CITY OF TACOMA

THIS IS NOT AN ORDER
All prices quoted shall be F.O.B. Destination, Freight Prepaid and Allowed

All responses & inquiries must be plainly marked with this

REQUEST FOR QUOTATION 6000045348

Return Bids By 11:00 AM, 10/19/2017
to: sendbid@cityoftacoma.org

Seth J Hartz
ABN 4th Floor NE
3628 South 35th Street
Tacoma WA 98409
Fax. 253 502 8299

Material will ship to:

Public Works Department
Streets & Grounds - Operations
2324 South C Street
Tacoma WA 98402

RFQ Information	
Collective Bid #	PW17-0400N
Bid Issue Date	10/05/2017
Vendor Number	109226 WEB VENDOR FOR RFQ

Vendor Information (vendor to complete)	
Firm Name:	
Address:	
City/State/Zip	/ /
Phone/Fax	/
E-Mail	
Contact Name	
Payment Terms	%, days (e.g. 2% 10,N30)
Tacoma Bus. Lic. #	
Taxpayer ID #	

SIGNATURE OF PERSON AUTHORIZED TO SIGN THIS BID
x_____**DATE:**____ /____ /_____
NAME : _____
TITLE : _____

Item #	Material# Description	Delivery Date	QTY	UM	Net Price	Total
	Provide and Install a Steel Storage Shelter, per the attached specifications. Prevailing wage rates are applicable to this project.					
10	**Furnish and Install Steel Truss Shed** Per attached specifications		1	AU		

Net Value	**$**
Plus Tax at _____%	**$**
Total Amount	**$**

SPECIFICATION NO. PW17-0400N

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

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

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

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

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

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

1.01 SUPPLIER / CONTRACTOR

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

1.02 SUBMITTAL

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

1.03 FORMS OF SUBMITTAL

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

1.04 COSTS TO PREPARE SUBMITTAL

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

1.05 LICENSES/PERMITS

A. Suppliers must have a Washington state business license at the time of Submittal and throughout the term of the Contract. Failure to include a Washington state business license may be grounds for rejection of the Submittal. Information regarding Washington state business licenses may be obtained at http://bls.dor.wa.gov.

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

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

1.06 PUBLIC DISCLOSURE: PROPRIETARY OR CONFIDENTIAL INFORMATION

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

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

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

1.07 SUSTAINABILITY

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

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

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

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

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

1.08 ALTERATIONS NOT ALLOWED

Except as otherwise specifically provided in a Solicitation, Submittals that are incomplete or conditioned in any way, contain erasures, alternatives or items not called for, or not in conformity with law, may be rejected as being non-responsive. Any attempt to condition a Submittal by inserting exceptions to the Solicitation or any conditions, qualifications or additions that vary its terms may result in rejection of the Submittal. The City may reject any submittal containing a material deviation from the Solicitation.

1.09 CORRECTION OF AMBIGUITIES AND OBVIOUS ERRORS

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

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

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

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

C. The City will make necessary modifications by addendum.

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

1.10 WARRANTIES/GUARANTEE

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

   1. Are merchantable.

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

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

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

   5. Are new and unused unless otherwise stated.

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

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

1.11 PATENTS, TRADEMARKS AND COPYRIGHTS

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

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

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

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

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

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

1.13 SUBMITTAL IS NON-COLLUSIVE

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

1.14 PARTNERSHIPS

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

1.15 WITHDRAWAL OF SUBMITTALS

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

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

1.16 ACCEPTANCE OF SUBMITTALS

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

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

1.17 RIGHT TO REJECT

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

1.18 RESERVED RIGHTS

A. By providing a submittal in response to a City solicitation, Supplier acknowledges and consents to the below City rights and conditions. With regard to this procurement process, the City reserves, holds without limitation, and may exercise, at its sole discretion, the following rights and conditions:

1. To terminate the procurement process or decide not to award a contract as a result thereof by written notice to the Suppliers for any reason whatsoever with or without substitution of another solicitation.

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

3. To issue addenda for any purpose including:

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

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

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

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

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

1.19 SUBMITTAL CLARIFICATION

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

1.20 EVALUATION OF SUBMITTALS

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

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

    a. Compliance with a Solicitation and with applicable City requirements, including by not limited to, the City's Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs.
    b. Submittal prices, listed separately if requested, as well as a lump sum total (if the unit price does not compute to the extended total price, the unit price shall govern).
    c. The total cost to the City, including all applicable taxes, may be the basis for contract award.
    d. Time of delivery and/or completion of performance (delivery date(s) offered).
    e. Warranty terms.
    f. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City's Ethics Code.
    g. Previous and existing compliance with laws and ordinances relating to contracts or services.
    h. Sufficiency of financial resources.
    i. Quality, availability, and adaptability of the supplies or services to the particular use required.
    j. Ability to provide future maintenance and service on a timely basis.
    k. Location of nearest factory authorized warranty repair facility or parts dealership.
    l. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications, and skill to perform the contract or provide the services required.

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

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

1.21 CONTRACT OBLIGATION

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

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

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

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

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

1.22 AWARD

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

1.23 SUPPLIER'S REFUSAL TO ENTER INTO CONTRACT

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

1.24 LEGAL HOLIDAYS

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

New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September

Veteran's Day	November 11
Thanksgiving Day	4th Thursday of November
Day after Thanksgiving	4th Friday of November
Christmas Day	December 25

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

1.25 CONTRACT TERM

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

1.26 EXTENSION OF CONTRACT

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

1.27 TERMINATION AND SUSPENSION

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

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

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

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

1.28 DEFAULT/BREACH

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

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

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

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

1.29 SCOPE OF SERVICES

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

1.30 SERVICES DO NOT INCLUDE PUBLIC WORK

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

1.31 PREVAILING WAGES

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

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

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

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

3. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages must be submitted by Contractor and its subcontractors to the City, in the manner requested by the City, prior to any payment by the City hereunder, and an Affidavit of Wages Paid must be received or verified by the City prior to final Contract payment.

1.32 CONTRACT PRICING

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

B. Surcharges of any type will not be paid.

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

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

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

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

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

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

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

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

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

1.33 APPROVED EQUALS WHEN ALTERNATES ARE ALLOWED

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

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

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

1.34 RISK OF LOSS, SHIPPING AND DELIVERY

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

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

1.35 DELIVERY OF PRODUCTS AND PROVISION OF SERVICES – IDLING PROHIBITED

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

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

1.36 PACKING SLIPS AND INVOICES

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

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

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

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

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

1.37 COOPERATIVE PURCHASING

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

1.38 TAXES

A. Unless otherwise stated, applicable federal, state, City, and local taxes shall be included in the submittal and in contract as indicated below. As used herein, the term "taxes" shall include any and all taxes, assessments, fees, charges, interest, penalties, and/or fines imposed by applicable laws and regulations in connection with the procurement of goods and/or services hereunder.

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

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

3. City of Tacoma Business and Occupation Tax. It is Supplier's obligation to include City of Tacoma Business and Occupation tax in the unit and/or lump sum prices submitted; it shall not be shown separately on the submittal. Per Sub-Title 6A of the City of Tacoma Municipal Code, transactions with the City of Tacoma may be subject to the City's Business and Occupation Tax.

B. Any or All Other Taxes. Any or all other taxes are the responsibility of Supplier unless otherwise required by law. Except for state sales tax, Supplier acknowledges that it is responsible for the payment of all taxes applicable to the Contract and Supplier agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law.

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

1.39 COMPENSATION

A. The City shall compensate Supplier in accordance with the Contract. Said compensation shall be the total compensation for Supplier's performance hereunder including, but not limited to, all work, services, deliverables, materials, supplies, equipment, subcontractor's fees and all reimbursable travel and miscellaneous or incidental expenses to be incurred by Supplier. Unless stated otherwise the total stated compensation may not be changed without a written change order or other form of contract amendment.

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

1.40 PAYMENT TERMS

A. Payment shall be made through the City's ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced. The City may withhold payment to Supplier for any services or deliverables not performed as required hereunder until such time as Supplier modifies such services or deliverables to the satisfaction of the City.

B. Invoices will not be processed for payment, nor will the period of cash discount commence, until all invoiced items are received and satisfactory performance of the Contract has been attained. Upon CITY'S request, Supplier shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.

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

A. Payment methods include:

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

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

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

3. Check or other cash equivalent.

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

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

1.42 NOTICES

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

1.43 INDEPENDENT CONTRACTOR STATUS

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

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

1.44 NONDISCRIMINATION

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

1.45 FEDERAL, STATE, AND MUNICIPAL LAWS AND REGULATIONS

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

1.46 REPORTS, RIGHT TO AUDIT, PERSONNEL

A. Reports. Supplier shall, at such times and in such form as the City may reasonably require, furnish the City with periodic status reports pertaining to the services undertaken or goods provided pursuant to the Contract.

B. Right to Audit. Upon City's request, Supplier shall make available to City all accounts, records and documents related to the scope of work for City's inspection, auditing, or evaluation during normal business hours as reasonably needed by City to assess performance, compliance and/or quality assurance under the Contract or in satisfaction of City's public disclosure obligations as applicable.

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

1.47 INSURANCE

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

1.48 INDEMNIFICATION – HOLD HARMLESS

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

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

1.49 CONFLICT OF INTEREST

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

1.50 CITY OWNERSHIP OF WORK/RIGHTS IN DATA/PUBLICATIONS

A. To the extent that Supplier creates any work subject to the protections of the Copyright Act (Title 17 U.S.C.) in its performance of a Contract, Supplier agrees to the following: The work has been specially ordered and commissioned by the City. Supplier agrees that the work is a "work made for hire" for copyright purposes, with all copyrights in the work owned by City. To the extent that the work does not qualify as a work made for hire under applicable law, and to the extent that the work includes material subject to copyright, Supplier hereby assigns to City, its successors and assigns, all right, title and interest in and to the work, including but not limited to, all copyrights, patent, trade secret and other

proprietary rights, and all rights, title and interest in and to any inventions and designs embodied in the work or developed during the course of Supplier's creation of the work.

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

1.51 DUTY OF CONFIDENTIALITY

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

1.52 DISPUTE RESOLUTION

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

1.53 GOVERNING LAW AND VENUE

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

1.54 ASSIGNMENT

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

1.55 WAIVER

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

1.56 SEVERABILITY AND SURVIVAL

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

1.57 NO CITY LIABILITY

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

1.58 SIGNATURES

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

GENERAL PROVISIONS for CONSTRUCTION and/or LABOR PROJECTS

1.01 BIDDER'S DUTY TO EXAMINE

The Bidder agrees to be responsible for examining the site(s) and to have compared them with the Specifications and Contract Drawings, and to be satisfied as to the facilities and difficulties attending the execution of the proposed Contract (such as uncertainty of weather, floods, nature and condition of materials to be handled and all other conditions, obstacles and contingencies) before the delivery of his/her Proposal. No allowance will be subsequently made by the City on behalf of the Bidder of any error or neglect on Bidder's part, for such uncertainties as aforesaid.

1.02 CONTRACTOR'S STATE REGISTRATION NO.

If the provisions of Chapter 18.27 of the Revised Code of Washington apply to the Bidder, then the Bidder's Washington State Contractor's Registration No. must accompany the bid.

Prequalified Electrical Contractor

Certain types of electrical construction requires special expertise, experience and prequalification of the Contractor (or Subcontractor) by the City. In such cases the Bidder must be prequalified or the Bidder must subcontract with a City prequalified electrical contractor for the specialty work.

1.03 ASSIGNMENT AND SUBLETTING OF CONTRACT

The Contract shall not be assigned or sublet except with the written consent of the City superintendent or manager responsible for the contract.

Requests for assignment or subletting of this Contract must be in writing with the written consent of the Surety, if applicable, and the request must show the proposed person or organization to which the Contract is assigned is capable, experienced and equipped to perform such work.

The written consent approving the subletting of the Contract shall not be construed to relieve the Contractor of his/her responsibility for the fulfillment of the Contract. The Subcontractor shall be considered to be the agent of the Contractor and the Contractor agrees to be responsible for all the materials, work and indebtedness incurred by the agent.

The Subcontractor shall not submit any portion of a subcontract for work with the City without the written consent of the City.

1.04 PERMITS

Except when modified by the Specifications, the Contractor shall procure and pay for all permits and licenses necessary for the completion of this Contract including those permits required by the City of Tacoma. The City will obtain county or state road crossing permits if required. In the event a necessary permit is not obtained, the Contractor will not be permitted to work on items subject to said permit and any delays caused thereby will not be subject to extra compensation or extensions.

1.05 NOTIFICATION OF OTHER GOVERNMENTAL AGENCIES AND UTILITIES WHEN UNDERGROUND WORK IS INVOLVED

The Contractor shall notify all other affected governmental agencies and utilities whenever underground work is done under the terms of this Contract. The Contractor is required to obtain permission of the appropriate public and private utilities and governmental agencies before performing underground work pursuant to the terms of this Contract. The Contractor shall be required to contact "one call" 1-800-424-555 for all projects requiring excavation greater than 12 inches.

1.06 SURETY BOND/RETAINAGE

For construction/labor type contracts, the Successful Bidder must provide a performance guarantee through one of the following options.

A. Retainage

As provided for in RCW 39.08.010, on contracts of $35,000 or less, in lieu of providing a surety bond, the successful Bidder may agree to have the City retain 50 percent of the contract amount for a period of 30 days after the date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. If the successful Bidder does not provide a bond, payment will be subject to the retainage provisions as stated above.

B. Surety Bond

The Successful Bidder shall provide bond, including power of attorney, for 100 percent of the amount of his/her bid (excluding sales taxes), to ensure complete performance of the Contract including the guarantee. The bond must be executed by a surety company licensed to do business in the State of Washington. If a bond is requested for a supply type contract, a cashiers' check or cash may be substituted for the bond; however, this cash or cashiers' check must remain with the City through the guarantee period and any interest on said amount shall accrue to the City.

1.07 CONTRACTOR'S INSURANCE

The Contractor shall not commence work under this Contract until all required insurance has been obtained and such insurance has been approved by the City of Tacoma, nor shall the Contractor allow any Subcontractor to commence work on his/her subcontract until all similar insurance required of the Subcontractor has been so obtained. It is the Contractor's responsibility to ascertain that all Subcontractors have the insurance as required by this Contract at all times such Subcontractors are performing the work.

A. Compensation Insurance

The Contractor shall, at all times during the existence of this Contract, fully comply with all of the terms and conditions of the laws of the State of Washington pertaining to Workmen's Compensation together with any and all amendments and supplements thereto and any and all regulations promulgated thereunder.

In the event any of the work herein is sublet, the Contractor shall require such Subcontractor to fully comply with all of the terms and conditions of the laws of the State of Washington pertaining to Workmen's Compensation. In the event of any class or classes of employees engaged in work not covered under the laws of the State of Washington pertaining to Workmen's Compensation, the Contractor shall provide and cause each Subcontractor to provide compensation insurance satisfactory to the City of Tacoma and to the State of Washington in an amount equivalent to that provided by the laws of the State of Washington pertaining to Workmen's Compensation.

B. Public Liability and Property Damage Insurance

The Contractor shall procure and maintain during the life of his/her Contractor, a policy of public liability insurance and property damage insurance, with an insurance carrier licensed to do business in the State of Washington. The policy shall be approved as to form and content by the City Attorney and shall protect the City of Tacoma from liability imposed by law for damages suffered by any persons (1) for bodily injury or death resulting therefrom caused by accidents or occurrences resulting from any act or omission by the Contractor in the performance of the Contract, and (2) for injury to, or destruction of, any property, including property of the City of Tacoma, and resulting from any act or omission by the Contractor in the performance of the Contract.

The City of Tacoma shall be designated in said policy as a named additional insured and shall be given 30 days of notice of cancellation. Said insurance shall indicate that it is "primary" (over and above any insurance the City may have), shall include contractual coverage and shall be in the amounts of not less than $500,000 combined single limit for personal injury including death and property damages per occurrence and/or incident. For Contractors in excess of $100,000 (excluding sales tax) the minimum coverage shall be $1,000,000 combined single limit per occurrence.

If the Contractor fails to maintain such insurance, the City of Tacoma, at is discretion, may procure and maintain such insurance to cover any damages of the above-mentioned classes for which the City of Tacoma may be held liable on account of the Contractor's failure to pay such damages. The City of Tacoma shall then deduct and retain the amount of the premiums from any sums due to the Contractor under this Contract.

Nothing herein contained shall be in any manner construed as limiting the extent to which the Contractor or Subcontractor may be held liable or responsible for payment of damages resulting from their operations.

C. Builder's Risk

The Contractor shall be expected to protect and ensure from loss any tools and equipment owned or rented by the Contractor, Subcontractor of the employees of the Contractor and Subcontractor.

Until the work is completed and accepted by the City of Tacoma, the construction is at the risk of the Contractor and no partial payment shall constitute acceptance of the work or relieve the Contractor of responsibility to delivery to the City of Tacoma the completed project as required by this Contract.

D. Proof of Carriage of Insurance

Before any work is initiated, the Contractor will be required to furnish and file with the City a certificate of insurance coverage. The insurance coverages required herein shall be maintained and effective at all times any work including guarantee work is being performed by the Contractor or a Subcontractor. An up-to-date certificate of insurance must be on file with the City throughout the Contract period.

1.08 SAFETY

The Contractor shall, at all times, exercise adequate precautions for the safety of all persons, including employees, in the performance of this Contract and shall comply with all applicable provisions of federal, state, county and municipal safety laws and regulations. Protective hats shall be worn at all times when an employee is at the job site, except where doing so would interfere with proper performance of the job.

The Contractor shall obtain the necessary line clearance from the Inspector before performing any work in, above, below or across energized Light Division circuits.

The Inspector and/or Engineer may advise the Contractor and the Safety Officer of any safety violations. It is the Contractor's responsibility to make the necessary corrections. Failure to correct safety violations shall be grounds for an order from the Safety Officer, Inspector or Engineer to cease further work and remove from the job site until the condition is corrected. Time and wages lost due to such safety shutdowns shall be at the sole cost of the Contractor and shall not relieve the Contractor of the obligation to complete the work on time.

Any of the above actions by employees of the City of Tacoma shall in no way relieve the Contractor of his/her responsibility to provide for the safety of all persons, including his/her employees.

1.09 PROTECTION OF WORKMEN AND PROPERTY

The Contractor shall erect and maintain good and sufficient guards, barricades and signals at all unsafe places at or near the work and shall, in all cases, maintain safe passageways at all road crossings, and crosswalks, and shall do all other things necessary to prevent accident or loss of any kind.

The Contractor shall protect from damage all utilities, improvements, and all other property that is likely to become displaced or damaged by the execution of the work under this Contract.

The Contractor is responsible for all roads and property damaged by his/her operations as shall be determined by the Engineer administering this Contract. The Contractor shall be responsible for repairing all damage to roads caused by his/her operations to the satisfaction of the particular governmental body having jurisdiction over the road.

1.10 CONTRACTOR - SUPERVISION AND CHARACTER OF EMPLOYEES

A. Superintendent to Supervise Contractor's Employees

The Contractor shall keep on his/her work, during its progress, a competent superintendent and any necessary assistants, all of whom must be satisfactory to the City of Tacoma. The Contractor's superintendent shall not be changed except with the consent of the City of Tacoma, unless the Contractor's superintendent proves to be unsatisfactory to the Contractor and ceases to be in his/her employ. The Contractor's superintendent shall represent the Contractor in his/her absence and all directions given to him/her shall be binding as if given to the Contractor directly. The Contractor shall give efficient supervision to the work, using his/her best skill and attention.

B. Character of Contractor's Employees

The Contractor shall employ only competent, skillful, faithful and orderly persons to do the work and, whenever the Engineer administering the Contract shall notify the Contractor in writing that any person on the work is, in his or her opinion. incompetent, unfaithful, disorderly or otherwise unsatisfactory, the Contractor shall forthwith discharge such persons from the work and shall not again employ him or her on this contract.

1.11 CONTRACTOR'S COMPLIANCE WITH THE LAW

A. Hours of Labor

The Contractor and Subcontractors shall be bound by the provisions of RCW Chapter 49.28 (as amended) relating to hours of labor. Except as set forth in the Specifications, eight (8) hours in any calendar day shall constitute a day's work on a job performed under this Contract.

In the event that the work is not performed in accordance with this provision and in accordance with the laws of the State of Washington, then this Contract may be terminated by the City of Tacoma for the reason that the same is not performed in accordance with the public policy of the State of Washington as defined in said statutes.

B. Prevailing Wages

The Contractor and any Subcontractors shall be bound by the provisions of Chapter 39.12 RCW, as amended, relating to prevailing wages and usual fringe benefits. No workman, laborer, or mechanic employed in the performance of any part of this Contract shall be paid less than the "prevailing wage" as determined by the Industrial Statistician of the Department of Labor and Industries. The schedule of the prevailing wage rates for the locality or localities where this Contract will be performed is by reference made a part of this Contract as though fully set forth herein. Current prevailing wage data will be furnished by the Industrial Statistician upon request. The Contractor shall immediately upon award of the Contract, contact the Department of Labor and Industries, ESAC Division, General Administration Building, Olympia, Washington 98504, to obtain full information, forms and procedures relating to these matters.

Before payment is made by or on behalf of the city, of any sum or sums due on account of a Public Works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the Contractor and each and every Subcontractor from the Contractor or a Subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages." Each Statement of Intent to Pay Prevailing Wages must be approved by the Industrial Statistician of the Department of Labor and Industries before it is submitted to said officer. Unless otherwise authorized by the Department of Labor and Industries each voucher claim submitted by a Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a Public Works project, it shall be the duty of the officer charged with disbursement of public funds to require the Contractor and each and every Subcontractor from the Contractor or a Subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the Contractor. Each affidavit of wages paid must be certified by the Industrial Statistician of the Department of Labor and Industries before it is submitted to said officer.

In the event any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the Director of the State of Washington, Department of Labor and Industries, whose decision shall be final, conclusive and binding on all parties involved in the dispute.

1.12 CLEANING UP

The Contractor shall at all times, at his/her own expense, keep the premises free from accumulation of waste materials or debris caused by any workers or the work. At the completion of the work the Contractor shall remove all waste materials from and about the site and all his/her equipment, sanitary facilities and surplus materials. In the case of dispute, the City of Tacoma may remove the debris and charge the cost to the Contractor as the City of Tacoma shall determine to be just. All material that is deposited or placed elsewhere than in places designated or approved by the Engineer administering the Contract will not be paid for and the Contractor may be required to remove such material and deposit or place it where directed.

1.13 INSPECTION

A. Of the Work

All materials furnished and work done shall be subject to inspection.

The Inspector administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of this Contract. All material or work approved and later found to be defective shall be replaced without cost to the City of Tacoma.

B. Inspector's Authority

The Inspector shall have power to reject materials or workmanship which do not fulfill the requirements of these Specifications, but in case of dispute the Contractor may appeal to the Superintendent of the Division administering the Contract, whose decision shall be final.

The Contract shall be carried out under the general control of the representative of the particular Division administering the Contract, who may exercise such control over the conduct of the work as may be necessary, in his or her opinion, to safeguard the interest of the City of Tacoma. The Contractor shall comply with any and all orders and instructions given by the representative of the particular Division administering the Contract in accordance with the terms of the Contract.

Nothing herein contained, however, shall be taken to relieve the Contractor of his/her obligations or responsibilities under the Contract.

1.14 INDEMNIFICATION

A. Indemnification

Contractor acknowledges that pursuant to the terms of this agreement, Contractor is totally responsible for the safety of all persons and property in the performance of this Contract. To the greatest extent allowed by law, Contractor assumes the risk of all damages, loss, cost, penalties and expense and agrees to indemnify, defend and hold harmless the City of Tacoma, from and against any and all liability which may accrue to or be sustained by the City of Tacoma on account of any claim, suit or legal action made or brought against the City of Tacoma for the death of or injury to persons (including Contractor's or Subcontractor's employees) or damage to property involving Contractor, of Subcontractor(s) and their employees or agents, arising out of and in connection with or incident to the performance of the Contract except for injuries or damages caused by the sole negligence of the City. In this regard, Contractor recognizes that Contractor is waiving immunity under Industrial Insurance Law, Title 51 RCW. Contractor acknowledges that this indemnification provision has been mutually negotiated within the context of competitive bidding laws. This indemnification extends to the officials, officers and employees of the City and also includes attorney's fees and the cost of establishing the right to indemnification hereunder in favor of the City of Tacoma. Provided, however, this provision is intended to be applicable to the parties to this agreement and it shall not be interpreted to allow a Contractor's employee to have a claim or cause of action against Contractor.

B. Limitation of Liability for Primarily Supply-Type Contracts

All Contracts where the total cost of the supply of materials and/or equipment constitute at least 70 percent of the total Contract price (as determined by the City), then the City agrees that it will not hold the Contractor, supplier or manufacturer liable for consequential damages for that part of the Contract related to the manufacture and/or design of the equipment, materials or supplies.

1.15 GUARANTEE

Guarantee for Construction, Labor or Services Contract

Neither the final certificate of payment or any provision in the Contract Documents, nor partial or entire occupancy of the premises by the City, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting

therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The City will give notice of observed defects with reasonable promptness.

If it has been discovered, before payment is required, under the terms of the Contract, that there is a failure to comply with any of the terms and provisions of this Contract, the City has the right and may withhold payment.

In case of a failure of any part of the work, materials, labor and equipment furnished by the Contractor to fully meet all of the requirements of the Contract, the Contractor shall make such changes as may be necessary to fully meet all of the specifications and requirements of this Contract. Such changes shall be made at the Contractor's sole cost and expense without delay and with the least practicable inconvenience o the City of Tacoma. Rejected material and equipment shall be removed from the City's property by and at the expense of the Contractor.

1.16 DEDUCTIONS FOR UNCORRECTED WORK

If the City of Tacoma deems it expedient to correct work not done in accordance with the terms of this Contract, an equitable deduction from the Contract price shall be made.

1.17 CITY OF TACOMA'S RIGHT TO TERMINATE CONTRACT

The City of Tacoma may serve written notice upon the Contractor and Surety, executing the Performance Bond, of its intention to terminate the Contract; such notice will contain the reasons for termination of the Contract and, unless within ten (10) days after the serving of such notice, such violation shall cease and an arrangement satisfactory to the City of Tacoma for correction thereof shall be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate and all rights of the Contractor hereunder shall be forfeited.

If a Performance Bond was provided, upon such termination, the Surety shall have the right to take over and perform the Contract, provided, however, the Surety must provide written notice to the City of its intent to complete the work within 15 calendar days of its receipt of the original written notice (from the City) of the intent to terminate. Upon termination and if the Surety does not perform the work, the City of Tacoma may take over the work and prosecute the same to completion by any method it may deem advisable, for the account of and at the expense of the Contractor, and the Contractor and the Surety shall be liable to the City of Tacoma for all cost occasioned to the City of Tacoma thereby. The City of Tacoma may, without liability for doing so, take possession of an utilize in completing the work, such materials, equipment, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

1.18 LIENS

In the event that there are any liens on file against the City of Tacoma, the City of Tacoma shall be entitled to withhold final or progress payments to the extent deemed necessary by the City of Tacoma to properly protect the outstanding lien claimants until proper releases have been filed with the City Clerk.

1.19 CITY RESERVES RIGHT TO USE FACILITIES PRIOR TO ACCEPTANCE

The City of Tacoma hereby reserves the right to use the facilities herein contracted prior to final acceptance under this Contract. The use of said facilities, as mentioned herein, shall not be construed as a wavier or relinquishment of any rights that the City of Tacoma has under this Contract.

1.20 UNDERGROUND EXCAVATION

The City may have indicated on the plans and specifications the existence of certain underground facilities that are known to the City division responsible for this Contract. It is the Contractor's responsibility to fully comply with the Underground Utility Locate Law, Chapter 19.122 RCW. If the site conditions are "changed or differing" as defined by RCW 19.122.040(1), the Contractor may pursue the party responsible for not properly marking or identifying the underground facility. The Contractor agrees not to file any claim or legal action against the City (division responsible for this Contract) for said "changed or differing" conditions unless said City division is solely responsible for the delay or damages that the Contractor may have incurred.

Chapter 1.07

SMALL BUSINESS ENTERPRISE

Sections:

1.07.010 Policy and purpose.
1.07.020 Definitions.
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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:

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

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)

SBE GOAL UTILIZATION FORM

SMALL BUSINESS ENTERPRISE REQUIREMENTS & PROCEDURES:

All bidders must complete and submit with their bid the following solicitation forms contained in the bid submittal package:

City of Tacoma – Prime Contractor's Pre-Work Form

IMPORTANT NOTE:

It is the bidder's responsibility to insure that the SBE subcontractor(s) listed on the SBE Utilization Form are currently certified by the City of Tacoma at the time of bid opening. This may be verified by contacting the SBE Program Office at (253) 591-5224 between 8 AM and 5 PM, Monday through Friday. This form must have clear expression of SBE participation your company will use on this project. Ordinance 27867, passed by the City Council on December 15, 2009, establishes the overall SBE goal of 22%, *except where modified through appropriate procedures*. Please refer to the City of Tacoma SBE Provisions included elsewhere in these Special Provisions.

SBE GOAL: The SBE office has determined a **zero (0) SBE goal** should apply to this project. .Due to limited scope and low dollar value, no reasonable opportunity for subcontracting exists.

For any questions or concerns, please call the SBE Office at (253) 591-5224

MATERIAL MISSTATEMENTS CONCERNING COMPLETED ACTIONS BY THE BIDDER IN ANY SWORN STATEMENT OR FAILURE TO MEET COMMITMENTS AS INDICATED ON THE SBE UTILIZATION FORM MAY RENDER THE BIDDER IN DEFAULT OF CITY ORDINANCE 27867.

PART I

SPECIFICATIONS AND DRAWINGS

Bid Specs Upper Yard Shed

Furnish and install one (1) 30’ wide x 30’ long x 22’6” center height, steel framed fabric building mounted on top of a 3 block high ecology block wall for a total center height of 30’ . Example pictured below.

Once permit is obtained by the City vendor has 90 days to complete construction of the shelter.

1. Size: width 30’ – length 30’ – center height 22”6” clearance height minimum 29’ when set on top of a 3 ecology block tall wall (7.5 ft)
2. 18 oz. Fabric Green, flame retardant PVC fabric with polyester scrim
3. Fabric to meet State of CA Fire Marshall Code and NFPA 701.
4. Frame members should be 18” heavy wall galvanized tubular steel truss design. All weld joints coated with 97% zinc “ cold gal “ for corrosion protection
5. Fabric terminates at the foundation level.
6. Anchors provided for an existing concrete wall
7. 1 each eye lid end wall with frame stopping at top of foundation
8. Shipping included
9. Raised Sealed Engineered drawing stamped by PE Stamp to meet City of Tacoma codes for building and ecology block wall
10. City will construct ecology block walls
11. City will obtain a permit using engineered stamped drawings provided by the vendor, vendor will make changes to drawings (if necessary) as required by City of Tacoma Permit Counter
12. Prevailing wage required
13. Shelter to be constructed next to existing structure (see installation location picture below)

Example of Structure

Installation Location

Note: City forces will construct foundation walls at this location to meet shelter width requirements, ecology blocks will be use for the wall construction. Blocks will have flat tops no cross tee’s so as not to impede with the anchoring systems for the shelter frame.

Installation Location:

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

PRIME CONTRACTOR'S PRE-WORK FORM

Company Name _____ **Telephone** _____

Address/City/State/Zip Code _____

JOB CATEGORIES SPECIFY	TOTAL EMPLOYEES		TOTAL MINORITY EMPLOYEES		BLACK		ASIAN		AMERICAN INDIAN		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												

_____ _____

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," "American Indian," 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 any questions regarding the completion of this form, please call the City of Tacoma Office of Small Business Enterprise at 253.591-5224.

Contractor Name _____

City of Tacoma

RETAINAGE OPTIONS

Steel Truss Fabric Shed

A. Complete and return this form with your submittal. If your company is awarded the project, the information below will be used to determine the appropriate contract documents and retainage method.

B. As provided for in RCW 39.08.010, a bond is required on any work resulting from this solicitation, provided that on contracts of $150,000 or less, the contractor may, in lieu of the performance bond and payment bond, elect to have the City of Tacoma retain 10 percent of the contract amount for a period of 30 days after the date of final acceptance, or until receipt of all necessary releases from the Department of Revenue, the Department of Labor and Industries, and settlement of any liens filed under RCW CHAPTER 60.28, whichever is later.

C. Please specify your choice:

- ☐ Performance bond***** and payment bond*****, each with 5% retainage
- ☐ Hold 10% retainage in lieu of performance bond and payment bond (reserved for contracts $150,000 or less per RCW 39.08.010)
- ☐ Bond in-lieu-of retainage*****
- ☐ Escrow agreement*****

***The City's forms must be used. Contractor may not substitute its own forms.**

Pursuant to RCW 60.28, a sum of five percent of the monies earned by the Contractor will be retained from progress estimates. Such retainage shall be used as a trust fund for the protection and payment (1) to the state with respect to taxes imposed pursuant to Title 82, RCW, and (2) the claims of any person arising under the contract.

Release of the retainage will be made 60 days following the completion date (pursuant to RCW 39.12, and RCW 60.28) provided the following conditions are met:

1. On contracts totaling more than $20,000, a release has been obtained from the Washington State Department of Revenue.
2. Affidavits of Wages Paid for the Contractor and all Subcontractors are on file with the contracting agency (RCW 39.12.040).
3. A release has been obtained from the Washington State Department of Labor and Industries (per Section 1-07.10) and the Washington State Employment Security Department.
4. All claims, as provided by law, filed against the retainage have been resolved. In the event claims are filed, and provided the conditions of 1, 2, and 3 are met, the Contractor will be paid such retained percentage less an amount sufficient to pay any such claims together with a sum determined by the contracting agency sufficient to pay the cost of foreclosing on claims and to cover attorney's fees.

3628 S. 35TH St. ■ Procurement &Payables Division ■ Tacoma, WA 98409 ■ (253) 502-8468 ■ FAX (253) 502-8372

Sustainability

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

1. Have you incorporated sustainability into your everyday business practices? Y/N Please describe

_____
_____
_____
_____

2. Have you taken measures to minimize impacts to the environment in the delivery of proposed goods and/or services? Y/N Please describe.

_____
_____
_____
_____

3. Please describe the estimated percentage of material to be recycled or reused under this project _____%.

Specification No. _____

_____

Name of Bidder

State Responsibility and Reciprocal Bid Preference Information

Revised: 07/20/07, 04/09/12

Certificate of registration as a contractor (must be in effect at the time of bid submittal):	Number: _____ Effective Date: _____ Expiration Date: _____
Current Washington Unified Business Identifier (UBI) number:	Number: _____
Do you have industrial insurance (workers' compensation) coverage for your employees working in Washington?	☐ Yes ☐ No ☐ Not Applicable
Washington Employment Security Department number:	Number: _____ ☐ Not Applicable
Washington Department of Revenue state excise tax registration number:	Number: _____ ☐ Not Applicable
Have you been disqualified from bidding on any public works contracts under RCW 39.06.010 or 39.12.065(3)?	☐ Yes ☐ No If yes, provide an explanation of your disqualification on a separate page.
Do you have a physical office located in the state of Washington?	☐ Yes ☐ No
If incorporated, in what state were you incorporated?	State: _____ ☐ Not Incorporated
If not incorporated, in what state was your business entity formed?	State: _____

CITY OF TACOMA
FINANCE/PURCHASING DIVISION

SPECIAL NOTICE TO BIDDERS

Public works and improvement projects for the City of Tacoma are subject to Washington state law and Tacoma Municipal Code, including, but not limited to the following:

I. STATE OF WASHINGTON

A. RESPONSIBILITY CRITERIA – STATE OF WASHINGTON

In order to be considered a responsible bidder the bidder must meet the following mandatory state responsibility criteria contained in RCW 39.04.350:

1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect **at the time of bid submittal**;
2. Have a current Washington Unified Business Identifier (UBI) number;
3. If applicable:
   a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW;
   b. Have a Washington Employment Security Department number, as required in Title 50 RCW;
   c. Have a Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW and;
4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 (unlicensed or unregistered contractors) or 39.12.065(3) (prevailing wage).

B. RECIPROCAL PREFERENCE FOR RESIDENT CONTRACTORS:

Effective March 30, 2012, RCW 39.04.380 imposes a reciprocal preference for resident contractors. Any bid received from a non-resident contractor from a state that provides an in-state percentage bidding preference is subject application of a comparable percentage disadvantage.

A non-resident contractor from a state that provides an in-state percentage bidding preference means a contractor that:

1. Is from a state that provides a percentage bid preference to its resident contractors bidding on public works projects, and
2. Does not have a physical office located in Washington at the time of bidding on the City of Tacoma public works project.

The state of residence for a non-resident contractor is the state in which the contractor was incorporated, or if not a corporation, the state in which the contractor's business entity was formed.

The City of Tacoma will evaluate all non-resident contractors for an out of state bidder preference. If the state of the non-resident contractor provides an in state contractor preference, a comparable percentage disadvantage will be applied to the non-resident

contractor's bid prior to contract award. The responsive and lowest and best responsible bidder after application of any non-resident disadvantage will be awarded the contract.

The reciprocal preference evaluation does not apply to public works procured pursuant to RCW 39.04.155, RCW 39.04.280, federally funded competitive solicitations where such agencies prohibit the application of bid preferences, or any other procurement exempt from competitive bidding.

Bidders must provide the City of Tacoma with their state of incorporation or the state in which the business entity was formed and include whether the bidder has a physical office located in Washington.

The bidder shall submit documentation demonstrating compliance with above criteria on the enclosed State Responsibility and Reciprocal Bidder Information form.

C. SUBCONTRACTOR RESPONSIBILITY

1. The Contractor shall include the language of this subcontractor responsibility section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier.

2. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

    a. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;

    b. Have a current Washington Unified Business Identifier (UBI) number;

    c. If applicable, have:

    a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW;
    b. A Washington Employment Security Department number, as required in Title 50 RCW;
    c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
    d. An electrical contractor license, if required by Chapter 19.28 RCW;
    e. An elevator contractor license, if required by Chapter 70.87 RCW and;

3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 (unlicensed or unregistered contractors) or 39.12.065(3) (prevailing wage).

II. CITY OF TACOMA

A. SUPPLEMENTAL RESPONSIBILITY CRITERIA – CITY OF TACOMA:

In order to be considered a responsible bidder, the prospective bidder shall have all of the following qualifications set forth in Tacoma Municipal Code 1.06.262:

1. Adequate financial resources or the ability to secure such resources;
2. The necessary experience, stability, organization and technical qualifications to perform the proposed contract;
3. The ability to comply with the required performance schedule, taking into consideration all existing business commitments;
4. A satisfactory record of performance, integrity, judgment and skills; and
5. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.
    a. Bidder Responsibility. Bidders shall not be in violation of 39.04.350 RCW Bidder Responsibility Criteria - Supplemental Criteria.

In addition to the mandatory bidder responsibility criteria listed immediately above, the City may, in addition to price, consider any or all of the following criteria contained in Tacoma Municipal Code Chapter 1.06.262 in determining bidder responsibility:

1. The ability, capacity, experience, stability, technical qualifications and skill of the respondent to perform the contract;
2. Whether the respondent can perform the contract within the time specified, without delay or interference;
3. Integrity, reputation, character, judgment, experience, and efficiency of the respondents, including past compliance with the City's Ethics Code;
4. Quality of performance of previous contracts;
5. Previous and existing compliance with laws and ordinances relating to contracts or services;
6. Sufficiency of the respondent's financial resources;
7. Quality, availability, and adaptability of the supplies, purchased services or public works to the particular use required;
8. Ability of the respondent to provide future maintenance and service on a timely basis;
9. Payment terms and prompt pay discounts;
10. The number and scope of conditions attached to the submittal;
11. Compliance with all applicable City requirements, including but not limited to the City's Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs;
12. Other qualification criteria set forth in the specification or advertisement that the appropriate department or division head determines to be in the best interests of the City.

The City may require bidders to furnish information, sworn or certified to be true, to demonstrate compliance with the City responsibility criteria set forth above. If the city manager or director of utilities is not satisfied with the sufficiency of the information provided, or if the prospective respondent does not substantially meet all responsibility requirements, any submittal from such respondent must be disregarded.

B. ADDITIONAL SUPPLEMENTAL CRITERIA – NOT APPLICABLE

C. MODIFICATIONS TO SUPPLEMENTAL CRITERIA

Potential bidders may request modifications to the City's **supplemental criteria** by submitting a written request to the Purchasing Division no later than 5:00 p.m. Pacific Time, three days prior to bid opening date. Please include the Specification No. and Title when submitting such requests. Requests must include justification for why certain criteria should be modified. Requests received after this date and time will not be considered.

Requests may be submitted via postal mail or delivered personally, or sent by e-mail or fax, within the above timeline to:

MAIL

City of Tacoma Purchasing Division
PO Box 11007
Tacoma, WA 98411-0007

Fax: 253-502-8372
E-mail: bids@cityoftacoma.org

DELIVERY

City of Tacoma Purchasing Division
Tacoma Public Utilities
Administration Building North – Main Floor
3628 South 35th Street
Tacoma, WA 98409-3115

The City will respond to a timely submitted request prior to the bid opening date. Changes to the supplemental criteria, if warranted, will be issued by addendum to the solicitation documents and posted to the City's website for the attention of all prospective bidders.

D. DETERMINATION OF BIDDER RESPONSIBILITY

If the City determines the bidder does not meet the criteria above and is therefore not a responsible bidder, the City shall notify the bidder in writing with the reasons for its determination. If the bidder disagrees, the bidder may appeal the determination in a manner consistent with the City's Protest Policy. Appeals are coordinated by the Purchasing Division heard by the Procurement and Payables Division manager for contracts less than or equal to $200,000 and by Contracts and Awards Board for contracts greater than $200,000.

P A R T 2

SAMPLE FORMS

CONTRACT

Resolution No.
Contract No.

THIS AGREEMENT made and entered into in triplicate by and between the City of Tacoma, a Municipal Corporation hereinafter called the "City", and

Enter vendor name herein after called the "Contractor."

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Agreement, the Parties hereto covenant and agree as follows:

I. The Contractor shall do all work and furnish all tools, materials, and equipment in accordance with and as described herein and in the attached plans, drawings, and the below referenced Specifications of the City of Tacoma included in the solicitation of Bids for this Agreement, which are by this reference incorporated herein and made a part hereof, and shall perform any alteration in or additions to the work provided under this Agreement and every part thereof.

Specification No. enter spec number

Project: enter spec name

Contract Total: $, Select applicable tax information

The Contractor shall provide and bear the expense of all equipment, work and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this Agreement and every part thereof, except such as are mentioned in the Specifications to be furnished by the City of Tacoma.

II. The Contractor acknowledges, and by signing this Agreement agrees, that the Indemnification provisions set forth in the Specifications, including the Industrial Insurance immunity waiver (if applicable), are totally and fully part of this Agreement and, within the context of the competitive bidding laws, have been mutually negotiated by the Parties hereto.

III. The Contractor, for him/herself, and for his/her heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

IV. It is further provided that no liability shall attach to the City by reason of entering into this Agreement, except as expressly provided herein.

V. The Contractor agrees to accept as full payment hereunder the amounts specified in the Submittal, and the City agrees to make payments at the times and in the manner and upon the terms and conditions specified in said Submittal and in the attached plans, drawings, and Specifications.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed, with an effective date for bonding purposes of Enter date day of Enter month, 20year.

CITY OF TACOMA:

By: _____
Title of dept or div staff w/auth to sign for this $ amt

By: _____
Select one (for contract totals over $50K or NA)

By: _____
Director of Finance *Title* APPROVED AS TO FORM:

PRINCIPAL: Enter vendor name

By: _____
Signature

_____
Printed Name

SAMPLE

PERFORMANCE BOND
TO THE CITY OF TACOMA

Resolution No.
Bond No.

That we, the undersigned, _____

as principal, and _____

as a surety, are jointly and severally held and firmly bound to the CITY OF TACOMA, in the penal sum of,

$ _____ , for the payment whereof Contractor and Surety bind themselves,

their executors, administrators, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

This obligation is entered into in pursuance of the statutes of the State of Washington, the Ordinances of the City of Tacoma

WHEREAS, under and pursuant to the City Charter and general ordinances of the City of Tacoma, the said City has or is about to enter with the above bounden principal, a contract, providing for

Specification No.

Specification Title:

Contract No.

(which contract is referenced to herein and is made a part hereof as though attached hereto), and

WHEREAS, the said principal has accepted, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth.

This statutory performance bond shall become null and void, if and when the principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increase.

If the City shall commence suit and obtain judgment against the Surety for recovery hereunder, then the Surety, in addition to such judgement, shall pay all costs and attorney's fees incurred by the City in enforcement of its rights hereunder. Venue for any action arising out of in in connection with this bond shall be in Pierce County, Washington.

Surety companies executing bonds must be authorized to transact business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasure Department.

One original bond shall be executed, and signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed power of attorney for the office executing on behalf of the surety.

Approved as to form:

_____
Deputy City Attorney

Principal: Vendor Legal Name

_____

By: _____

Surety:

_____

By: _____

Agent's Name: _____

Agent's Address: _____

SAMPLE

PAYMENT BOND
TO THE CITY OF TACOMA

Resolution No.
Bond No.

That we, the undersigned, _____

as principal, and _____

as a surety, are jointly and severally held and firmly bound to the CITY OF TACOMA, in the penal sum of,

$ _____ , for the payment whereof Contractor and Surety bind themselves,

their executors, administrators, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

This obligation is entered into in pursuance of the statutes of the State of Washington, the Ordinances of the City of Tacoma.

WHEREAS, under and pursuant to the City Charter and general ordinances of the City of Tacoma, the said City has or is about to enter with the above bounden principal, a contract, providing for

Specification No.

Specification Title:

Contract No.

(which contract is referenced to herein and is made a part hereof as though attached hereto), and

WHEREAS, the said principal has accepted, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28, including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract shall in any way affect its obligation on this bond, and waivers notice of any changes, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

No suit or action shall be commenced hereunder by any claimant unless claimant shall have given the written notices to the City, and where required, the Contractor, in accordance with RCW 39.08.030.

The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of claims which may be properly filed in accordance with RCW 39.08 whether or not suit is commenced under and against this bond.

If any claimant shall commence suit and obtain judgment against the Surety for recovery hereunder, then the Surety, in addition to such judgment and attorney fees as provided by RCW 39.08.030, shall also pay such costs and attorney fees as may be incurred by the City as a result of such suit. Venue for any action arising out of or in connection with this bond shall be in Pierce County, WA.

Surety companies executing bonds must be authorized to transact business in the State of Washington as surety and named in the current list of “Surety Companies Acceptable in Federal Bonds” as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasure Department.

SAMPLE

One original bond shall be executed, and be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed power of attorney for the office executing on behalf of the surety.

Approved as to form:

_____
Deputy City Attorney

Principal: Vendor Legal Name

_____

By: _____

Surety:

_____

By: _____

Agent's Name: _____

Agent's Address: _____

SAMPLE

City of Tacoma

City of Tacoma Contract No.: _____ Specification No.: _____

General Release to the City of Tacoma

The undersigned, named as the Contractor in a certain agreement between contractor name and the City of Tacoma, dated _____, 20___, hereby releases the City of Tacoma, its departmental officers, employees, and agents, from any and all claim or claims known or unknown, in any manner whatsoever, arising out of, or in connection with, or relating to said contract, excepting only the equity of the undersigned in the amount now retained by the City of Tacoma under said contract, to-wit: the sum of $_____.

Signed on this _____ day of _____, 20__.

_____
Contractor Name

_____
Contractor Authorized Signature

_____
Title

_____
Type or Print Signature Name

SAMPLE

PART 3

PREVAILING WAGE & INSURANCE REQUIREMENTS

PREVAILING WAGE RATES

for

Pierce County

September 2, 2015

The State of Washington prevailing wage rates applicable for this public works project may be found at the following website addresses of the Department of Labor and Industries:

JOURNEY LEVEL

See Department of Labor and Industries URL link
https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx

APPRENTICES

See Department of Labor and Industries URL link
https://fortress.wa.gov/lni/wagelookup/ApprenticeWageLookup.aspx

The schedule of prevailing wage rates is made part of the Contract Documents by reference as through fully set forth herein; and a copy of the applicable prevailing wage rates are also available for viewing at the City Purchasing Office. Upon request to the Purchasing Department, the City will email a copy of the applicable Journey Level prevailing wages for this project.

Department of Labor and Industries
Prevailing Wage
(360) 902-5335
www.lni.wa.gov/TradesLicensing/PrevWage

STATEMENT OF INTENT TO PAY PREVAILING WAGES

Public Works Contract
$40.00 Filing Fee Required

- This form **must** be typed or printed in ink.
- **Fill in all blanks or the form will be returned for correction (see instructions).**
- Please allow a **minimum** of 10 working days for processing.
- Once approved, your form will be posted online at https://fortress.wa.gov/lni/pwiapub/SearchFor.asp

Intent ID # (Assigned by L&I)_____

Your Company Information		
Your Company Name ABC Company, Inc.		
Your Address 1234 Main Street		
City Olympia	State WA	Zip+4 98501-1234
Your Contractor Registration Number ABCCI*0123AA	Your UBI Number 123456789	
Your Industrial Insurance Account Number 111,111-11		
Your Email Address (required for notification of approval) prevailingwage@lni.wa.gov	Your Phone Number (555) 555-5555	

Awarding Agency Information		
Project Name Road Repair	Contract Number 2011-01B	
Awarding Agency WA State Department of Transportation		
Awarding Agency Address PO Box 47354		
City Olympia	State WA	Zip+4 98501
Awarding Agency Contact Name John Doe	Phone Number (555) 555-5555	
County Where Work Will Be Performed Thurston	City Where Work Will Be Performed Olympia	

Additional Details	
Your Expected Job Start Date (mm/dd/yyyy) 01/01/2011	
Job Site Address/Directions State Street @ Plum Street	

Contract Details	
Bid Due Date (**Prime Contractor's**) 08/01/2010	Award Date (**Prime Contractor's**) 08/10/2010
Indicate Total Dollar Amount of **Your** Contract (including sales tax) or time and materials, if applicable.	$1000.00

ARRA Funds	**Weatherization or Energy Efficient Funds**
Does this project utilize American Recovery and Reinvestment Act (ARRA) funds? ☐ Yes ☒ No	Does this project utilize any weatherization or energy efficiency upgrade funds (ARRA or otherwise)? ☐ Yes ☒ No

Prime Contractor's Company Information		**Hiring Contractor's Company Information**	
Prime Contractor's Company Name XYZ Company, Inc.	Prime Contractor's Intent Number 123456	Hiring Contractor's Company Name Super Pavers, Inc.	
Prime Contractor's Registration Number XYZIN*0123AA	Prime Contractor's UBI Number 987654321	Hiring Contractor's Contractor Registration Number SUPERPA123AA	Hiring Contractor's UBI Number 321456987

Employment Information					
Do you intend to use **ANY** subcontractors?	☐ Yes	☒ No	Will employees perform work on this project?	☒ Yes	☐ No
Will **ALL** work be subcontracted?	☐ Yes	☒ No	Do you intend to use apprentice employees?	☒ Yes	☐ No

Number of Owner/Operators who own at least 30% of the company who will perform work on the project: ☐ None (0) ☒ One (1) ☐ Two (2) ☐ Three (3)

Crafts/Trades/Occupations – (Do not list apprentices. They are listed on the Affidavit of Wages Paid only.) If an employee works in more than one trade, ensure that all hours worked in each trade are reported below. For additional crafts/trades/occupations please use Addendum A.	**Number of Workers**	**Rate of Hourly Pay**	**Rate of Hourly Usual ("Fringe") Benefits**
Laborer - Asphalt Raker	**2**	**39.28**	**5.00**
Power Equipment Operator - Asphalt Plant Operator	**1**	**48.04**	**2.35**
Truck Driver - Asphalt Mix (over 16 Yds)	**1**	**46.47**	**0.00**

Signature Block

I hereby certify that I have read and understand the instructions to complete this form and that the information, including any addenda, are correct and that all workers I employ on this Public Works Project will be paid no less than the Prevailing Wage Rate(s) as determined by the Industrial Statistician of the Department of Labor and Industries.

Print Name:	**Print Title:**	**Signature:**	**Date:**

For L&I Use Only

Approved by signature of the Department of Labor and Industries Industrial Statistician

NOTICE: If the prime contract is at a cost of over one million dollars ($1,000,000.00), RCW 39.04.370 requires you to complete the EHB 2805 (RCW 39.04.370) Addendum and attach it to your Affidavit of Wages of Paid when your work on the project concludes. This is only a notice. The EHB 2805 Addendum is not submitted with this Intent.

SAMPLE

Department of Labor and Industries
Prevailing Wage Program
(360) 902-5335
www.Lni.wa.gov/TradesLicensing/PrevWage/default.asp

Affidavit of Wages Paid
Public Works Contract
$40.00 Filing Fee Required*
*Exemption may apply. See instruction 9.

This form **must** be typed or printed in ink.
Fill in ALL blanks or the form will be returned for correction (see instructions).
Please allow a **minimum** of 10 business days for processing.
Once approved, your form will be posted online at:
https://fortress.wa.gov/lni/wagelookup/searchforms.aspx

Affidavit ID # (Assigned by L&I):

 # WA67554-9090

Your Company Information		
Your Company Name ABC Company		
Your Company Address 1234 Main Street		
City Olympia	State WA	Zip+4 98501-1234
Your Contractor Registration Number ABCCI*0123AA	Your UBI Number 123456789	
Your Industrial Insurance Account Number 111,111-11		
Your Email Address (required for notification of approval) prevailingwage@lni.wa.gov	Your Phone Number (555) 555-5555	

Awarding Agency Information		
Project Name Road Repair	Contract Number 123-456	
Awarding Agency WA St Department of Transportation		
Awarding Agency Address PO Box 123		
City Olympia	State WA	Zip+4 98501
Awarding Agency Contact Name John Doe	Phone Number (555) 555-5555	
County Where Work Was Performed Thurston	City Where Work Was Performed Olympia	

Additional Details	
Your Job Start Date (mm/dd/yyyy) 2/1/2011	**Your** Date Work Completed (mm/dd/yyyy) 3/1/2011
Job Site Address/Directions Plum and State Street	Your Approved Intent ID # 123456

Contract Details	
Bid Due Date (**Prime Contractor's**) 1/1/2011	Award Date (**Prime Contractor's**) 1/5/2011
Indicate Total Dollar Amount of **Your** Contract (including sales tax). $ $10,000.00	

EHB 2805 (RCW 39.04.370) – Is the Prime Contractor's contract at a cost of over one million dollars ($1,000,000)?
☒ No ☐ Yes

If "Yes" to the **EHB 2805** question and the Award Date is **9/1/2010** or later you must complete and submit the **EHB 2805 (RCW 39.04.370) Addendum**.

ARRA Funds

Does this project utilize American Recovery and Reinvestment Act (ARRA) funds?
☐ Yes ☒ No

Weatherization or Energy Efficient Funds

Does this project utilize any weatherization or energy efficiency upgrade funds (ARRA or otherwise)? ☐ Yes ☒ No

Prime Contractor's Company Information	
Prime Contractor's Company Name XYZ Company	
Prime Contractor's Registration Number XYZCI*0123AA	Prime Contractor's UBI Number 987654321

Hiring Contractor's Company Information	
Hiring Contractor's Company Name CBA Company	
Hiring Contractor's Registration Number CBACI*0123AA	Hiring Contractor's UBI Number 456789123

Employment Information

Did you use **ANY** subcontractors?	☐ Yes **(Addendum B Required)**	☒ No	Did employees perform work on this project?	☒ Yes	☐ No
Was **ALL** work subcontracted?	☐ Yes **(Addendum B Required)**	☒ No	Did you use apprentice employees?	☐ Yes	☒ No

Number of Owner/Operators who own at least 30% of the company who performed work on this project:
You must list the First and Last Name(s) of any Owner/Operator performing work below
☐ None (0) ☒ One (1) ☐ Two (2) ☐ Three (3)

List your Crafts/Trades/Occupations Below - For Journey Level Workers you must provide all of the information below. Owner/Operators - must provide their First and Last name no other information required. ****Apprentices are not recorded below. You must use Addendum D to list Apprentices.**	**Number of Workers**	**Total # of Hours Worked**	**Rate of Hourly Pay**	**Rate of Hourly Usual ("Fringe") Benefits**
General Labor	**2**	**153**	**41.23**	**8.54**
Carpenter	**5**	**210**	**52.26**	**10.13**

Signature Block

I hereby certify that I have read and understand the instructions to complete this form and that the information on the form and any addenda is correct and that all workers I employed on this Public Works Project were paid no less than the Prevailing Wage Rate(s) as determined by the Industrial Statistician of the Department of Labor and Industries.

Print Name:	**Print Title:**	**Signature:**	**Date:**

For L&I Use Only

Department of Labor and Industries
APPROVED BY: _____
Industrial Statistician

SAMPLE

PW17-0400N
CITY OF TACOMA INSURANCE REQUIREMENTS

I. GENERAL REQUIREMENTS

A. The City of Tacoma (the City) reserves the right to approve or reject the insurance provided based upon the insurer (including financial condition), terms and coverage, the Certificate of Insurance (COI), and/or endorsements. The insurance must be provided by an insurer with a rating of (A-) VII or higher in the A.M. Best's Key Rating Guide *(http://www.ambest.com/home/default.aspx)*, and pursuant to RCW 48, licensed to do business in the State of Washington (or issued as a surplus line by a Washington Surplus Lines broker).

B. The Contractor shall keep this insurance in force during the entire term of the Contract and for thirty (30) calendar days after completion of all work required by the Contract, unless otherwise provided herein.

C. The liability insurance policies required by this section shall:
   1. Contain a "severability of insureds," "separation of interest," or "cross liability" provision.
   2. Be primary and non-contributory insurance to any insurance coverage or self-insurance program the City may maintain.
   3. Contain a Waiver of Subrogation clause in favor of the City.
   4. Other than Professional Liability, reflect coverage on an “occurrence,” not “claims-made” policy form.

D. The Contractor shall provide the City notice of any cancellation or non-renewal of this required insurance within 30 calendar days.

E. The Contractor shall forward to the City, a full and certified copy of the insurance policy(s) including endorsements required by this section upon the City’s request.

F. The Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the City.

G. Failure on the part of the Contractor to obtain and maintain the insurance as required by this section shall constitute a material breach of the Contract, upon which the City may, after giving five (5) business day notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith; with any sums so expended to be repaid to the City by the Contractor upon demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

H. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made by the City to the Contractor.

I. For all liability insurance policies required by this Section, the City, including its officers, elected officials, employees, agents, and authorized volunteers, and any other entities as required by the Contract, shall be named as additional insured(s) by amendatory endorsement, EXCEPT Professional Liability (if applicable), Workers’ Compensation, Owners and Contractors Protective Liability, and Railroad Protective Liability.

II. EVIDENCE OF INSURANCE

The Contractor shall deliver a COI and endorsements for each policy of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work to the City. The certificate and endorsements must conform to the following requirements:

A. An ACORD certificate or a form determined by the City to be equivalent.
B. Copies of all endorsements showing the policy number and naming the City as an additional insured.
C. The endorsement is to state that the insurance is primary and non-contributory over any City insurance or self-insurance.
D. The endorsement is to extend "Products/Completed Operations" coverage to the City as an additional insured.
E. A statement of additional insured status on an ACORD COI shall not satisfy this requirement.
F. Any other amendatory endorsements to show the coverage required herein.

III. CERTIFICATE REQUIREMENTS SPECIFIC REPRESENTATIONS

The following must be indicated on the COI:

A. The City is named as an additional insured *(*"with respect to a specific Contract" or "for any and all work performed with the City" may be included in this statement).
B. "This insurance is primary and non-contributory over any insurance or self-insurance the City may carry" ("with respect to a specific Contract" or "for any and all work performed with the City" may be included in this statement).
C. A Waiver of Subrogation in favor of the City for General Liability and Automobile Liability.
D. Self-Insured Retention and applicable deductible limits must be disclosed on the COI and be no more than Ten Thousand Dollars ($10,000).
E. Contract or Permit number and the City Department.
F. All coverage other than Professional Liability, Cyber/Privacy and Security, and Pollution Liability must be written on "occurrence" form and not "claims-made" form.
G. Reflect the existence and form numbers of all required endorsements.

IV. SUBCONTRACTORS

It is the Contractor's responsibility to ensure that each subcontractor obtain and maintain adequate liability insurance coverage. The Contractor shall provide evidence of such insurance upon the City's request.

V. CERTIFICATE REQUIREMENTS FOR COVERAGES AND LIMITS

The insurance shall provide the minimum coverages and limits set forth below. Providing coverage in these stated minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits. The policies and/or coverages required by this section shall be subject to a deductible or self-insured retained limit up to Ten Thousand Dollars ($10,000) unless first approved in writing by the City of Tacoma, Risk Management Division.

A. General Liability Insurance

1. Commercial General Liability (CGL) Insurance

The CGL insurance policy must provide limits not less than One Million Dollars ($1,000,000) each occurrence and Two Million Dollars ($2,000,000) annual aggregate.

The CGL policy shall be written on an "occurrence," not "claims-made," basis and shall include the following coverage:

a. Must use (Insurance Services Office (ISO) form CG0001(04-13) or its equivalent).
b. A per project aggregate policy limit.
c. Products Hazard/Completed Operations- for a period of one year following final acceptance of the work.
d. Personal/Advertising Injury.
e. Contractual Liability.
f. Explosion, Collapse, or Underground Property Damage.
g. Blasting (only required when the Contractor's work under this Contract includes exposures to which this specified coverage responds).
h. If Contractor is performing work within fifty (50) feet of a railroad right of way, the General Liability policy shall be endorsed to eliminate the Contractual Liability exclusion pertaining to work within fifty (50) feet of a railroad right of way using ISO form CG2417(10-01) or equivalent.
i. Abuse and Molestation, by a separate coverage part or an endorsement to the CGL, with limits not less than One Million Dollars ($1,000,000) each occurrence and Two Million Dollars ($2,000,000) aggregate including but not limited to Contractors working directly with youth under the age of 18. If Abuse and Molestation coverage is provided on a “claims-made” basis, coverage must be maintained for not less than three years following the end of the contract. This may be done by policy renewals or an Extended Reporting Period Endorsement.
j. Include the City as additional insured and:
    1) Use ISO forms CG2010(04-13) and CG2037(04-13) or equivalent for Contractors performing work on behalf of the City and name the City as an additional insured for ongoing and completed operations.
    2) Use ISO form CG2012(04-13) or equivalent for Permits and name the City as an additional insured.
    3) Use ISO form CG2026(04-13) or equivalent for Facility Use Agreements and name the City as an additional insured.
    4) Blanket additional insured provisions within a policy form will not be accepted in lieu of the specific additional insured endorsement forms specified herein. However, a blanket additional insured endorsement providing the equivalent coverage provided by specific additional insured endorsements specified herein, may be accepted upon written approval from City of Tacoma, Risk Management Division.

B. Commercial Automobile Liability (CAL) Insurance

The Contractor shall obtain and keep in force during the term of the Contract, a policy of CAL insurance coverage, providing bodily injury coverage and property damage coverage for owned (if any), non-owned, hired, and leased vehicles.

The Contractor must also maintain an MCS 90 endorsement or equivalent and a CA 9948 endorsement or equivalent if "Pollutants" are to be transported. CAL policies must provide limits not less than One Million Dollars ($1,000,000) each accident for bodily injury and property damage.
Must use ISO form CA 0001 or equivalent.

C. Workers' Compensation

1. **State of Washington Workers' Compensation**
   The Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

D. Employers' Liability (EL) (Stop-Gap) Insurance

The Contractor shall maintain EL coverage with limits not less than One Million Dollars ($1,000,000) each employee, One Million Dollars ($1,000,000) each accident, and One Million Dollars ($1,000,000) policy limit.

E. Professional Liability Insurance (PLI)

The Contractor and/or its subcontractor shall provide evidence of PLI covering professional errors and omissions. Such policy must provide minimum limits of One Million Dollars ($1,000,000) per claim and Two Million Dollars ($2,000,000) aggregate. If the scope of such design-related professional services includes work related to pollution conditions, the PLI policy shall include Pollution Liability coverage. If provided on a "claims-made" basis, such coverage shall be maintained by policy renewals or an extended reporting period endorsement for not less than three years following the end of the Contract.

F. Builder's Risk (BR) Insurance

The Contractor shall purchase and maintain during the term of the Contract, a policy of BR insurance providing coverage for all-risk of physical injury to all structures to be constructed according to the Contract. The City shall be included as a named insured on the policy. BR insurance shall:

1. Be on an ISO special form Causes of Loss form or equivalent and shall insure against the perils flood, earthquake, theft, vandalism, malicious mischief, and collapse.
2. Include coverage for temporary buildings, debris removal, and

damage to materials in transit or stored off-site.

3. Be written in the amount of the completed value of the structures, with no coinsurance provisions exposure on the part of the Contractor or City.
4. Have a deductible of no more than Five Thousand Dollars ($5,000) for each occurrence, the payment of which will be the responsibility of the Contractor. Any increased deductibles accepted by the City will remain the responsibility of the Contractor.
5. The policy shall contain a Waiver of Subrogation provision whereby each insured waives their subrogation rights to the extent the loss is covered by this insurance.
6. The policy shall grant permission to occupy, allowing the building or structure to be partially occupied prior to completion, without detrimental effect to the coverage provided.
7. The policy shall include coverage for the testing and startup of the building's operating systems.
8. The policy shall include coverage for the City's loss of use or business interruption arising out of a covered loss which delays completion.
9. The policy shall include resultant damage coverage for loss due to faulty workmanship and defective material.
10. Be maintained until final acceptance of the work by the City.

The Contractor and the City waive all rights against each other, their respective subcontractors, agents, and representatives for damages caused by fire or other perils to the extent covered by BR insurance or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

G. Other Insurance

Other insurance may be deemed appropriate to cover risks and exposures related to the scope of work or changes to the scope of work required by the City. The costs of such necessary and appropriate insurance coverage shall be borne by the Contractor.

VI. CONTRACTOR

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