City of Tacoma, WA

PLANNING AND DEVELOPMENT

REQUEST FOR PROPOSALS

OUTREACH AND COMMUNITY ENGAGEMENT ABOUT STREETSCAPE DESIGN ALONG TACOMA LINK EXTENSION ROUTE

SPECIFICATION NO. PL17-0455F

City of Tacoma
Planning and Development Services

REQUEST FOR PROPOSALS PL17-0455F
Outreach and Community Engagement about Streetscape Design along Tacoma Link Extension Route

Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, December 12, 2017

Submittal Delivery: Sealed submittals will be received as follows:

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

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 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 not be held

Project Scope: The City of Tacoma (City) is requesting Proposals from organizations to gather input through outreach activities from residents, businesses, and other stakeholders along the Tacoma Link Extension route. The organization will interpret and transform the input gathered into recommendations for design which could be incorporated into the Links to Opportunity Project streetscape design project, an enhancement to the Tacoma Link Extension Project.

Estimate: $50,000

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.

Additional Information: Requests for information regarding the specifications may be obtained by contacting Kimberly Ward 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.

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.

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SUBMITTAL CHECK LIST

This checklist identifies items to be included with your submittal. Any submittal received without these required items may be deemed non-responsive and not be considered for award.

Submittals must be received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Proposal page.

The following items make up your submittal package:	
One original, 2 copies and one electronic copy (CD or flash drive) of your complete submittal package (with original and copies clearly identified)	
Proposal Form No. 1 Signature Page-Section No. 3	
Proposal Form No. 2 Certification Regarding Conflict Of Interest-Section No. 3	
Proposal Form No. 3 Certification Of Bidder Or Proposer Regarding Debarment, Suspension, And Other Responsibility Matters-Section No. 3	
Information in Section 1.8: Content to be Submitted	
After award, the following documents will be executed:	
Contract	
Certificate of Insurance	

CITY OF TACOMA
REQUEST FOR PROPOSALS

Outreach and Community Engagement about Streetscape Design along Tacoma Link Extension Route

SPECIFICATION NO. PL17-0455F

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 NO. 1 - INSTRUCTIONS

1.1 INTRODUCTION

The City of Tacoma (City) is requesting Proposals from organizations to gather input through outreach activities from residents, businesses, and other stakeholders along the Tacoma Link Extension route.

The organization will interpret and transform the input gathered into recommendations for design which could be incorporated into the Links to Opportunity Project streetscape design project, an enhancement to the Tacoma Link Extension Project.

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 six months, 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 expected budget of $50,000 for this body of work. Due to federal procurement requirements, members of the Hilltop Engagement Committee or the organizations they represent will not be eligible to compete for this project nor may they be partners with a proposer.

Written answers to all questions will be posted on the Purchasing website at www.TacomaPurchasing.org

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 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:

Senior Buyer	Email Address
Kimberly Ward	kward2@cityoftacoma.org

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

Date	Selection Process
December 1,2017	Last day to submit Questions
December 12, 2017	Submittals Due (**on or before 11 AM** local time)
December 2017	Execute Contract and Notice to Proceed

1.5 REQUESTS FOR INFORMATION

Questions about this solicitation must be submitted by email to Kimberly Ward, Senior Buyer, identified in Paragraph 1.2, no later than 3:00pm PST December 12, 2017.

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 (<u>stapled or clipped only</u>) as well as one electronic copy (CD or flash drive)** 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
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 TO BE SUBMITTED

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.

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.

2. Describe the ways you engaged residents, stakeholders, service providers, and other institutions to gather feedback about design and the community's vision. Emphasis should be placed on those efforts that are creative and or nontraditional.

3. 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. Provide a detailed project work plan based on the scope of work presented in this RFP, as well as the Organization's capability and commitment to fully complete the work. Identify any unique approaches or strengths that your organization may have related to this project.

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

Please provide the proposer's total proposed cost for the services required in this RFP based upon your company business cost models.

Total cost must include all travel, lodging and meal expenses.

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

G. 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.

2. 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.

3. Disadvantaged Business Enterprise/Small Business Enterprise (SBE)

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.
e. A Disadvantaged Business Enterprise

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.

1.9 Evaluation Criterion

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

The City reserves the right to contact references other than those included in the submittal.

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:

Evaluation Criteria	**Points**
Organization's Experience and History	10
Key Personnel	25
Capacity and Project Organization	25
Value Added Features	10
Sustainability	5
Disadvantaged Business Enterprise/Small Business Enterprise	5
Cost	20
Total	**100**

1.10 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.

1.11 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.

SECTION NO. 2

2.1 Scope of Work

The City seeks an organization to engage the Hilltop community in unique and nontraditional ways to gather input about and influence the Links to Opportunity streetscape design project, an enhancement to the Tacoma Link Extension Project. The selected organization will interpret and transform the input gathered into recommendations for design which could be incorporated into the streetscape design.

The selected organization will work specifically during the 30% design phase to the end of the 95% design phase (January-May 2018) and focus on collecting and interpreting input related to the following streetscape design elements:

-Handrails
-Street furniture
-Color schemes
-Festival Streets (location and design elements)
-Landscaping
-Wayfinding

In addition, the City seeks to elicit feedback about local and neighborhood historic, cultural, and creative themes for the streetscape planning area and to add those elements to the streetscape plans.

The geographic area of this work is the sidewalk surrounding the Link Light Rail Extension Route which encompasses Martin Luther King Jr. Way from South 19th Street to Division Avenue, Division Avenue from Martin Luther King Jr. Way to 1st Street, and 1st Street from Division Avenue to Tacoma Avenue, with a possibility of design on adjacent and parallel streets to meet the complete street desires of the City.

The streetscape design is being completed by a City hired consultant. The organization retained through this solicitation process will be expected to coordinate their efforts closely with the streetscape consultant team. For more information about the Links to Opportunity Project please see Section 2.1.

2.2 Consultant Tasks

1. Within the Scope of Work, and focusing on the design elements identified in the conceptual design report, collect feedback and input from the community to determine which elements are desired by the community as design features. Input should be collected about streetscape features being considered between the 30% to 95% design phases.
2. Utilize outreach strategies which spark creative thinking about design such as storytelling, art, cultural strategies, and other creative tools for community engagement.
3. Review and build upon the outreach activities carried out by grassroots community organizations which collected community input on conceptual design elements up to 30% (July-October 2017). Utilize recommendations when possible for outreach between 30-95% designs.

4. Build on the early design ideas gathered by grassroots community organizations by developing concrete recommendations about conceptual design themes that can be considered in 30-95% design.
5. Coordinate outreach activities with the streetscape design consultant activities, whenever possible consolidate outreach work.
6. Above tasks will be expected to be carried out with input from the Hilltop Engagement Committee, the Links to Opportunity Project advisory committee comprised of residents and stakeholders. City staff will facilitate connection and provide access to 10% and 30% design plans; outreach information collected through earlier engagement efforts (pop-ups; door-to-door outreach; storefront office; other workshops); final reports from initial group of grassroots consultants.

2.3 Timeframe

The contracting period will be approximately six to seven months from commencement to conclusion of the work. The consultant will be expected to meet streetscape improvement project deadlines in order to ensure feedback is incorporated into final plans.

2.4 Deliverables

1. Biweekly outreach report-outs submitted to Project Manager, Project Senior Planner, and streetscape design project team.

- Report outs should provide a “real time” overview of outreach efforts, summarize key themes or design elements, and identify any issues that need to be addressed. The format for outreach report outs is to be determined.

2. Design Recommendations Reports for 75% and 95% Design

The report will contain the following information:
-Overview of outreach efforts during the design phase
-Summary of community input gathered
-Recommendations for design elements that could be incorporated into the streetscape design.

The selected organization will coordinate with City staff and the streetscape consultant team to submit design recommendations reports that inform each design phase in a timely manner.

3. Draft and Final Hilltop Equitable Engagement Report

The report will contain the following information:
-Summary of outreach efforts to involve community in conceptual design decisions
-Overview of feedback collected
-Discussion of lessons learned and best practices
-Recommendations for further considerations during final design and construction

2.5 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 employment opportunities for residents along the Tacoma Link Extension 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 Extension 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, anticipated construction job opportunities in the region, including the Tacoma Link Expansion with Hilltop and other residents in the area.

The Links to Opportunity Project is a separate scope from Sound Transit's Tacoma Link Extension project, though the City and Sound Transit are coordinating these related efforts. The Project is funded by a $2 million Federal Transit Administration grant and a $500,000 match from the City.

SECTION NO. 3

PROPOSAL FORM NO. 1 SIGNATURE PAGE

PROPOSAL FORM NO. 2 CERTIFICATION REGARDING CONFLICT OF INTEREST

PROPOSAL FORM NO. 3 CERTIFICATION OF BIDDER OR PROPOSER REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

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 PROPOSALS - SPECIFICATION NO. PL17--0440N
Outreach and Community Engagement about Streetscape Design along Tacoma Link Extension Route

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/dba

_____
Address

_____
City, State, Zip

_____
E-Mail Address

_____
E.I.No. / Federal Social Security Number Used on Quarterly Federal Tax Return, U.S. Treasury Dept. Form 941

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

_____
Printed Name and Title

_____
(Area Code) Telephone Number / Fax Number

_____
State Business License Number
in WA, also known as UBI (Unified Business Identifier) Number

_____
State Contractor's License Number
(See Ch. 18.27, R.C.W.)

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[1] 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.

3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "bid/proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact the City for assistance in obtaining a copy of those regulations.

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.

[1] "Lower tier participant" includes all contractors, consultants, subcontractors and subconsultants participating on any of the City's contracts.

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 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 _____

SECTION No. 4

[SAMPLE PROPOSED] AGREEMENT
Federal Terms and Conditions
City of Tacoma Standard Terms and Conditions

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] [Title]

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. SMALL BUSINESS AND DISADVANTAGED BUSINESS ENTERPRISES (DBEs):
As a recipient of financial assistance from the federal Department of Transportation (DOT), through the Federal Transit Administration (FTA), Sound Transit developed and administers a Disadvantaged Business Enterprise (DBE) Program in accordance with 49 CFR Part 26 (the "DBE Regulations"), which include provisions for fostering small business participation (Section 26.29). The Consultant shall review and comply with applicable provisions in the DBE Regulations. If this contract is not federally funded, the DBE Regulations will be used for guidance regarding the participation of small businesses as applicable.
In the performance of work under this contract, the Consultant shall afford small businesses (which include DBEs) an equal, non-discriminatory opportunity to compete for business as joint venture partners, subcontractors and suppliers and shall ensure its subcontractors also afford small businesses such opportunities.

If the Consultant determines that subcontracting is necessary to satisfactorily perform the work under this contract, the Consultant shall make good faith efforts to assure that small businesses (including DBEs) are used when possible. The Consultant shall make good faith efforts to reach out to small businesses to solicit and achieve participation by small businesses

under this contract and maintain documentation of its efforts. The description of "good faith efforts" is set forth in the DBE Regulations

J. 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.

K. 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.

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.

b. 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.

The Consultant and its insurers shall endorse the required insurance policy(s) 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.

c. 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.

d. 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.

e. 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.

f. 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.

L. **TERMINATION**

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.

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.

M. 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.

N. 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.

O. 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.

P. 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.

Q. 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.

R. 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.

S. 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:
[Name]	[Title]
[Name]	[Title]

T. 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.

U. 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.

[Firm Name] (Consultant)		City of Tacoma
By:		By:
		[Name]
Title:		[Title]

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 it if 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 Agreem74ent:
    i. 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.

ii. 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.

iii. 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

CITY OF TACOMA
STANDARD TERMS AND CONDITIONS
GOVERNS BOTH GOODS AND SERVICES AS APPLICABLE

In the event of an award by the City, these Terms and Conditions stated herein, Additional Contract Documents if issued, Solicitation if issued, Purchase Orders if issued by City, and Supplier's Submittal, if provided, shall constitute the Contract between City and Supplier for the acquisition of goods, including materials, supplies, and equipment or for the provision of services and deliverables.

Said documents represent the entire Contract between the parties and supersede any prior oral statements, discussions, or understandings between the parties, and/or subsequent Supplier invoices. No modification of the Contract shall be effective unless mutually agreed in writing.

The specific terms and conditions of any Solicitation (Specification, Request for Bids, Request for Proposals, Requests for Qualifications, Requests for Quotations, Request for Information, bid documents, request to enter into negotiations, or other form of solicitation issued by City, including any general, special, or technical provisions associated with such Solicitations) are incorporated herein by reference and supersede these Terms and Conditions where there is conflict or inconsistency.

In the event Additional Contract Documents are negotiated and agreed to in writing between Supplier and City, the specific terms of such Additional Contract Documents are incorporated herein by reference and supersede all other terms and conditions where there is conflict or inconsistency.

These Terms and Conditions, Additional Contract Documents if issued, Solicitation if issued, City purchase order if issued, are controlling over Supplier's Submittal if a Submittal is provided. Submittals if provided are incorporated herein by reference.

1.01 SUPPLIER / CONTRACTOR

As used herein, "Supplier" or "Contractor" shall be the Supplier(s) entering a Contract with City, whether designated as a Supplier, Contractor, Vendor, Proposer, Bidder, Respondent, Seller, Merchant, Service Provider, or otherwise.

1.02 SUBMITTAL

Submittal means Bids, Proposals, Quotes, Qualifications or other information, content, records or documents submitted in response to a City Solicitation.

1.03 FORMS OF SUBMITTAL

Unless stated otherwise, all submittals must be in SAP Ariba and submitted exactly as specified or directed, and all required forms must be used.

1.04 COSTS TO PREPARE SUBMITTAL

The City is not liable for any costs incurred by Supplier for the preparation of materials or a Submittal provided in response to a solicitation, conducting presentations to the City, or any other activities related to responding to the City's Solicitation.

1.05 LICENSES/PERMITS

A. Suppliers must have a Washington state business license at the time of Submittal and throughout the term of the Contract. 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://bls.dor.wa.gov.

B. Upon award, it is the responsibility of the Supplier to register with the City of Tacoma's Tax and License Division, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, 253-591-5252, https://www.cityoftacoma.org/government/city_departments/finance/tax_and_license/. Supplier shall obtain a business license as is required by Tacoma Municipal Code Subtitle 6C.20.

C. During the term of the Contract, Supplier, at its expense, shall obtain and keep in force any and all necessary licenses and permits.

1.06 PUBLIC DISCLOSURE: PROPRIETARY OR CONFIDENTIAL INFORMATION

A. Supplier Submittals, all documents and records comprising the Contract, and all other documents and records provided to the City by Supplier are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, City may be required, upon request, to disclose the Contract and documents or records related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and Supplier has complied with the requirements to mark records considered confidential or proprietary as such requirements are stated below, City agrees to provide Supplier 10 days written notice of impending release. Should legal action thereafter be initiated by Supplier to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by Supplier, including any damages, attorneys' fees or costs awarded by reason of having opposed disclosure. City shall not be liable for any release where notice was provided and Supplier took no action to oppose the release of information.

B. If Supplier provides City with records or information that Supplier considers confidential or proprietary, Supplier must mark all applicable pages or sections of said record(s) as "Confidential" or "Proprietary." Further, in the case of records or information submitted in response to a Request for Proposals, an index must be provided indicating the affected pages or sections and locations of all such material identified Confidential or Proprietary. Information not included in the required index will not be reviewed for confidentiality or as proprietary before release. If Supplier fails to so mark or index Submittals and related records, then the City, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and Supplier expressly waives its right to allege any kind of civil action or claim against the City pertaining to the release of said record(s).

C. Submission of materials in response to City's Solicitation shall constitute assent by Supplier to the foregoing procedure and Supplier shall have no claim against the City on account of actions taken pursuant to such procedure.

1.07 SUSTAINABILITY

A. The City has interest in measures used by its contractors to ensure sustainable operations with minimal adverse impact on the environment. The City seeks to do business with vendors that value community and environmental stewardship that help us meet our sustainable purchasing goals.

B. The City encourages the use of environmentally preferable products or services that help to minimize the environmental and human health impacts of City operations. Suppliers are encouraged to incorporate environmentally preferable products or services into Submittals wherever possible. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

C. Environmental Standards. The City seeks to ensure that all purchases comply with current environmental standards and product specifications. Where appropriate, third party independent certifiers such as Green Seal and USEPA Standards shall be a minimum specification for products to the City, unless specified otherwise herein.

D. The City encourages the use of sustainability practices and desires any awarded Suppliers to assist in efforts to address such factors when feasible for:

1. Pollutant releases
2. Toxicity of materials used
3. Waste generation
4. Greenhouse gas emissions, including transportation of materials and services
5. Recycle content
6. Energy consumption
7. Depletion of natural resources
8. Potential impact on human health and the environment

1.08 ALTERATIONS NOT ALLOWED

Except as otherwise specifically provided in a Solicitation, 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 a Submittal by inserting exceptions to the Solicitation or any conditions, qualifications or additions that vary its terms may result in rejection of the Submittal. The City may reject any submittal containing a material deviation from the Solicitation.

1.09 CORRECTION OF AMBIGUITIES AND OBVIOUS ERRORS

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

B. Supplier shall notify the City of Tacoma Procurement and Payables Division in writing of any ambiguity, conflict, discrepancy, omission or other error in a Solicitation no later than five business days prior to the submittal deadline.

   1. For solicitations conducted in SAP Ariba, Supplier shall notify the City of Tacoma Procurement and Payables Division on the message board of the event.

   2. For all other solicitations, Supplier shall notify the contract person listed in the Solicitation.

C. The City will make necessary modifications by addendum.

D. Supplier is responsible for identifying ambiguities, conflicts, discrepancies, omissions or other errors in the Solicitation prior to providing its Submittal or the ambiguity, conflict, discrepancy, omission, or other error is waived. Any Submittal that includes assumed clarifications and/or corrections without the required authentication of the same is subject to rejection.

1.10 WARRANTIES/GUARANTEE

A. Suppliers warrant that all items, including services, as applicable:

   1. Are merchantable.

   2. Comply with the City's latest drawings and specifications.

   3. Are fit for the City's intended use.

   4. Will be performed according to the skill and care required by customarily accepted good practices and procedures followed by service providers rendering the same or similar type of service.

   5. Are new and unused unless otherwise stated.

   6. Comply with all applicable safety and health standards established for such products by the Occupational Safety and Health Administration (OSHA), Washington Industrial Safety and Health Act (WISHA) and/or Consumer Products Safety Act (CPSA), and all other applicable state and federal laws or agency regulations.

   7. Are properly packaged and contain appropriate instructions or warnings, including applicable MSDS sheets.

1.11 PATENTS, TRADEMARKS AND COPYRIGHTS

Suppliers warrant that equipment and/or materials furnished, including software, do not infringe on any patent, trademark or copyright, and agree to indemnify, defend and hold harmless, the City in the event of any infringement or claim thereof.

1.12 DELIVERY OF SUBMITTALS TO THE CITY’S PROCUREMENT AND PAYABLES DIVISION

A. Submittal packages must be received by the City’s Procurement and Payables Division in SAP Ariba (unless another form of delivery is stated), prior to the scheduled time and date stated in the Solicitation.

B. Supplier is solely responsible for timely delivery of its Submittal.

C. Submittals received after the time stated in the solicitation will not be accepted.

D. For purposes of determining whether a Submittal has been timely received in SAP Ariba, the City's Procurement and Payables Division will rely on the submittal clock in SAP Ariba.

1.13 SUBMITTAL IS NON-COLLUSIVE

Supplier acknowledges that by its delivery of a Submittal to the City in response to a Solicitation, it represents that the prices in such Submittal are neither directly nor indirectly the result of any formal or informal agreement with another Supplier.

1.14 PARTNERSHIPS

The City will allow firms to partner in order to respond to a Solicitation. Multiple suppliers may team under a Prime Supplier's Submittal in order to provide responses to all sections in a single submission; however, each Supplier's participation must be clearly delineated by section. The Prime Supplier will be considered the responding vendor and the responsible party at contract award. All contract negotiations will be conducted only with the Prime Supplier. All contract payments will be made only to the Prime Supplier. Any agreements between the Prime Supplier and other companies will not be a part of the Contract between the City and the Prime Supplier. The City reserves the right to select more than one Prime Supplier.

1.15 WITHDRAWAL OF SUBMITTALS

A. Prior to Submittal Deadline. Submittals may be withdrawn (including in SAP Ariba) prior to the scheduled submittal deadline.

B. After Submittal Deadline. No Submittal can be withdrawn after having been opened before the actual award of the contract, unless the award is delayed more than 90 calendar days beyond the date of opening. If a delay of more than 90 calendar days does occur, Supplier must submit written notice to the City purchasing manager that Supplier is withdrawing its submittal.

1.16 ACCEPTANCE OF SUBMITTALS

A. If the solicitation announcement so states, 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.

B. All submittals must remain open for acceptance by the City for a period of at least 90 calendar days from the submittal deadline.

1.17 RIGHT TO REJECT

A. The City of Tacoma reserves the right to reject any and all submittals, waive minor deviations or informalities, supplement, amend, reduce or otherwise modify the scope of work or cancel the solicitation, and if necessary, call for new submittals.

1.18 RESERVED RIGHTS

A. By providing a submittal in response to a City solicitation, Supplier 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 Suppliers for any reason whatsoever with or without substitution of another solicitation.

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

3. To issue addenda for any purpose including:

    a. To make minor or major changes or alterations to the evaluation, selection and/or performance schedule(s) for any events associated with a procurement.

    b. To supplement, amend, reduce, cancel, or otherwise modify a Solicitation, including but not limited to modifications to the description of services and/or products contained in the solicitation, by omitting services/products and/or including services/products.

4. To request clarifications, additional information, and/or revised Submittals from one or more Suppliers.

5. To conduct investigations with respect to the qualifications and experience of Supplier(s), including inspection of facilities and to request additional evidence to support any such information.

6. To eliminate any Supplier that submits an incomplete or inadequate response, or is non-responsive to the requirements of a Solicitation, or is otherwise deemed to be unqualified during any stage of the procurement process.
7. To select and interview a single finalist or multiple finalists to further the City's evaluation of Submittals provided in response to a Solicitation. 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 Suppliers in connection with a solicitation process.
8. Except in the case of Requests for Bids, to negotiate any rate/fee offered by a Supplier. The City shall have the sole right to make the final rate/fee offer during contract negotiations. If the selected Supplier does not accept the City's final offer, the City may, in its sole discretion discontinue contract negotiations and commence negotiations with another Supplier, except as otherwise provided in Chapter 39.80, RCW.
9. To select and enter into a Contract with one or more Suppliers whose Submittal best satisfies the interests of the City and is most responsive, in the sole judgment of the City, to the requirements of a Solicitation.
10. To award by line item or group of line items.
11. To not award one or more items.
12. To issue additional or subsequent solicitations.
13. To seek partnerships between one or more Suppliers.
14. Request additional related products and services from the selected Supplier(s) as necessary throughout the term of the Contract.
15. Negotiate costs or fees in the event of new legislation or regulatory changes, or issuance of related compliance guidance, technology enhancements, and innovative solutions.
16. In the event the City receives questions concerning a Solicitation from one or more Suppliers prior to the deadline for response, the City reserves the right to provide such questions, and the City's responses, if any, to all Suppliers.
17. If an award is made and, prior to entering into a contract, subsequent information indicates that such award is not in the best interest of the City, the City may rescind the award without prior notice to Supplier and either award to another Supplier or reject all submittals or cancel this solicitation.
18. To cancel award of a contract at any time before execution of the Contract by both parties if cancellation is deemed to be in the City's best interest. In providing a submittal, Suppliers agree that the City is not liable for any costs or damages for the cancellation of an award. Supplier assumes the sole risk and responsibility for all expenses connected with the preparation of its submittal.
19. To add additional City departments or divisions to the Contract or develop a separate Contract with the Supplier subject to all terms, conditions and pricing of the original Contract
20. To take any other action affecting a Solicitation or a procurement process that is determined to be in the City's best interests.

1.19 SUBMITTAL CLARIFICATION

Suppliers may be asked to clarify their Submittal. This action shall not be construed as negotiations or any indication of intentions to award. If called upon, Supplier must respond to such requests within two business days or the timeframe set forth by the City in its request for clarification. Supplier's failure to respond to such a request may result in rejection of its Submittal.

1.20 EVALUATION OF SUBMITTALS

A. The City of Tacoma reserves the right to award to the lowest and best responsible Supplier(s) delivering a Submittal in compliance with the Solicitation, 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. Suppliers who are inexperienced or who fail to properly perform other contracts may have their submittal rejected for such cause.

1. 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:

    a. Compliance with a Solicitation 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.
    b. 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).
    c. The total cost to the City, including all applicable taxes, may be the basis for contract award.
    d. Time of delivery and/or completion of performance (delivery date(s) offered).
    e. Warranty terms.
    f. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City's Ethics Code.
    g. Previous and existing compliance with laws and ordinances relating to contracts or services.
    h. Sufficiency of financial resources.
    i. Quality, availability, and adaptability of the supplies or services to the particular use required.
    j. Ability to provide future maintenance and service on a timely basis.
    k. Location of nearest factory authorized warranty repair facility or parts dealership.
    l. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications, and skill to perform the contract or provide the services required.

2. 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.

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

1.21 CONTRACT OBLIGATION

A. The Submittal contents of the successful Supplier will become contractual obligations if a Contract ensues.

B. In the event the City of Tacoma determines to award a Contract, the selected Supplier(s) may be requested to execute Additional Contract Documents.

C. Supplier shall register with the City of Tacoma on the SAP Ariba Network and be enabled for transactions upon request by the City.

D. Suppliers may propose amendments to City's Contract documents or to these Terms and Conditions, but the City retains the right to accept or reject proposed amendments.

E. No costs chargeable for work under the proposed Contract may be incurred before mutual acceptance and execution as directed.

1.22 AWARD

The City reserves the right to award Contracts for any or all items to one or more Suppliers in the best interests of the City.

1.23 SUPPLIER'S REFUSAL TO ENTER INTO CONTRACT

Any Supplier who refuses to enter into a Contract after it has been awarded to the Supplier will be in breach of the agreement to enter the Contract, and Supplier's certified or cashier's check or bid bond, if any, shall be forfeited.

1.24 LEGAL HOLIDAYS

A. The City of Tacoma observes the following holidays, which shall apply to performance of all contracts:

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

B. 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.

1.25 CONTRACT TERM

All services shall be satisfactorily completed and all deliverables provided by the termination date stated, and the Contract shall expire on said date unless mutually extended in writing by the parties.

1.26 EXTENSION OF CONTRACT

Contracts shall be subject to extension at City's sole discretion.

1.27 TERMINATION AND SUSPENSION

A. Supplies. The City reserves the right to terminate a Contract at any time upon prior written notice to Supplier. Upon the effective date of termination specified in such notice, and payment by the City, all conforming supplies, materials, or equipment previously furnished hereunder shall become its property.

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

C. Suspension. For either services or supplies, the City may suspend a Contract, at its sole discretion, upon three business days' written notice to Supplier. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Supplier's actual expenses and shall be subject to verification. Supplier shall resume performance of services under the Contract without delay when the suspension period ends.

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

1.28 DEFAULT/BREACH

In the event of material default or breach by Supplier on any of the conditions of a Contract, Supplier agrees that the City may, at its election, procure the goods or services from other sources, and may deduct from the unpaid balance due Supplier, or collect against the bond or security (if any), or may invoice and recover from Supplier all costs paid in excess of the price(s) set forth in the Contract. **CHANGES**

A. Supplies. The City at any time by written change order or other form of written contract amendment may make reasonable changes in the place of delivery, installation, or inspection, the method of shipment or packing, identification and ancillary matters that Supplier may accommodate without substantial additional expense.

B. Services. 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 other written form of contract amendment. If the changes will result in additional work effort by Supplier the City agrees to reasonably compensate Supplier for such additional effort up to the maximum amount specified in the Contract or as otherwise provided by Tacoma Municipal Code. Any new services accepted by the City may be added to the Contract and/or substituted for discontinued services. New services shall meet or exceed all requirements of original award.

C. Expansion Clause. A Contract may be further expanded in writing to include other related services or products normally offered by Supplier, as long as the price of such additional services or products have a profit margin equal to or less than that in place at the time of original submittal. Such additions and prices will be established in writing. New items not meeting these criteria will not be added to the Contract. Supplier profit margins are not to increase as a result any such expansion.

1.29 SCOPE OF SERVICES

Supplier agrees to diligently and completely perform the services required by a Contract.

1.30 SERVICES DO NOT INCLUDE PUBLIC WORK

Unless otherwise stated, the services and/or work contracted for herein exclude public work and improvements as defined in RCW 39.04, as that statute may hereafter be amended.

1.31 PREVAILING WAGES

A. If federal, state, local, or any applicable law requires Supplier to pay prevailing wages in connection with a Contract, and Supplier is so notified by the City, then Supplier shall pay applicable prevailing wages.

B. If applicable, a Schedule of Prevailing Wage Rates for the locality or localities where the Contract will be performed is attached and made of part of the Contract by this reference. If prevailing wages do apply to the Contract, Supplier and its subcontractors shall:

1. Be bound by the provisions of Chapter 39.12 RCW, as amended, relating to prevailing wages and usual fringe benefits,

2. Ensure that no worker, laborer or mechanic employed in the performance of any part of the Contract shall be paid less than the prevailing rate of wage specified on that Schedule, and

3. 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 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.

1.32 CONTRACT PRICING

A. Submitted prices shall include costs of submittal preparation, servicing of the account, all contractual requirements during contract period such as transportation, permits, insurance costs, bonds, labor, wages, materials, tools, components, equipment, and appurtenances necessary to complete the work, which shall conform to the best practice known to the trade in design, quality, material, and workmanship.

B. Surcharges of any type will not be paid.

C. If applicable, related additional products and corresponding services of benefit to the City not specifically required in a solicitation, but which Supplier offers to provide, may be included with the submittal. Supplier may request to add new products if the City approves them and Supplier can demonstrate the pricing is from the same pricing structure/profit margin.

D. Unless specifically stated otherwise, only firm prices will be accepted and all prices shall remain firm during the term of a Contract.

E. Price increases may at City's discretion be passed along during a contract period if the increase is mandated by statute.

F. By submitting prices, Supplier warrants prices equal to or better than the equivalent prices, terms, and benefits offered by Supplier to any other government unit or commercial customer.

G. Should Supplier, during the term of a Contract, enter into any other contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other government unit or commercial customer, the Contract with the City shall thereupon be deemed amended to provide the same price or prices, terms and benefits to the City. This provision applies to comparable products and purchase volumes by the City that are not less than the purchase volumes of the government unit or commercial customer that has received the lower prices, greater benefits, or more favorable terms.

H. If at any time during the term of the Contract, Supplier reduces prices to other buyers purchasing approximately the same quantities stated on the Contract, Supplier will immediately notify the City purchasing manager of such fact, and the price(s) for future orders under the Contract shall be reduced accordingly.

I. The City is entitled to any promotional pricing during the Contract period.

J. Price decreases shall be immediately passed on to the City.

K. The City reserves the right to increase or decrease the quantities of any item awarded pursuant to the Contract and pay according to the unit prices quoted in the submittal with no adjustments for anticipated profit.

1.33 APPROVED EQUALS WHEN ALTERNATES ARE ALLOWED

A. Unless an item is indicated as "no substitute," special brands, when named, are intended to describe the standard of quality, performance, or use desired. Equal items will be considered by the City, provided that Supplier specifies the brand and model, and provides all descriptive literature, independent test results, specification sheets, schematic drawings, photographs, product samples, local servicing, parts availability, etc., to enable the City to evaluate the proposed equal. Performance testing in the field may be required.

B. The decision of the City as to what items are equal shall be final and conclusive. If the City elects to purchase a brand represented by Supplier to be an "equal," the City's acceptance of the item is conditioned on the City's inspection and testing after receipt. If, in the sole judgment of the City, the item is determined not to be an equal, the item shall be returned at Supplier's expense.

C. When a brand name or level of quality is not stated in Supplier's submittal, it is understood Supplier's submittal shall exactly confirm with those required in the Contract. If more than one brand name is stated in a Solicitation, Supplier(s) must indicate the brand and model/part number to be supplied.

1.34 RISK OF LOSS, SHIPPING AND DELIVERY

A. 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 Supplier until delivery is tendered.

B. Delivery. Delivery will be to the designated addresses set forth in a Solicitation or as otherwise stated in the Contract. Deliveries shall be between 9:00 a.m. and 3:30 p.m., Monday through Friday only, except Legal Holidays. Failure to make timely delivery shall be cause for termination of the contract or order and return of all or part of the items at Supplier's expense except in the case of force majeure.

1.35 DELIVERY OF PRODUCTS AND PROVISION OF SERVICES – IDLING PROHIBITED

A. The City of Tacoma has a commitment to reduction of unnecessary fuel emissions and improving air quality by reducing unnecessary air pollution from idling vehicles. Limiting car and truck idling supports cleaner air, healthier work environments, the efficient use of city resources, the public's enjoyment of City properties and programs, conservation of natural resources, and good stewardship practices.

B. Vehicles and/or diesel fuel trucks shall not idle at the time and location of the delivery to the City of Tacoma for more than three minutes. The City requires contractors to utilize practices that reduce fuel consumption and emission discharge, including turning off trucks and vehicles during delivery of products to the City. Exceptions to this requirement include when associated power is necessary to make a delivery or provide the service, when the engine is used to provide power to another device, and when a running engine is required for proper warm-up and cool-down of the engine.

1.36 PACKING SLIPS AND INVOICES

A. 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 if applicable, services and deliverables provided if applicable. Line totals shall be summed to give a grand total to which sales tax shall be added, if applicable.

1. For transactions conducted in SAP Ariba, invoices shall be submitted through Ariba.
2. For invoices paid by ACH or by check, unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to accountspayable@cityoftacoma.org.
3. For invoices paid by credit card, invoices shall also display the last name of the cardholder and last four digits (only) of the card number (e.g., Jones/6311). Unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to (do not combine different POs into one invoice or charge) to pcardadmin@cityoftacoma.org.

B. Any terms, provisions or language in Supplier's invoice(s) that conflict with the terms of the Contract are superseded and shall not apply to the Contract unless expressly accepted in writing by the City.

C. Packing slips and shipping notices shall be sent to the specific City Division or Department receiving the item(s) at the address stated in City's Solicitation or as otherwise stated in the Contract and include complete description of items, contents of items if crated or cased, quantity, shipping point, carrier, bill of lading number and City of Tacoma purchase order.

D. Supplier shall package orders, preferably in environmental friendly packaging such as reduced packaging and recyclable packing materials.

1.37 COOPERATIVE PURCHASING

The Washington State Interlocal Cooperation Act RCW 39.34 provides that other governmental agencies may purchase goods and services based on the Contract with the City in accordance with the terms and prices of the Contract if all parties are agreeable. Each public agency shall formulate a separate contract with Supplier, incorporating the terms and conditions of the 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 Supplier's responsibility to inform such public agencies of the Contract with the City. Supplier shall invoice such public agencies as separate entities.

1.38 TAXES

A. Unless otherwise stated, applicable federal, state, City, and local taxes shall be included in the submittal and in contract as indicated below. 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.

1. 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 Supplier fails to include any applicable tax in its submittal, then Supplier shall be solely responsible for the payment of said tax.

2. State and Local Sales Tax. The City of Tacoma is subject to Washington state sales tax. It is Supplier'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.

3. City of Tacoma Business and Occupation Tax. It is Supplier'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.

B. Any or All Other Taxes. Any or all other taxes are the responsibility of Supplier unless otherwise required by law. Except for state sales tax, Supplier acknowledges that it is responsible for the payment of all taxes applicable to the Contract and Supplier 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.

C. If the City is assessed, made liable, or responsible in any manner for taxes contrary to the provisions of the Contract, Supplier agrees to hold the City harmless from such costs, including attorney's fees. In the event Supplier 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 Supplier 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 Supplier's total compensation.

1.39 COMPENSATION

A. The City shall compensate Supplier in accordance with the Contract. Said compensation shall be the total compensation for Supplier'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 Supplier. Unless stated otherwise the total stated compensation may not be changed without a written change order or other form of contract amendment.

B. Payment(s) made in accordance with the Contract shall fully compensate Supplier for all risk, loss, damages or expense of whatever nature, and acceptance of payment shall constitute a waiver of all claims submitted by Supplier.

1.40 PAYMENT TERMS

A. 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. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced. The City may withhold payment to Supplier for any services or deliverables not performed as required hereunder until such time as Supplier modifies such services or deliverables to the satisfaction of the City.

B. 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. Upon CITY'S request, Supplier shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables. 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.

1.41 PAYMENT METHOD – CREDIT CARD ACCEPTANCE – EFT/ACH ACCEPTANCE

A. Payment methods include:

1. Credit card. Tacoma's VISA procurement card program is supported by standard bank credit suppliers and requires that merchants abide by the VISA merchant operating rules.

   a. Suppliers must be PCI-DSS compliant (secure credit card data management) and federal FACTA (sensitive card data display) compliant.
   b. Suppliers must be set up by their card processing equipment provider (merchant acquirer) as a minimum of a Level II merchant with the ability to pass along tax, shipping and merchant references information.

2. Electronic Funds Transfer (EFT) by Automated Clearing House (ACH).

3. Check or other cash equivalent.

B. The City's preferred method of payment is by Visa credit card (aka procurement card). Suppliers may be required to have the capability of accepting the City's authorized procurement card as a method of payment**. The City of Tacoma will not accept price changes or pay additional fees when the procurement card is used.**

C. The City, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract.

1.42 NOTICES

Unless otherwise specified, except for routine operational communications, which may be delivered personally or transmitted by electronic mail, all notices required by the Contract shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to Supplier's registered agent and to the applicable City department representative.

1.43 INDEPENDENT CONTRACTOR STATUS

A. Supplier 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 Supplier 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 Supplier. Supplier 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, Supplier agrees to indemnify and hold the City harmless from all costs incurred, including attorney fees.

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

1.44 NONDISCRIMINATION

Supplier agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. Supplier 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 Supplier with any of the non-discrimination provisions of the Contract, the City shall be deemed to have cause to terminate the Contract, in whole or in part.

1.45 FEDERAL, STATE, AND MUNICIPAL LAWS AND REGULATIONS

Supplier shall comply with all federal, state, municipal, and/or local laws and regulations in the performance of all terms and conditions of the Contract. Supplier shall be solely responsible for all violations of the law from any cause in connection with its performance of work under the Contract.

1.46 REPORTS, RIGHT TO AUDIT, PERSONNEL

A. Reports. Supplier 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 or goods provided pursuant to the Contract.

B. Right to Audit. Upon City's request, Supplier 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 the Contract or in satisfaction of City's public disclosure obligations as applicable.

C. Personnel. If before, during, or after the execution of a Contract, Supplier has represented or represents to the City that certain personnel would or will be responsible for performing services pursuant to the Contract, then Supplier is obligated to ensure that said personnel perform said Contract services to the maximum extent permitted by law. Substantial organizational or personnel changes within Supplier's firm are expected to be communicated to City immediately. Failure to do so could result in termination of the Contract. This provision shall only be waived by written authorization by the City, and on a case-by-case basis.

1.47 INSURANCE

During the course and performance of a Contract, Supplier will provide proof and maintain the insurance coverage in the amounts and in the manner specified in the City of Tacoma Insurance Requirements as is applicable to the services, products, and deliverables provided under the Contract. The City of Tacoma Insurance Requirements document, if issued, is fully incorporated into the Contract by reference.

1.48 INDEMNIFICATION – HOLD HARMLESS

A. Supplier agrees to indemnify, defend, and hold harmless the City of Tacoma, its officers, agents and employees, from and against any and all liability which may accrue to or be sustained by the City of Tacoma for any claim, suit or legal action made or brought against the City for the death of or injury to persons (including Supplier's or subcontractor's employees), or damage to property involving Supplier or subcontractor(s) and their employees or agents, or for any other cause arising out of and in connection with or incident to the performance of the Contract, except for injuries or damages caused by the sole negligence of the City. In this regard, Supplier recognizes it is waiving immunity under Industrial Insurance Law, Title 51 RCW. This indemnification includes attorney's fees and the cost of establishing the right to indemnification hereunder in favor of the City of Tacoma. By Supplier's acceptance of this order, he/she agrees that this subsection has been mutually negotiated.

B. These indemnifications shall survive the termination of a Contract.

1.49 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 a Contract, either in fact or in appearance. Supplier shall comply with all federal, state, and City conflict of interest laws, statutes, and regulations. Supplier represents that Supplier presently has no interest and shall not acquire any interest, direct or indirect, in the program to which the Contract pertains that would conflict in any manner or degree with the performance of Supplier's services and obligations hereunder. Supplier further covenants that, in performance of a Contract, no person having any such interest shall be employed. Supplier 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 Contract subjecting the Contract to termination.

1.50 CITY OWNERSHIP OF WORK/RIGHTS IN DATA/PUBLICATIONS

A. To the extent that Supplier creates any work subject to the protections of the Copyright Act (Title 17 U.S.C.) in its performance of a Contract, Supplier agrees to the following: The work has been specially ordered and commissioned by the City. Supplier 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, Supplier 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 Supplier's creation of the work.

B. Supplier 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 Supplier fail to obtain said releases and/or licenses, Supplier shall indemnify, defend, and hold harmless the City for any claim resulting there from.

1.51 DUTY OF CONFIDENTIALITY

Supplier 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 Supplier's employees, agents, or subcontractors who have a substantial need to know such information in connection with Supplier's performance of obligations under the Contract, Supplier 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 a Contract.

1.52 DISPUTE RESOLUTION

In the event of a dispute pertaining to ta 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.

1.53 GOVERNING LAW AND VENUE

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

1.54 ASSIGNMENT

Supplier shall not assign, subcontract, delegate or transfer any obligation, interest or claim to or under the Contract without the prior written consent of the City.

1.55 WAIVER

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

1.56 SEVERABILITY AND SURVIVAL

If any term, condition or provision herein or incorporated by reference 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 the Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of the Contract, shall survive termination of the Contract.

1.57 NO CITY LIABILITY

Neither the City, its officials, staff, agents, employees, representatives, or consultants will be liable for any claims or damages resulting from any aspect of this procurement process.

1.58 SIGNATURES

A signed copy of Submittals, Contract documents, including but not limited to contract amendments, contract exhibits, task orders, statements of work and other such Contract related documents, delivered by email or other means of electronic transmission including by using a third party service, which service is provided primarily for the electronic execution of electronic records, shall be deemed to have the same legal effect as delivery of an original signed copy.