be submitted to the City within 60 days, of either the date the City received, inspected and accepted delivery of all goods, the date the City accepted final completion of all services, or the date of receipt of a correct invoice, whichever date is later.

11. **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. If the City is unable to pay within the period allowed for early payment discount the payment term will revert to net 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.

12. **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 per month upon the total invoice amount. The Contractor is not entitled to any late fees or penalties for late payments. (Per RCW Chapter 39.76.011)

13. **Overages/Underage:** Shipments shall match the purchase order, any unauthorized advance or excess shipments are returnable at Contractors expense. The City is not obligated to return overages and will not pay for overages.

14. **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.

15. **Rebate:** If this Contract includes a rebate, the total rebate due to the City shall be paid in check to the City of Seattle, City Purchasing. For the first year, rebates will be made for total money spent by the City starting from the date of contract award to the following June. For every year thereafter, the rebate will be provided to City Purchasing on June 1 of each year or as otherwise required by the Solicitation, to reflect total payments made by the City to the Vendor for the previous 12 month period. The Contractor will calculate the amount due and provide with its rebate, supporting documentation which shall consist of a report showing the 1) City Ordering Department, 2) Invoice Number, 3) Date of Invoice, 4) Dollar Amount "excluding" tax, 5) Rebate Amount per invoice. This report should also show all credits and returns made by the City Departments. All monies spent between the City and Contractor are part of the rebate calculation, and monies spent by other public agencies through Interlocal Agreement unless specified otherwise by the City, unless the Contractor can clearly differentiate a spend category or separate contract that is not associated with the contract products or services. If the rebate is late, the City reserves the right to "hold" all future invoice payments due the Contractor until the rebate has been issued, or to withhold the rebate amount from the next invoice payment due to the Contractor.

16. **Pricing**: Pricing reflects the following Terms. These are in addition to annual Prevailing Wage adjustments if required. 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

- Contractor Error: No restocking charge for items ordered due to Contractor error. Contractor pays all shipping costs.
- Stocked Items: No restocking fee applies if new, unused, in original packaging and shipped back within 30 days of receipt by the City. Customer pays the shipping cost.
- Non-Stocked Items: Item(s) may be returned if new, unused, in original packaging and shipped back within 30 days of receipt. The Contractor may charge the customer reasonable expenses incurred up until the date of cancellation, expenses that could not be reasonably avoided or offset by the Contractor. In no event will the charge exceed 10%" of the total cost of the order.
- Non-Standard Items: Items that are custom engineered and fabricated to design specifications may be returned under the terms negotiated between the parties upon request of the City.
- Failure to perform: If Contractor has presented a particular product as suitable and fit for the purpose described by the City herein or upon order by the City, and the product fails to perform as advised and/or specified, that shall be defined as a Contractor error. No restocking charge shall be charged to the City. Further, if such fitness could not have been determined until the product had been in use, the City may return the product opened and used within 30 days of receipt without penalty or charges due to the City.

19. **Idling Prohibited (Delivery Services):** Vehicles and/or diesel fuel trucks shall not idle at the time and location of the delivery to the City for more than five minutes. The City requires Contractors to utilize practices that reduce fuel consumption and emission discharge, including turning off trucks and vehicles during delivery of products to the City. Exceptions to this requirement include when a vehicle is making deliveries and associated power is necessary; when the engine is used to provide power in another device, and if required for proper warm-up and cool-down of the engine. Specific examples include "bucket" trucks that allow a worker to reach wires on telephone poles or tree branches for trimming; and vehicles with a lift on the back of a truck to move products in and out of the truck. The City of Seattle has a commitment to reduction of unnecessary fuel emissions. The City intends to improve air quality by reducing unnecessary air pollution from idling vehicles. Limiting car and truck idling supports cleaner air, healthier work environments, the efficient use of city resources, the public's enjoyment of City properties and programs, conservation of natural resources, and good stewardship practices.

20. **Travel and Direct Charges:** If the specifications or scope of work for this purchase have specifically identified travel and/or direct costs that the City intends to reimburse, then the following requirements shall apply. All such expenses must be pre-approved in writing by the Project Manager. If the specifications and scope of work do not clearly identify such costs for compensation, than no compensation will be given.

- City will reimburse the Contractor at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses. Direct charges may include, but are not limited to the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of subconsultants or subcontractors.

- The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant/subcontractor paid invoices, and other supporting documents used by the Contractor to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All third party charges must be necessary for the services provided under this Contract.

- The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Seattle Travel Policy, details of which can be provided upon request.

- **Airfare**: Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.

- **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate *(excluding the "Incidental" portion of the published CONUS Federal M&I Rate)* for the city in which the work is performed (the current Federal Per Diem daily meal rate can be provided upon request). *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.

- **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published Runzheimer Cost Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)

As an alternative, lodging may be billed at the published Federal Per Diem daily lodging rate for the city in which the work is performed. If this method is used, receipts are not required for documentation. If this method is used, the invoice shall state that "the lodging is being billed at the Federal Per Diem daily lodging rate."

- **Vehicle mileage**: Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred. Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.

- **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).

- **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of $10.00 or more.
- **Miscellaneous other business expenses** Other miscellaneous third party business expenses if allowed by this contract (e.g. printing, photo development, binding, courier, etc): will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all third party miscellaneous expenses that are billed.

- **Subcontractor**: Subcontractor expenses if allowed by this contract will be reimbursed at the actual cost incurred and may not include a mark up. Copies of all subcontractor invoices that are rebilled to the City are required.

21. **Delivery Time:** Except when instructed otherwise, delivery must be made during normal working hours and within timeframes proposed by Contractor herein and as accepted by Seattle. Failure to comply may subject Contractor to non-delivery assessment charges and/or damages as appropriate. Seattle reserves the right to refuse shipment when delivered before or after normal working hours. Contractor shall verify specific working hours of offices and so instruct carrier(s) to deliver accordingly. The acceptance by Seattle of late performance without objection or reservation shall not waive the right of Seattle to claim damages for such breach, nor preclude Seattle from pursuing any other remedy provided herein, including termination, nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor.

22. **Title, Risk of Loss, Freight, Overages or Underages:** Contractor warrants that he/she has properly produced, stored, packaged, boxed and shipped the products and goods for delivery, at Contractor's expense. No charges will be allowed for handling that includes but is not limited to packing, wrapping, bags, containers, or reels, unless otherwise stated herein. All deliveries are to be made to the applicable delivery location in accordance with Interstate Commerce Commission rules or as indicated in Purchase Order. When applicable, Contractor shall take necessary actions to safeguard items during inclement weather. Title of goods received under this contract shall remain with the Contractor until they are delivered, inspected and accepted at 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, inspection and acceptance by Seattle. 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.

23. **Identification:** All invoices, packing slips, packages, instruction manuals, correspondence, shipping notices, shipping 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.

24. **Rejection of Goods:** Goods shall not be deemed accepted until he City completes receipt, inspection and acceptance. The City may reject goods upon notice to the Contractor without the requirement to specify the reason(s) for rejection. The City can return non-conforming goods, require Contractor to replace non-conforming goods, or require Contractor to repair non-confirming goods to meet requirements, at the Contractor cost.

25. **Liens**: Contractor warrants all products are free and clear of liens.

26. **Contract Notices:** Contract notices shall be delivered to the Buyer at the addresses specified in the solicitation.

27. **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.

28. **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.

29. **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.

30. **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 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.

31. **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.

32. **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 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).

33. **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.

34. **Key Persons and Subcontractors.** Contractor shall not transfer, reassign or replace any individual or subcontractor that is determined to be essential or that has been agreed upon in the Contractor's Subcontracting (Outreach) Plan, without express written consent of Seattle. If during the term of this Contract, any such individual leaves the Contractor's employment or any named subcontract is terminated for any reason, Contractor shall notify Seattle and seek approval for reassignment or replacement with an alternative individual or subcontractor. Upon Seattle's request, the Contractor shall present to Seattle, one or more subcontractors or individual(s) with greater or equal qualifications as a replacement. Continued achievement of the Subcontracting (Outreach) Plan that was incorporated into this Contract by reference, if any, and the associated subcontract awards, aspirational goals and efforts, will be one of the considerations in approval of such changes. Seattle's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

35. **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.

36. **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.

37. **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.

38. **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.

39. **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.

40. **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 /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.

41. **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. *Also see Federal provisions for federal access when this contract is paid in part or in whole by federal fund sources.*

42. **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.

43. **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 City of Seattle employees 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.

44. **Compliance with Law**:
    - General Requirement: The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter, Municipal Code, and ordinances of The City of Seattle; and rules, regulations, orders, and directives of their respective administrative agencies and officers.
    - Licenses and Similar Authorizations: The Contractor, at no expense to the City, 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 related requirements.
    - 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.

45. **No Gifts or Gratuities:** Contractor shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official, that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Contractor. Promotional items worth less than $25 may be distributed by the Contractor to City employees if the Contractor uses the items as routine and standard promotions for business. 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.

46. **Contract Workers with 1,000 Hours:** Throughout the life of the Contract, Contractor shall provide written notice to City Purchasing and the City Project Manager of any contract worker that shall perform more than 1,000 hours of contract work for the City within a rolling 12-month period. Such hours include those that the contract worker performs for the Contract, and any other hours that the worker performs for the City under any other contract. Such workers are subject to the requirements of the City Ethics Code, Seattle Municipal Code 4.16. The Contractor shall advise their Contract workers as applicable.

47. **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 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 developed solely for and paid for by Seattle in connection with 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.

48. **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.

49. **Binding Effect**: The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.

50. **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 the same or similar type.

51. **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.

52. **Applicable Law:** This Contract shall be construed under the laws of the State of Washington. The venue for any action relating to this Contract shall be in the Superior Court for King County, State of Washington.

53. **Remedies Cumulative:** Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.

54. **Captions:** The titles of sections, or subsections, are for convenience only and do not define or limit the contents.

55. **Severability:** Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.

56. **Disputes:** Seattle and Contractor shall maintain business continuity to the extent practical while pursuing disputes. Any dispute or misunderstanding that may arise under this Contract concerning Contractor's performance shall first be resolved, 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, 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 in accordance with the termination provisions herein.

Notwithstanding 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 must clearly and reasonably 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.

57. **Termination:**
For Cause: Seattle may terminate this Contract if the Contractor is in material breach of any of its terms , and such breach has not been corrected to Seattle's reasonable satisfaction in a timely manner.

For City's Convenience: Seattle may terminate this Contract in whole or in part, without cause and for any reason including Seattle's convenience, upon written notice to the Contractor.

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.

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.

Termination for Gifts or 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, as defined above.

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.

Actions upon Termination: In the event of termination not the fault of the Contractor, the Contractor shall be paid for the services properly performed prior to termination, together with any reimbursable expenses then due, but in no event shall such compensation exceed the maximum compensation to be paid under the Contract. The Contractor agrees that this payment shall fully and adequately compensate the 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, the 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.

58. **Force Majeure – Suspension and Termination:** This section applies in the event that either party is unable to perform the obligations of this contract because of a Force Majeure event as defined herein, to the extent that the Contract obligations must be suspended in full. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body, which prevents performance.

Force Majeure under this Section shall only apply in the event that performance is rendered not possible by either party or its agents. Should it be possible to provide partial performance that is acceptable to the City under Section #2 (Emergencies or Dias asters), Section #2 below shall instead be in force.

Should either party suffer from a Force Majeure event and is unable to provide performance, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance.

Upon receipt of such notice, the 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.

59. **Major Emergencies or Disasters:** The City may undergo an emergency or disaster that may require the Contractor to either increase or decrease quantities from normal deliveries, or that may disrupt the Contractor's ability to provide normal performance. Such events may include, but are not limited to, a storm, high wind, earthquake, flood, hazardous material release, and transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above. In such events, the following shall apply.

(a) The City shall notify the Contractor that the City is experiencing an emergency or disaster, and will request emergency and priority services from the Contractor.
(b) The City may request that the Contractor provide either increased or decreased quantities from traditional orders, or may request Contractor provide additional products or services.
(c) Upon such notice by the City, the Contractor shall make reasonable efforts to provide the City the materials in the quantities requested and within the schedule specified by the City, adhering to the conditions in this Section.
(d) The City of Seattle shall be the customer of first priority for the Contractor, except where preceded

by State or Federal government mandates. The Contractor shall provide its best and priority efforts to provide the requested goods and/or services to the City of Seattle in as complete and timely manner as possible. Such efforts by the Contractor are not to be diminished as a result of Contractor providing service to other customers, except as mandated by State or Federal governments.

(e) If the Contractor is unable to respond in the time and/or quantities requested by the City, the Contractor shall promptly assist the City to the extent practicable, to gain access to alternative materials and/or services. This may include:

a. Coordinating with other distributors or subsidiaries beyond those in the local region to fulfill order requests;

b. Offering the City substitutions provided the Contractor obtains prior approval from the City for such substitution.

The Contractor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). However, in the event that the City's request results in the Contractor incurring unavoidable additional costs and causes the Contractor to increase prices in order to obtain a fair rate of return, the Contractor shall charge the City a price not to exceed the cost/profit formula found in this Contract.

60. **Interlocal Cooperation Act:** RCW 39.34 allows cooperative purchasing between public agencies, and other political subdivisions. SMC 20.60.100 also allows non profits to use these agreements. Such agencies that file an Intergovernmental Cooperative Purchasing Agreement with the City of Seattle may purchase from Contracts established by the City. Unless Contractor declines on the Offer submitted by the Seller to the City, the Contractor agrees to sell additional items at the bid prices, terms and conditions, to other eligible governmental agencies that have such agreements with the City. The City of Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies. Should the Contractor require additional pricing for such purchases, the Contractor is to name such additional pricing upon Offer to the City.

61. **City Debarment:** In accordance with SMC Ch. 20.70, the Director of Finance and Administrative Services or designee may debar a Contractor 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:

1) Contractor has received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City Contracts.

2) 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.

3) Contractor abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.

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

5) Contractor submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.

6) Contractor colluded with another contractor to restrain competition. .

7) 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.

8) Contractor failed to cooperate in a City debarment investigation.

9) 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 after adhering to 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.

62. **Recycled Product Requirements:** To promote and encourage environmentally sustainable practices for companies doing business with the City, the City requires that Contractors under City contract use environmentally preferable products in production of City work products.

Green Seal Products: Contractor shall use Green Seal, Eco-Logo or other certified cleaning products if approved by the City, in performance of all cleaning and janitorial work to protect the health, safety, wellness and environmentally sustainable practices that the City requires of companies doing business with the City. Cleaning products, floor care products and other products used in the performance of work that carry a Green Seal certification are required. The Bidder shall identify the products that the Bidder intends to use at the City facilities and shall list them on the Offer Form, with a notation to confirm the Green Seal product certification. The Green Seal website is: http://www.greenseal.org/findaproduct/index.cfm. The City has contracts with various Contractors who will supply the winning Bidder with Green Seal certified products for use in performance of City contract work, at City contract pricing. For the list of Contractors, contact the City Buyer.

Paper and Paper Product Requirements: The City desires use of 100% PCF (post consumer recycled content, chlorine-free) paper, to comply with the City Executive Order and to encourage environmentally preferable practices for City business. Such paper is available at City contract prices from Keeney's Office Supplies at 425-285-0541.

The City prohibits vinyl binders. The City prefers 100% recycled stock Binders. "Rebinders" are a product that fit this requirement and are available at City contract prices from Complete Office at 206-628-0059 or Keeney's Office Supplies at 425-285-0541. Please do not use binders or plastic folders, unless essential. Note - Keeney's is a Women Owned Firm and may be noted on your Outreach Plan.

Contractors shall duplex materials prepared for Seattle under this Contract, whether materials are printed or copied, except when impracticable due to the nature of the product. This is executed under the Mayor's Executive Order, issued February 13, 2005.

63. **Workers Right to Know**: "Right to Know" legislation required the Department of Labor and Industries to establish a program to make employers and employees more aware of the hazardous substances in their work environment. WAC 296-800-108 requires among other things that all manufacturers/distributors of hazardous substances, including any of the items listed on this ITB, RFP or contract bid and subsequent award, must include with each delivery completed Material Safety Data Sheets (MSDS) for each hazardous material. Additionally, each container of hazardous material must be appropriately labeled with: the identity of the hazardous material, appropriate hazardous warnings, and the Name and Address of the chemical manufacturer, importer, or other responsible party. Labor and Industries may levy appropriate fines against employers for noncompliance and agencies may withhold payment pending receipt of a legible copy of the MSDS. OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to "carcinogenic ingredients: and "routes of entry" of the product(s) in question.

64. **Davis Bacon Act.**
If this work has federal funding, work in this contract is subject to prevailing wage requirements for both the State (RCW Chapter 39.12) and federal (Davis-Bacon and related acts), if such work has an applicable wage category. The Contractor and all subs must then comply with the Davis-Bacon Act (includes (40 U.S.C. 276a to a-7) and related Acts (Walsh-Healy Public Contracts Act for manufacturer, and the McNamara-O'Hara Service Contract Act for services), as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

65. The Contractor and every Subcontractor must then pay the greater of the State prevailing wage rates and the federal prevailing wage rates as issued by the Secretary of Labor, on a classification by classification basis. Contractors shall be required to pay wages not less than once a week. The Contractor shall report all suspected or reported violations to the City. http://www.gpo.gov/davisbacon/wa.html

66. **Prevailing Wage Requirements.**

a. If this contract is subject to prevailing wages, as required by RCW 39.12 (Prevailing Wages on Public Works) and RCW 49.28 (Hours of Labor) as amended or supplemented, Contractor shall be responsible for compliance by the Contractor and all subcontractors with all provisions herein.

b. Filing Your Intent: The awarded Contractor and all subcontractors shall file an Intent to Pay Prevailing Wage Form concurrent with the execution of the contract.
   - To do so, the Contractor and any of their subcontractors will require a Contract Number and Start Date. The Buyer will tell you the Contract Number; the start date is the date your contract is signed.
   - The Contractor shall then promptly submit the Intent to the Department of Labor & Industries (L&I) for approval.
   - The Contractor also shall require any subcontractor to also file an Intent with L&I.
   - This must be done online at the L&I website: http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp.
   - If unable to file on-line, a paper copy of the approved Intent shall instead be promptly provided to the Buyer.
   - The Contractor shall notify the Buyer of the Intents that are filed by both the Contractor and all subs,

c. Contractor and any subcontractor shall not pay any laborer, worker or mechanic less than the prevailing hourly wage rates that were in effect at the time of bid opening for the worker classifications that are provided for under Prevailing Wages as issued by the State of Washington for the County in which the work shall be performed.

d. Vocationally handicapped workers, i.e. those individuals whose earning capacity is impaired by physical or mental deficiency or injury, may be employed at wages lower than the established prevailing wage. The Fair Labor Standards Act requires that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor. These certificates are acceptable to the Department of Labor and Industries. Sheltered workshops for the handicapped may submit a request to the Department of Labor and Industries for a special certificate, which would, if approved, entitle them to pay their employees at wages, lower than the established prevailing wage.

e. In certain situations, an Intent to Pay Prevailing wages shall be filed with the L&I and the Buyer, but the Contractor may indicate an exception on the Intent form that exempts the prevailing wages rates for the following:
   - Sole owners and their spouse.
   - Any partner who owns at least 30% of a partnership.
   - The president, vice-president, and treasurer of a corporation if each one owns at least 30% of the corporation.
   - Workers regularly employed on monthly or per diem salary by state or any political subdivision created by its laws.

f. Prevailing Wage rates in effect at the time of bid opening are attached. These wages remain in effect for the duration of this contract, except for annual adjustments required by this agreement for multi-year contracts (where contract is longer than one year) and for building service maintenance (janitorial, waxers, shampooers, and window cleaners).

g. It is the sole responsibility of the Contractor to assign the appropriate classification and associate wage rates to all laborers, workers or mechanics that perform any work under this contract, in conformance with the scope of work descriptions of the Industrial Statistician of the Washington State Department of Labor and Industries.

h. With each invoice, Contractor will attach or write a statement that wages paid were compliant to applicable Prevailing Wage rates, including the Contractor and any subcontractors.

i. Upon contract completion, Contractor shall file the Affidavit of Wages Paid (form L700-007-000) approved by the Industrial Statistician of Washington 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 may withhold payment on any invoice due the Contractor until the approved affidavit is received.

j. The Contractor shall also ensure that each Subcontractor likewise files an Affidavit.

k. The Contractor shall notify the Buyer and provide a copy of the Affidavit(s).

l. For jobs above $10,000, Contractor is required to post for employees' inspection, the Intent form including the list of the labor classifications and wages used on the project. This may be postured in the nearest local office, for road construction, sewer line, pipeline, transmission line, street or alley improvement projects as long as the employer provides a copy of the Intent form to the employee upon request.

m. In the event any dispute arises as to what the prevailing wages are for this Contract, and the dispute cannot be solved by the parties involved, the matter shall be referred to the Director of the Department of Labor and Industries of the State of Washington. In such case, the Director's decision shall be final, conclusive and binding on all parties. If the dispute involves a federal prevailing wage rate, the matter shall be referred to the U.S. Secretary of Labor for a decision. In such case, the Secretary's decision shall be final, conclusive and binding on all parties.

Prevailing Wage rate changes for Service Contracts greater than one year in duration:

a. This provision only applies to service contracts that continue beyond a single year in duration, including building service maintenance contracts (janitorial service contractors and work performed by janitors, waxers, shampooers, and window cleaners) and to multi-year service contracts.

b. Contractor and any subcontractor must pay at least the prevailing wage rates that were in effect at time of bid throughout the duration of the contract.

c. Each contract anniversary thereafter, Contractor and any subcontractors shall review the then current Prevailing Wage Rates. The Contractor shall increase wages paid if required to meet no less then the current wage rates in effect at the time of the contract anniversary.

d. Any price or rate increases made as a result of a change in the prevailing wages will be compensated by the City on a pass through basis if the Contract requests a price increase in accordance with the price increase request requirements provided elsewhere in this contract. The Contractor must follow the contract instructions for pricing increases, notifying the Buyer at least 45 days prior to the contract anniversary date of any resulting price increase and documenting the increase.

67. **Background/Criminal History Checks**: The City may require background/criminal checks during the course of the contract for essential City purposes. The City does not intend to request background checks/verifications unless essential in the opinion of the City. Note that, in particular, Seattle City Light has regulatory requirements promulgated by organizations with jurisdiction over Seattle City Light, which require any contract worker that has access to certain locations/systems/data ("SCL Designated Access") to undergo a background/criminal check before that worker can have authorized cyber or authorized unescorted physical access to those locations/systems/data. The requirements apply to all

Contractor workers and mandate an appropriate Personnel Risk Assessment and security awareness training as directed by Seattle City Light. This section covers background/criminal checks for Contractor workers before they work on certain City tasks, systems and/or locations, to include the discovery and verification of criminal convictions and civil findings. The City may, at its option, determine that only a criminal history check will be performed. This section also covers the requirements if cyber security training is required.

If the City notifies the Contractor to undergo background/criminal checks or cyber security training for Contractor workers, the following shall apply.

A. General Requirements

1. The City shall alert the Contractor that the contract task is "High Security" at the time the work request is made to the Contractor or as soon as practical thereafter.

2. Should the Contractor believe it cannot meet these obligations by the scheduled work start dates, the Contractor may seek mutual agreement to a revised start date, or if none is reached, decline the work.

3. The City may require that any Contractor worker receiving SCL Designated Access undergo a background/criminal history check and receive appropriate cyber security training. The Seattle Police Department (SPD) shall conduct all criminal history checks for Seattle Police Department services.

4. The Contractor shall provide a list of names, specified identification information (social security number, birth date and address) and a release signed by the worker for the City to perform a background/criminal history check. Contractor must provide the information to the City before any worker will receive be cleared for work. The list must be submitted at a date mutually agreed upon.

5. The City will conduct a background check using either the Seattle Police Department or any agency with whom the City selects. The City will review the resultant background/criminal history check results. The City shall notify the Contractor of acceptance or rejection of personnel in a timely manner. The City will perform the background check at City cost.

6. For workers rejected by the City, the Contractor will submit to the City alternative names for background checks. Contractor will submit those names promptly, as mutually agreed upon between the Contractor and the City.

7. The Contractor has responsibility to obtain City approval for a sufficient quantity of personnel to provide adequate coverage during the contract term. The City may allow the Contractor to submit a greater number of individuals for background checks and approval than is necessary to accomplish the contract tasks, in order to assure adequate coverage for the contract work (i.e. receive authorization for back-up crew members in the event of an absence by a scheduled crew member).

   Notwithstanding the schedules and responsibilities herein, the City and the Contractor may need to consider individuals for emergency replacement in the event a worker cannot perform or is terminated. In such event, the City may allow the Contractor to submit additional names in anticipation of such future need.

8. The City shall not unreasonably withhold approval of such individuals, although the City is not under the obligation to accept individuals that would otherwise be rejected as not suitable.

9. The Background/Criminal check must be renewed every four years for Contractor workers. If the worker was required by the City to undergo a background check and/or cyber security training, the Contractor must likewise notify the City when that worker approaches four years. This notice to the City must be no less than sixty (60) days before the end of the four-year period. At that time, to comply with appropriate regulatory requirements, the City may require another background check/criminal.

10. The Contractor shall provide to the City, no less than eight (8) hours from when the status change becomes effective, notice of any Contractor worker who is: (i) reassigned or no longer requires Designated Access to perform the contract tasks, or (ii) terminated by the Contractor for any reason. In no case shall such notice be greater than eight (8) hours.

11. The Contractor shall immediately notify the City Project Manager to report if a worker has a change in criminal history or background status. The City may initiate a new background/criminal check for this or other cause during the term of the worker's access to the City.

12. For furniture moves, on the day(s) of service, at the job site, the Crew Chief is to submit the names of those present at the job site to the City Building Service Manager. The City Project Manager is responsible for rejecting any individuals that have not been approved by the City. Should such a rejection result in a failure by the Contractor to meet the Contractor obligations for a crew of sufficient size to complete the move, the Contractor assumes all resulting liabilities and damages in accordance with the contract and all terms and conditions.

B. **Cyber Training Requirements:** If applicable, the City may require that any Contractor worker receive appropriate cyber security training. Such workers must receive cyber security training once each year they work under the contract.

C. **Routine Elements of a Background/Criminal Report:** Routine background/criminal history check reports shall include identity verification (e.g. social security number verification) and a search of records from any federal, state or county court in the United States, an international records search, and records of all convictions or releases from prison within the last ten (10) years.

D. **Non-Routine Elements of a Background/Criminal Report**

1. The City may search for dependency actions.
2. The City may search for information on protection proceedings related to sex offender, assault, abuse, or exploitation of a minor, developmentally disabled person, or vulnerable adult, or domestic relations proceedings.
3. The City may search for additional information detail, as determined by the City, above and beyond the scope of a routine background/criminal history check as defined in Section C, General requirements.
4. If the required access for the worker is subject to NERC, the City will require all workers to undergo annual Cyber Security Training offered by Seattle City Light. The workers will be paid for the time they spend in such training. If this requirement applies, the City will require the Contractor to submit a list of such workers and their status of Cyber Training annually upon contract anniversary.

68. **Security Access Requirements**

Contractors' Use of Premises

1. Contractor workers shall have only limited use of the premises for work, storage, access, and equipment.

2. Material/equipment staging areas will be limited to floors and areas designated within the Scope of Work. Maintain clear access to site and building entrances.

3. Driveway use will be limited to loading and unloading only.

4. For furniture moves, the Contractor shall be granted the use of up to two parking spaces in the Seattle Municipal Tower parking structure to be paid by the Contractor. Arrangements for the use of these two spaces must be made through the Building Management. Other parking spaces in the structure are available at the regular rates. Special parking arrangements may be made through IMPARK Inc., the garage operator at 628-9042.

5. Restrooms may have restricted access, as appropriate to the Scope of Work.

6. All workers who must provide services or delivery at a SCL facility must obtain prior permission from SCL and make arrangements for an SCL escort or background check is appropriate to the work while on the facility site.

Related Requirements and Documents

1. All Contractor employees at the job site shall wear identification that is prominent and clearly marked, which clearly identifies the individual as an employee with the building services company.

2. When appropriate, Contractors will be issued a Departmental Identification/Access Badge, for the designated contract period, giving them access to the facility for which they require access. These Identification/Access Badges will be returned to the Department at the completion of the contract.

Federal Provisions

69. **Equal Employment Opportunity:** All Contractors must comply with federal Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.:

70. **Civil Rights Act Title VI:** The Contractor must comply with the provisions of the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to, discrimination under any

program or activity receiving federal financial assistance.

71. **Audit:** Seattle, the Federal grant agency if any, the Comptroller General of the United States, or any of their duly authorized representatives shall be provided access to any books, documents, papers and records of the subcontractor or any subcontract which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts and transcriptions. FAR clause 52.215-2 incorporated by reference. The complete clause may be viewed at http://www.whitehouse.gov/omb/circulars/a110/ The OMB A-110 provisions in effect at the time of this order govern. FAR clauses may be viewed at http:www.arnet.gov/far/

72. **Americans with Disabilities Act:** The 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 City 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.

73. **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.

74. **Contract Work Hours and Safety Standards:** For all contracts that employ mechanics or laborers, the Contractor and all subs shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provide that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

75. **Beck Notice:** Notification of Employee Rights Concerning Payment of Union Dues or Fees (Executive Order 13201) shall apply to all contracts above $100,000.

76. **Clean Air Act and Federal Water Pollution Control Act:** All Contractors and subcontractors shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the City immediately and to the Regional Office of the Environmental Protection Agency (EPA).

77. **Energy Efficiency**: All contractors and subcontractors must comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

78. **Federal Amendments:** Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy, per OMB Circular A-102 Common Rule, Section 36.

79. **Federal Debarment for Primes and all Subcontractors:** By signing this agreement, the Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Contractor shall immediately notify the City of any suspension or debarment or other action that excludes the Contractor and any subcontractor level from participation in Federal contracting. Prior to performance of any work by the Contractor or any subcontractor under this contract, Contractor shall verify all subcontractors that are intended and/or used by the Contractor for performance of City work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Contractor shall include this same provision in any subcontractor or lower contract agreements. Debarment shall be verified at https://www.epls.gov/epls/search.do. The Contractor shall keep documentation of such verification within the Contractor records.

80. **Copeland Anti-Kickback Act**): All contractors and subcontractors for construction or repair shall comply with the Copeland "Anti-Kickback" Action (18 U.S.C. 874), as

supplemented by Department of Labor regulations (29 CFR, part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which s/he is otherwise entitled. The Contractor shall immediately notify the City of any suspected or reported violations.

81. **Byrd Anti-Lobbying Amendment**: Contractors executing contracts with the City shall sign the Contractor Questionnaire, providing certification of compliance to the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 13652. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the City.