



City of Tacoma, WA

**PUBLIC WORKS DEPARTMENT
REQUEST FOR QUALIFICATIONS
PUYALLUP AVENUE CORRIDOR CONCEPTUAL DESIGN
SPECIFICATION NO. PW16-0261F**



**City of Tacoma
Public Works Engineering**

**REQUEST FOR QUALIFICATIONS
PW16-0261F
Puyallup Avenue Corridor Conceptual Design**

Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, July 12, 2016

Submittal Delivery: Sealed submittals will be received and time stamped at this location only:

City of Tacoma Procurement and Payables Division
Tacoma Public Utilities - Administration Building North, Main Floor
3628 South 35th Street, Tacoma, WA 98409

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

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

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

Pre-Proposal Meeting: A pre-proposal meeting will not be held.

Project Scope: The City of Tacoma, Public Works Department, Engineering Division, intends to procure a consulting firm to provide conceptual design services for corridor improvements along Puyallup Avenue between S. C-Street (connection to Prairie Line Trail) and Portland Avenue. The improvements should address multimodal uses, complete street concepts (landscaping, lighting, sidewalks, crosswalks, bike lanes, and other amenities), road diet opportunities, and provide for safe and predictable interactions between vehicles, pedestrians and cyclists.

The consultant/team shall provide up to three design concepts for Puyallup Avenue, conceptual-level cost estimates, public meetings support, and final conceptual plan updates based on public comment. Based on available funds, the final conceptual plan and cost estimate may also be updated to the 10% design document level. The chosen team shall have immediate availability and relevant experience on similar public works projects. All work should occur within an approximate 4-6 month window.

Estimate: \$130,000-\$140,000

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 Joe Parris, Senior Buyer by email to jparris@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.

**CITY OF TACOMA
STANDARD TERMS AND CONDITIONS
SECTION 1 – SOLICITATION**

THE FOLLOWING TERMS AND CONDITIONS ARE PART OF THIS SPECIFICATION AND ARE BINDING ON ALL RESPONDENTS SUBMITTING RESPONSES TO REQUESTS FOR BIDS, PROPOSALS, QUALIFICATIONS AND INFORMATION.

1.01 DELIVERY OF SUBMITTALS TO THE CITY'S PURCHASING DIVISION

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

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

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

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

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

1.02 WITHDRAWAL OF SUBMITTALS

A. Prior to Submittal Deadline (Bid Opening)

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

B. After Submittal Deadline

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

1.03 SUBMITTAL IS NON-COLLUSIVE

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

1.04 OPENING AND ACCEPTANCE OF SUBMITTALS

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

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

1.05 RIGHT TO REJECT

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

A. Requests for Proposals (RFP)

By submitting a proposal in response to a City RFP, the Respondent acknowledges and consents to the below City rights and conditions. With regard to this procurement process, the City reserves, holds

without limitation, and may exercise, at its sole discretion, the following rights and conditions:

1. To terminate the procurement process or decide not to award a contract as a result thereof by written notice to the Respondents for any reason whatsoever.
2. To waive any defect, technicality, or any other minor informality or irregularity in any submittal, or any other response from Respondents.
3. To make minor or major changes or alterations to the evaluation, selection and/or performance schedule(s) for any events associated with this procurement process upon notice to the Respondents.
4. To supplement, amend or otherwise modify the RFP specifications, at any time upon prior notice to Respondents, including but not limited to modifications to the description of services and/or products contained in the RFP, by omitting services/products and/or including services/products not currently contemplated therein.
5. To request clarifications, additional information, and/or revised submittals from one or more Respondents.
6. To conduct investigations with respect to the qualifications and experience information for each Respondent included in a submittal and to request additional evidence to support any such information.
7. To eliminate any Respondent that submits an incomplete or inadequate response, or is non-responsive to the requirements of the RFP specifications, or is otherwise deemed to be unqualified during any stage of the procurement process.
8. To select and interview a single finalist or multiple finalists for the purpose of promoting the City's evaluation of submittals provided in response to the RFP specifications. The City may, in its sole and exclusive discretion as to what is in the City's best interest, elect not to conduct interviews of any or all respondents in connection with this RFP process.
9. To discontinue contract negotiations with a selected Respondent and commence such negotiations with another respondent, except as otherwise provided in Chap. 39.80, RCW.
10. To select and enter into a contract with one or more Respondents whose submittal best satisfies the interests of the City and is most responsive, in the sole judgment of the City, to the requirements of the RFP specifications.
11. To take any other action affecting the RFP specifications or the procurement process that is determined to be in the City's best interests.
12. In the event the City receives questions concerning RFP specifications from one or more Respondents prior to the deadline for response, the City reserves the right to provide such questions, and the City's responses, if any, to all Respondents.
13. Neither the City, its officials, staff, agents, employees, representatives, nor consultants will be liable for any claims or damages resulting from any aspect of this procurement process.

1.06 EVALUATION OF SUBMITTALS

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

A. Evaluation Factors

In addition to the factors set forth in Municipal Code Section 1.06.262, the following may be used by the City in determining the lowest and best responsible submittal:

1. Compliance with the Specification and with applicable City requirements, including by not limited to, the City's Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs.
2. Submittal prices, listed separately if requested, as well as a lump sum total (if the unit price does not compute to the extended total price, the unit price shall govern).
3. Time of delivery and/or completion of performance (delivery date(s) offered).
4. Warranty terms.
5. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City's Ethics Code.
6. Previous and existing compliance with laws and ordinances relating to contracts or services.
7. Sufficiency of financial resources.
8. Quality, availability and adaptability of the supplies or services to the particular use required.
9. Ability to provide future maintenance and service on a timely basis.
10. Location of nearest factory authorized warranty repair facility or parts dealership.
11. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications and skill to perform the contract or provide the services required.

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

B. Cash Discount

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

1.07 COMPLETION OF CITY FORMS

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

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

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

1.08 CORRECTION OF AMBIGUITIES AND OBVIOUS ERRORS

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

1.09 CLARIFICATION OF SPECIFICATION

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

1.10 ALTERATIONS NOT ALLOWED

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

submittal. The City cannot legally accept any submittal containing a material deviation from the Specifications.

1.11 INSERTION OF MATERIAL CONFLICTING WITH SPECIFICATIONS

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

1.12 FIRM PRICES/ESCALATION

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

1.13 SHIPPING

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

1.14 LEGAL HOLIDAYS

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

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

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

1.15 TAXES

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

A. Federal Excise Tax

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

B. State and Local Sales Tax

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

C. City of Tacoma Business and Occupation Tax

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

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

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

D. Any or All Other Taxes

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

1.16 WASHINGTON BUSINESS LICENSE REQUIREMENT

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

1.17 PUBLIC DISCLOSURE

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

1.18 PROPRIETARY OR CONFIDENTIAL TRADE SECRET INFORMATION

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

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

1.19 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The City of Tacoma ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin or sex in the provision of benefits and services resulting from its federally assisted programs and activities. Contact Tacoma's Title VI coordinator at 253-591-5224 for additional information.

1.20 LEGAL DISPUTES

Respondent agrees and stipulates that in the event any litigation should occur concerning or arising out of this solicitation or any submittal delivered in response hereto, the sole venue of any such legal action shall be the Pierce County Superior Court of the state of Washington and the interpretation of the terms of the solicitation and submittal shall be governed by the laws of the state of Washington.

1.21 PURCHASE ORDER TERMS AND CONDITIONS

Terms and conditions of City of Tacoma purchase orders, if issued, shall apply to contracts and awards resulting from this solicitation.

1.22 RESPONDENT'S REFUSAL TO ENTER INTO CONTRACT

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

1.23 AWARD

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

1.24 FINAL AWARD DETERMINATION

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

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**CITY OF TACOMA
STANDARD TERMS AND CONDITIONS
SECTION 2 – SUPPLIES**

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

2.01 SUPPLIER

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

2.02 ENTIRE AGREEMENT

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

2.03 APPROVED EQUALS

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 the 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.

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 the 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 the Supplier's expense.

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

2.04 PRICE, RISK OF LOSS, DELIVERY

A. Firm Prices/Risk of Loss

All prices shall remain firm during the term of this Contract. All prices shall be FOB, 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 this Contract. Deliveries shall be between 9:00 a.m. and 3:30 p.m., Monday through Friday only, except holidays. Failure to make timely delivery shall be cause for termination of the order and return of all or part of the items at Supplier's expense except in the case of force majeure.

2.05 PACKING SLIPS, SHIPPING NOTICES AND INVOICES

Packing slips and shipping notices shall be sent to the specific City Division or Department receiving the item(s) 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.

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

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

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

2.06 PAYMENT TERMS

Payment shall be made through the City's ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice. Payment will not be considered late if mailed or electronically disbursed within the time specified. Payment(s) made in accordance with this Contract shall fully compensate the 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. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

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

2.07 INCREASE OR DECREASE IN QUANTITIES

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

2.08 EXTENSION OF CONTRACT

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

2.09 ADDITIONAL CITY CONTRACTS

During the term of this Contract, other City of Tacoma Departments/Divisions shall have the right to enter into contracts or issue purchase orders based on the unit prices stated in this Contract.

2.10 COMPARATIVE PRICING

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

2.11 CHANGES

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

2.12 COOPERATIVE PURCHASING

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

2.13 WARRANTIES/GUARANTEE

Suppliers warrant that all items: are merchantable; comply with the City's latest drawings and specifications; are fit for the City's intended use; are new and unused unless otherwise stated; 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, and all other applicable state and federal laws or agency regulations; are properly packaged and contain appropriate instructions or warnings, including applicable MSDS sheets.

2.14 PATENTS, TRADEMARKS AND COPYRIGHTS

The Supplier warrants that the equipment and/or materials furnished pursuant to this Contract do not infringe on any patent, trademark or copyright, and agrees to indemnify, defend and hold harmless, the City in the event of any infringement or claim thereof.

2.15 DEFAULT

In the event of material default by the Supplier on any of the conditions of this Contract, the 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 the Supplier, or collect against the bond or security (if any), or may invoice and recover from the Supplier all costs paid in excess of the price(s) set forth in this Contract. The prices paid by the City in good faith shall be considered the prevailing market price at the time such purchase is made.

2.16 TAXES, LICENSES, PERMITS

Unless otherwise required by applicable law, the tax provisions in Section 1 - Solicitation apply to this Contract. Except for state sales tax, the Supplier acknowledges that it is responsible for the payment of all taxes applicable to this Contract and the 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.

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

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

2.17 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 this Contract. The Supplier shall be solely responsible for all violations of the law from any cause in connection with its performance of work under this Contract.

2.18 SMALL BUSINESS ENTERPRISE (SBE) PROGRAM AND EQUAL OPPORTUNITY

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

2.19 NONDISCRIMINATION

The 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. The 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 the Supplier with any of the non-discrimination provisions of this Contract, the City shall be deemed to have cause to terminate this Contract, in whole or in part.

2.20 PREVAILING WAGES PAID – IF REQUIRED

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

2.21 CONFLICT OF INTEREST

No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Supplier shall comply with all federal, state and City conflict of interest laws, statutes and regulations. The Supplier represents that the Supplier presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains that would conflict in any manner or degree with the performance of the Supplier's services and obligations hereunder. The Supplier further covenants that, in performance of this Contract, no person having any such interest shall be employed. The 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 this Contract subjecting the Contract to termination.

2.22 RIGHT TO AUDIT

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

2.23 TERMINATION

The City reserves the right to terminate this 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.

2.24 INDEMNIFICATION – HOLD HARMLESS

The 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 the Supplier's or subcontractor's employees), or damage to property involving the 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 this Contract, except for injuries or damages caused by the sole negligence of the City. In this regard, the 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 the Supplier's acceptance of this order, he/she agrees that this subsection has been mutually negotiated.

2.25 PUBLIC DISCLOSURE

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

2.26 DISPUTE RESOLUTION

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

2.27 GOVERNING LAW AND VENUE

Washington law shall govern the interpretation of this 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 this Contract.

2.28 ASSIGNMENT

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

2.29 WAIVER

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

2.30 SEVERABILITY AND SURVIVAL

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

2.31 CONFLICT WITH CONTRACT

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

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REQUEST FOR QUALIFICATIONS

Puyallup Avenue Corridor Conceptual Design

Consultant Services

Specification No. PW16-0261F

1.00 OBJECTIVE

The City of Tacoma, Public Works Department, Engineering Division, intends to procure a consulting firm to provide conceptual design services for corridor improvements along Puyallup Avenue between S. C-Street (connection to Prairie Line Trail) and Portland Avenue. The improvements should address multimodal uses, complete street concepts (landscaping, lighting, sidewalks, crosswalks, bike lanes, and other amenities), road diet opportunities, and provide for safe and predictable interactions between vehicles, pedestrians and cyclists.

The consultant/team shall provide up to three design concepts for Puyallup Avenue, conceptual-level cost estimates, public meetings support, and final conceptual plan updates based on public comment. Based on available funds, the final conceptual plan and cost estimate may also be updated to the 10% design document level. The chosen team shall have immediate availability and relevant experience on similar public works projects. All work should occur within an approximate 4-6 month window.

2.00 BACKGROUND

2.01 PROJECT BACKGROUND

The Dome District is bordered on its west and south sides by freeways, and on its north side by railroads. Portions of the Dome District were originally an intertidal area that was filled in the late-1800s to form the residential Hawthorne neighborhood. Over time, proximity to rail transportation and the construction of Interstate 5 contributed to a transition from residential to manufacturing and industrial uses. In 1981, a large portion of the neighborhood was razed to construct the Tacoma Dome. Today there are only a handful of housing units remaining in the entire District. The District has a rich mix of transit assets, including a Sounder commuter rail station, an Amtrak rail station (which may be relocated to Freighthouse Square), a Sound Transit LINK light rail station, and a terminal serving Pierce Transit and Sound Transit buses with two large parking structures (which provide a transfer point for approximately 20 local and regional routes), giving the district significant long-term potential for transit-oriented development. The Sounder Station is located in Freighthouse Square, a three-block-long former Milwaukee Railroad freight station, which also houses an eclectic mix of independent retail and restaurants. The most recent addition to the district is America's Car Museum.

Puyallup Avenue, with a posted speed limit of 30 mph and an ADT of approximately 15,000 vehicles per day, is a 4-lane principal arterial street which also contains a center turn lane and parking lanes. It serves Tacoma Dome District businesses and residents, and borders the Old Brewery District to the west, the Foss Waterway District to the north, and provides a gateway to the Port via Portland Ave. Proposed improvements should be consistent with the Final South Downtown Subarea Plan and the City's Comprehensive Plan, including the Transportation

Master Plan. These plans can be found on the City's Planning and Development Services website.

Proposed improvements should be designed to stay within the existing right-of-way as depicted on the City's govME website.

Appendix A contains existing project background information including potential streetscape images, a preliminary cost estimate, and a 2014 Regional FHWA grant application. The images and the information contained in the existing documents are strictly conceptual and have not been validated with traffic studies or reviewed by stakeholders. Stormwater treatment alternatives, although identified in the preliminary cost estimate, will not be included in the scope of work. These documents are provided for informational purposes only and should not limit future conceptual creativity/proposals.

3.00 SCOPE OF WORK

The scope of work for the project generally includes the following:

- Perform a traffic study to evaluate existing, constructed, and 20-year projected traffic conditions on Puyallup Avenue to determine appropriate streetscape improvements to accommodate current and future growth. The consultant team will develop a step-by-step procedure to conduct the traffic analysis. The traffic analysis may include, but not be limited to, signal optimization and timing, optimal lane configurations, corridor travel times access management, safety, and general impacts of Dome, Port, and downtown peak travel conditions. The consultant team will identify the appropriate measure of effectiveness' (MOE's) to support the project objectives and outcomes. The City will provide the following models and traffic counts:
 - Traffic counts at the signalized intersections
 - Traffic operations model (SYNCHRO)
 - City of Tacoma Travel Demand Model (Emme)

Other assumptions and desired outcomes will be determined and finalized during the project scoping session. The traffic analysis procedure, goals, and study results will be reviewed with the City.

The primary focus of this project is to develop corridor improvements. The traffic study methods should be as efficient as possible to support the design and implementation of these improvements.

- In conjunction with the City, scope and develop a public outreach process that will address the needs of the Dome district (residents and businesses), the freight community, the transit agencies, non-motorized users, and others as needed. Support City staff in working with the Bike Pedestrian Technical Advisory Group, the Transportation Commission, and Council Subcommittees, among others.
- Coordinate with City, transit organizations and other local stakeholders to develop up to three streetscape concepts. The concepts shall be reviewed by the City and other entities. Evaluate, coordinate and update concepts in conjunction with traffic model modifications and outcomes.

- Provide conceptual level cost estimates for each concept.
- Attend up to three public meetings to assist in the presentation of the project concepts. Evaluate public comment and scope concept changes with City and other stakeholders. Update the selected concept in conjunction with the traffic model.
- The scope may include developing 10% design documents, including a cost estimate, of the selected concept for City review.

4.00 REQUEST FOR QUALIFICATION (RFQ) PROCESS

It is the City's intent to select a consultant based on the qualifications and abilities of the proposed project team and key project individuals.

Proposers may either be individual firms or teams as appropriate to meet the specific needs of the project. If relevant, it shall be at the discretion of the Proposer to determine and identify the lead consultant for the consultant team. Proposers are solely responsible for all costs incurred in the development and submission of the Statement of Qualifications (SOQ), or any other presentations or submittals, whether in response to this RFQ or to any subsequent requirements of the consultant selection and contract negotiation process.

4.01 SOQ SUBMITTAL AND GENERAL GUIDELINES

SOQ submittal packages shall be submitted no later than **11:00 a.m., Tuesday, July 12, 2016** to:

City of Tacoma Public Utilities
Purchasing Division
Attention: Joseph Parris, Senior Buyer
3628 South 35th Street
Tacoma, Washington 98409

Clearly mark the specification number and project name (**PW16-0261F: Puyallup Avenue Corridor Conceptual Design**), and the name of Proposer on the outside of the delivery package.

Submit one (1) original and five (5), individually bound copies of the SOQ. The Original copy, containing original signatures, shall be clearly marked. The binding for each copy must be comb, spiral, or glue style. Three ring binders are not acceptable as a binding method. Proposers are strongly encouraged to use recycled/recyclable products and both sides of the paper whenever appropriate.

The City recommends that the Proposer's SOQ submittals be limited to no more than 10 pages (not including the cover letter, resumes, Proposal Signature Sheet and Prime Contractor's Pre-Work Form).

4.02 RFQ QUESTIONS AND ANTICIPATED SCHEDULE

Questions and request for clarifications of the specifications may be submitted in writing by 5:00 p.m., PST, **Thursday, June 30, 2016**, to Joseph Parris, Purchasing Division, by email to jparris@cityoftacoma.org. No further questions will be accepted after this date and time. The City of Tacoma will not be responsible for unsuccessful submittal of questions via email.

Written answers to all questions submitted will be posted on the Purchasing website at www.TacomaPurchasing.org on or about **Wednesday, July 6, 2016**, or sooner. The City reserves the discretion to group similar questions to provide a single answer, or not to respond when the information is confidential. The answers will not be considered an addendum.

The following schedule has been established for the submission and evaluation of the SOQs and selection of the Consultant. These are tentative dates only and the City reserves the right to adjust these dates at its sole discretion.

SOQs Due	July 12, 2016
Short List for Interviews (if needed)	July 14, 2016
Interviews	July 25, 2016
Announce Final Selection	July 26, 2016
Complete Contract Negotiation	August 12, 2016

A Selection Advisory Committee (SAC) shall be created by the City to review the SOQ, shortlist, interview, and select the consultant.

4.03 ACCEPTANCE/REJECTION OF RESPONSES

The City of Tacoma reserves the right and holds at its discretion the following rights and options:

- To waive any or all informalities in any SOQ.
- To reject any or all responses.
- To issue subsequent requests.

4.04 ADDENDA OR BULLETINS

Addenda or bulletins supplementing this RFQ document and issued prior to the SOQ deadline shall be made part of the SOQ. Failure to acknowledge addenda may result in an SOQ being deemed non-responsive by the City.

4.05 A&E SERVICES AGREEMENT

A copy of the draft City Standard A&E Services Agreement is enclosed as Appendix B and shall be finalized between the City and the selected Consultant. The City must approve the scope of work, budget, and design schedule proposed by the selected consultant prior to issuing the contract for signature. The Consultant shall maintain the insurance coverage described in Appendix C.

5.00 SOQ SUBMITTAL CONTENT

All materials submitted in response to this RFQ, except for proprietary materials, will become the property of the City.

Information that is confidential or proprietary must be clearly marked on each affected page. Further, an index must be provided indicating the affected page number(s) and location(s) of all such identified material. Information not included in said index will not be reviewed for confidentiality or as proprietary before release. See items 1.17 and 1.18 of the Standard Terms and Conditions Section 1 – Solicitation.

Proposers should be aware that the City is required by law to make its records available for public inspection with certain exceptions. See Revised Code of Washington, Chapter 42.17. It is the City's belief that this legal obligation would not require the disclosure of proprietary, descriptive literature that contains valuable designs, drawings, or documentation. However, the Proposer, by submission of materials marked "proprietary," acknowledges and agrees that the City shall have no obligation or liability to the Proposer in the event that the City is required to disclose these materials.

To be considered responsive to this RFQ, the Proposer's SOQ must include the information contained in this section. See Section 6.01 for applicable scoring values.

5.01 SOQ COVER AND COVER LETTER

Clearly label the SOQ cover and the subject line in the cover letter with "**Statement of Qualifications for PW16-0261F: Puyallup Avenue Corridor Conceptual Design.**" The cover letter should identify the consultant name and contact person with his/her title. Include address, mailing address, e-mail address, phone number, fax number, and any other information that shall allow the City to reach the contact person quickly and directly.

The cover letter should include the name of the proposed Project Manager. A duly authorized officer, employee, or agent of the consulting firm must sign the cover letter.

The fully completed Proposal Signature Sheet, Appendix D, shall be included with the SOQ Cover and Cover Letter.

5.02 CONSULTANT TEAM STRUCTURE

In an org-chart format, provide the consultant team structure including names of lead persons with titles, the name of their company, general project responsibilities, and the physical location of each person.

5.03 QUALIFICATIONS AND RELEVANT EXPERIENCE

Lead Firm: Discuss the lead firm's ability to actively perform the proposed work and provide a statement which clearly conveys the ability of the firm to accept responsibility for completing the project in view of the firm's current and projected workload.

Project Manager: Provide the qualifications of the consultant team's Project Manager, including their work on similar projects, the outcome of those projects, and the success in working with public clients. Provide level of effort and availability of the firm's Project Manager for this project. List other projects the proposed Project Manager is currently working on, the project's duration and their time commitment to each project.

Team: The proposed project personnel identified shall be evaluated for their areas of expertise and experience which qualify them to perform the work for the project. List the lead project personnel with titles who shall be primarily responsible for and involved with work activities. Identify the responsibilities and activities of each lead person. Include professional data or resume outlining specific project capabilities.

Describe the team's experience working together and with other public agencies on similar projects. Provide a description of similar projects that the team has worked on, any awards, or other items that make the team especially qualified for this work. Specifically address completed corridor and streetscape improvements, traffic studies and public outreach. Although information on completed designs will be acceptable, the focus should be on completed design **and** construction when available, and any outcomes or challenges associated with the construction implementation of the design. Provide information in table format when applicable.

Availability: By listing persons available for this project, the Proposer is agreeing to make the personnel available to complete the work at whatever level is required to meet the project schedule. Identify how these individuals will be available, where they will be located, and the percentage of time they will need/be available for this work.

5.04 SCHEDULE

Identify how the project team will complete the project within the defined 4-6 month window. Address how the key tasks will be completed within this timeframe, including public outreach, stakeholder coordination, traffic analysis, and concept development.

5.05 REFERENCES

References may be used to clarify and verify information presented in the SOQ and interview, and may affect the rating of the Proposer. Provide three recent references for the consultant team and three recent references for the Project Manager. The references may be contacted concerning past performance with regard to the qualifications listed in the SOQ. In listing the references, include the name of the client/contact person, mailing address, telephone number, e-mail address, the relevant project name, brief description of duties/responsibilities, and the timeframe of the work. The City reserves the right to contact references other than those submitted by the respondent.

5.06 SMALL BUSINESS ENTERPRISE

Regardless of the funding source, the City encourages the maximum opportunity for local, small, disadvantaged and minority/women owned businesses to participate in public works contracts.

Points will be awarded in this RFQ process based on how SBE consultants are presented as part of the project team. Please provide answers to the questions below in your SOQ. A “yes” answer to any of the questions below will result in the award of five (5) points.

- Is your firm a certified City of Tacoma SBE firm?
- Is your firm partnering with a certified City of Tacoma SBE firm(s)?
- Is your firm a minority/woman owned firm certified with the Washington State Office of Minority and Women’s Business Enterprise?
- Is your firm partnering with a minority/woman owned firm certified with the Washington State Office of Minority and Women’s Business Enterprise?

Proposers participating in this RFQ process shall complete the **Prime** Contractor’s Pre-Work Form and submit it with their SOQ. The **Subcontractor**’s Pre-Work Form will be submitted post-award. These forms may be found in Appendix E. Questions regarding these forms or the relevant City or WSDOT programs should be directed to Charles Wilson, SBE Coordinator, at 253-591-5224 or CWilson@ci.tacoma.wa.us.

5.07 SUSTAINABILITY

Demonstrate your firm’s commitment to providing the services identified in the scope of work in a sustainable manner.

Provide details of efforts, practices and/or processes regarding what measures your firm will take to minimize the impacts to the environment in the delivery of services.

Demonstrate your firm’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.

6.00 CONSULTANT SELECTION PROCESS

The Selection Advisory Committee (SAC) consisting of City staff, as appropriate, shall evaluate the SOQs. Interviews shall be evaluated by the SAC according to the consultant evaluation criteria discussed below.

Part 1 of the evaluation process shall consist of the evaluation of the SOQ package submitted by each Proposer, and shall result in a short-listing of Proposers who may be invited to an interview with the SAC.

Part 2 of the evaluation process, if needed, shall evaluate the interviews and the SOQs to produce a final rating. References shall be used to help clarify and verify information presented in the SOQ and interview, which may affect the rating of the respondent.

The City reserves the right to select the firm directly from the SOQs without conducting an interview.

At the conclusion of Part 2 of the evaluation process, a recommendation shall be made to Public Works management to obtain approval to begin negotiations with the selected Proposer.

Contract negotiations shall then commence with the selected Proposer as described in Section 7.00. The Proposers not selected shall be notified via email of the selection outcome. If the selected Proposer and the City are unable to agree on the final scope and fee for the consultant services for the contract, the City reserves the right to terminate the negotiations with the selected Proposer and initiate contract negotiations with the next highest rated Proposer.

6.01 EVALUATION CRITERIA

The SOQs shall be evaluated based on the criteria listed below. The relative weight of each criterion is indicated in parentheses.

1. Consultant Team Structure (10 points)
2. Qualifications and Relevant Experience (70 points)
3. Schedule (10 points)
4. Small Business Enterprise (5 points)
5. Sustainability (5 points)

6.02 STATEMENT OF QUALIFICATIONS

The City reserves the right to request clarification of any aspect of a firm's SOQ, or to request additional information that might be required to properly evaluate the qualifications. A firm's failure to respond to such a request may result in rejection of the firm's submittal.

Requests for clarification or additional information shall be made at the sole discretion of the City. The City's retention of this right shall in no way diminish a Proposer's responsibility to submit a qualification submittal that is current, clear, complete, and accurate.

6.03 INTERVIEWS

Proposers submitting SOQs shall be notified via email whether they have been selected for an interview. The SAC may schedule an interview with the contact person provided in the SOQ. Additional interview information shall be provided at the time of the invitation. At this time, it is anticipated that the main objective of the interview shall be for the SAC to meet the Project Manager and key personnel, and for the consultant team to present their experience and expertise they feel is applicable to this work. The SAC reserves the right to adjust scoring based on additional information and/or clarifications provided during interviews. The SAC may determine scoring criteria for the interviews following evaluation of written submittals.

7.00 CONTRACT NEGOTIATION PROCESS

The City shall enter into the contract negotiation process with the selected Proposer (consultant team) based on the recommendations of the Selection Advisory Committee (SAC).

7.01 A&E SERVICES AGREEMENT

A draft City Standard A&E Services Agreement is enclosed as Appendix B and shall be finalized between the City and the selected Proposer during this process. The draft agreement

is provided for informational use only. As part of the negotiation process, Respondents may propose amendments to this contract, but the City, at its sole option, will decide whether to open discussion on each proposed amendment. Insurance requirements that are to be maintained throughout the project are outlined in Appendix C.

7.02 SCOPE, BUDGET AND SCHEDULE

The selected Proposer shall submit a draft scope, budget, and schedule to the City within five business days after notification of selection or as directed by the Project Manager. These documents shall include an itemized list of tasks and estimated hours for the proposed work. A final scope, budget and schedule shall be completed and approved by the City within fifteen business days of final selection and notification.

7.03 RESPONSIVENESS

Respondents agree to allow up to 60 days for contract execution from the submittal deadline.

All submittals will be reviewed by the City to determine compliance with the requirements and instructions specified in this RFP. The Respondent is specifically notified that failure to comply with any part of this RFP may result in rejection of the submittal as non-responsive. The City reserves the right, in its sole discretion, to waive irregularities deemed to be immaterial.

The final selection, if any, will be that proposal which, after review of submissions and potential interviews, in the sole judgement of the City, best meets the requirements set forth in this RFP.

7.04 COSTS TO PREPARE SUBMITTAL

The City is not liable for any costs incurred by the Respondent for the preparation of materials or a proposal submitted in response to this RFP, for conducting any presentations to the City, or any other activities related to responding to this RFP.

7.05 ACCEPTANCE OF PROPOSAL CONTENTS

The Proposal contents of the successful Respondent will become contractual obligations if a contract ensues.

7.06 PARTNERSHIPS

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

7.07 COMMITMENT OF FIRM KEY PERSONNEL

The Respondent agrees that key personnel identified in its submittal or during contract negotiations as committed to this project will, in fact, be the key personnel to perform during the life of this contract. Should key personnel become unavailable for any reason, the selected Respondent shall provide suitable replacement personnel, subject to the approval of the City. Substantial organizational or personnel changes within the agency are expected to be communicated immediately. Failure to do so could result in cancellation of the Contract. Specific language pertaining to personnel substitution is contained within the sample contract in Appendix B.

APPENDIX A

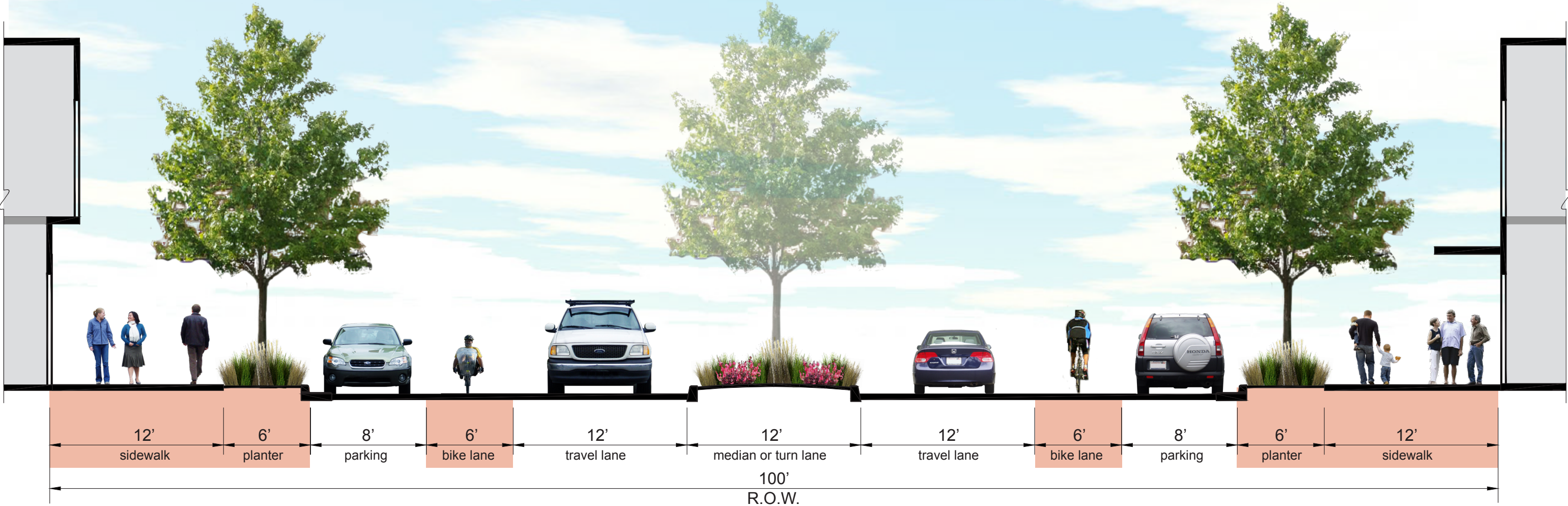
Background Information





PUYALLUP AVENUE

TYPICAL CROSS SECTION





City of Tacoma
PUYALLUP AVENUE
From Pacific Avenue to Portland Avenue



PRELIMINARY PROJECT ESTIMATE

DATE: February 2012
PROJECT NAME: Puyallup Avenue

Project Length Incl. Returns (LF) 6,350
 New Cross Section Width (LF) 100

ROADWAY CONSTRUCTION COST ESTIMATE			Percent of Project Footprint	Unit Cost	Total (Rounded)
Description	Quantity	Unit			
1 Mobilization (8% of Const Subtotal)	1	LS	100.00%	\$ 909,080.00	\$ 909,100.00
2 Construction Surveying (1.5% Const)	1	LS	100.00%	\$ 167,932.50	\$ 168,000.00
3 Project Temporary Traffic Control (Normal - 5% Const)	1	LS	100.00%	\$ 541,115.00	\$ 541,200.00
4 Project Temporary Traffic Control (High - 8% Const)	0	LS	50.00%	\$ 889,288.00	\$ -
5 Earthwork - High	635,000	SF*	5.00%	\$ 2.50	\$ 79,400.00
6 Earthwork - Medium	635,000	SF*	5.00%	\$ 1.25	\$ 39,700.00
7 Earthwork - Low	635,000	SF*	20.00%	\$ 0.75	\$ 95,300.00
8 Removals	635,000	SF*	100.00%	\$ 0.50	\$ 317,500.00
9 Roadway Excavation Incl Haul	23,205	CY	100.00%	\$ 22.00	\$ 510,600.00
10 Cement Conc. Roadway, 8-IN - (Travel & Bike Lanes)	7,526	CY	100.00%	\$ 150.00	\$ 1,128,900.00
11 Cement Conc. Roadway, 8-IN - Pervious (Parking Lanes)	2,509	CY	100.00%	\$ 250.00	\$ 627,200.00
12 Roadway Base (6-IN Depth)	13,923	TN	100.00%	\$ 25.00	\$ 348,100.00
13 General Roadway (Signage, Channelization, Utility Castings etc)	406,400	SF	100.00%	\$ 1.20	\$ 487,700.00
14 Traffic Curb and Gutter	12,700	LF	100.00%	\$ 25.00	\$ 317,500.00
15 Sidewalk (Decorative) = 20'	16,933	SY	100.00%	\$ 35.00	\$ 592,700.00
16 Planter Strip Width = 12'	8,467	SY	80.00%	\$ 40.00	\$ 271,000.00
17 Lighting (Decorative)	6,350	LF	100.00%	\$ 150.00	\$ 952,500.00
18 Interconnect	6,350	LF	100.00%	\$ 20.00	\$ 127,000.00
19 Landscaping & Restoration - Basic	6,350	LF	90.00%	\$ 50.00	\$ 285,800.00
20 Landscaping & Restoration - Complex	6,350	LF	10.00%	\$ 110.00	\$ 69,900.00
21 Traffic Signal (New)	6	EA	100.00%	\$ 250,000.00	\$ 1,500,000.00
22 Traffic Signal (Modify)	1	EA	100.00%	\$ 120,000.00	\$ 120,000.00
23 Miscellaneous Utilities	635,000	SF*	100.00%	\$ 0.10	\$ 63,500.00
24 Retaining Walls - Structural	1,500	SF	100.00%	\$ 120.00	\$ 180,000.00
25 Temporary Erosion/Water Pollution Control	635,000	SF*	100.00%	\$ 0.50	\$ 317,500.00
26 Storm Drainage - New	635,000	SF*	100.00%	\$ 1.00	\$ 635,000.00
27 Storm Water Treatment System	635,000	SF*	100.00%	\$ 1.50	\$ 952,500.00
28 Storm Water Flow Control	635,000	SF*	100.00%	\$ 1.00	\$ 635,000.00
Subtotal Cost					\$ 12,272,600.00
25% Contingency					\$ 3,068,200.00
TOTAL ROADWAY CONSTRUCTION COST					\$ 15,340,800.00

* NOTE: (SF) based on proposed BOW to BOW

UTILITY CONSTRUCTION COST ESTIMATE			Percent of Project Footprint	Unit Cost*	Total (Rounded)
Description	Quantity	Unit			
1 Sanitary Sewer Line Replacement	6,350	LF	100%	\$ 136.00	\$ 863,600.00
2 Water Main Line Replacement	6,350	LF	100%	\$ 180.00	\$ 1,143,000.00
Subtotal Cost					\$ 2,006,600.00
Sales Tax (9.3%)					\$ 186,700.00
30% Contingency					\$ 602,000.00
TOTAL UTILITY CONSTRUCTION COST					\$ 2,795,300.00

RIGHT OF WAY COST ESTIMATE			Unit Cost*	Total (Rounded)
Description	Quantity	Unit		
ROW - Residential	0	SF	\$ 10.00	\$ -
ROW - Commercial	0	SF	\$ 25.00	\$ -
Construction Easement	50	EA	\$ 1,500.00	\$ 75,000.00
Settlement Costs	1	LS	\$ 20,000.00	\$ 20,000.00
R.O.W. Administration (17%)	1	LS	\$ 16,000.00	\$ 16,000.00
TOTAL RIGHT OF WAY COST				\$ 111,000.00

ENGINEERING / MANAGEMENT FEE		Total (Rounded)
(Preliminary, Design, Survey, and Inspection)		
Preliminary, Design, Survey (15% of Constr. Subtotal)		\$ 2,720,500.00
Constr. Eng., Admin. and Inspection (20% of Constr. Subtotal)		\$ 3,627,300.00
TOTAL ENGINEERING / CONSTRUCTION MANAGEMENT COST		\$ 6,347,800.00

PROJECT COST SUMMARY		Total (Rounded)
ROADWAY CONSTRUCTION COST		\$ 15,340,800.00
UTILITY CONSTRUCTION COST		\$ 2,795,300.00
RIGHT OF WAY COST		\$ 111,000.00
ENGINEERING / MANAGEMENT COST		\$ 6,347,800.00
TOTAL PROJECT COST		\$ 24,594,900.00

Assumptions

- 1 No franchise utility relocation
- 2 No interconnect utilities
- 3 No Bridge Replacement
- 4 (2) 8' Parking lanes pervious concrete
- 5 (2) 6' Bike lanes concrete
- 6 (3) 12' Travel lanes concrete
- 7 (2) 18' Sidewalks/and or Planters
- 8 50-LF CL improvements added for intersection returns
- 9 Fiber optic system between substations not included in estimate

PSRC's 2014 Regional FHWA Application

Important: Please review the following information before beginning the application.

Definition of a project: For the purposes of this competition, a project must be clearly defined by geographic limits and/or functionality. If a project contains multiple components, the sponsor must clearly indicate how they are logically connected to one another. A project with multiple geographic locations must demonstrate their functional relationship (for example, signal coordination work in various locations tied together through a traffic control center).

Projects that include multiple components or sponsors are allowed to be submitted, but the scope of work, funding amounts and schedules for each individual agency and/or component must be clearly identified at the time of application. If awarded PSRC funds, these projects may be separated into their individual components or lead agency in the regional Transportation Improvement Program. Each individual TIP project will be subject to PSRC's project tracking policies and will be administered according to the scope of work and funding awarded for each. If you have questions please contact Kelly McGourty at (206) 971-3601 or kmcgourty@psrc.org.

Resources: A resource document has been developed to assist sponsors in completing PSRC's online applications for the 2014 project selection process. The document summarizes information needed by sponsors to complete applications, as well as provides useful information on various topic areas such as financial constraint and project tracking requirements.

Submitting Applications: The importance of complete and accurate information on every application cannot be overemphasized. The evaluation and scoring of all submitted projects will be based on the answers provided in this application.

There is no set page limit for applications submitted to the regional competition. It is important to provide complete, detailed responses, but please be as concise as possible. Additional supporting information such as maps and other diagrams are encouraged, but other attachments such as comprehensive plan materials are unnecessary.

All applications must be submitted by 5:00p.m. April 8, 2014.

Project Information

Project Title

Transportation 2040 ID#

The current list of investments that are required to be on the Transportation 2040 Regional Capacity Project List and have a designated ID # can be accessed at Appendix N of the 2014 Transportation 2040 Update, [here](#). If your project is exempt from this requirement, please enter "N/A." Helpful information on those exempt investments that are considered programmatic in nature or are on local facilities and therefore not required to be on the Project

List can be found here.

For assistance or questions regarding these issues, contact Kimberly Scrivner at 206-971-3281 or kscrivner@psrc.org.

Sponsoring Agency

Co-Sponsoring Agency

CA Status

Yes

No

CA Sponsor (if applicable)

Contact Information

Project Contact Name

Project Contact Phone

Project Contact Email

Project Description

Project Scope

Project Purpose

Project Location

Please identify the county(s) the project is located in. Check all that apply.

- King County
- Kitsap County
- Pierce County
- Snohomish County

Please identify the crossroad, milepost or landmark nearest the beginning and end of the project below, if applicable. Crossroad/landmark nearest to the beginning of the project:

Crossroad/landmark nearest to the end of the project:

Please identify the center(s)

Federal Functional Classification

Roadways must be approved on the federally classified roadway system before projects on it may use federal transportation funds (this includes proposed new facilities), unless the project meets certain exceptions. Resources to identify a facility's functional classification or exceptions to this requirement may be found [here](#).

Federal Functional Class

You have selected Rural. If this is not the appropriate classification, please go back and change your selection.

Please select the appropriate rural classification.

You have selected Urban. If this is not the appropriate classification, please go back and change your selection.

Please select the appropriate urban classification.

Plan Consistency

All projects must be consistent with a comprehensive plan that has been certified by PSRC as being consistent with the Growth Management Act, VISION 2040 and Transportation 2040. Projects must be consistent with the comprehensive plan of each jurisdiction in which the project is located. If a comprehensive plan has not been certified, projects located in that jurisdiction may not be included in the Regional TIP.

Is the project specifically identified in a local comprehensive plan?

Yes

No

Is the project specifically identified in a local comprehensive plan?

If no, describe how the project is consistent with the applicable local comprehensive plan, including specific local policies and provisions the project supports.

Category Specific Questions

Select the project category

Designated Regional Growth Center

In the sections below, please provide complete but concise responses, addressing as many bullet points as possible. The evaluation and scoring of all submitted projects will be based on the answers provided by the sponsor. Refer to the 2014 Regional Project Evaluation Criteria for PSRC's FHWA Funds in PSRC's Call for Projects for guidance, examples, and details on scoring for additional information.

A1. Regional Growth Center Development

A2. Project's Benefit to the Regional Growth Center

Manufacturing/Industrial Center

B1. Development and Users Benefit

In the sections below, please provide complete but concise responses, addressing as many bullet points as possible. The evaluation and scoring of all submitted projects will be based on the answers provided by the sponsor. Refer to the 2014 Regional Project Evaluation Criteria for PSRC's FHWA Funds in PSRC's Call for Projects for guidance, examples, and details on scoring for additional information.

Corridor Serving Center(s)

In the sections below, please provide complete but concise responses, addressing as many bullet points as possible. The evaluation and scoring of all submitted projects will be based on the answers provided by the sponsor. Refer to the 2014 Regional Project Evaluation Criteria for PSRC's FHWA Funds in PSRC's Call for Projects for guidance, examples, and details on scoring for additional information.

C1. Benefit to Regional Growth or Manufacturing/Industrial Center

Please select all of the elements in the list below that are included in the project's scope of work, and provide the requested information in the text box below.

Diesel Particulate Emissions Reduction Projects (e.g. diesel engine retrofits)

Roadway Capacity (general purpose and high occupancy lanes)

Transit

Bicycle/Pedestrian Facilities

..... bY`][YbhHfUbgdcffUjcb`GmgY a g`fg][bU]nUjcbz`YHWL

..... 5`YfbUj] Y: i Y`g`cf`J Y\JW`HYWbc`c[m

..... C h Yf`

Please describe how your project will reduce emissions. Include a discussion of the population served by the project (who will benefit, where, and over what time period). Specific questions have been prepared to assist you in responding to this criterion depending on the type of project.

Financial Plan & Project Readiness

In this section, sponsors will address questions regarding the PSRC funding request, the total estimated project cost and schedule, and the project's readiness to obligate PSRC funds. Sponsors should be aware of the following information before completing this section:

Funding Request: Sponsors may request funding for any single project phase, but requests for multiple phases are limited to preliminary engineering plus the subsequent phase necessary. I.e, a sponsor may request funding for both preliminary engineering and right of way phases or preliminary engineering and construction phases, but not both right of way and construction phases.

Funding Requirements: A minimum of 13.5% of local matching funds is required for both Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding. The combination of the requested PSRC funds plus all other funding must be adequate to fully fund that phase. Requests that do not result in a phase being fully funded will be considered ineligible for PSRC funding.

Obligation Requirements: Per PSRC's project tracking policies, all project phases awarded PSRC funds must obligate by June 1st of the program year selected. For more information, see PSRC's project tracking policies [here](#).

PSRC Funding Request

Please identify the phase(s) for which PSRC funds are being requested, the funding source, the amount, and expected year of obligation. Confirm the total by pressing the calculate button.

Funding Source

STP

CMAQ

Phase

Obligation Year

Amount Requested

Phase

Obligation Year

Amount Requested

Total PSRC Funding Request

Total Estimated Project Cost and Schedule

In the table below, please provide the total estimated cost and schedule for all phases of the project, from start to finish, and indicate when each phase was, or is planned to be, completed. If a phase is not required for the project, indicate with N/A.

Please include all funding amounts and sources (including the requested PSRC funds) and identify whether they are secure, reasonably expected, or unsecure. PSRC's definitions and guidance for determining secure and reasonably expected funds may be found [here](#).

NOTE: If you find that you need more rows than provided in the tables below, please fill out the supplemental project cost spreadsheet available [here](#) and upload in the area below.

Upload (only if necessary)

Planning Phase

Please note, the planning phase of a capital project is considered to be part of the preliminary engineering phase. Complete this section only if this project is an independent planning study.

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

.

Total Planning Phase Cost

.

Actual or estimated completion date

..

.

.

Preliminary Engineering/Design Phase

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

.

Total Preliminary Engineering/Design Cost

.

Actual or estimated completion date

.

.

Right of Way Phase

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Total Right of Way Phase Cost

Actual or estimated completion date

.

Construction Phase

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

.

Total Construction Phase Cost

.

Actual or estimated completion date

.

.

Other Phase

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

Funding Source

Funding Status

Funding Amount

.

Total Other Phase Cost

.

Actual or estimated completion date

Project Summary

The calculated total project cost below is based on the entries completed above. Please review for accuracy before proceeding to ensure all funding is reflected.

Total Estimated Project Cost

Estimated Project Completion Date

Financial Documentation

Please provide supporting documentation using the upload function below to demonstrate that all additional funds for the phase(s) for which PSRC funds are being requested are secure or reasonably expected.

Upload

Upload

Upload

Please describe the secure or reasonably expected funds identified in the supporting documentation. For funds that are reasonably expected, an explanation of procedural steps with milestone dates for completion which will be taken to secure the funds for the project or program should also be included. For more information, refer to PSRC's financial constraint guidance.

Project Readiness

PSRC recognizes that the complexity of some projects can trigger a variety of prerequisites that must be satisfied before federal funding is typically eligible to be obligated. The questions in this section are designed to identify those requirements and assist sponsors to:

- Identify which obligation prerequisites and milestones apply to their specific project.
- Identify which of these have already been satisfied at time of application.
- Provide an explanation and realistic completion date for all obligation prerequisites and milestones not yet completed.

In the following section, sponsors will be asked a series of questions about the project. Based on these responses, sponsors will be directed to the appropriate set of subsequent questions addressing the project's readiness.

NOTE: Sponsors applying for funds for only planning studies or preliminary engineering/design phases are not required to provide further information for project readiness and will be directed to the next required set of questions.

Are you requesting funds for ONLY a planning study or preliminary engineering?

- Yes
- No

Is preliminary engineering for the project complete?

- Yes
- No

What was the date of completion (month and year)?

Have preliminary plans been submitted to WSDOT for approval?

- Yes
- No

When are preliminary plans expected to be complete and approved by WSDOT (month and year)?

Are there any other PE/Design milestones not listed above?

Project Readiness

What is the current level of NEPA documentation?

- Environmental Impact Statement (EIS)
- Environmental Assessment (EA)
- Documented Categorical Exclusion (DCE)
- Categorical Exclusion (CE)

Has the NEPA documentation been approved?

- Yes
- No

Please provide the date of NEPA approval, or the anticipated date of completion (month and year).

Project Readiness

Will right of way be required for the project?

- Yes
- No

How many parcels do you need?

What is the zoning in the project area?

Discuss the extent to which your schedule reflects the possibility of condemnation and the actions needed to pursue this.

Does your agency have experience in conducting right of way acquisitions of similar size and complexity?

- Yes
- No

If not, when do you expect a consultant to be selected, under contract, and ready to start (month and year)?

In the box below, please identify all relevant right of way milestones, including the current status and estimated completion date of each. For example, these might include:

- True cost estimate of right of way
- Right of way plans (stamped)
- Relocation plan
- Right of way certification
- Right of way acquisition
- Certification audit by WG8CH`F Y`cWlh]cb`Wfh]ZVh]cb

Project Readiness

Are funds being requested for construction?

- Yes
- No

Do you have an engineer's estimate?

- Yes
- No

Identify the environmental permits needed for the project and when they are scheduled to be acquired.

Are Plans, Specifications & Estimates (PS&E) approved?

- Yes
- No

Please provide the date of approval, or the date when PS&E is scheduled to be submitted for approval (month and year).

When is the project scheduled to go to ad (month and year)?

Other Considerations

Please describe any additional aspects of your project not previously addressed in the application that could be relevant to the final project recommendation and decision-making process. In addition, please describe any innovative components included in your project: these could include design elements, cost saving measures, or other innovations.

File Submission

Please provide any additional supporting documents, including maps, through the upload functions below.

Upload

Upload

Final Review

Please review all application form questions to ensure you have completed all fields. An email containing a PDF version of the project application will be sent to the project contact upon submission.

NOTE: Sponsors may update and resubmit information included in the application until the April 8th deadline. After the deadline has passed, the form site will close and sponsors will not have access for revisions.

Last Update

Start Time

Finish Time

IP

Browser

OS

Referrer

APPENDIX B

Standard A&E Services Agreement (DRAFT)

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT, made and entered into effective this ____ day of _____, 20____, by and between the **CITY OF TACOMA**, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and Insert Name of Contractor, a Insert Business Entity Status, e.g., sole proprietorship, limited liability company, Washington state corporation, etc., (hereinafter referred to as "CONTRACTOR");

In consideration of the mutual promises and obligations hereinafter set forth, the Parties hereto agree as follows:

1. Scope of Services/Work

- A. The CONTRACTOR agrees to diligently and completely perform the services and/or deliverables described in Exhibit(s) _____ attached hereto and incorporated herein.
- B. Changes To Scope of Work. The CITY shall have the right to make changes within the general scope of services and/or deliverables upon execution in writing of a change order or amendment hereto. If the changes will result in additional work effort by CONTRACTOR, the CITY will agree to reasonably compensate the CONTRACTOR for such additional effort up to the maximum amount specified herein or as otherwise provided by City Code.

2. Term

- A. All services shall be satisfactorily completed on or before _____, or as otherwise specified in Exhibit _____ and this Contract shall expire on said date unless mutually extended in writing by the Parties.
- B. Neither party shall be considered to be in default in the performance of this Contract to the extent such performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party and, in such event, the time for performance shall be extended for a period equal to any time lost as a result thereof. In the event CONTRACTOR is unable to proceed due to a delay solely attributable to CITY, CONTRACTOR shall advise CITY of such delay in writing as soon as is practicable.

3. Compensation and Payment

- A. The CITY shall compensate the CONTRACTOR for the services and deliverables performed under this Contract as follows:

Check ONLY one:

- On the basis of Time and Materials according to the rates and charges set forth in Exhibit _____.
- In accordance with Exhibit _____.
- At the rate of \$ _____ per hour.

- B.** The total price to be paid by CITY for CONTRACTOR'S full and complete performance of the Scope of Work hereunder shall not exceed \$ _____ without the written consent of the CITY. Said price shall be the total compensation for CONTRACTOR'S performance hereunder including, but not limited to, all work, deliverables, materials, supplies, equipment, subcontractor's fees, and all reimbursable travel and miscellaneous or incidental expenses to be incurred by CONTRACTOR.
- C.** The CONTRACTOR shall submit monthly invoices in a format comparable to the invoice attached hereto and identified as Exhibit _____, for services completed and/or deliverables furnished during the previous month. Upon CITY'S request, CONTRACTOR shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables.
- D.** 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.
- E.** The CITY may withhold payment to the CONTRACTOR for any services or deliverables not performed as required hereunder until such time as the CONTRACTOR modifies such services or deliverables to the satisfaction of the CITY.
- F.** All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.
- G.** In the event the CONTRACTOR incurs cost in excess of the sum authorized for service under this Contract, the CONTRACTOR shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and the CONTRACTOR shall have no claim against the CITY on account thereof.

4. Independent Contractor Status

- A.** The services and deliverables shall be furnished by the CONTRACTOR as an independent Contractor, and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant. No payroll or employment taxes of any kind shall be withheld or paid by the CITY with respect to payments to CONTRACTOR. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. By reason of CONTRACTOR'S status as an independent Contractor hereunder, no workers' compensation insurance has been or will be obtained by the CITY on account of CONTRACTOR. CONTRACTOR may be required to provide the CITY proof of payment of these said taxes and benefits. If the CITY is assessed or deemed liable in any manner for those charges or taxes, the CONTRACTOR agrees to hold the CITY harmless from those costs, including attorney's fees.
- B.** The CONTRACTOR shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Contract, unless otherwise specified in writing herein.

5. Professional Services Warranty

- A.** The CONTRACTOR warrants that all services performed pursuant to this Contract shall be generally suitable for the use to which CITY intends to use said services and deliverables

as expressed in Exhibit(s) _____. Additional warranties, if any, for incidental product deliverables hereunder are set forth in Exhibit ____ <<or in Section 1.A.(2) above>>.

- B. In the performance of services under this Contract, the CONTRACTOR and its employees agree to exercise the degree of skill and care required by customarily accepted good practices and procedures followed by professionals/consultants rendering the same or similar type of service. All obligations and services of the CONTRACTOR hereunder shall be performed diligently and completely according to such professional standards.
- C. If the CONTRACTOR intends to rely on information or data supplied by the CITY, other CITY contractor's or other generally reputable sources without independent verification, such intent shall be brought to the attention of the CITY.

6. Contract Administration and Right to Audit

- A. The Insert Dept/Division/Engineer/City Contact for the CITY shall have primary responsibility for contract administration and approval of services to be performed by the CONTRACTOR, and shall coordinate all communications between the CONTRACTOR and the CITY.
- B. The CONTRACTOR shall, at such times and in such form as the CITY may reasonably require, furnish the CITY with periodic status reports pertaining to the services undertaken pursuant to this Contract.
- C. Upon CITY's request, the Contractor shall make available to CITY all accounts, records, and documents related to the Scope of Work for CITY's inspection, auditing, or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance, and/or quality assurance under this Contract.

7. Records Retention

The CONTRACTOR shall establish and maintain records in accordance with requirements prescribed by the CITY, with respect to all matters covered by this Contract. Except as otherwise authorized by the CITY, the CONTRACTOR shall retain such records for a period of six (6) years after receipt of the final payment under this Contract or termination of this Contract.

8. Notices

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail or facsimile, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

CITY	CONTRACTOR
Name and Address	Name and Address
Phone	Phone
Facsimile	Facsimile
E-mail	E-mail

9. Termination and Suspension

- A. The CITY may terminate this Contract at any time, with or without cause, by giving ten (10) business days written notice to CONTRACTOR. In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the CITY. In the event CITY terminates this Contract due to the CITY's own reasons and without cause due to the CONTRACTOR's actions or omissions, the CITY shall pay the CONTRACTOR the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein.
- B. The CITY may suspend this Contract, at its sole discretion, upon seven (7) business days written notice to the CONTRACTOR. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the CONTRACTOR'S reasonable expenses and shall be subject to verification. The CONTRACTOR shall resume performance of services under this Contract without delay when the suspension period ends.
- C. Termination or suspension of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

10. Taxes, Licenses and Permits

- A. The CONTRACTOR acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and the CONTRACTOR agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, the CONTRACTOR agrees to hold the CITY harmless from such costs, including attorney's fees.
- B. In the event the CONTRACTOR fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then the CONTRACTOR authorizes the CITY to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the CONTRACTOR's total compensation.
- C. The CONTRACTOR, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The CONTRACTOR shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30.

11. Indemnification

- A. The CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the fault of the CITY, or its officers, agents, or employees. The term "fault" as

used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.

- B. The CONTRACTOR specifically assumes potential liability for actions brought by the CONTRACTOR'S own employees against the CITY and, solely for the purpose of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the state industrial insurance law, Title 51 RCW. THE CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.
- C. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.

12. Insurance

During the course and performance of the services herein specified, CONTRACTOR will maintain the following insurance coverage:

- A. Workers' Compensation and employer's liability --statutory limits.
- B. Commercial General Liability -- \$1,000,000 single limit combined for personal injury, property damage; \$2,000,000 aggregate.
- C. Automobile public liability and property damage -- \$1,000,000 single limit combined for bodily injury and property damage.
- D. Professional liability or errors and omissions -- \$1,000,000 combined single limit for errors and omissions resulting in monetary loss normally covered by professional liability insurance.

Certificates of the above insurance coverage shall be delivered, within ten (10) days, to the CITY by CONTRACTOR'S insurance carrier or agent certifying the above insurance coverage items are in effect and will not be cancelled or materially changed without 30 days' written notice given to the CITY. The commercial general liability policy shall be on an occurrence basis and shall include an endorsement naming the CITY as an additional insured and stating that coverage under such policy is primary over and non-contributory with any insurance the CITY may maintain.

13. Nondiscrimination

The CONTRACTOR agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, 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. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

14. Conflict of Interest

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

15. City ownership of Work/Rights in Data and Publications:

- A.** To the extent that CONTRACTOR creates any Work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Contract, CONTRACTOR agrees to the following: The Work has been specially ordered and commissioned by CITY. CONTRACTOR agrees that the Work is a "work made for hire" for copyright purposes, with all copyrights in the Work owned by CITY. To the extent that the Work does not qualify as a work made for hire under applicable law, and to the extent that the Work includes material subject to copyright, CONTRACTOR hereby assigns to CITY, its successors and assigns, all right, title and interest in and to the Work, including but not limited to, all patent, trade secret, and other proprietary rights and all rights, title and interest in and to any inventions and designs embodied in the Work or developed during the course of CONTRACTOR'S creation of the Work. CONTRACTOR shall execute and deliver such instruments and take such other action as may be required and requested by CITY to carry out the assignment made pursuant to this section. Any documents, magnetically or optically encoded media, or other materials created by CONTRACTOR pursuant to this Contract shall be owned by CITY and subject to the terms of this sub-section. To the maximum extent permitted by law, CONTRACTOR waives all moral rights in the Work. The rights granted hereby to CITY shall survive the expiration or termination of this Contract
- B.** The CONTRACTOR shall be solely responsible for obtaining releases for the performance, display, recreation, or use of copyrighted materials.

16. Public Disclosure

- A.** This Contract and documents provided to the CITY by CONTRACTOR hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the CITY may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and CONTRACTOR has complied with the requirements of sub-section B herein, CITY agrees to provide CONTRACTOR ten (10) days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, 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 CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of

information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the "Notices" provision herein.

- B. If CONTRACTOR provides the CITY with records that CONTRACTOR considers confidential or proprietary, CONTRACTOR must mark all applicable pages of said record(s) as "Confidential" or "Proprietary." If CONTRACTOR fails to so mark record(s), then (1) the CITY, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and (2) the CONTRACTOR expressly waives its right to allege any kind of civil action or claim against the CITY pertaining to the release of said record(s).

17. Duty of Confidentiality

- A. CONTRACTOR acknowledges that unauthorized disclosure of information or documentation concerning the Scope of Work hereunder may cause substantial economic loss or harm to the CITY.
- B. Except for disclosure of information and documents to CONTRACTOR's employees, agents, or subcontractors who have a substantial need to know such information in connection with CONTRACTOR's performance of obligations under this Contract, the CONTRACTOR shall not without prior written authorization by the CITY allow the release, dissemination, distribution, sharing, or other publication or disclosure of information or documentation obtained, discovered, shared or produced pursuant to this Contract.
- C. The CONTRACTOR shall inform its employees, agents, and subcontractors of the confidentiality obligations under this Contract and instruct them so as to ensure such obligations are met. If so requested by the CITY, the CONTRACTOR further agrees to require all such individuals and entities performing services pursuant to this Contract to execute a Confidentiality and Non-Disclosure Agreement in a form acceptable to CITY.
- D. The CONTRACTOR shall not release any information or documentation concerning the work under this Contract or any part thereof for marketing, advertising, or other commercial activities or publication including, but not limited to, news releases or professional articles, without the prior written approval of the CITY. Any and all news releases, professional articles, marketing, advertising, publicity, or other commercial activities that describe or discuss the Scope of Services shall be reviewed and approved by the CITY prior to publication, disclosure and/or distribution. The CONTRACTOR may submit for review and approval a generic abstract describing the component parts of the completed Scope of Services ("Project Abstract"). After receiving written approval of the Project Abstract from the CITY, the CONTRACTOR may make minor insignificant changes to the Project Abstract and use all or parts of the Project Abstract in proposals.
- E. This Section shall survive for six (6) years after the termination or expiration of this Contract.
- F. CONTRACTOR shall ensure that the text of this Section is included in each subcontractor's contract pertaining to the Scope of Services hereunder.

18. Dispute Resolution

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

19. Miscellaneous Provisions

- A. Governing Law and Venue. Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.
- B. Assignment. The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.
- C. No Third Party Beneficiaries. This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.
- D. Waiver. A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.
- E. Severability and Survival. If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.
- F. Entire Agreement . This Contract and the attached Exhibits, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.
- G. Modification. No modification or amendment of this Agreement shall be effective unless set forth in writing and signed by the Parties.
- H. Authority to enter into this Contract. The undersigned Contractor representative, by his/her signature below, represents and warrants that he/she is duly authorized to execute this legally binding Contract for and on behalf of Contractor.

IN WITNESS WHEREOF the parties hereto have accepted and executed this Contract as of the day and year first written above.

CITY OF TACOMA

INSERT NAME OF CONTRACTOR

Printed Name/Title Division Head or Representative

Printed Name: _____

Title: _____

Printed Name/Title of additional department/division representative, if applicable

Address:

Director of Finance

Approved as to Form:

City/State/Zip

Deputy/Assistant City Attorney

Tax ID: _____

Approved:

Risk Manager

Attest:

City Clerk

EXHIBIT "A"

SCOPE OF WORK

EXHIBIT "B"

INVOICE

This form is intended to illustrate the information the City of Tacoma needs to process Contract payments. The City of Tacoma prefers that CONTRACTOR use its own standard business invoice forms so long as they include the following information. CONTRACTORS who do not have a standard business invoice form may use this form as their invoice. Your cooperation in providing the information we are requesting will ensure prompt processing of your payments.

I HEREBY REQUEST PAYMENT FOR THE FOLLOWING ITEMIZED SERVICES AND/OR PRODUCT DELIVERABLES:

Services (Describe):

Deliverables (Describe):

AS PER CONTRACT No.: _____ **AMOUNT DUE :** _____

I HEREBY CERTIFY THAT THIS BILL IS CORRECT AND JUST AND THAT PAYMENT FOR THE SERVICES AND/OR DELIVERABLES IDENTIFIED HAS NOT BEEN RECEIVED.

BY: _____ **DATE SIGNED:** _____
SIGNATURE:

TITLE: _____

ORGANIZATION NAME: _____

FEDERAL TAX ID No. or SS No.: _____

TELEPHONE NUMBER: _____

PLEASE REMIT PAYMENT TO: (Name and Address of Contractor)

I Attest and Certify that all Services and/or Deliverables identified in this Invoice have been performed and/or supplied.

Contract Administrator Signature

City Dept/Division:

Contact Name:

Phone: 253-

Fax: 253-

APPENDIX C

Insurance Requirements



INSURANCE CERTIFICATE REQUIREMENTS

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

<u>CONTRACT AMOUNT</u>	<u>LIABILITY LIMITS</u>
\$ 25,000 and Under	\$ 500,000 Combined Single Limit
\$500,000 and Under	\$1,000,000 Per Occurrence / \$2,000,000 Aggregate
Over \$500,000	\$5,000,000 Total Coverage

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

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

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

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

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER: _____	CANCELLATION
CITY OF TACOMA PO BOX 11007 TACOMA WA 98411-0007		"Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the company, its agents or representatives."

APPENDIX D

Proposal Signature Sheet

(Required Form)

SIGNATURE PAGE

CITY OF TACOMA DEPARTMENT OF PUBLIC WORKS/ENGINEERING

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. **See the Request for Qualifications page near the beginning of the specification for additional details.**

REQUEST FOR QUALIFICATIONS SPECIFICATION NO. PW16-0261F

Puyallup Avenue Corridor Conceptual Design

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

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

Non-Collusion Declaration

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

Bidder/Proposer's Registered Name

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

Address

Printed Name and Title

City, State, Zip

(Area Code) Telephone Number / Fax Number

E-Mail Address

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

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

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

Addendum acknowledgement #1 _____ #2 _____ #3 _____ #4 _____ #5 _____

THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITTAL.

APPENDIX E

Prime & Subcontractor's Pre-Work Forms

(Only the Prime Contractor's Pre-Work Form is to be submitted in the SOQ - Required)



City of Tacoma
 Community & Economic Development
 Office of Small Business Enterprise
 747 Market Street, Room 900
 Tacoma, WA 98402
 253-591-5224 or 253-573-2435

PRIME CONTRACTOR'S PRE-WORK FORM

Company Name _____

Telephone _____

Address/City/State/Zip Code _____

Specification Number _____

Specification Title _____

JOB CATEGORIES SPECIFY	TOTAL EMPLOYEES		TOTAL MINORITY EMPLOYEES		BLACK		ASIAN or PACIFIC ISLANDER		AMERICAN INDIAN or ALASKAN NATIVE		HISPANIC	
	M	F	M	F	M	F	M	F	M	F	M	F
Officer / Managers												
Supervisors												
Project Managers												
Office / Clerical												
Apprentices												
Trainees												
TOTALS												

CONTRACTOR'S PROJECTED WORK FORCE - THIS PROJECT

Superintendent												
Foreman												
Operators												
Laborers												
Apprentice												
Trainee												
TOTALS												

Type or Print Name of Responsible Officer / Title _____

Signature of Responsible Officer _____

Date _____

INSTRUCTIONS FOR COMPLETING PRIME CONTRACTOR'S PRE-WORK FORM

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

1. "Heading" the company name and address should reflect the subcontractor actually doing business with the City of Tacoma. If this address is different from that of the Equal Employment Opportunity Officer that administers the EEO programs of the company, the Equal Employment Opportunity Officer's address should be noted in the "Comments" section at the bottom of the form. "Telephone" should contain the area code, telephone number and extension (if any) for the Equal Employment Officer or the responsible official.
2. "Job Categories" at the extreme left hand column of the form specifying "Job Categories" lists "Officials & Managers." You are to list in addition to Officials & Managers any appropriate job titles such as Sales Workers, Office/Clerical, Professionals, Technical, etc., as they apply to your own company and only as pertains to this specific project.
3. The "M" and "F" headings at the top of each column refer to "Male" and "Female."
4. The "Total Employees" column should list the total number of male employees under "M" and the total female number of female employees under "F" for each job category listed. They should be listed in a similar manner in the "Total" category at the bottom of the form. The "Total Employees" column should include all those employees listed under "Non-Minority" and "Total Minorities." "Non-Minority" should include all employees not listed in the minority columns.
5. "Total Minorities" should include all employees listed under the "Black," "Asian or Pacific Islander" (A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.), "American Indian or Alaskan Native," and "Hispanic" columns. These columns should include only employees who are members of that particular minority group. Designation and definitions of ethnic/national origin status follow the instructions and definitions of the Federal EEO-1 Form of the U. S. Equal Employment Opportunity Commission.
6. "Totals" this line should reflect the total of all lines in each of the above columns.
7. The signature of your company's designated responsible official or similar official responsible for equal employment opportunity must appear in the designated space at the bottom of the form. Please PRINT OR TYPE the person's name on the top line across from the signature. This is required since some signatures are difficult to read.
8. "Comments" this section is to be used as needed for explanations to under utilization rate or lack of turnover, proposed expansion or reduction of staff or any other pertinent information you believe will help clarify or explain the data presented on the form. If you need additional space, please explain on a separate sheet of paper.
9. If you need assistance or have questions regarding the completion of this form, please call the SBE Office at 253-591-5224 or 253-573-2435



City of Tacoma
 Community & Economic Development
 Office of Small Business Enterprise
 747 Market Street, Room 900
 Tacoma, WA 98402
 253-591-5224 or 253-573-2435

SUBCONTRACTOR'S PRE-WORK FORM

Company Name _____

Telephone _____

Address/City/State/Zip Code _____

Name of Prime Contractor _____

Specification Number _____

Type of work to be performed on this project _____

QUESTIONS 1 and 2 BELOW REFER TO ANY FURTHER SUBCONTRACTING OF YOUR FIRM'S PORTION OF THIS PROJECT

1. What is the total number of **ALL** subcontracts to be let on this project? _____
2. What specific efforts were made by your company to obtain or assure minority and women subcontractor participation on this project? _____

SUBCONTRACTOR'S PRESENT WORK FORCE

JOB CATEGORIES SPECIFY	TOTAL EMPLOYEES		TOTAL MINORITY EMPLOYEES		BLACK		ASIAN or PACIFIC ISLANDER		AMERICAN INDIAN or ALASKAN NATIVE		HISPANIC	
	M	F	M	F	M	F	M	F	M	F	M	F
Officers/Managers												
Foreman												
Apprentices												
Trainees												
TOTALS												

SUBCONTRACTOR'S PROJECTED WORK FORCE - THIS PROJECT

Superintendent												
Foreman												
Operators												
Laborers												
Apprentice												
Trainee												
TOTALS												

Type or Print Name of Responsible Officer / Title _____

Signature of Responsible Officer _____

Date _____

INSTRUCTIONS FOR COMPLETING SUBCONTRACTOR'S PRE-WORK FORM

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

1. "Heading" the company name and address should reflect the subcontractor actually doing business with the City of Tacoma. If this address is different from that of the Equal Employment Opportunity Officer that administers the EEO programs of the company, the Equal Employment Opportunity Officer's address should be noted in the "Comments" section at the bottom of the form. "Telephone" should contain the area code, telephone number and extension (if any) for the Equal Employment Officer or the responsible official.
2. "Job Categories" at the extreme left hand column of the form specifying "Job Categories" lists "Officials & Managers." You are to list in addition to Officials & Managers any appropriate job titles such as Sales Workers, Office/Clerical, Professionals, Technical, etc., as they apply to your own company and only as pertains to this specific project.
3. The "M" and "F" headings at the top of each column refer to "Male" and "Female."
4. The "Total Employees" column should list the total number of male employees under "M" and the total female number of female employees under "F" for each job category listed. They should be listed in a similar manner in the "Total" category at the bottom of the form. The "Total Employees" column should include all those employees listed under "Non-Minority" and "Total Minorities." "Non-Minority" should include all employees not listed in the minority columns.
5. "Total Minorities" should include all employees listed under the "Black," "Asian or Pacific Islander" (A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.), "American Indian or Alaskan Native," and "Hispanic" columns. These columns should include only employees who are members of that particular minority group. Designation and definitions of ethnic/national origin status follow the instructions and definitions of the Federal EEO-1 Form of the U. S. Equal Employment Opportunity Commission.
6. "Totals" this line should reflect the total of all lines in each of the above columns.
7. The signature of your company's designated responsible official or similar official responsible for equal employment opportunity must appear in the designated space at the bottom of the form. Please PRINT OR TYPE the person's name on the top line across from the signature. This is required since some signatures are difficult to read.
8. "Comments" this section is to be used as needed for explanations to under utilization rate or lack of turnover, proposed expansion or reduction of staff or any other pertinent information you believe will help clarify or explain the data presented on the form. If you need additional space, please explain on a separate sheet of paper.
9. If you need assistance or have questions regarding the completion of this form, please call the SBE Office at 253-591-5224 or 253-573-2435.

Chapter 1.07

SMALL BUSINESS ENTERPRISE

Sections:

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

1.07.010 Policy and purpose.

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

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

1.07.020 Definitions.

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

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

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

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

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

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

F. “Contract” means any type of legally binding agreement regardless of form or title that governs the terms and conditions for procurement of Public Works and Improvements and/or Non-Public Works and Improvements Supplies and Services.

Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City. A “Contract” as used in this chapter shall include an agreement between the City and a non-profit entity to perform construction-related services for Public Works. A “Contract” does not include: (1) awards made by the City with federal/state grant or City general funds monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program, and the recipient of the grant awards uses the grant moneys to provide services to the

community; (2) sales transactions where the City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4) lease, franchise; (5) agreements to use City real property (such as Licenses, Permits and Easements) and, (6) banking and other financial or investment services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.030 Discrimination prohibited.

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

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

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

1.07.040 Program administration.

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

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

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

(Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.050 Certification.

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

1. Each person with an ownership interest in the company has a personal net worth of less than \$1,320,000 excluding one personal residence and the net worth of the business;
2. The company's total gross receipts for any consecutive three year period within the last six years is not more than \$36,500,000 for public works companies and not more than \$15,000,000 for non-public works and improvements companies;
3. The owner(s) of the company executes an Affidavit of Small Business Enterprise Certification and files it with the City which states that all information submitted on the SBE application is accurate, that the business has sought or intends to do business with the City and/or within the Pierce County area and has experienced or expects to experience difficulty competing for such business due to financial limitations that impair its ability to compete against larger firms; and
4. The company can demonstrate that it also meets at least one of the following additional requirements:
 - a. The company's business offices, or the personal residence of the owner, is located within a City of Tacoma designated Renewal Community/Community Empowerment Zone, prior to designation as a SBE, or
 - b. The company's business offices, or the personal residence of the owner, is located within the City of Tacoma for at least six months prior to designation as a SBE; or

c. The company's business offices are located in a federally designated HUBZONE in Pierce County or any adjacent county for at least 12 months prior to designation as a SBE; or

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

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

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

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

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

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

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

(Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28147 Ex. A; passed May 7, 2013; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.060 Program requirements.

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

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

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

D. Waivers. City departments/divisions or the SBE Program Coordinator may request to waive one or more of the requirements of this chapter as they apply to a particular contract or contracts. Waivers may be granted in any one or more of the following circumstances:

1. Emergency: The supplies, services and/or public works must be provided with such immediacy that neither the City nor the contractor can comply with the requirements herein. Such emergency and waiver must be documented by the department/division awarding the contract.
2. Not Practicable: Compliance with the requirements of this chapter would impose an unwarranted economic burden or risk to the City after consideration of existing budgetary approvals.
3. Sole source: The supplies, services, and/or public works are available from only one source, and subcontracting possibilities do not reasonably exist as determined by the finance purchasing manager.
4. Government purchasing. The City is a party to or included in a federal, state or inter-local government purchasing agreement as approved by the finance purchasing manager.
5. Lack of SBEs: An insufficient number of qualified SBE contractors exist to create SBE utilization opportunities.
6. Best interests of the City: Waiver of SBE goals is in the best interests of the City due to unforeseen circumstances, provided that said circumstances are set forth in writing by the requestor.

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

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.070 Evaluation of submittals.

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

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

1. General. The dollar value of the contract awarded by the City to a SBE in the procurement of supplies, services, or public works shall be counted toward achievement of the SBE goal.
2. Supplies. A public works and improvements contractor may receive credit toward attainment of the SBE goal for expenditures for supplies obtained from a SBE; provided such SBE assumes the actual and contractual responsibility for delivering the supplies with its resources. The contractor may also receive credit toward attainment of the SBE goal for the amount of the commission paid to a SBE resulting from a supplies contract with the City; provided the SBE performs a commercially useful function in the process.
3. Services and Public Works subcontracts. Any bid by a certified SBE or a bidder that utilizes a certified SBE shall receive credit toward SBE goal attainment based on the percentage of SBE usage demonstrated in the bid. A contractor that utilizes a SBE-certified subcontractor to provide services or public works shall receive a credit toward the contractor's attainment of the SBE goal based on the value of the subcontract with that SBE.
4. Brokers, Fronts, or Similar Pass-Through Arrangements. SBEs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the SBE Regulations) shall not count toward SBE goal attainment unless the activity reflects normal industry practices and the broker performs a commercially useful function.

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

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

a. If the low bidder meets the SBE goal, the bid shall be presumed the lowest and best responsible bid for contract award.

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

$$(\text{Base Bid}) \left[\frac{\text{SBE Usage Percentages}}{\text{SBE Goal Percentages}} \times (.05 \times \text{Low Base Bid}) \right] = \text{Evaluated Bid}$$

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

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

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

- a. Evaluation of solicitations for Architectural and Engineering (A&E) services;
- b. Evaluation and selection of submittals in response to requests for proposals; and
- c. Selection of contractors from pre-qualified roster(s).

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

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

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

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.080 Contract compliance.

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

- 1. Any substitutions for or failure to utilize SBEs projected to be used must be approved in advance by the SBE Program Coordinator. Substitution of one SBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original SBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.
- 2. Where it is shown that no other SBE is available as a substitute and that failure to secure participation by the SBE identified in the solicitation is not the fault of the respondent, substitution with a non-SBE shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.
- 3. If the SBE Program Coordinator determines that the contractor has not reasonably and actively pursued the use of replacement SBE(s), such contractor shall be deemed to be in non-compliance.

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

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.090 Program monitoring.

A. The SBE Program Coordinator shall monitor compliance with all provisions of this chapter and the SBE Regulations. The SBE Program Coordinator shall establish procedures to collect data and monitor the effect of the provisions of this chapter to assure, insofar as is practical, that the remedies set forth herein do not disproportionately favor one or more racial, gender, ethnic, or other protected groups, and that the remedies do not remain in effect beyond the point that they are required to

eliminate the effects of under utilization in City contracting. The SBE Program Coordinator shall have the authority to obtain from City departments/divisions, respondents, and contractors such relevant records, documents, and other information as is reasonably necessary to determine compliance.

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

(Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.100 Enforcement.

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

(Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.110 Remedies.

A. Upon receipt of a determination of contractor violation by the SBE Program Coordinator, the City Manager or Director of Utilities, as appropriate, may take the following actions, singly or together, as appropriate:

1. Forfeit the contractor's bid bond and/or performance bond;
2. Publish notice of the contractor's noncompliance;
3. Cancel, terminate, or suspend the contractor's contract, or portion thereof;
4. Withhold funds due contractor until compliance is achieved; and/or
5. Recommend appropriate action including, but not limited to, disqualification of eligibility for future contract awards by the City (debarment) per Section 1.06.279 TMC;

B. Prior to exercise of any of the foregoing remedies, the City shall provide written notice to the contractor specifying the violation and the City's intent to exercise such remedy or remedies. The notice shall provide that each specified remedy becomes effective within ten business days of receipt unless the contractor appeals said action to the Hearing Examiner pursuant to Chapter 1.23 TMC.

C. When non-compliance with this chapter or the SBE Regulations has occurred, the SBE Program Coordinator and the department/division responsible for enforcement of the contract may allow continuation of the contract upon the contractor's development of a plan for compliance acceptable to the Director.

(Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.120 Unlawful acts.

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

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

1.07.130 Severability.

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

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

1.07.140 Sunset and review of program.

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

(Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

