

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

Fifth Amendment

THIS AMENDMENT (this "Amendment") is made as of **March 31, 2011**, in San Francisco, California, by and between **Agurto Corporation, DBA; Pestec Exterminator, 1555 Yosemite Avenue, San Francisco, CA 94124** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below);
and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein **to extend the contract term and increase the contract amount.**

WHEREAS, approval for this Agreement was originally obtained when the Civil Service Commission approved Contract number **4015-06/07 on August 7, 2006.**

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

a. Agreement. The term "Agreement" shall mean the Agreement dated **February 1, 2008 through March 31, 2012** between Contractor and City, as amended by the:

First amendment,	dated January 5, 2010, and
Second amendment,	dated March 15, 2010, and
Third amendment,	dated June 20, 2011, and
Fourth amendment	dated December 31, 2011

b. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

2a. **Section 2. Term of the Agreement** currently reads as follows:

Subject to Section 1, the term of this Agreement shall be from February 1, 2008 to March 31, 2011. The parties may by mutual agreement in writing, exercise options to extend the contract for periods up to one year for a total term not to exceed 5 years.

Such section is hereby amended in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from February 1, 2008 to the earlier of (1) June 30, 2012 or (2) 30 days (or such later date as the City may specify) after City's issuance of a written Notice of Termination served in accordance with the procedures set forth in Section 21a of this Agreement. The parties may by mutual agreement in writing, exercise options to extend the contract for periods up to one year for a total term not to exceed 5 years.

2b. **Section 5. Compensation** currently reads as follows:

Compensation shall be made in monthly payments on or before the **last day** of each month for work, as set forth in Section 4 of this Agreement, that the **Director, Office of Contract Administration – Purchasing**, in his or her sole discretion, concludes has been performed as of the **last day** of the immediately preceding month. In no event shall the amount of this Agreement exceed **nine and three quarter million dollars (\$9,750,000)**. The breakdown of costs associated with this Agreement appears in Appendix B-2, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Office of Contract Administration – Purchasing** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

Such section is hereby amended in its entirety to read as follows:

Compensation shall be made in monthly payments on or before the **last day** of each month for work, as set forth in Section 4 of this Agreement, that the **Director, Office of Contract Administration – Purchasing**, in his or her sole discretion, concludes has been performed as of the **last day** of the immediately preceding month. In no event shall the amount of this Agreement exceed **nine million nine hundred fifty thousand dollars (\$9,950,000)**. The breakdown of costs associated with this Agreement appears in Appendix B-2, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Office of Contract Administration – Purchasing** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after **March 31, 2011**.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:



Deirdre Darley
Purchaser
Office of Contract Administration

CONTRACTOR

Agurto Corporation, DBA
Pestec Exterminator

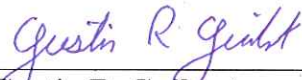


Luis Agurto Jr.
President/COO

Approved as to Form:

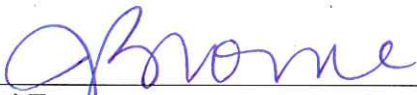
Dennis J. Herrera
City Attorney

City vendor number: **69455**

By: 

Gustin R. Guibert
Deputy City Attorney

Approved:



Jaci Fong
Acting Director of the Office of Contract
Administration