CITY OF TACOMA-PLANNING AND DEVELOPMENT SERVICES

REQUEST FOR PROPOSALS

DESIGN: IDENTIFICATION OF KEY STREETSCAPE DESIGN PARAMETERS, OUTREACH AND ANALYSIS OF COMMUNITY CHARACTERISTICS

SPECIFICATION NO. PL17-0013F
REQUEST FOR PROPOSALS PL17-0013F
Design: Identification of Key Streetscape Design Parameters, Outreach and Analysis of Community Characteristics

Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, May 9, 2017
Submittal Delivery: Sealed submittals will be received as follows:

<table>
<thead>
<tr>
<th>By Carrier:</th>
<th>In Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Tacoma Procurement &amp; Payables Division</td>
<td>City of Tacoma Procurement &amp; Payables Division</td>
</tr>
<tr>
<td>Tacoma Public Utilities</td>
<td>Tacoma Public Utilities Lobby Security Desk</td>
</tr>
<tr>
<td>3628 S 35th Street</td>
<td>Administration Building North – Main Floor</td>
</tr>
<tr>
<td>Tacoma, WA 98409</td>
<td>3628 S 35th Street</td>
</tr>
<tr>
<td>By Mail:</td>
<td>Tacoma, WA 98409</td>
</tr>
<tr>
<td>City of Tacoma Procurement &amp; Payables Division</td>
<td>Note: This is a change in location for in-person deliveries.</td>
</tr>
<tr>
<td>Tacoma Public Utilities</td>
<td></td>
</tr>
<tr>
<td>PO Box 11007</td>
<td></td>
</tr>
<tr>
<td>Tacoma, WA 98411-0007</td>
<td></td>
</tr>
</tbody>
</table>

Submittal Opening: Sealed submittals in response to a RFP will be opened by a Purchasing representative and read aloud during a public bid opening held in Conference Room M-1, located on the main floor in the same building. Submittals in response to an RFP or RFQ are recorded as received but are not typically opened and read aloud. After 1:00 p.m. the day of bid opening, the names of vendors submitting proposals are posted to the website for public viewing.

Solicitation Documents: An electronic copy of the complete solicitation documents may be viewed and obtained by accessing the City of Tacoma Purchasing website at www.TacomaPurchasing.org.

- Register for the Bid Holders List to receive notices of addenda, questions and answers and related updates.
- Click here to see a list of vendors registered for this solicitation.

Pre-Proposal Meeting: A pre-proposal meeting will be held on April 25, 2017 in room 148 at the Tacoma Municipal Building (747 Market Street, Tacoma, WA 98402) at 5:30 pm.

Project Scope: The City's Community and Economic Development Office, in partnership with Planning and Development Services, the Public Works Department, and Sound Transit, intends to procure services of outreach and analysis of community characteristics.

Estimate: $80,000*

Paid Leave and Minimum Wage: Effective February 1, 2016, the City of Tacoma requires all employers to provide paid leave and minimum wages, as set forth in Title 18 of the Tacoma Municipal Code. For more information visit www.cityoftacoma.org/employmentstandards.

The following is applicable to Federal Aid Projects: The City of Tacoma in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR, part 26, will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.
**Additional Information:** Requests for information regarding the specifications may be obtained by contacting Kim Ward, senior buyer by email to kward2@cityoftacoma.org.

**Protest Policy:** City of Tacoma protest policy, located at www.tacomapurchasing.org, specifies procedures for protests submitted prior to and after submittal deadline.

_accessible: Meeting sites are accessible to persons with disabilities. Reasonable accommodations for persons with disabilities can be arranged with 48 hours advance notice by calling 253-502-8468.

*Any contract(s) resulting from this solicitation may be financed by a combination of federal and state funds, including funds from the Federal Transit Administration. Financial assistance by the Federal Transit Administration may be between zero and eighty percent (0-80%)*
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- Exhibit B-Hilltop Neighborhood Map
- Exhibit C-Streetscape Planning Area Map

Standard Terms and Conditions – Solicitation
Standard Terms and Conditions – Services
TMC 1.07
Certificate of Insurance Requirement
Design: Identification of Key Streetscape Design Parameters, Outreach and Analysis of Community Characteristics

SPECIFICATION NO. PL17-0013F

The preparation of this document has been financed in part through a grant from the U.S. Department of Transportation Federal Transit Administration, under the Urban Mass Transportation Act of 1964, as amended, and in part by the Central Puget Sound Regional Authority (Sound Transit).

This procurement may be subject to one or more financial assistance contracts between Sound Transit and the U.S. Department of Transportation, which incorporate the current FTA Master Agreement and Circular 4220.1, as amended.

SECTION ONE Instructions

1.1 INTRODUCTION

The City of Tacoma (City) is requesting Proposals from firms to provide the following services related to the Links to Opportunity Project associated with the Tacoma Link Expansion corridor:

- Analyze and describe Hilltop community characteristics and needs
- Develop a public outreach plan for Streetscape Conceptual Design and Engineering work
- Collect public input related to the conceptual design and engineering plans of streetscape improvements

The full scope of work is attached as Section Two Scope of Work. The successful proposer(s) will be required to enter into an Agreement in substantially the same form as is attached as Exhibit A.

The anticipated term of this agreement will be one year, subject to the Termination provisions of paragraph L of the Agreement. At the City’s sole discretion, the Agreement may be extended for one six month terms based upon mutual agreement. Any extensions would be made at the same pricing structure as stated in the original contract.

The City has an estimated budget of $80,000 for this body of work. The City may contract with multiple organizations to carry out the scope of work. The city reserves the right to award one or more contracts for these services at its discretion.

A pre-proposal meeting will be held on April 25, 2017 in room 148 at the Tacoma Municipal Building (747 Market Street, Tacoma, WA 98402) at 5:30 pm. Interested firms can submit questions regarding this procurement and/or project according to Paragraph 1.5, Request for Information.

Written answers to all questions will be posted on the Purchasing website at www.TacomaPurchasing.org on or about April 28, 2017 by 5:00PM PST. The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential. The answers are not typically considered an addendum.

1.2. COMMUNICATIONS

Upon release of this solicitation, any verbal or written communications between any proposer (potential or actual) or its representatives, and any City Councilmember, City of
Tacoma employee or consultant regarding this procurement, are strictly prohibited from the date of the RFP advertisement through the date of execution of the contract. The only exceptions to this are: (1) communications and questions concerning this solicitation directed to the Senior Buyer listed below; (2) communications at the pre-proposal conference. The City reserves the right to contact Proposers for clarification of response contents. Any violation of the requirements set forth in this Section may constitute grounds for immediate and permanent disqualification of the offending firm from participation in this procurement. All oral communications will be considered unofficial and non-binding on the City. Proposers should rely only on written statements issued by the Senior Buyer:

<table>
<thead>
<tr>
<th>Senior Buyer</th>
<th>Email Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kimberly Ward</td>
<td><a href="mailto:kward2@CityofTacoma.org">kward2@CityofTacoma.org</a></td>
</tr>
</tbody>
</table>

1.3 COMMITMENT TO DIVERSITY
A. Small Business Participation and Disadvantaged Business Enterprise (DBE) Participation
   1. The City promotes and encourages Small Business participation, which also includes Disadvantaged Business Enterprises (DBEs). City is interested in submittals from such firms.
   2. Further, the City recognizes there may be few joint venture or subcontracting opportunities with regard to the services described in this solicitation. Proposers that choose to form a joint venture or subcontract and are unable to utilize Small Businesses (including DBEs) are required to detail their efforts to involve Small Businesses as joint venture partners or subconsultants, and the reasons why such involvement was not attainable.
B. Equal Employment Opportunity (EEO)
   1. The City is interested in submittals from firms that demonstrate a commitment to EEO. The City encourages submittals from firms that employ a workforce that reflects the region’s diversity. Proposers are advised that they shall adhere to the following non-discrimination provisions:

"The CONSULTANT shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person unless based upon a bona fide occupational qualification. The Consultant will take affirmative steps to ensure that no person is excluded from employment opportunities based on their race, religion, creed, sex, sexual orientation, age, nationality, or the presence of such disability, or any other protected class by law. “In the event of non-compliance by the CONSULTANT with any of the non-discrimination provisions of this Agreement, the CITY shall be deemed to have cause to terminate this Agreement, in whole or in part."
1.4 **ANTICIPATED SCHEDULE**

<table>
<thead>
<tr>
<th>Date</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 12, 2017</td>
<td>Solicitation Issued</td>
</tr>
<tr>
<td>April 25, 2017</td>
<td>Last day to submit Requests for Information (RFIs) and/or Questions</td>
</tr>
<tr>
<td>May 9, 2017</td>
<td>Submittals Due <em>(on or before 11 AM) local time)</em></td>
</tr>
<tr>
<td>May 2017</td>
<td>Execute Contract and Notice to Proceed</td>
</tr>
</tbody>
</table>

1.5 **REQUESTS FOR INFORMATION**

Questions about this solicitation must be submitted by email to Kimberly Ward, Senior Buyer, identified in Paragraph 1.2.

1.6 **ADDENDA**

Addenda will be uploaded to the solicitation via the City’s website. Proposers must acknowledge receipt of all addenda uploaded by the City on the Signature Page. If an addendum is issued amending this solicitation, all provisions that are not modified remain unchanged.

1.7 **SUBMITTAL**

A. **One original (unbound) and two copies (stapled or clipped only)** must be received by the City on or before the date and time specified in Paragraph 1.4, Anticipated Schedule, at:

   *Tacoma Public Utilities Administration Building North*
   *Attn: Purchasing-Spec No. PL17-0013F*
   *3628 S. 35th St.*
   *Tacoma, WA 98409*

   The City also reserves the right to postpone the submittal due date.

B. The City prefers the use of double-sided, recycled/recyclable paper. Elaborate, decorative, extraneous and non-recyclable materials are strongly discouraged. The proposal should be no longer than 10 pages (5 sheets of letter-sized paper which are printed double-sided) (excluding required submittals and firm and individual résumés).

1.8 **CONTENTS OF SUBMITTAL**

Organizations must submit Proposals meeting the following content requirements. The City reserves the right to request additional information from firms. Provide complete and detailed responses to all items using the same numbering format as presented below. The City will not accept any submittal containing a substantial deviation from the requirements outlined in this RFP.

A. **Executive Summary**

1. A short history and description of your Organization, including years in operation, annual revenues, number of employees, organizational structure, services, areas/regions served, etc.
2. Background information of the parent company, if any.

3. Presence, if any, in the Puget Sound region.

4. Name and address of your Organization, telephone number, email address, website address, and contact person, with title, for this solicitation.

5. Name, title, and contact information of the person authorized to execute a contract on behalf of your Organization.

6. Describe which area of the work—analysis, public involvement plan, and public meetings—your Organization is interested in performing. If interested in performing more than one area please describe how your firm will be able to carry out multiple tasks and consolidate activities when possible.

B. Organization’s Experience and History

1. Describe the experience your Organization has had within the last three years in providing similar consulting services in areas with similar demographics. Please include any specific experience in the City of Tacoma’s Hilltop Neighborhood.

2. Describe past experience partnering with organizations and initiatives related to outreach and data gathering and analysis with similar demographics. Please include any specific experience in the City of Tacoma’s Hilltop Neighborhood.

3. Describe the Organization’s experience working in diverse urban neighborhoods.

4. Describe ways you plan to engage with those who live, work along, and use this corridor and surrounding areas including those who may not normally participate in traditional outreach opportunities.

5. Describe how you ensure client satisfaction, which in this case will be the City, and the process that will be used to resolve performance issues.

C. Key Personnel

1. Provide the names, if possible, roles, qualifications summaries, and structure of your proposed team. Indicate whether the proposed staff is a subcontractor or an employee of your Organization.

2. Describe your Organization’s commitment to maintaining continuity of the assigned key personnel.

3. Please provide resumes of key personnel associated with this project.

D. Capacity and Project Organization

1. A detailed project plan, as well as the Organization’s capability and commitment to fully complete the work.

2. Include information that communicates how the Organization would fulfill the requirements of a contract resulting from this RFP. Include a brief statement of
the Organization understanding of the project’s Scope of Work and approaches you would use to fulfill the Scope of Work.

E. **Value-Added Features**

1. Submit a specific description or list of exceptional, value-add features or capabilities beneficial to the City that you propose to bring to your performance of the project.

F. **Cost**

Provide a cost estimate that includes, hourly rates and number of hours for all assigned personnel this must be done for each area of the work—analysis, public involvement plan, and public meetings--your Organization is interested in performing. The City will only cover labor costs. The City will not pay for travel and any incidental expenses related to the project.

The City reserves the right to negotiate any and all costs/prices submitted.

G. **Exceptions to Terms and Conditions**

1. The City will not accept alternative agreements to Exhibit A, [Sample Proposed] Agreement. The City reserves the right to negotiate minor exceptions with the top-ranked firms provided such minor exceptions are submitted with the proposal. Please list any minor exceptions and provide proposed language, and reasons for the exception. If the Price included in the submittal is dependent on the minor exceptions, the Proposer must also include, with the proposed language, the price that would be associated without the exceptions and a brief explanation for the difference.

The City, at its sole option, will decide the ultimate form of contract or agreement to be used.

H. **References**

1. Provide three recent references. The references may be contacted concerning past performance.

   In listing the references, include the name of the client/contact person, mailing address, telephone number, email address, the relevant project name.

   The City reserves the right to contact references other than those submitted by the Proposer.

I. **Sustainability**

1. Please demonstrate your Organization’s commitment to providing the services identified in the scope of services in a sustainable manner. What measures will your firm take to minimize impacts to the environment in the delivery of services? Please provide details of efforts, practices and or processes.
2. Please demonstrate your Organization’s commitment to sustainable business practices, which could include, but is not limited to a formal sustainability program and/or policies covering recycling measures; energy conservation plans; water conservation policies; or a green cleaning policy. Please provide details and include copies of reports, policies or plans, if available.

J. Small Business Enterprise (SBE)

See Section 1.3 for the City’s Commitment to Diversity and information about the City’s Small Business Participation. See Appendix D for the SBE Regulations.

For tracking purposes only, indicate whether your firm is:

a. A certified City SBE firm.
b. Partnering with a certified City SBE firm(s).
c. A minority/woman owned firm certified with the Washington State Office of Minority and Women’s Business Enterprise.
d. Partnering with a minority/woman owned firm certified with the Washington State Office of Minority and Women’s Business Enterprise.

1.9 Evaluation Criterion

A selection committee comprised of City staff will review and evaluate submittals.

The inclusion of hourly rates as an evaluation factor does not require the City to select the Respondent submitting the lowest cost.

A serious deficiency in any one criterion may be grounds for rejection.

Submittals will be evaluated on the following criteria:

<table>
<thead>
<tr>
<th>Evaluation Criteria</th>
<th>Points</th>
</tr>
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<tbody>
<tr>
<td>Organization’s Experience and History</td>
<td>10</td>
</tr>
<tr>
<td>Key Personnel</td>
<td>25</td>
</tr>
<tr>
<td>Capacity and Project Organization</td>
<td>25</td>
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<tr>
<td>Value Added Features</td>
<td>15</td>
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<tr>
<td>Sustainability</td>
<td>5</td>
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<tr>
<td>Cost</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

1.9 EVALUATION AND CONTRACT AWARD

A. The City reserves the right to accept or reject any or all submittals and to waive informalities and minor irregularities. At the City’s discretion, pages that exceed the specified page limit may be removed from the submittal and only those pages within the specified limit will be forwarded for evaluation. The City reserves the right to take other action, as necessary.

B. Responsibility: The City reserves the right to investigate the qualifications of all Proposers and to confirm any part of the information furnished by a Proposer, and/or
to require other evidence of managerial, financial, or technical capabilities which are considered necessary for the successful performance of the Scope of Work.

1.10 PUBLIC DISCLOSURE

Pursuant to Chapter 42.56 RCW, proposals submitted under this solicitation shall be considered public records and with limited exceptions will be available for inspection and copying by the public. Proposers must specifically designate and clearly label as "CONFIDENTIAL" any and all materials or portions thereof they deem to contain trade secrets or other proprietary information, which is exempt from public inspection and copying. The Proposer must provide the legal basis for the exemption to the City upon request. If a Proposal does not clearly identify the "CONFIDENTIAL" portions, the City will not notify the Proposer that its Proposal will be made available for inspection. If a request is made for disclosure of material or any portion marked "CONFIDENTIAL," the City will determine whether the material should be made available under the law. If the City determines that the material is not exempt and may be disclosed, the City will notify the Proposer of the request and allow the Proposer 10 working days to take appropriate action pursuant to RCW 42.56.540. If the Proposer fails or neglects to take such action within said period, the City may release the portions of the Proposal deemed subject to disclosure. To the extent that the City withholds from disclosure all or any portion of Proposer’s documents at Proposer’s request, Proposer shall indemnify, defend and hold harmless the City from all damages, penalties, attorneys' fees and costs the City incurs related to withholding information from public disclosure. By submitting a Proposal, the Proposer consents to the procedure outlined in this paragraph and shall have no claim against the City by reason of actions taken under this procedure.

END OF SECTION ONE
SECTION TWO

Scopes of Work

I. Objective

The City’s Community and Economic Development Office, in partnership with Planning and Development Services, the Public Works Department, and Sound Transit, intends to procure services of outreach and analysis of community characteristics.

The purpose of procuring these services is to gather and analyze information and public input about and from communities along the Link Expansion corridor and incorporate this feedback into the streetscape conceptual design and engineering plans being developed as part of the Links to Opportunity Project (See Section II below for Links to Opportunity Project overview).

There will be particular emphasis on learning more about and hearing from those affected by poverty, people of color and historically marginalized communities which have often times been left out of decision making and planning processes.

The City may contract with multiple organizations to carry out this work. Organizations intending to apply may submit responses to complete one or all three areas of work, which are detailed in the Scope of Work (Section III).

Additionally, organizations selected by the City will be expected to coordinate their efforts closely with the consultant hired to carry out streetscape conceptual design and engineering planning.

II. Links to Opportunity Project Overview

The City’s Links to Opportunity Project was established in 2016 to involve the local community in both streetscape planning and expanding economic opportunities for residents along the Tacoma Link Expansion corridor.

Broadly, there are three components to the Project and each of these components will be carried out by separate consultants:

1. Develop conceptual design and engineering plans for streetscape improvements along the Tacoma Link Expansion corridor.

2. Conduct public outreach and analysis of community characteristics along the Expansion corridor. The feedback and information gathered will be incorporated into the conceptual design and engineering plans of the streetscape.

3. Facilitate the sharing of economic development, jobs and prosperity created by the Link Extension with Hilltop and other residents along the Expansion corridor.

The Links to Opportunity Project is separate from Sound Transit’s Tacoma Link Expansion planning, though the City and Sound Transit are collaborating to align these related efforts. The Project is funded by a $2 million Federal Transit Administration Grant and a $500,000 match from the City.
III. **Scopes of Work**

Listed below are three separate scopes of work related to analysis and outreach and the proposed tasks to carry out the scopes of work. Organizations interested in applying to carry out more than one scope of work should detail how they plan to consolidate activities and carry out multiple tasks.

The selected consultant(s) will evaluate the preliminary scope and develop a final scope in partnership with the City.

**Analyze and describe Hilltop community characteristics and needs**

*Proposed tasks:*
- Collect information about, analyze, summarize and report on key community characteristics, critical needs and priorities for Transit Oriented Development and how these characteristics and needs could be integrated into the streetscape redesign.
- Data Collection and community based research techniques may include:
  - Survey of residents, home owners, building owners, business owners, renters, and other stakeholders;
  - Focus groups
  - Canvassing residents
- Review existing plans and documents and, when possible, build off of the plans and work already completed by local community based organizations, the City and other stakeholders.
- Meet with members of the Hilltop Engagement Committee and incorporate their ideas and feedback.

**Develop Public Outreach Plan for the Streetscape Design Work**

*Proposed tasks:*
- Develop an effective outreach plan which is coordinated closely with the outreach efforts of the Streetscape design and engineering consultants and subconsultants.
- Develop a plan which details outreach methods to gather input and feedback, ideas or suggestions from historically underrepresented communities.
- Define the best type of outreach methods to use and how to ensure the feedback collected can be integrated into the streetscape design and engineering work.
- Meet with City and Sound Transit staff to determine where there are gaps in existing outreach efforts.
- Devise strategies to address gaps.
- Review existing plans and documents and when possible build off of the plans and work already completed by local community based organizations, the City and other stakeholders.
- Meet with members of the Hilltop Engagement Committee and incorporate their ideas and feedback.

**Collect public input related to the conceptual design and engineering design of streetscape improvements**
Proposed tasks:

- At various stages of the streetscape conceptual design planning process, gather input or feedback from community members, especially those who have not participated in past planning processes.
- Carry out innovative and extensive outreach on the streetscape design and engineering plans in coordination with the efforts of the Streetscape design and engineering consultants and sub consultants.
- Collect and maintain data and metrics about the demographics of people which participated in outreach activities.
- Provide drafts and final products by specific deadlines.

IV. Geographic Focus Area

The activities outlined in the scope of work will focus in the geographic areas outline in the attached maps.

Streetscape Planning Area- Hilltop Links to Opportunity Map [See Exhibit C]

The Greater Hilltop Neighborhood [See Exhibit B]

V. Deliverables

Each areas of work has separate deliverables:

| Analyze and describe the Hilltop and Hilltop community characteristics and needs | • Preliminary and final reports about Hilltop Community Characteristics and needs  
| | • Presentation materials for stakeholder meetings  
| Development of a public involvement plan for the Links to Opportunity Project | • Public Involvement Plan for use by City staff, streetscape engineering consultant and other organizations conducting outreach  
| Collect public input related to the conceptual design and engineering design of streetscape improvements | • Summary of public comments for use by City staff, streetscape engineering consultants and decision makers.  

END OF SECTION TWO
SIGNATURE PAGE

CITY OF TACOMA - PLANNING AND DEVELOPMENT SERVICES

All submittals must be in ink or typewritten and must be executed by a duly authorized officer or representative of the bidding/proposing entity. If the bidder/proposer is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.

Submittals will be received and time stamped only at the City of Tacoma Purchasing Division, located in the Tacoma Public Utilities Administration Building North, Main Floor, at 3628 South 35th Street, Tacoma, WA 98409.

REQUEST FOR QUOTATION - SPECIFICATION NO. PL17-0013F
Design: Identification of Key Streetscape Design Parameters, Outreach and Analysis of Community Characteristics

The undersigned bidder/proposer hereby agrees to execute the proposed contract and furnish all materials, labor, tools, equipment and all other facilities and services in accordance with these specifications.

The bidder/proposer agrees, by submitting a bid/proposal under these specifications, that in the event any litigation should arise concerning the submission of bids/proposals or the award of contract under this specification, Request for Bids, Request for Proposals or Request for Qualifications, the venue of such action or litigation shall be in the Superior Court of the State of Washington, in and for the County of Pierce.

Non-Collusion Declaration

The undersigned bidder/proposer hereby certifies under penalty of perjury that this bid/proposal is genuine and not a sham or collusive bid/proposal, or made in the interests or on behalf of any person or entity not herein named; and that said bidder/proposer has not directly or indirectly induced or solicited any contractor or supplier on the above work to put in a sham bid/proposal or any person or entity to refrain from submitting a bid/proposal; and that said bidder/proposer has not, in any manner, sought by collusion to secure to itself an advantage over any other contractor(s) or person(s).

Bidder/Proposer’s Registered Name ____________________________

Signature of Person Authorized to Enter into Contracts for Bidder/Proposer ____________________________ Date __________

Address ____________________________

Printed Name and Title ____________________________

City, State, Zip ____________________________

(Area Code) Telephone Number / Fax Number ____________________________

E-Mail Address ____________________________

State Business License Number ____________________________

E.I.No. / Federal Social Security Number Used on Quarterly Federal Tax Return, U.S. Treasury Dept. Form 941 (See Ch. 18.27, R.C.W.)

State Contractor’s License Number ____________________________

Addendum acknowledgement (when applicable) #1_____ #2_____ #3_____

THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITTAL.
PROPOSAL FORM NO. 2 CERTIFICATION REGARDING CONFLICT OF INTEREST

The Proposer is required to certify that performance of the work will not create any conflicts of interest or disclose any actual or potential conflicts of interest by completing and signing one of the following statements:

The Proposer hereby certifies that to the best of its knowledge and belief, performance of the services described in the Scope of Work will not create any conflicts of interest for the Proposer, any affiliates, any proposed subconsultants or key personnel of any of these organizations.

DATE: ____________________________
AUTHORIZED SIGNATURE: ____________________________
TITLE: ____________________________
PROPOSER/COMPANY NAME: ____________________________

OR

The Proposer hereby discloses the following circumstances that could give rise to a conflict of interest for the Proposer, any affiliates, any proposed subconsultants or key personnel of any of these organizations. (Attach additional sheets as needed.)

Name of Individual/Company to which potential conflict of interest might apply:

Nature of potential conflict of interest: ____________________________

_________________________________________________________

Proposed Remedy: ____________________________

_________________________________________________________

_________________________________________________________

DATE: ____________________________
AUTHORIZED SIGNATURE: ____________________________
TITLE: ____________________________
PROPOSER/COMPANY NAME: ____________________________
**PROPOSAL FORM 3 CERTIFICATION OF BIDDER OR PROPOSER REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

*Instructions for Certification:*

_by signing and submitting this form, the prospective lower tier participant is providing the signed certification set out below._

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the City may pursue available remedies, including suspension and/or debarment.

2. The prospective lower tier participant shall provide immediate written notice to the City if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.


4. The prospective lower tier participant agrees by submitting this bid or proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Sound Transit.

5. The prospective lower tier participant further agrees by submitting this bid or proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all

---

1 “Lower tier participant” includes all contractors, consultants, subcontractors and subconsultants participating on any of the City's contracts.
remedies available to the Federal Government, the City may pursue available remedies including suspension and/or debarment.

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion"

1. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. When the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

Proposer

(Type or Print Company Name)

By: ________________________________

(Signature) ________________________________

(Title)

Print

____________________________
# Prime Contractor's Pre-Work Form

## Company Name

______

## Telephone

______

## Address/City/State/Zip Code

______

### Specification Number

<table>
<thead>
<tr>
<th>Specification Title</th>
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<tbody>
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</table>

### Job Categories

- **Specify**

<table>
<thead>
<tr>
<th>Officer / Managers</th>
<th>Superiors</th>
<th>Project Managers</th>
<th>Office / Clerical</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL EMPLOYEES</strong></td>
<td><strong>TOTAL MINORITY EMPLOYEES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M</td>
<td>F</td>
<td>M</td>
<td>F</td>
</tr>
</tbody>
</table>

- **Apprentices**
- **Trainees**

<table>
<thead>
<tr>
<th>Officer / Managers</th>
<th>Supervisors</th>
<th>Project Managers</th>
<th>Office / Clerical</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
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</tbody>
</table>

## Contractor's Projected Work Force - This Project

- **Superintendent**
- **Foreman**
- **Operators**
- **Laborers**

<table>
<thead>
<tr>
<th>Apprentice</th>
<th>Trainee</th>
<th><strong>TOTALS</strong></th>
</tr>
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<tbody>
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</table>

### Type or Print Name of Responsible Officer / Title

______

### Signature of Responsible Officer

______

### Date

______

---

CCD/SBE/FORMS revised February 2016
INSTRUCTIONS FOR COMPLETING
PRIME CONTRACTOR’S PRE-WORK FORM

This form only applies to employees who will be working on this specific project.

1. "Heading" the company name and address should reflect the subcontractor actually doing business with the City of Tacoma. If this address is different from that of the Equal Employment Opportunity Officer that administers the EEO programs of the company, the Equal Employment Opportunity Officer's address should be noted in the "Comments" section at the bottom of the form. "Telephone" should contain the area code, telephone number and extension (if any) for the Equal Employment Officer or the responsible official.

2. "Job Categories" at the extreme left hand column of the form specifying "Job Categories" lists "Officials & Managers." You are to list in addition to Officials & Managers any appropriate job titles such as Sales Workers, Office/Clerical, Professionals, Technical, etc., as they apply to your own company and only as pertains to this specific project.

3. The "M" and "F" headings at the top of each column refer to "Male" and "Female."

4. The "Total Employees" column should list the total number of male employees under "M" and the total female number of female employees under "F" for each job category listed. They should be listed in a similar manner in the "Total" category at the bottom of the form. The "Total Employees" column should include all those employees listed under "Non-Minority" and "Total Minorities." "Non-Minority" should include all employees not listed in the minority columns.

5. "Total Minorities" should include all employees listed under the "Black," "Asian or Pacific Islander" (A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.), "American Indian or Alaskan Native," and "Hispanic" columns. These columns should include only employees who are members of that particular minority group. Designation and definitions of ethnic/national origin status follow the instructions and definitions of the Federal EEO-1 Form of the U. S. Equal Employment Opportunity Commission.

6. "Totals" this line should reflect the total of all lines in each of the above columns.

7. The signature of your company's designated responsible official or similar official responsible for equal employment opportunity must appear in the designated space at the bottom of the form. Please PRINT OR TYPE the person's name on the top line across from the signature. This is required since some signatures are difficult to read.

8. "Comments" this section is to be used as needed for explanations to under utilization rate or lack of turnover, proposed expansion or reduction of staff or any other pertinent information you believe will help clarify or explain the data presented on the form. If you need additional space, please explain on a separate sheet of paper.

9. If you need assistance or have questions regarding the completion of this form, please call the SBE Office at 253-591-5224 or 253-573-2435

CCD/SBE/FORMS revised February 2016
SECTION FOUR
EXHIBITS
EXHIBIT A
[SAMPLE PROPOSED] AGREEMENT

This agreement is made this _____ day of [Month, Day], [Year] between City of Tacoma, a municipal corporation of the state of Washington (“City”) and [Consultant Name] (the "Consultant"), who, in consideration of the mutual promises contained herein, agree to the following terms and conditions:

A. TERM

The term of this agreement will be effective upon the date of contract execution through ______________, 20___, subject to the “Time of Performance” and the Termination provisions of paragraph ____ of this Agreement. Contract prices shall remain firm-fixed during the contract term.

B. SCOPE OF WORK

The Scope of Work is attached hereto as Attachment A. To accomplish the Scope of Work, Consultant has proposed to do, at a minimum, the work described in its proposal, dated [Proposal Date]. In the event of any discrepancy or conflict between the Scope of Work and Consultant’s proposal dated [Proposal Date], the requirements of the Scope of Work will govern, at no additional cost to the City.

Consultant shall perform work or sell products only as permitted within the contract scope and shall not accept orders or provide services not within the contract scope.

C. EXTRA WORK

City may request additional work or services other than that expressly provided for in the "Scope of Work" section of this agreement. This will be considered extra work, supplemental to this agreement, and shall not proceed unless authorized by a written change order or amendment to this Agreement. Any costs incurred due to the performance of extra work prior to execution of a written change order will not be reimbursed.

D. ERRORS AND OMISSIONS; DUTY TO CORRECT

The Consultant is responsible for the professional quality of all work performed under this agreement. The Consultant, without additional compensation, will correct any errors or omissions immediately upon notice by City. This obligation will survive termination and expiration of this agreement.

E. PRICE

Total compensation for this agreement will not exceed $[Amount]. City is not liable for any compensation to the Consultant in excess of this amount unless otherwise approved and agreed in writing by Sound Transit.

F. PRICE ESCALATION / PAYMENT / INVOICES

The [unit] prices indicated in Section E, above, will remain constant throughout the initial term of the agreement and any optional extensions— no price escalation will apply regardless of market conditions.
Payment will be net 30 days following receipt of a properly completed invoice sent to:

Monica Ghosh, Monica.Ghosh@CityofTacoma.org
City of Tacoma 747 Market Street, Room 345
Tacoma, WA 98402

Incorrect or incomplete invoices may be returned to Consultant.

G. NOTICE

Notice will be effective upon the earlier of (i) actual receipt by the individual identified below or (ii) 24 hours after mailing to the address below:

City: Monica Ghosh
747 Market Street
Tacoma, WA 98402

Consultant: [Firm Name]
[Street address]
[City, State Zip]

Attn: Monica Ghosh
Attn: [Name]

H. NONDISCRIMINATION AND AFFIRMATIVE ACTION:

In accordance with Titles VI and VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000d & e, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section of the American Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees not to discriminate against any client, employee or applicant for employment or services on the basis of race, color, age, sex, marital status, sexual orientation, religion, ancestry, national origin, or the presence of any sensory, mental or physical disability in an otherwise qualified disabled person with regards to, but not limited to, the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training, rendition of services. It is further understood that any Consultant who is in violation of this clause, any applicable Affirmative Action Program, or FTA implementing requirements shall be barred forthwith from receiving awards of any contract from the City unless a satisfactory showing is made that discriminatory practices or noncompliance with applicable Affirmative Action Program have terminated and that a recurrence of such acts is unlikely.
I. PROHIBITED INTERESTS

No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance. Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Agreement pertains which would conflict in any manner or degree with the performance of the Consultant’s services and obligations hereunder. The Consultant further covenants that, in performance of this Agreement, no person having any such interest shall be employed. The Consultant also agrees that its violation of the CITY’S Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Agreement subjecting the Agreement to termination.

J. INSURANCE REQUIREMENT

1. Description
   a. Except as otherwise specified, the Consultant, shall at its sole cost and expense, obtain and maintain during the entire term of this Agreement the minimum insurance set below.
   b. In the event the Consultant is a Joint Venture, these insurance requirements shall apply to each Joint Venture member separately
   c. By requiring such minimum insurance, City shall not be deemed or construed to have assessed the risks that may be applicable to the Consultant under this Agreement. The Consultant shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
   d. The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the liability of the Consultant, including without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by City shall not be limited to the amount of the required insurance coverage
   e. The insurance must be provided by an insurer with a rating of (A-) VII or higher in the A.M. Best's Key Rating Guide (http://www.ambest.com/home/default.aspx), and pursuant to RCW 48, licensed to do business in the State of Washington (or issued as a surplus line by a Washington Surplus lines broker.) The City reserves the right to approve or reject the insurance provided, based upon the insurer (including financial condition), terms and coverage, the Certificate of Insurance, and/or endorsements.

2. Insurance Coverages
   a. **Commercial General Liability:** Commercial General Liability for bodily injury including death, personal injury, and property damage, with contractual and completed operations liability endorsement, and Employer's Liability coverage, utilizing insurers and coverage forms acceptable to the City, with limits of at least $1,000,000 per occurrence and
$2,000,000 general aggregate, with $2,000,000 products and completed operations coverage.

b. **Commercial Automobile Liability:** Commercial Auto Liability coverage for bodily injury and property damage utilizing insurers and coverage forms acceptable to the City, with a limit of at least $1,000,000 combined single limit. Coverage shall apply to all owned automobiles (if any), non-owned automobiles and hired automobiles.

c. **Professional Liability:** The Contractor shall provide evidence of Professional Liability insurance covering professional errors and omissions for itself and any subcontractors. Such policy must provide minimum limits of $1,000,000 per claim and $2,000,000 aggregate. If the scope of such design-related professional services includes work related to pollution conditions, the Professional Liability policy shall include Pollution Liability coverage. If provided on a “claims-made” basis, such coverage shall be maintained by policy renewals or an extended reporting period endorsement for not less than three years following the end of the Contract.

d. **Other Insurance:** Other insurance as may be deemed appropriate to cover the specified risk and exposure of the scope of work or changes to the scope of work evaluated by the City. The costs of which shall be borne by contracting parties as mutually agreed.

Such liability insurance, identified in 2.a and 2.b above, shall name the City its officers, directors, agents, and employees as additional insured with respect to the work, including completed operations, under this Agreement.

e. **Workers Compensation:** The Consultant will secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Consultant will be responsible for Workers Compensation insurance for any subconsultant who provides work under subcontract.

If the Consultant is qualified as a self-insurer under Chapter 51.14 of the Revised Code of Washington, it will so certify to the City by submitting a letter signed by a corporate officer, indicating that it is a qualified self-insurer, and setting forth the limits of any policy of excess insurance covering its employees.

3. **General Provisions**

a. **Certificates and Policies:** Prior to commencement of Work for this Agreement, the Consultant shall provide the City with certificates of insurance showing insurance coverage in compliance with the foregoing paragraphs. The Consultant will provide 30 calendar days' advance written notice to the City in the event the Consultant’s insurance policies are cancelled, not renewed, or materially reduced in coverage. Should the Consultant neglect to obtain and maintain in force any of the insurance required in this Section, the City may suspend or terminate this Agreement. Suspension or termination of this Agreement shall not relieve the Consultant from insurance obligations hereunder.

b. Taking into account the scope of work and services to be performed by a subconsultant, the Consultant shall prudently determine whether, and in what amounts, each subconsultant shall obtain and maintain commercial
general liability and any other insurance coverage. Any insurance required of subconsultants shall, where appropriate and/or applicable, name the City as an additional insured.

c. Consultant’s insurance for General Liability and Automobile Liability shall be primary as respects the City, and any other insurance maintained by City shall be excess and not contributing insurance with the Consultant’s insurance.

d. The Consultant and its insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against the City. The Consultant and its insurers also waive their right of subrogation against the City for loss of their owned or leased property or property under their care, custody and control.

e. The Consultant shall upon request provide the City with complete copies of all insurance policies to comply with the insurance requirements in this Agreement. The Consultant shall provide copies of the Additional Insured Endorsement(s) required in 2.a and 2.b above, the Waiver of Subrogation Endorsements and Primary and Non-Contributory Endorsements.

f. No provision in this Section shall be construed to limit the liability of the Consultant for work not done in accordance with the Agreement, or express or implied warranties. The Consultant’s liability for the work shall extend as far as the appropriate periods of limitation provided by law and up to any legal limits.

g. The Consultant may obtain any combination of coverage or limits that effectively provides the same or better amounts and types of coverage as stipulated above, subject to review and approval by City.

h. The Consultant warrants that this Agreement has been thoroughly reviewed by the Consultant's insurance agent(s)/broker(s), who have been instructed by the Consultant to procure the insurance coverage required by this Agreement.

K. TERMINATION

1. Termination for Default

City may terminate this agreement, in whole or in part, in writing if the Consultant substantially fails to fulfill any or all of its obligations under this agreement through no fault of City. Insofar as practicable, the Consultant will be given: (1) not less than 10 calendar days' written notice of intent to terminate; and, (2) an opportunity for consultation with City before termination. An opportunity for consultation shall not mean the Consultant can prohibit City's termination of the agreement.

2. Termination for Convenience

City may terminate this agreement in writing, in whole or in part, for its convenience and/or lack of appropriations.

If City terminates for convenience, City will pay an amount for services satisfactorily performed to the date of termination, a reasonable profit for such services or other work satisfactorily performed, and an amount for expenses incurred before the termination, in addition to termination settlement costs the Consultant reasonably incurs relating to commitments that had become firm before the termination, unless City determines to assume said commitments.
L. **LAW AND FORUM:**

This contract and all provisions hereof shall be interpreted in accordance with the laws of the State of Washington in effect on the date of execution of this contract. Subject to the provisions herein regarding exhaustion of administrative remedies, the Superior Court of Pierce County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this contract.

M. **INDEMNIFICATION AND HOLD HARMLESS**

To the maximum extent permitted by law, Consultant shall be liable for and shall hold City and its officers and employees harmless from all damages and injuries caused to persons or property arising out of the performance of this contract. Consultant agrees to assume the defense of City and its officers and employees in all legal proceedings or claims with third parties connected with the Consultant’s performance under this contract, to pay all expenses, including, without limitation, reasonable attorney’s fees, incurred by City directly or indirectly on account of such legal proceedings, and to satisfy any judgment rendered in connection therewith or to pay or reimburse the payment of any sums reasonable to settle such proceedings or claims.

N. **INTELLECTUAL PROPERTY AND WORK PRODUCT**

1. All work (preliminary, draft, and final) performed by the Consultant under this agreement is the property of City. City will own any and all data, documents, working papers, computer programs, photographs, and other material produced by the Consultant pursuant to this agreement, and the Consultant hereby assigns and transfers to City any and all intellectual property rights for such materials. The Consultant will provide City with copies of all such materials including, without limitation, any research memoranda prepared under this agreement. Under no circumstances, including pending disputes between City and Consultant, will Consultant fail to deliver possession of said documents and materials to City upon demand.

2. The Consultant must indemnify, pay the defense costs of, and hold City harmless from any and all claims, demands, costs, liabilities, losses, expenses and damages (including attorneys’ fees, costs, and expert witnesses’ fees) arising out of or in connection with this agreement that sounds in an intellectual property claim (including but not limited to patent, copyright, trademark, trade name, or trade secret infringement).

3. This Section will survive any expiration or termination of this agreement.

O. **AUDIT AND ACCESS TO RECORDS**

For a period of six years following final payment by City to the Consultant under this agreement, the Consultant must maintain all books, records, documents and other evidence related to performance of the services under this agreement. City and its authorized representatives will have access to such materials for the purpose of inspection, copying, cost review, and audit during the consultant’s normal business hours. Substantially all of the foregoing paragraphs must be included in each subcontract agreement.

P. **PRIVACY ACT**

To the extent it applies, Consultant and its subconsultants, or their employees must comply with the Privacy Act of 1974, 5 USC § 552a.
If the Scope of Work involves the operation of a system of records on individuals to accomplish a government function, City and any consultants, third-party consultants, subconsultants, and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this agreement will make this agreement subject to termination.

The Consultant agrees to include this clause in all subcontracts awarded under this agreement that require the design, development, or operation of a system of records on individuals subject to the Act.

Q. **CHANGES IN GOVERNMENTAL REGULATIONS**

1. In the event local, state or federal laws or regulations that were not announced or enacted at the time of submittal of Proposals, and such laws or regulations make standards more stringent or compliance more costly under this agreement, the Consultant must notify City in writing of such changes and their effects on the pricing or delivery schedule promptly after the Consultant first became aware of the changes and prior to incurring any such expenses.

2. City will make a determination as to whether the Consultant should be reimbursed for any such expenses or any time extensions should be granted in accordance with the provisions of Paragraph B, Scope of Work.

3. The Consultant shall be deemed to have had notice of any Federal, state, or local law or regulation announced or enacted at the time of contract award, even though such law or regulation did not take effect or become operative until some date after the contract award.

4. The Consultant must, immediately upon becoming aware of any such imposition or change of requirement, provide City with full and detailed particulars of the changes required in the equipment and of costs involved therein, or it will be deemed to have waived any rights under this Section. In the event any governmental requirements are removed, relaxed or changed in any way after the date of contract award so as to make the Consultant’s performance less expensive, or less difficult, then City will have the option either to require the Consultant to perform pursuant to the more rigorous requirements or to receive a reduction in the price for all savings in direct costs which may be realized by the Consultant by reason of such change and appropriate adjustments in deductions for overhead and profit made so as to reflect actual savings made by the Consultant. Sound Transit will give the Consultant notice of Sound Transit’s determination, and anticipated savings.

R. **CONSULTANT EMPLOYEES**

Consultant will ensure that its employees assigned to this agreement are properly licensed, trained and/or skilled and familiar with the laws and regulations pertaining to the services being provided. Consultant must replace any employee who, in the reasonable opinion of City, acts improperly, is not qualified or licensed, or is not needed to perform assigned work. The Consultant will not transfer or reassign any individual designated below as essential to the work, without the express written consent of City.

Name .................................................. Title:
S. COOPERATIVE PURCHASING

Pursuant to the Washington State Interlocal Cooperative Act RCW 39.34.080, other governmental agencies contracting with the City may purchase goods and services on this solicitation or contract in accordance with terms and prices indicated therein.

T. MISCELLANEOUS PROVISIONS

1. Amendments: Modification of this agreement must be in writing signed by both parties.

2. Remedies Cumulative: Rights under this agreement are cumulative and nonexclusive of any other remedy at law or in equity.

3. Severability: If any term or provision of this agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement will not be affected thereby, and each term and provision of this agreement will be valid and enforceable to the fullest extent permitted by law.

4. Waiver: No covenant, term or condition or the breach thereof will 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 will not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition.

5. Entire Agreement: This document, along with any exhibits and attachments, constitutes the entire agreement between the parties with respect to the Work.

6. Negotiated Contract: The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this agreement reviewed by their respective legal counsel, and that the terms and conditions of this agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

7. This agreement is subject to the provisions included in Attachment B, Federal Clauses.

8. The person signing this agreement is authorized to sign this agreement on behalf of the Consultant.

In consideration of the terms and conditions contained herein, the parties have executed this agreement by signing below.

<table>
<thead>
<tr>
<th>[Firm Name]</th>
<th>City of Tacoma</th>
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<tbody>
<tr>
<td>(Consultant)</td>
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<table>
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<tr>
<th>[Name]</th>
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<tbody>
<tr>
<td>Title:</td>
</tr>
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</table>

Finance

Approved as to Form
City Attorney
Attachment A   Scope of Work

[Final Scope of Work will be inserted at time of contract preparation]
Attachment B  Federal Terms and Conditions

A.  APPLICABILITY OF FEDERAL GRANT CONTRACT

This procurement may be subject to one or more financial assistance contracts between City of Tacoma and the U.S. Department of Transportation, which incorporate the current FTA Master Agreement and Circular 4220.1, as amended. The Consultant is required to comply with all terms and conditions prescribed for third party contracts in these documents.

Federal laws, regulations, policies and administrative practices may be modified or codified after the date this Agreement is established and may apply to this Agreement. To assure compliance with changing federal requirements, Contract Award indicates that the Consultant agrees to accept all changed requirements that apply to this Agreement.

B.  INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

All contractual provisions required by DOT, as set forth in FTA Circular 4220.1, as amended, (https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/CIRCULAR_4220.1F_%28Document%29.docx), as amended and the Master Grant Agreement (https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/21-Master.pdf), are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any City of Tacoma request that would cause City to be in violation of the FTA terms and conditions.

The FTA Master Agreement obligates City to incorporate certain provisions into this Agreement and any lower tier subcontracts at any level and to take appropriate measures to ensure that Consultant and its lower tier subconsultants at any level comply with certain applicable requirements set forth in the Master Agreement. The FTA Master Agreement is hereby incorporated by reference into this Agreement, and Consultant shall comply with all such requirements.

Copies of the FTA Master Agreement are available from Sound Transit.

C.  FEDERAL FUNDING LIMITATION

Consultant understands that funds to pay for Consultant's performance under this Agreement are anticipated to be made available from the United States Department of Transportation through the Federal Transit Administration (FTA). All funds must be approved and administered by FTA. City's obligation hereunder is payable from funds that are appropriated and allocated by FTA for the performance of this Agreement. If funds are not allocated, or ultimately are disapproved by FTA, City may terminate or suspend Consultant's services without penalty. City shall notify Consultant promptly in writing of the non-allocation, delay, or disapproval of funding.

D.  NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

Consultant agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, any third party contractor, or any other person not a party to the Grant Agreement in connection with this Project. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, subagreement, or third party contract, the Federal Government continues to have no obligations or liabilities to any party, including a subrecipient or third party contractor.

E.  GOVERNING LAW/VENUE
The laws of the State of Washington shall govern the interpretation of this Agreement or any disputes arising out of it, and the jurisdiction and venue of any action relating hereto shall be in the Superior Court for Pierce County, Washington.

F. CHANGES TO FEDERAL REQUIREMENTS
Refer to Paragraph R of the Agreement.

G. ACCESS TO THIRD PARTY CONTRACT RECORDS
Refer to Paragraph P of the Agreement.

H. DISADVANTAGED BUSINESS ENTERPRISES (DBEs)
Refer to Paragraph I of the Agreement.

I. FALSE OR FRAUDULENT STATEMENTS AND CLAIMS

1. The Consultant recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Agreement. Accordingly, by signing the Agreement, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the covered Grant Agreement, cooperative agreement, or this Agreement. In addition to other penalties that may be applicable, the Consultant acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Consultant, to the extent the Federal Government deems appropriate.

2. The Consultant also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. § 5307, the Government reserves the right to impose on the Consultant the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.

3. The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

J. EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS
Apart from inconsistent requirements imposed by Federal statute or regulations, the Consultant agrees that it will comply with the requirement of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

K. ENERGY CONSERVATION
The Consultant shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321 et seq.).

L. ELECTRONIC AND INFORMATION TECHNOLOGY
When providing reports or other information to City, or to the Federal Transit Administration (FTA), among others, on behalf of Sound Transit, the Consultant agrees to prepare such reports
or information using electronic or information technology capable of assuring that the reports or information delivered will meet the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.

M. TERMINATION

Refer to Paragraph L of the Agreement.

N. PATENT AND RIGHTS IN DATA

Refer to Paragraph O of the Agreement.

O. FEDERAL CIVIL RIGHTS REQUIREMENTS

In addition to Sound Transit nondiscrimination requirements set forth in other Sections in this Agreement, the following Federal requirements apply to the Consultant’s performance under this Agreement:

1. **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against any person on the basis of race, color, creed, national origin, sex, age, or disability under any program or activity receiving Federal financial assistance. In addition, the Consultant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. Specific requirements to implement Title VI and the Americans with Disabilities Act of 1990 are included in Sections 21 and 22, respectively, of this Agreement.

2. **Equal Employment Opportunity** - In addition to the provisions set forth in Section 15 of this Agreement, the following equal employment opportunity requirements apply to this Agreement:

   a. **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Consultant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, creed, color, national origin, sex, sexual orientation, age, nationality, or the presence of such disability, or any other protected class by law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In
addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

b. Age - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

c. Disabilities - In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Consultant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

3. Disadvantaged Business Enterprises -- This Agreement is subject to the requirements of Title 49, Code of Federal Regulations (CFR), Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The Consultant and its subconsultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as City deems appropriate. Each subcontract the Consultant signs with a subconsultant must include the assurance in this paragraph (see 49 CFR 26.13(b)). Specific requirements to implement 49 CFR Part 26 are included in Paragraph 2.16 of this Agreement.

The Consultant also agrees to include these requirements in each subconsultant agreement entered into under this Agreement, modified only if necessary to identify the affected parties. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

P. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

1. This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Consultant is required to verify that none of the Consultant, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

2. The Consultant is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

3. By signing and submitting its proposal, the proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the
period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Q. TEXT MESSAGING WHILE DRIVING:

The Consultant, including its subcontractors and subconsultants, is encouraged to avoid unsafe practices while driving a vehicle in the course of contract work with Sound Transit and while on Sound Transit property or jobsites.

END OF ATTACHMENT B
Exhibit B

Hilltop Neighborhood Map
Hilltop Links to Opportunity

Streetscape Planning Area

- Stadium Business District
- Stadium Way & S. 4th
- Relocated Station
- Theater District (Relocate)
- Commerce Street
- Union Station
- South 25th
- MLK & S. 11th Street
- MLK & 6th Avenue
- MLK & S. 19th Street
- Hilltop Business District
- Downtown Regional Growth Center
- Evergreen State College
- St. Joseph Medical Center
- People's Community Center
- Bates Technical College
- City of Tacoma, All Rights Reserved
- Community & Economic Development Department
- GIS Analysis & Data Service
- 10/11/2016

Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, NRCan, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

Note: The lighter area around the link may be considered for complete streets elements (including but not limited to bicycle and pedestrian accommodations, amenities and way-finding signs.)

Legend:
- Existing Tacoma Link
- Proposed link extension with design of amenities such as way-finding signs and corridor connections
- Streetscape design alignment to follow Tacoma Link Extension

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Community & Economic Development Department
GIS Analysis & Data Service
10/11/2016

\(Geobase-win\)/CED/GADS/82065/R377/Hilltop_LINKS.mxd
THE FOLLOWING TERMS AND CONDITIONS ARE PART OF THIS SPECIFICATION AND ARE BINDING ON ALL RESPONDENTS SUBMITTING RESPONSES TO REQUESTS FOR BIDS, PROPOSALS, QUALIFICATIONS AND INFORMATION.

1.01 DELIVERY OF SUBMITTALS TO THE CITY’S PURCHASING DIVISION

Submittal packages must be received by the City’s Purchasing Division, Tacoma Public Utilities Administration Building North, 3628 South 35th Street, Tacoma, WA 98409-3115, prior to the scheduled time and date stated in the solicitation announcement. Each submittal, intact and bound, shall be completely sealed, with the name of the submitting party (hereinafter “Respondent”), the specification number and title clearly marked on the exterior of the package. City offices are not open for special mail or other deliveries on weekends and City holidays.

Submittals may be delivered to the City by mail or in person to the main floor security desk; however, the Respondent is solely responsible for timely delivery of its submittal to the Purchasing Division.

Facsimile (fax) copies of submittals for requests for sealed bids, requests for proposals, requests for qualifications and requests for information will not be accepted at any City fax machine.

Submittals received after the time stated in the solicitation announcement will not be accepted and will be returned, unopened, to the Respondent.

For purposes of determining whether a submittal has been timely received, the City's Purchasing Division may rely on Universal Coordinated Time from the National Bureau of Standards as reported by http://wwp.greenwichmeantime.com/

1.02 WITHDRAWAL OF SUBMITTALS

A. Prior to Submittal Deadline (Bid Opening)

Submittals may be withdrawn prior to the scheduled submittal deadline by providing written notice to the City’s Purchasing Division. The notice may be submitted in person or by mail; however, it must be received by the City’s Purchasing Division prior to the submittal deadline.

B. After Submittal Deadline

No submittal can be withdrawn after having been opened as set forth in the solicitation announcement, and before the actual award of the contract, unless the award is delayed more than 60 calendar days beyond the date of opening. If a delay of more than 60 calendar days does occur, the Respondent must submit written notice to the purchasing manager that Respondent is withdrawing its submittal.

1.03 SUBMITTAL IS NON-COLLUSIVE

The Respondent acknowledges that by its delivery of a submittal to the City in response to this solicitation it represents that the prices in such submittal are neither directly nor indirectly the result of any formal or informal agreement with another Respondent.

1.04 OPENING AND ACCEPTANCE OF SUBMITTALS

Submittals, unless previously withdrawn, will be read aloud, irrespective of any irregularities or informalities in such submittal, at the time and place specified in the solicitation announcement.

All submittals must remain open for acceptance by the City for a period of at least 60 calendar days from the date of opening.

1.05 RIGHT TO REJECT

The City of Tacoma reserves the right to reject any and all submittals, waive minor deviations or informalities, and if necessary, call for new submittals.

A. Requests for Proposals (RFP)

By submitting a proposal in response to a City RFP, the Respondent acknowledges and consents to the below City rights and conditions. With regard to this procurement process, the City reserves, holds
without limitation, and may exercise, at its sole discretion, the following rights and conditions:

1. To terminate the procurement process or decide not to award a contract as a result thereof by written notice to the Respondents for any reason whatsoever.

2. To waive any defect, technicality, or any other minor informality or irregularity in any submittal, or any other response from Respondents.

3. To make minor or major changes or alterations to the evaluation, selection and/or performance schedule(s) for any events associated with this procurement process upon notice to the Respondents.

4. To supplement, amend or otherwise modify the RFP specifications, at any time upon prior notice to Respondents, including but not limited to modifications to the description of services and/or products contained in the RFP, by omitting services/products and/or including services/products not currently contemplated therein.

5. To request clarifications, additional information, and/or revised submittals from one or more Respondents.

6. To conduct investigations with respect to the qualifications and experience information for each Respondent included in a submittal and to request additional evidence to support any such information.

7. To eliminate any Respondent that submits an incomplete or inadequate response, or is non-responsive to the requirements of the RFP specifications, or is otherwise deemed to be unqualified during any stage of the procurement process.

8. To select and interview a single finalist or multiple finalists for the purpose of promoting the City’s evaluation of submittals provided in response to the RFP specifications. The City may, in its sole and exclusive discretion as to what is in the City’s best interest, elect not to conduct interviews of any or all respondents in connection with this RFP process.

9. To discontinue contract negotiations with a selected Respondent and commence such negotiations with another respondent, except as otherwise provided in Chap. 39.80, RCW.

10. To select and enter into a contract with one or more Respondents whose submittal best satisfies the interests of the City and is most responsive, in the sole judgment of the City, to the requirements of the RFP specifications.

11. To take any other action affecting the RFP specifications or the procurement process that is determined to be in the City’s best interests.

12. In the event the City receives questions concerning RFP specifications from one or more Respondents prior to the deadline for response, the City reserves the right to provide such questions, and the City’s responses, if any, to all Respondents.

13. Neither the City, its officials, staff, agents, employees, representatives, nor consultants will be liable for any claims or damages resulting from any aspect of this procurement process.

1.06 EVALUATION OF SUBMITTALS

The City of Tacoma reserves the right to award to the lowest and best responsible Respondent(s) delivering a submittal in compliance with the specification documents, provided such submittals are reasonable and are in the best interest of the City to accept. The City may use a number of criteria for determining award, including evaluation factors set forth in Municipal Code Section 1.06.262. Respondents who are inexperienced or who fail to properly perform other contracts may have their submittal rejected for such cause.

A. Evaluation Factors

In addition to the factors set forth in Municipal Code Section 1.06.262, the following may be used by the City in determining the lowest and best responsible submittal:
1. Compliance with the Specification and with applicable City requirements, including by not limited to, the City’s Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs.

2. Submittal prices, listed separately if requested, as well as a lump sum total (if the unit price does not compute to the extended total price, the unit price shall govern).

3. Time of delivery and/or completion of performance (delivery date(s) offered).

4. Warranty terms.

5. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City’s Ethics Code.

6. Previous and existing compliance with laws and ordinances relating to contracts or services.

7. Sufficiency of financial resources.

8. Quality, availability and adaptability of the supplies or services to the particular use required.

9. Ability to provide future maintenance and service on a timely basis.

10. Location of nearest factory authorized warranty repair facility or parts dealership.

11. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications and skill to perform the contract or provide the services required.

All other elements or factors, whether or not specifically provided for in this Specification, which would affect the final cost to, and the benefits to be derived by, the City, may be considered in determining the award of the contract. The final award decision will be based on the best interests of the City.

B. Cash Discount

Payment discount periods of 20 calendar days or more, if offered in the submittal, will be considered in determining the apparent lowest responsible submittal. Discounts will be analyzed in context of their overall cumulative effect.

1.07 COMPLETION OF CITY FORMS

All submittals must be completed in ink or typewritten using the forms included with this Specification, and submitted exactly as specified.

City forms requiring signature must be signed in ink by an authorized officer, employee or agent of the Respondent.

Prices must be stated in figures. Corrections shall be initialed in ink by the person signing the submittal. Prices having erasures or interlineations (cross outs) will not be accepted unless initialed in ink by the Respondent.

1.08 CORRECTION OF AMBIGUITIES AND OBVIOUS ERRORS

The City reserves the right to correct obvious errors in the Respondent's submittal. In this regard, if the unit price does not compute to the extended total price, the unit price shall govern.

1.09 CLARIFICATION OF SPECIFICATION

Questions regarding this Specification and/or any included terms, conditions, forms, plans or drawings are to be submitted in writing to the City staff person identified as the contact for this Specification. All requests for interpretation must be received by the City no later than five business days prior to the opening date. Any interpretation of this Specification will be made by addendum duly issued and posted to the Purchasing website at www.TacomaPurchasing.org. Such addendum must be acknowledged in the submittal. The City of Tacoma will not be responsible for any other explanation or interpretation of the specification documents.

1.10 ALTERATIONS NOT ALLOWED

Except as otherwise specifically provided in the specification documents, submittals that are incomplete or conditioned in any way, contain erasures, alternatives or items not called for, or not in conformity with law, may be rejected as being non-responsive. Any attempt to condition the submittal by inserting exceptions to the Specification or any conditions, qualifications or additions that vary its terms may result in rejection of the
1.11 INSERTION OF MATERIAL CONFLICTING WITH SPECIFICATIONS

Only material inserted by the Respondent to meet requirements of the specification documents will be considered. Any other material inserted by the Respondent will be disregarded by the City of Tacoma as being non-responsive and may be grounds for rejection of the submittal.

1.12 FIRM PRICES/ESCALATION

Except as specifically allowed elsewhere in the specification documents, only firm prices will be accepted.

1.13 SHIPPING

Prices must be quoted FOB destination (the place of destination as defined in RCW 62A.2-319, as that statute may hereafter be amended), with freight prepaid and allowed (shipping costs included in unit prices), and risk of loss remaining with Respondent until delivery is tendered.

1.14 LEGAL HOLIDAYS

The City of Tacoma observes the following holidays, which shall apply to performance of all contracts awarded from this solicitation:

- New Year’s Day: January 1
- Martin Luther King’s Birthday: 3rd Monday in January
- Washington’s Birthday: 3rd Monday in February
- Memorial Day: Last Monday in May
- Independence Day: July 4
- Labor Day: 1st Monday in September
- Veteran’s Day: November 11
- Thanksgiving Day: 4th Thursday of November
- Day after Thanksgiving: 4th Friday of November
- Christmas Day: December 25

When any of these holidays occur on Saturday or Sunday, the preceding Friday or the following Monday, respectively, is a legal holiday for the City of Tacoma.

1.15 TAXES

Unless otherwise required in this Specification, applicable federal, state, city and local taxes shall be included in the submittal as indicated below. The total cost to the City, including all applicable taxes, may be the basis for contract award determination. As used herein, the term “taxes” shall include any and all taxes, assessments, fees, charges, interest, penalties, and/or fines imposed by applicable laws and regulations in connection with the procurement of goods and/or services hereunder.

A. Federal Excise Tax

The City of Tacoma is exempt from federal excise tax. The City will furnish a Federal Excise Tax Exemption certificate, if required. If the Respondent fails to include any applicable tax in its submittal, then Respondent shall be solely responsible for the payment of said tax.

B. State and Local Sales Tax

The City of Tacoma is subject to Washington state sales tax. It is the Respondent's obligation to state the correct sales tax percentage and include the applicable Washington state, city and local sales tax as a separate line item(s) in the submittal.
C. City of Tacoma Business and Occupation Tax

It is the Respondent’s obligation to include City of Tacoma Business and Occupation tax in the unit and/or lump sum prices submitted; it shall not be shown separately on the submittal.

Per Sub-Title 6A of the City of Tacoma Municipal Code, transactions with the City of Tacoma may be subject to the City’s Business and Occupation Tax.

It is the responsibility of the Respondent awarded the contract to register with the City of Tacoma’s Tax and License Division, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, telephone 253-591-5252, website http://www.cityoftacoma.org/Page.aspx?nid=201.

D. Any or All Other Taxes

Any or all other taxes are the responsibility of the Respondent unless otherwise required by law.

1.16 WASHINGTON BUSINESS LICENSE REQUIREMENT

All submittals should include a Washington State Business License number in the space provided on the Submittal Signature Page. If the recommended respondent does not have a Washington State Business License at the time of submittal, it must obtain such license and provide proof thereof to the City of Tacoma prior to contract award. Failure to include a Washington State Business License may be grounds for rejection of the submittal. Information regarding Washington State Business Licenses may be obtained at http://www.dol.wa.gov/businesses.htm.

1.17 PUBLIC DISCLOSURE

Washington State Public Disclosure Act (RCW 42.56 et seq.) requires public agencies in Washington to promptly make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act. Documents submitted under this Specification are considered public records and, unless exempt from disclosure under the Act, will be made available for inspection and copying by the public in response to a public records request.

1.18 PROPRIETARY OR CONFIDENTIAL TRADE SECRET INFORMATION

If the Respondent considers any submittal document to be exempt from disclosure under the law, the Respondent shall clearly mark on the specific page(s) affected such words as “CONFIDENTIAL,” “PROPRIETARY” or “TRADE SECRET.” The Respondent shall also submit an index with its submittal identifying the affected page number(s) and location(s) of all such identified material. Failure to provide an index identifying the location of the material in the submittal that Respondent considers to be protected from disclosure will result in the records being released in response to a request for those records without further notice to Respondent. Marking the entire submittal as “confidential” or “proprietary” or “trade secret” is not acceptable and is grounds to reject such submittal.

If a public records request is made for disclosure of all or any part of Respondent’s submittal, and Respondent has (i) properly marked and (ii) indexed the material it asserts to be exempt from disclosure, the City will determine whether the material is exempt from public disclosure. If, in the City’s opinion, the material is subject to a possible exemption to disclosure, the City will notify Respondent of the request and impending release and allow the Respondent ten (10) business days to take whatever action Respondent deems necessary to protect its interests. The City will reasonably cooperate with any legal action initiated by the Respondent to prevent release; provided that all expense of such action shall be borne solely by the Respondent, including any damages, penalties, attorney’s fees or costs awarded by reason of having opposed disclosure and Respondent shall indemnify City against same. If the Respondent fails to take such action within said period, the City will release all materials deemed subject to disclosure. Submission of materials in response to this solicitation shall constitute assent by the Respondent to the foregoing procedure and the Respondent shall have no claim against the City on account of actions taken pursuant to such procedure.

1.19 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The City of Tacoma ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin or sex in the provision of benefits and services resulting from its federally assisted programs and activities. Contact Tacoma’s Title VI coordinator at 253-591-5224 for additional information.
1.20 LEGAL DISPUTES
Respondent agrees and stipulates that in the event any litigation should occur concerning or arising out of this solicitation or any submittal delivered in response hereeto, the sole venue of any such legal action shall be the Pierce County Superior Court of the state of Washington and the interpretation of the terms of the solicitation and submittal shall be governed by the laws of the state of Washington.

1.21 PURCHASE ORDER TERMS AND CONDITIONS
Terms and conditions of City of Tacoma purchase orders, if issued, shall apply to contracts and awards resulting from this solicitation.

1.22 RESPONDENT'S REFUSAL TO ENTER INTO CONTRACT
Any Respondent who refuses to enter into a contract after it has been awarded to the Respondent will be in breach of the agreement to enter the contract, and the Respondent's certified or cashiers check or bid bond, if any, shall be forfeited.

1.23 AWARD
The City reserves the right to award contracts for any or all items to one or more respondents in the best interests of the City.

1.24 FINAL AWARD DETERMINATION
The Tacoma City Council or Public Utility Board, for awards over $200,000, shall be the final judge as to which submittal(s) is/are the lowest and best responsible, and best meets the interest of the City of Tacoma to accept. The purchasing manager makes the determination for awards of $200,000 and less.

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CITY OF TACOMA
STANDARD TERMS AND CONDITIONS-SERVICES

UNLESS OTHERWISE REQUIRED BY THE SPECIFICATION OR AGREED TO IN WRITING, THE FOLLOWING TERMS AND CONDITIONS SHALL GOVERN THE RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES TO THE CONTRACT.

2.01 CONTRACTOR
As used herein, the “Contractor” shall be the Respondent(s) awarded a contract pursuant to this Specification, whether designated as a Respondent, Vendor, Proposer, Bidder, Seller, Merchant, Service Provider or otherwise.

2.02 ENTIRE AGREEMENT
This Specification, purchase orders issued by the City pursuant hereto, and the Contractor's submittal, in that order of precedence, shall constitute the "Contract" between the parties. Said documents represent the entire agreement between the parties and supersede any prior oral statements, discussions or understandings between the parties, and/or subsequent contractor invoices. No modification of this Contract shall be effective unless mutually agreed in writing.

2.03 SERVICES
The services and/or work contracted for herein exclude public works and improvements as defined in RCW 39.04, as that statute may hereafter be amended.

2.04 SCOPE OF WORK
The Contractor agrees to diligently and completely perform the services required by this Contract. The City shall have the right to make changes within the general scope of services and/or deliverables upon execution in writing of a change order or amendment hereto. If the changes will result in additional work effort by Contractor the City agrees to reasonably compensate the Contractor for such additional effort up to the maximum amount specified in the Contract or as otherwise provided by Tacoma Municipal Code. Delivery of incidental products will be as designated in this Contract.

2.05 TIME FOR PERFORMANCE
All services shall be satisfactorily completed by the termination date contemplated by this Contract, and this Contract shall expire on said date unless mutually extended in writing by the Parties.

2.06 EXTENSION OF CONTRACT
This Contract shall be subject to extension by mutual agreement per the same prices, terms and conditions.

2.07 COMPENSATION
The City shall compensate the Contractor in accordance with the Contract. Said compensation shall be the total compensation for Contractor's performance hereunder including, but not limited to, all work, services, deliverables, materials, supplies, equipment, subcontractor's fees and all reimbursable travel and miscellaneous or incidental expenses to be incurred by Contractor.

2.08 INVOICES
Each invoice shall show City of Tacoma purchase order number, release number if applicable, quantity, unit of measure, item description, unit price and extended price for each line. Line totals shall be summed to give a grand total to which sales tax shall be added, if applicable. Invoices shall be sent in duplicate to:

Accounts Payable
City of Tacoma
P. O. Box 1717
Tacoma Washington 98401-1717

Any terms, provisions or language in Contractor's invoice(s) that conflict with the terms of this Contract shall not apply to this Contract unless expressly accepted in writing by the City.
2.09 PAYMENT TERMS

Payment shall be made through the City’s ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice. Payment will not be considered late if mailed or electronically disbursed within the time specified. Payment(s) made in accordance with this Contract shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature, and acceptance of payment shall constitute a waiver of all claims submitted by Contractor. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

Invoices will not be processed for payment, nor will the period of cash discount commence, until all invoiced items are received and satisfactory performance of the Contract has been attained, and a properly completed invoice is received by the City. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.

2.10 ADDITIONAL CITY CONTRACTS

During the term of this Contract, other City of Tacoma Departments/Divisions shall have the right to enter into additional service contracts or issue purchase orders based on the unit prices and/or service rates stated in this Contract. An exception taken specifically to this provision at time of submittal shall not constitute a material deviation in the bidding process.

2.11 COOPERATIVE PURCHASING

The Washington State Interlocal Cooperation Act RCW 39.34 provides that other governmental agencies may purchase goods and services based on this Contract in accordance with the terms and prices indicated herein if all parties are agreeable. Each public agency shall formulate a separate contract with the Contractor, incorporating the terms and conditions of this Contract with the City of Tacoma. The City shall incur no liability in connection with such contracts or purchases by other public agencies thereunder. It will be the Contractor’s responsibility to inform such public agencies of this Contract. Contractor shall invoice such public agencies as separate entities.

2.12 WARRANTIES/REPRESENTATIONS

The Contractor warrants that all services performed pursuant to the Contract shall be generally suitable for the use to which the City intends to use said services as expressed in this Contract. The Contractor represents and warrants that it will diligently and completely perform all services and obligations consistent with customarily accepted good practices and standards of performance applicable to service providers rendering the same or similar type of service and that it will comply with all applicable federal, state and local laws, ordinances, rules and regulations including, but not limited to, the Occupational Safety and Health Administration (OSHA) and the Washington Industrial Safety and Health Act (WISHA). If the Contractor intends to rely on information or data supplied by the City, other City contractor's or other generally reputable sources without independent verification, such intent shall be brought to the attention of the City.

2.13 TAXES, LICENSES, PERMITS

Unless otherwise required by applicable law, the tax provisions in Section 1 - Solicitation apply to this Contract. Except for state sales tax, the Contractor acknowledges that it is responsible for the payment of all taxes applicable to this Contract and the Contractor agrees to comply with all applicable laws regarding the reporting of income, maintenance of records and all other requirements and obligations imposed pursuant to applicable law.

The Contractor, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The Contractor shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30.

If the City is assessed, made liable, or responsible in any manner for taxes contrary to the provisions of this Contract, the Contractor agrees to hold the City harmless from such costs, including attorney’s fees. In the event the Contractor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, other than those taxes the City is required to pay, then the Contractor authorizes the City to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the Contractor’s total compensation.
2.14 FEDERAL, STATE AND MUNICIPAL LAWS AND REGULATIONS

All federal, state, municipal and/or local laws and regulations shall be satisfied in the performance of all portions of this Contract. The Contractor shall be solely responsible for all violations of the law from any cause in connection with its performance of work under this Contract.

2.15 SMALL BUSINESS ENTERPRISE (SBE) PROGRAM AND EQUAL OPPORTUNITY

It is the policy of the City of Tacoma that all citizens be afforded an equal opportunity for full participation in our free enterprise system. In order to implement this policy, the City of Tacoma is committed to ensuring equitable participation of small business enterprises. Contact Tacoma’s SBE coordinator at 253-591-5224 for additional information.

2.16 NON-DISCRIMINATION

The Contractor agrees to take all steps necessary to comply with all federal, state and City laws and policies regarding non-discrimination and equal employment opportunities. The Contractor shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical handicap. In the event of non-compliance by the Contractor with any of the non-discrimination provisions of this Contract, the City shall be deemed to have cause to terminate this Contract, in whole or in part.

2.17 PREVAILING WAGES PAID – IF REQUIRED

If this Contract involves services for which state and/or local laws may require the Contractor to pay prevailing wages, and Contractor hereby agrees to pay such applicable prevailing wages. If applicable to this Contract, a Schedule of Prevailing Wage Rates for the locality or localities where this Contract will be performed is attached and made of part of this Contract by this reference. If prevailing wages do apply to this Contract, the Contractor and its subcontractors shall (a) be bound by the provisions of Chapter 39.12 RCW, as amended, relating to prevailing wages and usual fringe benefits, (b) ensure that no worker, laborer or mechanic employed in the performance of any part of this Contract shall be paid less than the prevailing rate of wage specified on that Schedule, and (c) immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages must be submitted by the Contractor and its subcontractors to the City, in the manner requested by the City, prior to any payment by the City hereunder, and an Affidavit of Wages Paid must be received or verified by the City prior to final Contract payment.

2.18 CONFLICT OF INTEREST

No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Contractor shall comply with all federal, state and City conflict of interest laws, statutes and regulations. The Contractor represents that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains that would conflict in any manner or degree with the performance of the Contractor’s services and obligations hereunder. The Contractor further covenants that, in performance of this Contract, no person having any such interest shall be employed. The Contractor also agrees that its violation of the City’s Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Contract subjecting the Contract to termination.

2.19 REPORTS, RIGHT TO AUDIT, PERSONNEL

A. Reports

The Contractor shall, at such times and in such form as the City may reasonably require, furnish the City with periodic status reports pertaining to the services undertaken pursuant to this Contract.

B. Right to Audit

Upon City’s request, the Contractor shall make available to City all accounts, records and documents related to the scope of work for City’s inspection, auditing, or evaluation during normal business hours as reasonably needed by City to assess performance, compliance and/or quality assurance under this Contract.
C. Personnel

If before, during, or after the execution of this Contract, the Contractor has represented or represents to the City that certain personnel would or will be responsible for performing services pursuant to this Contract, then the Contractor is obligated to ensure that said personnel perform said Contract services to the maximum extent permitted by law. This Contract provision shall only be waived by written authorization by the City, and on a case by case basis.

2.20 TERMINATION AND SUSPENSION

The City may terminate this Contract at any time, with or without cause, by giving 10 business days written notice to Contractor. In the event of termination, all finished and unfinished work prepared by the Contractor pursuant to this Contract shall be provided to the City. In the event City terminates this Contract due to the City’s own reasons and without cause due to the Contractor’s actions or omissions, the City shall pay the Contractor the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein.

The City may suspend this Contract, at its sole discretion, upon three business days written notice to the Contractor. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the Contractor’s actual expenses and shall be subject to verification. The Contractor shall resume performance of services under this Contract without delay when the suspension period ends.

Termination or suspension of this Contract by City shall not constitute a waiver of any claims or remaining rights the City may have against Contractor relative to performance hereunder.

2.21 INDEMNIFICATION – HOLD HARMLESS

The Contractor shall indemnify, defend and hold harmless the City, its officials, officers, agents, employees and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the fault of the City, or its officers, agents, or employees. The term “fault” as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.

The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Respondent specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

These indemnifications shall survive the termination of this Contract.

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

2.22 INSURANCE

The Contractor shall maintain all necessary insurance to protect Contractor and the City from losses and claims that may arise out of or result from performance of duties related to the Contract, including Worker's Compensation, automobile public liability and property damage, commercial general liability, professional liability, errors and omissions and others, as specified in the Insurance Requirements attachment.

2.23 INDEPENDENT CONTRACTOR STATUS

The Contractor is considered an independent contractor who shall at all times perform his/her duties and responsibilities and carry out all services as an independent contractor and shall never represent or construe his/her status to be that of an agent or employee of the City, nor shall the Contractor be eligible for any employee benefits. No payroll or employment taxes or contributions of any kind shall be withheld or paid by the City with respect to payments to Contractor. The Contractor shall be solely responsible for all said payroll or employment taxes and/or contributions including, but not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. If the City is assessed, made liable or responsible in any manner for such taxes or contributions, the Contractor agrees to indemnify and hold the City harmless from all costs incurred, including attorney fees.

Unless otherwise specified in writing, Contractor shall provide at its sole expense all materials, working space, and other necessities and instruments to perform its duties under this Contract. The Contractor, at
its sole expense, shall obtain and keep in force any and all applicable licenses, permits and tax certificates necessary to perform Contract services.

2.24 NOTICES

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail or facsimile, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the Contractor’s registered agent and to the applicable City department representative.

2.25 CITY OWNERSHIP OF WORK/RIGHTS IN DATA/PUBLICATIONS

To the extent that Contractor creates any work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Contract, Contractor agrees to the following: The work has been specially ordered and commissioned by the City. Contractor agrees that the work is a “work made for hire” for copyright purposes, with all copyrights in the work owned by City. To the extent that the work does not qualify as a work made for hire under applicable law, and to the extent that the work includes material subject to copyright, Contractor hereby assigns to City, its successors and assigns, all right, title and interest in and to the work, including but not limited to, all copyrights, patent, trade secret and other proprietary rights, and all rights, title and interest in and to any inventions and designs embodied in the work or developed during the course of Contractor’s creation of the work.

The Contractor shall be solely responsible for obtaining releases and/or licenses for the reproduction, distribution, creation of derivative works, performance, display, or other use of copyrighted materials. Should the Contractor fail to obtain said releases and/or licenses, the Contractor shall indemnify, defend and hold harmless the City for any claim resulting there from.

2.26 PUBLIC DISCLOSURE

This Contract and documents provided to the City by Contractor hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the City may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies.

2.27 DUTY OF CONFIDENTIALITY

Contractor acknowledges that unauthorized disclosure of information or documentation concerning the Scope of Work hereunder may cause substantial economic loss or harm to the City. Except for disclosure of information and documents to Contractor’s employees, agents, or subcontractors who have a substantial need to know such information in connection with Contractor’s performance of obligations under this Contract, the Contractor shall not without prior written authorization by the City allow the release, dissemination, distribution, sharing, or other publication or disclosure of information or documentation obtained, discovered, shared or produced pursuant to this Contract.

2.28 DISPUTE RESOLUTION

In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other remedies. This provision does not limit the City’s right to terminate authorized by this Contract.

2.29 GOVERNING LAW AND VENUE

Washington law shall govern the interpretation of this Contract. The state or federal courts located in Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.

2.30 ASSIGNMENT

The Contractor shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract without the prior written consent of the City.
2.31 WAIVER
A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

2.32 SEVERABILITY AND SURVIVAL
If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.

2.33 CONFLICT WITH CONTRACT
In the event of any conflict between this document, Standard Terms and Conditions Section 2, Services, and the Professional Services Contract or other type of Contract (Contract) ultimately negotiated and entered into between Respondent and the City, the provisions of the Contract shall prevail. However, absent any such conflict the provisions of this document, Standard Terms and Conditions Section 2, Services, are fully incorporated into and considered part of the Contract.

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Chapter 1.07
SMALL BUSINESS ENTERPRISE

Sections:
1.07.010 Policy and purpose.
1.07.020 Definitions.
1.07.030 Discrimination prohibited.
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1.07.050 Certification.
1.07.060 Program requirements.
1.07.070 Evaluation of submittals.
1.07.080 Contract compliance.
1.07.090 Program monitoring.
1.07.100 Enforcement.
1.07.110 Remedies.
1.07.120 Unlawful acts.
1.07.130 Severability.
1.07.140 Sunset and review of program.

1.07.010 Policy and purpose.
It is the policy of the City of Tacoma that citizens be afforded an opportunity for full participation in our free enterprise system and that historically underutilized business enterprises shall have an equitable opportunity to participate in the performance of City contracts. The City finds that in its contracting for supplies, services and public works there has been historical underutilization of small businesses located in certain geographically and economically disfavored locations and that this underutilization has had a deleterious impact on the economic well-being of the City. The purpose of this chapter is to remedy the effects of such underutilization through use of reasonably achievable goals to increase opportunities for historically underutilized businesses to participate in City contracts. It is the goal of this chapter to facilitate a substantial procurement, education, and mentorship program designed to promote equitable participation by historically underutilized businesses in the provision of supplies, services, and public works to the City. It is not the purpose of this chapter to provide any person or entity with any right, privilege, or claim, not shared by the public, generally, and this chapter shall not be construed to do so. This chapter is adopted in accordance with Chapter 35.22 RCW and RCW 49.60.400.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.020 Definitions.
Terms used in this chapter shall have the following meanings unless defined elsewhere in the Tacoma Municipal Code (“TMC”), or unless the context in which they are used clearly indicates a different meaning.

A. “Affidavit of Small Business Enterprise Certification” means the fully completed, signed, and notarized affidavit that must be submitted with an application for SBE certification. Representations and certifications made by the applicant in this Affidavit are made under penalty of perjury and will be used and relied upon by City to verify SBE eligibility and compliance with SBE certification and documentation requirements.

B. “Base Bid” means a Bid for Public Works to be performed or Supplies or Services to be furnished under a City Contract, including additives, alternates, deductives, excluding force accounts, and taxes collected separately pursuant to Washington Administrative Code (“WAC”) 458-20-171.

C. “Bid” means an offer submitted by a Respondent to furnish Supplies, Services, and/or Public Works in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.

D. “Bidder” means an entity or individual who submits a Bid, Proposal or Quote. See also “Respondent.”

E. “City” means all Departments, Divisions and agencies of the City of Tacoma.

F. “Contract” means any type of legally binding agreement regardless of form or title that governs the terms and conditions for procurement of Public Works and Improvements and/or Non-Public Works and Improvements Supplies and Services. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City. A “Contract” as used in this chapter shall include an agreement between the City and a non-profit entity to perform construction-related services for Public Works. A “Contract” does not include: (1) awards made by the City with federal/state grant or City general funds monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program, and the recipient of the grant awards uses the grant moneys to provide services to the
community; (2) sales transactions where the City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4) lease, franchise; (5) agreements to use City real property (such as Licenses, Permits and Easements) and, (6) banking and other financial or investment services.

G. “Contractor” means any Person that presents a Submittal to the City, enters into a Contract with the City, and/or performs all or any part of a Contract awarded by the City, for the provision of Public Works, or Non-Public Works and Improvements, Supplies or Services.

H. “Evaluated Bid” means a Bid that factors each Respondent’s Base Bid including any alternates, deductive and additives selected by the City that will result in a weighed reduction based on that Respondent’s percentage of SBE participation, as defined by formula set forth in this chapter or in the SBE Regulations adopted pursuant to this chapter.

I. “Goals” means the annual level of participation by SBEs in City Contracts as established in this chapter, the SBE Regulations, or as necessary to comply with applicable federal and state nondiscrimination laws and regulations. Goals for individual Contracts may be adjusted as provided for in this chapter and shall not be construed as a minimum for any particular Contract or for any particular geographical area.

J. “SBE Certified Business” (or “SBEs”) means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department-SBE Program Coordinator.

K. “SBE Program Coordinator” means the individual appointed, from time to time, by the City’s Community and Economic Development Director to administer the SBE Regulations.

L. “SBE Regulations” shall mean the written regulations and procedures adopted pursuant to this chapter for procurement of Supplies, Services and Public Works.

M. “Lowest and Best Responsible Bidder” means the Bidder submitting the lowest Bid received that is within the range of acceptable bids, that also has the ability to timely perform the Contract bid upon considering such factors as financial resources, skills, quality of materials, past work record, and ability to comply with state, federal, and local requirements, including those set forth in the SBE Regulations.

N. “Non-Public Works and Improvements” means all competitively solicited procurement of Supplies and/or Services by the City not solicited as Public Works.

O. “Person” means individuals, companies, corporations, partnerships, associations, cooperatives, any other legally recognized business entity, legal representative, trustee, or receivers.

P. “Proposal” means a written offer to furnish Supplies or Services in response to a Request for Proposals. This term may be further defined in the Purchasing Policy Manual and/or in competitive solicitations issued by the City.

Q. “Public Works (or “Public Works and Improvements)” means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City, or that is by law a lien or charge on any property therein. This term includes all Supplies, materials, tools, and equipment to be furnished in accordance with the Contract for such work, construction, alteration, repair, or improvement.

R. “Quote” means a competitively solicited written offer to furnish Supplies or Services by a method of procurement that is less formalized than a Bid or a Proposal. This term may be further defined in the Purchasing Policy Manual.

S. “Respondent” means any entity or Person, other than a City employee, that provides a Submittal in response to a request for Bids, Request for Proposals, Request for Qualifications, request for quotes or other request for information, as such terms are defined in Section 1.06.251 TMC. This term includes any such entity or Person whether designated as a supplier, seller, vendor, proposer, Bidder, Contractor, consultant, merchant, or service provider that; (1) assumes a contractual responsibility to the City for provision of Supplies, Services, and/or Public Works; (2) is recognized by its industry as a provider of such Supplies, Services, and/or Public works; (3) has facilities similar to those commonly used by Persons engaged in the same or similar business; and/or (4) distributes, delivers, sells, or services a product or performs a Commercially Useful Function.

T. “Services” means non-Public Works and Improvements services and includes professional services, personal services, and purchased services, as such terms are defined in Section 1.06.251 TMC and/or the City’s Purchasing Policy Manual.

U. “Submittal” means Bids, Proposals, Quotes, qualifications or other information submitted in response to requests for Bids, Requests for Proposals, Requests for Qualifications, requests for Quotations, or other City requests for information, as such terms are defined in Section 1.06.251 TMC.

V. “Supplies” means materials, Supplies, and other products that are procured by the City through a competitive process for either Public Works procurement or Non-Public Works and Improvements procurement unless an approved waiver has been granted by the appropriate authority.
1.07.030 Discrimination prohibited.

A. No person that is engaged in the construction of public works for the City, engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services to the City, shall discriminate against any other person on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical disability in employment. Such discrimination includes the unfair treatment or denial of normal privileges to a person as manifested in employment upgrades, demotions, transfers, layoffs, termination, rates of pay, recruitment of employees, or advertisement for employment.

B. The violation of the terms of RCW 49.60 or Chapter 1.29 TMC by any person that is engaged in the construction of public works for the City, is engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services shall result in the rebuttable presumption that the terms of this chapter have also been violated. Such violation may result in termination of any City contract the violator may have with the City and/or the violator’s ineligibility for further City Contracts.

1.07.040 Program administration.

A. The Community and Economic Development Director, or his or her designated SBE Program Coordinator, shall be responsible for administering this chapter and obtaining compliance with respect to contracts entered into by the City and/or its contractors. It shall be the duty of the Director to pursue the objectives of this chapter by conference, conciliation, persuasion, investigation, or enforcement action, as may be necessary under the circumstances. The Director is authorized to implement an administrative and compliance program to meet these responsibilities and objectives.

B. The Director is hereby authorized to adopt and to amend administrative rules and regulations known as the SBE Regulations to properly implement and administer the provisions of this chapter. The SBE Regulations shall be in conformance with City of Tacoma policies and state and federal laws and be designed to encourage achievement of the SBE goals set forth herein. The SBE Regulations shall become effective following public notice and an opportunity to comment by the public.

C. The SBE Regulations adopted pursuant to this section are for the administrative and procedural guidance of the officers and employees of the City and are further expressions of the public policy of the City. The SBE Regulations, when adopted, shall not confer an independent cause of action or claim for relief cognizable in the courts of the state of Washington or the United States of America to any third parties, and such provisions shall not be used as the basis for a lawsuit in any court of competent jurisdiction challenging the award of any contract by the City.

1.07.050 Certification.

A. The SBE Program Coordinator shall approve a person as a SBE Certified Business if all of the following criteria are satisfied:

1. Each person with an ownership interest in the company has a personal net worth of less than $1,320,000 excluding one personal residence and the net worth of the business;

2. The company’s total gross receipts for any consecutive three year period within the last six years is not more than $36,500,000 for public works companies and not more than $15,000,000 for non-public works and improvements companies;

3. The owner(s) of the company executes an Affidavit of Small Business Enterprise Certification and files it with the City which states that all information submitted on the SBE application is accurate, that the business has sought or intends to do business with the City and/or within the Pierce County area and has experienced or expects to experience difficulty competing for such business due to financial limitations that impair its ability to compete against larger firms; and

4. The company can demonstrate that it also meets at least one of the following additional requirements:

a. The company’s business offices, or the personal residence of the owner, is located within a City of Tacoma designated Renewal Community/Community Empowerment Zone, prior to designation as a SBE, or

b. The company’s business offices, or the personal residence of the owner, is located within the City of Tacoma for at least six months prior to designation as a SBE; or
The company’s business offices are located in a federally designated HUBZONE in Pierce County or any adjacent county for at least 12 months prior to designation as a SBE; or

d. The company’s business offices are located in a federally designated HUBZONE in a County wherein the work will be performed, or an adjacent county, for at least 12 months prior to designation as a SBE.

B. Application Process. The SBE Program Coordinator shall make the initial determination regarding certification or recertification. Each SBE applicant shall provide the following documents; as such documents are more fully described in the SBE Regulations, to the SBE Program Coordinator:

1. A completed Statement of Personal Net Worth form;
2. A completed, signed, and notarized Affidavit of Small Business Enterprise Certification that affirms compliance with the certification and documentation requirements of this section;
3. List of equipment and vehicles used by the SBE;
4. Description of company structure and owners;
5. Such additional information as the SBE Program Coordinator or designee may require.

When another governmental entity has an equivalent SBE classification process the City may enter into an interlocal cooperative agreement for mutual recognition of certifications.

C. Recertification. A SBE qualified business shall demonstrate annually to the satisfaction of the SBE Program Coordinator that the following SBE qualifications are still in effect for such business:

1. That the company still meets all of the criteria set forth in subsection 1.07.050.A. TMC, and
2. That the company has maintained all applicable and necessary licenses in the intervening period, and
3. That the company demonstrates that the owner and/or designated employees have completed the minimum annual continuing business education training requirements set forth in the SBE Regulations.

D. Appeals. The applicant may appeal any certification determination by the SBE Program Coordinator under this chapter to the Director. The appeal must be made in writing and must set forth the specific reasons for the appeal. The Director shall make a decision on the appeal request within a reasonable time, which decision shall be final unless further appeal is made to the Hearing Examiner. In that event, the Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be applicable to that appeal proceeding.


1.07.060 Program requirements.

A. Establishment of Annual SBE Goals. The SBE Regulations adopted pursuant to this chapter shall state reasonably achievable cumulative annual goals for utilization of SBEs in the provision of supplies, services, and public works procured by the City. Cumulative annual goals for the participation of SBEs in City contracts shall be based on the number of qualified SBEs operating within Pierce County or in a county that is adjacent to Pierce County or in a HUBZone in a county where the supplies, services and/or public works will be delivered or performed. The dollar value of all contracts awarded by the City to SBEs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable SBE goal. The initial cumulative annual SBE goal for all public works, non-public works and improvements supplies and services procured by the City of Tacoma is 22 percent.

B. Revision of Annual SBE Goals. SBE utilization goals for supplies, services, and public works shall be reviewed annually to determine the total level of SBE participation reasonably attainable. If no certified SBEs are available to provide supplies, services, and/or public works, the dollar value of such supplies, services, or public works shall be exempt from the calculation of the cumulative annual goals set forth in the SBE Regulations. Proposed reduction of the cumulative annual SBE goals shall be in accordance with the SBE Regulations.

C. Application of SBE Goals to Contracts. The SBE Program Coordinator shall consult with City departments/divisions to establish the SBE goal for competitively solicited contracts of $25,000 and above, in accordance with this chapter and the SBE Regulations. No SBE goal will be established if no certified SBEs are available to provide supplies, services and/or public works.

D. Waivers. City departments/divisions or the SBE Program Coordinator may request to waive one or more of the requirements of this chapter as they apply to a particular contract or contracts. Waivers may be granted in any one or more of the following circumstances:
1. Emergency: The supplies, services and/or public works must be provided with such immediacy that neither the City nor the contractor can comply with the requirements herein. Such emergency and waiver must be documented by the department/division awarding the contract.

2. Not Practicable: Compliance with the requirements of this chapter would impose an unwarranted economic burden or risk to the City after consideration of existing budgetary approvals.

3. Sole source: The supplies, services, and/or public works are available from only one source, and subcontracting possibilities do not reasonably exist as determined by the finance purchasing manager.

4. Government purchasing. The City is a party to or included in a federal, state or inter-local government purchasing agreement as approved by the finance purchasing manager.

5. Lack of SBEs: An insufficient number of qualified SBE contractors exist to create SBE utilization opportunities.

6. Best interests of the City: Waiver of SBE goals is in the best interests of the City due to unforeseen circumstances, provided that said circumstances are set forth in writing by the requestor.

E. Review of Waivers. A waiver determination by the finance purchasing manager may be reviewed by the Board of Contracts and Awards (C&A Board). The C&A Board may also review a request to reduce or waive the SBE utilization goals based on Not Practicable or Best Interests of the City circumstances. The C&A Board shall determine whether compliance with such goals would impose unwarranted economic burden on, or risk to, the City of Tacoma as compared with the degree to which the purposes and policies of this chapter would be furthered by requiring compliance. If the determination of the C&A Board does not resolve the matter, a final determination shall be made by the City Council or Public Utility Board, as the case may be.


1.07.070 Evaluation of submittals.

A. All submittals for a supplies, services, or public works and improvements contract valued at $25,000 or more shall be evaluated for attainment of the SBE goal established for that contract in accordance with this chapter and the SBE Regulations.

B. The determination of SBE usage and the calculation of SBE goal attainment per this section shall include the following considerations:

1. General. The dollar value of the contract awarded by the City to a SBE in the procurement of supplies, services, or public works shall be counted toward achievement of the SBE goal.

2. Supplies. A public works and improvements contractor may receive credit toward attainment of the SBE goal for expenditures for supplies obtained from a SBE; provided such SBE assumes the actual and contractual responsibility for delivering the supplies with its resources. The contractor may also receive credit toward attainment of the SBE goal for the amount of the commission paid to a SBE resulting from a supplies contract with the City; provided the SBE performs a commercially useful function in the process.

3. Services and Public Works subcontracts. Any bid by a certified SBE or a bidder that utilizes a certified SBE shall receive credit toward SBE goal attainment based on the percentage of SBE usage demonstrated in the bid. A contractor that utilizes a SBE-certified subcontractor to provide services or public works shall receive a credit toward the contractor’s attainment of the SBE goal based on the value of the subcontract with that SBE.

4. Brokers, Fronts, or Similar Pass-Through Arrangements. SBEs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the SBE Regulations) shall not count toward SBE goal attainment unless the activity reflects normal industry practices and the broker performs a commercially useful function.

C. Evaluation of competitively solicited submittals for public works and improvements and for services when a SBE utilization goal has been established for the contract to be awarded shall be as follows:

1. When contract award is based on price. The lowest priced bid submitted by a responsive and responsible bidder will be reviewed to determine if it meets the SBE goal. Such low bid shall be determined to meet the SBE goal if the bidder is a certified SBE.

   a. If the low bidder meets the SBE goal, the bid shall be presumed the lowest and best responsible bid for contract award.
b. If the lowest priced bid does not meet the SBE goal, but the bid of any other responsive and responsible bidder does, and such other bid(s) is or are priced within five percent of the lowest bid, then the following formula shall be applied to each such other bid:

\[
\text{(Base Bid) \left[ \frac{\text{SBE Usage \ Percentages}}{\text{SBE Goal \ Percentages}} \times (0.05 \times \text{Low Base Bid}) \right] = \text{Evaluated Bid}}
\]

c. The lowest evaluated bid after applying said evaluation formula shall be presumed the lowest and best responsible bid for contract award.

d. In no event shall a bidder’s evaluated bid price be adjusted more than 5 percent from its base bid price for purposes of contract award.

2. When contract award is based on qualifications or other performance criteria in addition to price. Solicitations shall utilize a scoring system that promotes participation by certified SBEs. Submittals by respondents determined to be qualified may be further evaluated based on price using the formula applicable to price based contract awards above. The SBE Regulations may establish further requirements and procedures for final selection and contract award, including:

a. Evaluation of solicitations for Architectural and Engineering (A&E) services;

b. Evaluation and selection of submittals in response to requests for proposals; and

c. Selection of contractors from pre-qualified roster(s).

D. Evaluation of competitively solicited submittals for supplies when no SBE utilization goal has been established for the contract to be awarded shall encourage SBE participation as follows:

1. A submittal from a responsive certified SBE that is priced within five percent of the otherwise lowest responsive bid shall be recommended for award. Otherwise, the lowest responsive bidder shall be recommended for contract award.

E. The SBE Regulations may establish further SBE goal evaluation requirements and procedures for award of contracts between $5,000 and $25,000.00 and for non-competitively solicited contracts. City departments/divisions shall use due diligence to encourage and obtain SBE participation for supplies, services, and public works contracts under $5,000.


1.07.080 Contract compliance.

A. The contractor awarded a contract based on SBE participation shall, during the term of the contract, comply with the SBE goal established in said contract. To ensure compliance with this requirement following contract award, the following provisions apply:

1. Any substitutions for or failure to utilize SBEs projected to be used must be approved in advance by the SBE Program Coordinator. Substitution of one SBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original SBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.

2. Where it is shown that no other SBE is available as a substitute and that failure to secure participation by the SBE identified in the solicitation is not the fault of the respondent, substitution with a non-SBE shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.

3. If the SBE Program Coordinator determines that the contractor has not reasonably and actively pursued the use of replacement SBE(s), such contractor shall be deemed to be in non-compliance.

B. Record Keeping. All contracts shall require contractors to maintain relevant records and information necessary to document compliance with this chapter and the contractor's utilization of SBEs, and shall include the right of the City to inspect such records.


1.07.090 Program monitoring.

A. The SBE Program Coordinator shall monitor compliance with all provisions of this chapter and the SBE Regulations. The SBE Program Coordinator shall establish procedures to collect data and monitor the effect of the provisions of this chapter to assure, insofar as is practical, that the remedies set forth herein do not disproportionately favor one or more racial, gender, ethnic, or other protected groups, and that the remedies do not remain in effect beyond the point that they are required to
eliminate the effects of under utilization in City contracting. The SBE Program Coordinator shall have the authority to obtain from City departments/divisions, respondents, and contractors such relevant records, documents, and other information as is reasonably necessary to determine compliance.

B. The SBE Program Coordinator shall submit an annual report to the Community and Economic Development Director, Director of Utilities, and the City Manager detailing performance of the program. The report shall document SBE utilization levels, waivers, proposed modifications to the program, and such other matters as may be specified in the SBE Regulations.


1.07.100 Enforcement.
The Director, or his or her designee, may investigate the employment practices of contractors to determine whether or not the requirements of this chapter have been violated. Such investigation shall be conducted in accordance with the procedures established in the SBE Regulations.


1.07.110 Remedies.
A. Upon receipt of a determination of contractor violation by the SBE Program Coordinator, the City Manager or Director of Utilities, as appropriate, may take the following actions, singly or together, as appropriate:
1. Forfeit the contractor’s bid bond and/or performance bond;
2. Publish notice of the contractor’s noncompliance;
3. Cancel, terminate, or suspend the contractor’s contract, or portion thereof;
4. Withhold funds due contractor until compliance is achieved; and/or
5. Recommend appropriate action including, but not limited to, disqualification of eligibility for future contract awards by the City (debarment) per Section 1.06.279 TMC;
B. Prior to exercise of any of the foregoing remedies, the City shall provide written notice to the contractor specifying the violation and the City’s intent to exercise such remedy or remedies. The notice shall provide that each specified remedy becomes effective within ten business days of receipt unless the contractor appeals said action to the Hearing Examiner pursuant to Chapter 1.23 TMC.
C. When non-compliance with this chapter or the SBE Regulations has occurred, the SBE Program Coordinator and the department/division responsible for enforcement of the contract may allow continuation of the contract upon the contractor’s development of a plan for compliance acceptable to the Director.


1.07.120 Unlawful acts.
It shall be unlawful for any Person to willfully prevent or attempt to prevent, by intimidation, threats, coercion, or otherwise, any Person from complying with the provisions of this chapter.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.130 Severability.
If any section of this chapter or its application to any Person or circumstance is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other Persons or circumstances, shall not be affected.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.140 Sunset and review of program.
This chapter shall be in effect through and until December 31, 2019, unless the City Council shall determine at an earlier date that the requirements of this chapter are no longer necessary. If this chapter has not been repealed by July 1, 2019, the City Council shall determine by the end of that year whether substantial effects or lack of opportunity of SBEs remain true in the relevant market and whether, and for how long, some or all of the requirements of this chapter should remain in effect.

INSURANCE CERTIFICATE REQUIREMENTS

Please furnish the Purchasing Division with a Certificate of Insurance with the following liability limits based on the contract amount:

<table>
<thead>
<tr>
<th>CONTRACT AMOUNT</th>
<th>LIABILITY LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 25,000 and Under</td>
<td>$ 500,000 Combined Single Limit</td>
</tr>
<tr>
<td>$500,000 and Under</td>
<td>$1,000,000 Per Occurrence / $2,000,000 Aggregate</td>
</tr>
<tr>
<td>Over $500,000</td>
<td>$5,000,000 Total Coverage</td>
</tr>
</tbody>
</table>

A. Umbrella excess liability may be used to reach the limits stated above. Coverage must include:
   1. Comprehensive General Liability
   2. Automobile Liability - Hired and Non-Owned
   3. Contractual Coverage
   4. Broad Form Property Damage
   5. Underground Explosion and Collapse Hazard (if necessary by the nature of the work)
   6. Any additional coverage specifically required by the City’s specification

B. The following general requirements apply:
   1. Insurance carrier must be authorized to do business in the State of Washington.
   2. Coverage must include personal injury, protective and employer liability.
   3. Contractor must provide with the certificate (a) evidence of the amount of any deductible or self-insured retention under the policy, and (b) policy endorsement(s) that verify compliance with the additional insured and the primary/non-contributory requirements specified in Section C. 1 and C. 2. below.
   4. It is the contractor’s responsibility to keep an up-to-date Certificate of Insurance on file with the City throughout the contract.
   5. Contractor’s insurance must be primary and non-contributory over any insurance the City may maintain, that is, any such City insurance shall be excess to limits stated in the certificate.

C. The following statements are required on the Certificate of Insurance:
   1. "The City of Tacoma is named as an additional insured" ("as respects a specific contract" or "for any and all work performed with the City" may be included in this statement).
   2. "This insurance is primary and non-contributory over any insurance or self-insurance the City may have" ("as respects a specific contract" or "for any and all work performed with the City" may be included in this statement).
   3. "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail 30 days written notice to the Certificate Holder named." Language such as, “endeavor to” mail and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representative” is not acceptable and must be crossed out. See example below.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
The below listed certificated holder is added as an additional insured as respects any and all work performed with the City (or as respects project _________). This insurance is primary over any insurance or self-insurance the City may have for any and all work performed with the City (or as respects project _________).

CERTIFICATE HOLDER

CITY OF TACOMA
PO BOX 11007
TACOMA WA 98411-0007

"Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the company, its agents or representatives."