



City of Tacoma, WA

**COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT**  
**REQUEST FOR PROPOSAL**  
**ECONOMIC DISPARITY STUDY**  
**SPECIFICATION NO. ED23-0102F**



**City of Tacoma  
Community & Economic Development Department**

**REQUEST FOR PROPOSALS ED23-0102F  
Economic Disparity Study**

**Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, May 30<sup>th</sup>, 2023**

Submittals must be received by the City's Procurement and Payables Division prior to 11:00 a.m. Pacific Time. For electronic submittals, the City of Tacoma will designate the time of receipt recorded by our email, [sendbid@cityoftacoma.org](mailto:sendbid@cityoftacoma.org), as the official time of receipt. This clock will be used as the official time of receipt of all parts of electronic bid submittals. Late submittals will be returned unopened and rejected as non-responsive.

**Submittal Delivery:** Sealed submittals will be received as follows:

**By Email:**

[sendbid@cityoftacoma.org](mailto:sendbid@cityoftacoma.org)

Maximum file size: 35 MB. Multiple emails may be sent for each submittal.

**Bid Opening:** Submittals must be received by the City's Procurement and Payables Division prior to 11:00 a.m. Pacific Time. Sealed submittals in response to a RFB will be opened Tuesday's at 11:15 a.m. by a purchasing representative and read aloud during a public bid opening held at the Tacoma Public Utilities Administrative Building North, 3628 S. 35<sup>th</sup> Street, Tacoma, WA 98409, conference room M-1, located on the main floor. They will also be held virtually Tuesday's at 11:15 a.m. Attend [via this link](#) or call 1 (253) 215 8782.

Submittals in response to an RFP, RFQ or RFI will be recorded as received. As soon as possible, after 1:00 PM, on the day of submittal deadline, preliminary results will be posted to [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org).

**Solicitation Documents:** An electronic copy of the complete solicitation documents may be viewed and obtained by accessing the City of Tacoma Purchasing website at [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org).

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

**Pre-Proposal Meeting:** A pre-proposal meeting will be held as indicated in the Pre-Proposal Meeting Section

**Project Scope:** Research, collection and analysis on whether there is any disparate impact between the availability and utilization of contractors for construction, architecture and engineering, goods and services.

**Estimate:** \$300,000

**Paid Sick Leave:** The City of Tacoma requires all employers to provide paid sick leave as set forth in Title 18 of the Tacoma Municipal Code and in accordance with State of Washington law.

**Americans with Disabilities Act (ADA Information:** The City of Tacoma, in accordance with Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all of its programs and activities. Specification materials can be made available in an alternate format by emailing the contact listed below in the *Additional Information* section.

**Title VI Information:**

The City of Tacoma in accordance with provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. sections 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration of award. All City grantees must ensure that persons with Limited English Proficiency - LEP will have access to language services at no cost if/when needed.

**Additional Information:** Requests for information regarding the specifications may be obtained by contacting Ryan Foster, Senior Buyer by email to [rfoster1@cityoftacoma.org](mailto:rfoster1@cityoftacoma.org).

**Protest Policy:** City of Tacoma [protest policy](#), located at [www.tacomapurchasing.org](http://www.tacomapurchasing.org), specifies procedures for protests submitted prior to and after submittal deadline.



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


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## SUBMITTAL CHECK LIST

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

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

<b>The following items make up your submittal package:</b>	
One electronic copy in PDF format of your complete submittal package emailed to <a href="mailto:sendbid@cityoftacoma.org">sendbid@cityoftacoma.org</a>	
Signature Page (Appendices)	
Information in Section 12	
<b>After award, the following documents will be executed and provided:</b>	
Contract	
Certificate of Insurance and related endorsements	

## 1. BACKGROUND

The City of Tacoma seeks proposals from qualified firms to conduct a second-generation disparity study of the City's contractual awards for goods, services (professional and general), and public works construction within the City's relevant marketplace. The City seeks proposals from individuals/firms/organizations with relevant experience and expertise in conducting comparable studies of discrimination and disparities in contracting and procurement.

It is the City's goal to provide the maximum practicable opportunity for increased participation by minority and women-owned businesses, as long as such businesses are underrepresented, and to ensure that City contracting processes do not support discrimination in employment and services when the City procures public works, goods and services.

As further described in Section 4, the City seeks a second generation disparity analysis that will (1) analyze utilization of MWBEs in City contracts based on availability and utilization of ready, willing, and able MWBEs in the City's relevant market area over a five year period, (2) evaluate the procurement and contracting practices of the City and identify barriers to the utilization of MWBEs, (3) evaluate the success of the City's current Equity in Contracting program in remedying identified barriers, and (4) make recommendations as to how the City can lawfully improve its contracting practices to be more inclusive of MWBEs, taking into consideration the requirements of applicable laws, including but not limited to TMC 1.07 and RCW 49.60.400. Additionally, the City requires a disparity analysis that is consistent with standards established by courts in cases such as *J.A. Croson v. City of Richmond*.

The previous RFP for the first disparity study of the City's contractual awards for goods, services (professional and general), and public works construction can be found here: [ED17-0042F: Disparity Causation Analysis Study](#)

The results of the previous disparity study can be found here: [City of Tacoma Disparity Study Final Report – August 2018](#)

To learn more about the City of Tacoma, visit [www.cityoftacoma.org](http://www.cityoftacoma.org).

The City anticipates awarding (1) one contract

Submittals submitted and/or the selected Consultant(s) may be used for projects of similar type and scope at the sole discretion of the City for up to one year.

## 2. STANDARD TERMS AND CONDITIONS

City of Tacoma [Standard Terms and Conditions](#) apply.

## 3. MINIMUM REQUIREMENTS

Respondent should have experience with a minimum of two disparity study projects

## 4. SUMMARY OF SCOPE OF SERVICES AND DELIVERABLES

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

These services are budgeted at \$300,000.00 and the anticipated completion date is December, 31, 2023.

The Selected Consultant shall conduct a second generation disparity study that will (1) analyze utilization of MWBEs in City contracts based on availability and utilization of ready, willing, and able MWBEs in the City's relevant market area over a five year period, (2) evaluate the procurement and contracting practices of the City and identify barriers to the utilization of MWBEs, (3) evaluate the success of the City's current Equity in Contracting program in remedying identified barriers, and (4) make recommendations as to how the City can lawfully improve its contracting practices to be more inclusive of MWBEs, taking into consideration the requirements of applicable laws, including but not limited to TMC 1.07 and RCW 49.60.400. Additionally, the City requires a disparity analysis that is consistent with standards established by courts in cases such as *J.A. Croson v. City of Richmond*.

The City desires to undertake all necessary and reasonable steps to lawfully ensure that MWBEs are afforded equitable opportunities to participate in local government contracting within the relevant marketplace from which the City routinely purchases significant quantities of goods and services. The City is interested in ensuring that its public contracting and purchasing funds are not spent in a manner that in any way contributes to, or perpetuates, the effects of marketplace discrimination.

#### Time frame for Analysis

The Disparity Study will be based on five years of historical data, from January 1, 2017 to December 31, 2022, plus data from the post-December 2019 time period for measuring the impacts of Covid-19 and any other marketplace disequilibria.

The Study will quantify the magnitude of any differences between availability and contract participation of MWBEs both as prime contractors and subcontractors. The Disparity Study will include a statistically accurate, detailed, and comprehensive definition of the measures undertaken to calculate availability and utilization of MWBEs and will describe all methodologies used in detail.

#### Business Ownership Categories

In addition to the analysis of aggregate data, at a minimum the study should disaggregate the analysis by the subcategories below:

- Women
- Black/African American
- Hispanic/Latino
- Asian, Native Hawaiian or Pacific Islander
- Native American

## Goals

1. Determine if a disparity exists in awarding contracts to MWBEs or DBEs that are qualified and available to perform Construction Services, Architecture & Engineering, and Goods and Services in the City's Relevant Market Area.
2. If disparity as described above does exist, determine whether the effects of any past discrimination against MWBEs or DBEs in the City's procurement of Construction Services, Architecture & Engineering Services, and Goods and Services, and concession services exist or continue to exist within the Relevant Market Area, as a result of direct action by the City, or as a result of the City's role as a passive participant in discriminatory behavior practiced by entities that do business with the City.
3. If disparity, as described above, does exist between the utilization of MWBEs or DBEs Relevant Market Area that results from any cause or causes described in the second issue, whether the use of only race or gender-neutral and/or economically based measures would be effective to remedy such discrimination. Additionally, whether the City's current race or gender conscious methods are effectively remedying discrimination where they are applied.
4. The utilization by the City of MWBEs or DBEs in contract and procurement activities.
5. Review of the formula by which the City originates goals that apply to the participation of MWBEs and whether it needs revision.
6. If race- or gender-neutral and/or economically based measures alone would not be effective to remedy such discrimination, the Consultant will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its M/WBE Program. The resultant formula should effectively offset past and present discrimination against M/WBEs while remaining sufficiently narrowly tailored to refrain from needlessly violating the rights of non- M/WBEs or their owners

A legally defensible disparity study should include the following elements:

- Initiate the study by preparing necessary outreach documents, conducting relevant meetings and preparing and maintaining a study website.
- Conduct monthly progress meetings with designated City representatives.
- Provide detailed monthly invoices with written progress reports.
- Collect City contract data from all departments.
- Provide a relevant and detailed analysis of all collected contract data (quantitative data).
- Review the City's Equity in Contracting Program by collecting and evaluating program administrative documents and conduct various City staff interviews.



- Perform meetings (in-person or via technology as appropriate) with stakeholders and MWBE's to collect applicable anecdotal data.
- Collect qualitative and quantitative evidence of discrimination.
- Provide detailed analysis of collected information (qualitative data).
- Collect relevant regional economic and business data and using contract data determine applicable market area.
- Perform Disparity Analysis using MWBE utilization estimates and the MWBE availability estimates using statistical methods that are legally defensible in the Ninth Court Circuit of Appeals.
- Provide a comparison of City-funded contracts and the availability versus utilization of minority, and women's business enterprises.
- Provide a detailed Capacity Analysis including the methodology to be used.
- Review current Equity in Contracting MWBE Goal setting methodology and provide recommendations for improvement.
- Provide Equity in Contracting program recommendations for Construction, Architecture & Engineering, Services, and Goods.
- Provide a draft study to the City prior to public release.
- Conduct public outreach meetings in the Tacoma Public Utility Service Area to share study findings.

## 5. **ANTICIPATED CONTRACT TERM**

The anticipated duration of the contract is for a two-year period with the City's sole option to renew for additional periods as applicable.

## 6. **CALENDAR OF EVENTS**

This is a tentative schedule only and may be altered at the sole discretion of the City.

Publish and Issue RFP	May 1, 2023
Pre-Proposal Meeting	May 11, 2023
Pre-Submittal Questions	May 11, 2023
Response to Questions	May 17, 2023
Submittal Due Date	May 30, 2023
Submittals Evaluated, on or about	June 2023



Interviews/Presentations, on or about	June 2023
Award Recommendation, on or about	June 2023

## 7. PRE-PROPOSAL MEETING

A hybrid in person/online pre-proposal meeting will be held on Thursday, May 11, 2023 from 9:30 AM to 10:30 AM, in Conference Room 243 of the Tacoma Municipal Building, 747 Market St, Tacoma, WA. Online version available via Zoom.

Register in advance for this meeting:

<https://zoom.us/meeting/register/tJYtd-6vpz8vG9PdX4wSHE4aLcVdYRLGFad8>

After registering, you will receive a confirmation email containing information about joining the meeting.

## 8. INQUIRIES

**Questions should be submitted by May 11, 2023 at 3:00 PM to Ryan Foster via email to [rfoster1@cityoftacoma.org](mailto:rfoster1@cityoftacoma.org) subject line to read:**

ED23-0102F – Economic Disparity Study – VENDOR NAME

- 8.1** Questions marked confidential will not be answered or included.
- 8.2** The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.
- 8.3** The answers are not typically considered an addendum.
- 8.4** The City will not be responsible for unsuccessful submittal of questions.
- 8.5** Written answers to questions will be posted in the event approximately one week after the question deadline.

## 9. DISCLAIMER

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

## 10. EVALUATION CRITERIA

A Selection Advisory Committee (SAC) will review and evaluate submittals. After the evaluation, the SAC may conduct interviews of the most qualified Respondents before final selection.

The SAC may select one or more respondents to provide the services required.

- 10.1** The SAC may use references to clarify information in the submittals and interviews, if conducted, which may affect the rating. The City reserves the right to contact references other than those included in the submittal.

## 11. RESPONSIVENESS

Respondents agree their submittal is valid until a contract(s) has been executed.

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

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

## 12. CONTENT TO BE SUBMITTED – This section represents 100% of the possible scoring criteria.

Respondents are to provide complete and detailed responses to all items below. Submittals that are incomplete or conditioned in any way that contain alternatives or items not called for in this RFP, which materially deviate from the requirements of this RFP or which are not in conformity with law, may be rejected as being non-responsive.

Submittals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the Respondent's abilities to meet the requirement of this RFP. Emphasis will be on completeness of content. The written submittals should be prepared in the sequential order as outlined below.

The City reserves the right to request clarification of any aspect of a submittal, or request additional information that might be required to properly evaluate the submittal. Failure to respond to such a request may result in rejection of the firm's submittal. Respondents are required to provide responses to any request clarification within two (2) business days.

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

The relative weight of each scoring criteria is indicated in the table below.

Criteria	Max Points
Firm Qualifications	25
Key Personnel	15
Previous Projects	10
Litigation	5
Client References	5
Cost/Fee Proposal	10
Project Approach/Description of Proposed Services	20
Sustainability	5
Equity in Contracting	5
Credit Card Acceptance	0
Contract Exceptions	0

### 12.1 Title Page

Include the RFP number and title, name of Respondent, address, telephone number, and date of preparation. Provide the name, telephone number and email address of the person to contact regarding proposal questions or issues

### 12.2 Table of Contents

Indicate the material included in the proposal by section, including all items set forth below.

### 12.3 Qualifications/Experience of Respondent – 25 points

Please describe your firm.

- Include:
  - Company Name and Years in Business
  - Home Office Address
  - Telephone
  - A list of all firms on the proposed team
  - The expertise and/or role of each firm on the team
    - Functional
    - Municipal
  - Length of time firms have provided aforementioned expertise services
- Please describe why your firm is qualified to be awarded this contract.
- What are your experiences with similar projects?
- Describe and provide examples of successful deliverables designed by your firm similar in scope or approach to this scope of work.
- Describe other distinguishing characteristics of your firm.

## 12.4 Key Personnel – 15 points

Please provide the following information:

- Provide an organization chart
  - Describe the team that will be working to complete the Scope of Services, including position titles / roles and the resumes of individuals assigned to those roles.
- Detailed information concerning any certifications project personnel have related to this implementation
- Provide the breakdown of time-on-versus offsite and the notice required to have staff available for on-site consultation. The City expects Contractor to perform no greater than 10% on-site.

## 12.5 Previous Projects– 10 points

Describe and provide examples of successful deliverables designed by your firm similar in scope or approach to this scope of work.

Provide a list of up to three (3) projects that each firm on your project team has completed within the last five (5) years.

The project(s) must demonstrate the required expertise needed for this project.

Describe your firm's ability to undertake the tasks detailed in the scope of work, as evidenced by the conduct of prior disparity studies of similar scope and size, research experience undertaking comparable types of analysis, or other evidence of capacity and experience to complete a high-quality, legally defensible, and academically sound causality study of this type.

Include the work/services provided on the project(s) and the approximate amount received for each project. If you are using subcontractors, please provide a similar list of up to (3) three projects within the last (3) three years for each subcontractor as well.

1. Project 1
2. Project 2
3. Project 3

## Litigation – 5 points

Describe any litigation the Respondent has been a party to in the last (5) five years where it was alleged that:

- a. The Respondent breached a contract for similar services with a client/customer and describe any contracts for similar services that the Respondent failed to complete for similar services. Or;

- b. The Respondent was called as a witness in a Court of Law to defend or explain their services for a client.

Describe the facts and status of any such litigation or contract. Identify any government entity that has debarred or otherwise prohibited the Respondent from responding to its competitive solicitations within the last five years.

Describe the circumstances surrounding such debarment or other prohibition.

### **Client References - 5 points**

The City may also choose to contact one or more references. A negative reference may result in rejection of the Proposal as not responsible and Proposers receiving a failed reference may be disqualified from consideration. Although the City anticipates completing reference checks at this point in the process, the Selection Advisory Committee may contact the references of the Proposers or other sources in addition to those specifically provided by the Proposer, at any time to assist the City in understanding performance on past projects.

Provide (3) three client references able to verify the firm's overall expertise for this type of work.

Include the following information:

- Client
- Client business description
- Contact information for the Client contact person or project manager
- Project scope
- Project description
- Estimated cost of entire project
- Description of the specific services provided
- A statement acknowledging if the project was completed on time and on budget or explanation of any variance

### **Cost/Fee Proposal – 10 points**

Provide the method of billing and hourly rates and subtotals.

Please provide the following information based upon your company business cost models:

- Hourly Rates by position and expected number of hours for each to complete the scope of work
- Hourly rates are to include all travel, lodging and meal expenses
- This hourly rate should be a fully inclusive rate of all expenses

### **Project Approach/Description of Proposed Services – 20 points**

The project approach should include a detailed description of:

- Overall approach to the study and engagement of major stakeholders
- Understanding of the legal context of the study

- Process of reviewing and examining all state, federal and local administrative rules, regulations, ballot initiatives, court decisions and legislation that would affect the implementation of race-conscious remedies
- Methodology for assessing the geographic market area
- Data needs and methods used to collect and analyze data for measuring availability vs utilization
- Parametric and/or non-parametric methods employed to determine whether any observed disparities in availability vs utilization are statistically significant
- Quantitative and Qualitative Methods of measuring current-ongoing discrimination, passive discrimination, or other relevant forms of discrimination.
- Methods of establishing causation of any disparities found in the analysis
- Analysis of and evaluation of the effectiveness of the Local Employment & Apprenticeship Training Program (LEAP) and Equity in Contracting (EIC) programs and other race-neutral programs
- Production of recommendations concerning race-neutral and race-conscious programs

## Work Plan

The Contractor must provide a comprehensive project work plan covering the scope of work. The work plan shall be the Contractor's plan of action to complete the project, which coordinates and identifies the technical processes, tasks, schedules, and costs. All tasks to be performed and completed shall be identified on the work plan, and all invoices shall be consistent and reflective of tasks identified in the work plan. The project work plan shall include the following elements:

- Contractor and CITY OF TACOMA resource task assignments
  - Provide a list of resources needed from the City of Tacoma as well as the dates the resources are needed by.
- Specific deliverables to be used to monitor the major milestones of the project
- All activities and tasks, including expected outcomes and completion criteria for each task (if applicable) to complete the major milestones
- Resources required for each task, such as labor and non-labor efforts with costs
- Name and signature of the person(s) responsible for the preparation of the report, together with a description of their credentials, qualifications, and expertise to conduct the analysis.

## 12.6 Sustainability – 5 points

Provide information on your commitment to the environment. Include your sustainability statement and current practices.

In accordance with the City's Sustainable Procurement Policy, it is the policy of the City of Tacoma to encourage the use of products or services that help to minimize the environmental and human health impacts of City operations. Respondents are encouraged to incorporate environmentally preferable products or services that have a reduced impact 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, products, manufacturing, packaging, distribution reuse, operation, maintenance or disposal of the product or service.

The City of Tacoma encourages the use of sustainability practices and desires any awarded contractor(s) to assist in efforts to address such factors when feasible for:

- Durability, reusability, or refillable;
  - Pollutant releases, especially persistent bioaccumulative toxins (PBTs), low volatile organic compounds (VOCs), and air quality and stormwater impacts;
  - Toxicity of products used;
  - Greenhouse gas emissions, including transportation of products and services, and embodied carbon
  - Recycled content;
  - Energy and water resource efficiency;
1. Does your business have an organizational sustainability plan and/or policy?
    - o ☐ Yes ☐ No
    - o Provide additional information if checked "Yes," including whether it is made publicly available (provide link) and how it is communicated to employees.
  2. Does your business have:
    - o Greenhouse gas emission reduction targets? ☐ Yes ☐ No
    - o Energy and water conservation targets? ☐ Yes ☐ No
    - o Waste reduction targets? ☐ Yes ☐ No
    - o Toxics use reduction targets? ☐ Yes ☐ No
    - o Pollution reduction targets? ☐ Yes ☐ No
    - o Progress reporting, measured regularly? ☐ Yes ☐ No
    - o Provide additional information if checked "Yes," including whether it is made publicly available (provide link) and how it is communicated to employees and customers.
  3. How will your business, through service delivery and/or your own operations, during the contract period:
    - o Minimize greenhouse gas emissions?
    - o Minimize polluted stormwater runoff in Tacoma?
    - o Minimize waste generation?
    - o Minimize toxic use and/or generation?
    - o Minimize air pollution in Tacoma?
    - o Minimize resource extraction?
    - o Demonstrate industry leadership across these areas? Is your business EnviroStar recognized? Provide any relevant certifications and/or verified results.



## 12.7 Equity in Contracting – 5points

### **Distributive Equity**

- What is your base bid?
- What is your MWBE contractual commitment?
- What is your % of MWBE contractual commitment relative to your base bid?

### **Procedural Equity**

- Selection of Agents
- What process did you use to determine which MWBE contractor to contract with?
- Setting Ground Rules
- What processes were used to determine the contract terms?
- Is Respondent, or the any entity Respondent is partnering with, certified with Washington State for any of the below categories (select all that apply)?
  - ☐ Combination Business Enterprise (CBE)
  - ☐ Disadvantaged Business Enterprise (DBE)
  - ☐ Minority Business Enterprise (MBE)
  - ☐ Minority/Women Business Enterprise (MWBE)
  - ☐ Small Business Enterprise (SBE)
  - ☐ Socially and Economically Disadvantaged Business Enterprise (SEDBE)
  - ☐ Women Business Enterprise (WBE)

## 12.8 Credit Card Acceptance – 0 points

Provide a statement regarding your ability to meet the City's credit card requirements (state below) as well as identifying your reporting capabilities (Level I, II, or III). This information is not a consideration in the evaluation process.

## 12.9 Exceptions – 0 points

If Respondent takes exception to any of the City of Tacoma's Standard Terms and Conditions stated herein or to any other part of this specifications, including the stated Insurance Requirements, they must identify the section and page that is the subject of the exception, specify the nature of the exception and, if applicable, provide proposed replacement language or proposed replacement form of Contract. Acceptance of any proposed changes are at the sole discretion of the City.

### **13. CITY'S RESERVED RIGHTS**

Respondents are advised that the City reserves the right to cancel any award at any time prior to mutual execution of a Contract if cancellation is deemed to be in the City's best interest. City is not liable to Respondent for any costs or damages for the cancellation of an award. The Respondent assumes the sole risk and responsibility for all expenses connected with the preparation of this submittal.

In addition to any reserved rights contained in the City of Tacoma Standard Terms and Conditions, City specifically reserves the following rights:

- To waive any or all informalities or irregularities in any submittal which, in City's sole judgement, are deemed minor or immaterial
- To award one or more contracts
- To not award a contract
- To issue subsequent solicitation

### **14. INTERVIEWS / ORAL PRESENTATIONS**

An invitation to interview may be extended to Respondents based on SAC review of the written submittals. The SAC reserves the right to adjust scoring based on additional information and/or clarifications provided during interviews. The SAC may determine additional scoring criteria for the interviews following evaluation of written submittals.

The City reserves all rights to begin contract negotiations without conducting interviews.

Respondents must be available to interview within three business days' notice.

If interviews are conducted, the SAC will schedule the interviews using the email address for communications provided on the signature page. Additional interview information will be provided at the time of invitation. At this time, it is anticipated that the main objective of the interview will be for the SAC to meet the project manager and key personnel that will have direct involvement with the project and hear about their relevant experience and expertise. The City does not intend to meet with firm officials unless they are to be directly involved with the project.

### **15. CONTRACT OBLIGATION**

The selected Respondent(s) will be expected to execute a Contract with the City. At a minimum, any contract will incorporate the contents of this specification, including all stated services or deliverables and other requirements and the City of Tacoma Standard Terms and Conditions, together with the contents of Respondent's submittal. The submittal contents of the successful Respondent will become contractual obligations

### **16. FORM OF CONTRACT**

In event the City's Services Contract or other City Contract template is attached to this RFP as a sample form of Contract, the City expects to utilize the Terms and Conditions contained in the sample form of Contract. Post award negotiation may occur at the discretion of the City.

Respondents should clearly state exceptions to City's Standard Terms and Conditions as well as to the Terms and Conditions contained in any attached sample form of Contract and to any other portions of this RFP, including the stated Insurance Requirements. Respondents may also

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propose to utilize their own form of Contract and in such instances, Respondent must provide its form of Contract as part of its submittal. City, at its sole option, will decide whether engage in negotiation on any or all proposed exceptions. City reserves sole discretion to determine the final form of Contract that will be used.

## **17. INSURANCE REQUIREMENTS**

Successful respondent will provide proof of and maintain the insurance coverage in the amounts and in the manner specified in the City of Tacoma Insurance Requirements contained in this solicitation.

## **18. PAID LEAVE**

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

## **PARTNERSHIPS**

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

## **19. COMMITMENT OF FIRM KEY PERSONNEL**

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

## **20. AWARD**

After the Respondent(s) is selected by the SAC and prior to award, all other Respondents will be notified via the Purchasing Division using the email address for communications provided on the signature page.

Once a Respondent(s) has been selected for award by the SAC, contract negotiations will begin. If the contract with the selected Respondent(s) is not successfully negotiated in that the City's final offer is not accepted, the City may, in its sole discretion discontinue contract negotiations and commence negotiations with another Respondent. When a contract is

successfully negotiated, the Contract will, if required, be submitted for final approval by the Public Utility Board and/or City Council.

## 21. ENVIRONMENTALLY PREFERABLE PROCUREMENT

In accordance with the City's Sustainable Procurement Policy, it is the policy of the City of Tacoma to encourage the use of products or services that help to minimize the environmental and human health impacts of City Operations. Respondents are encouraged to incorporate environmentally preferable 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, products, manufacturing, packaging, distribution reuse, operation, maintenance or disposal of the product or service.

The City of Tacoma encourages the use of sustainability practices and desires any awarded contractor(s) to assist in efforts to address such factors when feasible for:

- Reduction of pollutant releases
- Toxicity of materials used
- Waste generation
- Greenhouse gas emissions, including transportation of materials and services
- Recycle content
- Comprehensive energy conservation measures
- Waste management reduction plans
- Potential impact on human health and the environment

## 22. EQUITY IN CONTRACTING

The City of Tacoma is committed to encouraging firms certified through the [Washington State Office of Minority and Women's Business Enterprise](#) to participate in City contracting opportunities. See the **TMC 1.07 Equity in Contracting Policy** at the City's [Equity in Contracting Program website](#).

## 23. PROPRIETARY OR CONFIDENTIAL INFORMATION

The Washington State Public Disclosure Act ([RCW 42.56 et seq.](#)) requires public agencies in Washington make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act, or are otherwise privileged. Documents submitted under this RFP shall be considered public records and, with limited exceptions, will be made available for inspection and copying by the public.

For complete detail on Respondent's responsibility to identify and mark confidential information, and the applicability of the Public Disclosure Act, see the [Standard Terms and Conditions](#).

## 24. ADDENDUMS

In the event it becomes necessary to revise any part of this RFP, an addendum will be posted along with this specification on <http://www.tacomapurchasing.org>. Failure to acknowledge addendum(s) on the required Signature Page may result in a submittal being deemed non-responsive by the City.

## APPENDIX A – SIGNATURE PAGE

**CITY OF TACOMA  
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT  
BUSINESS SERVICES & WORKFORCE PARTNERSHIPS DIVISION**

All submittals must be executed by a duly authorized officer or representative of the bidding/proposing entity, and received and time stamped as directed in the **Request For Proposals page near the beginning of the specification**. If the bidder/proposer is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.

**REQUEST FOR PROPOSALS - SPECIFICATION NO. ED23-0102F**  
Economic Disparity Study

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

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

### Non-Collusion Declaration

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

<hr/> Bidder/Proposer's Registered Name	<hr/> Signature of Person Authorized      Date to Enter into Contracts for Bidder/Proposer
<hr/> Address	<hr/> Printed Name and Title
<hr/> City, State, Zip	<hr/> (Area Code) Telephone Number / Fax Number
<hr/> Authorized Signatory E-Mail Address	<hr/> State Business License Number in WA, also known as UBI (Unified Business Identifier) Number
<hr/> E.I.No. / Federal Social Security Number Used on Quarterly Federal Tax Return, U.S. Treasury Dept. Form 941	<hr/> State Contractor's License Number (See Ch. 18.27, R.C.W.)
<hr/> E-Mail Address for Communications	
Addendum acknowledgement #1 _____ #2 _____ #3 _____ #4 _____ #5 _____	

**THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITTAL**

## **APPENDIX B – PROJECT REQUIREMENTS**

### **B1 SCOPE OF WORK AND DELIVERABLES**

#### **Goals**

1. Determine if a disparity exists in awarding contracts to MWBEs or DBEs that are qualified and available to perform Construction Services, Professional Services, and Goods and Services in the City's Relevant Market Area.
2. If disparity as described above does exist, determine whether the effects of any past discrimination against MWBEs or DBEs in the City's procurement of Construction Services, Professional Services, and Goods and Services, and concession services exist or continue to exist within the Relevant Market Area, as a result of direct action by the City, or as a result of the City's role as a passive participant in discriminatory behavior practiced by entities that do business with the City.
3. If disparity, as described above, does exist between the utilization of MWBEs or DBEs Relevant Market Area that results from any cause or causes described in the second issue, whether the use of only race or gender-neutral and/or economically based measures would be effective to remedy such discrimination. Additionally, whether the City's current race or gender conscious methods are effectively remedying discrimination where they are applied.
4. The utilization by the City of MWBEs or DBEs in contract and procurement activities.
5. Review of the formula by which the City originates goals that apply to the participation of MWBEs and whether it needs revision.
6. If race- or gender-neutral and/or economically based measures alone would not be effective to remedy such discrimination, the Consultant will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its M/WBE Program. The resultant formula should effectively offset past and present discrimination against M/WBEs while remaining sufficiently narrowly tailored to refrain from needlessly violating the rights of non- M/WBEs or their owners

## B2 TECHNICAL PROVISIONS

A legally defensible disparity study should include the following elements:

- Initiate the study by preparing necessary outreach documents, conducting relevant meetings and preparing and maintaining a study website.
- Conduct monthly progress meetings with designated City representatives.
- Provide detailed monthly invoices with written progress reports.
- Collect City contract data from all departments.
- Provide a relevant and detailed analysis of all collected contract data (quantitative data).
- Review the City's Equity in Contracting Program by collecting and evaluating program administrative documents and conduct various City staff interviews.
- Perform meetings (in-person or via technology as appropriate) with stakeholders and MWBE's to collect applicable anecdotal data.
- Collect qualitative and quantitative evidence of discrimination.
- Provide detailed analysis of collected information (qualitative data).
- Collect relevant regional economic and business data and using contract data determine applicable market area.
- Perform Disparity Analysis using MWBE utilization estimates and the MWBE availability estimates using statistical methods that are legally defensible in the Ninth Court Circuit of Appeals.
- Provide a comparison of City-funded contracts and the availability versus utilization of minority, veteran, and women's business enterprises.
- Provide a detailed Capacity Analysis including the methodology to be used.
- Review current EIC MWBE Goal setting methodology and provide recommendations for improvement.
- Provide EIC program recommendations for Construction, Engineering, Services, and Goods.
- Provide a draft study to the City prior to public release.
- Conduct public outreach meetings in the Tacoma Public Utility Service Area to share study findings.



## APPENDIX C – SAMPLE DOCUMENTS

Sample Contract  
Insurance Requirements

## SERVICES CONTRACT

Click here for the [Contract Questionnaire Popup Quick Reference](#)

Start Questionnaire

Finalize Document

THIS CONTRACT, made and entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (EFFECTIVE DATE) by and between the CITY OF TACOMA, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and **[INSERT legal name of Supplier exactly as it appears in Ariba]**, (hereinafter referred to as "CONTRACTOR");

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

### 1. Scope of Services/Work

The CONTRACTOR agrees to diligently and completely perform the services and/or deliverables consisting of [INSERT A BRIEF DESCRIPTION OF THE WORK TO BE PERFORMED] as is described in Exhibit XXXXX [A, B, ETC., if needed] attached hereto and incorporated herein.

### 2. Order of Precedence

To the extent there is any discrepancy or conflict between and/or amongst the terms of this Contract and Exhibit(s) \_\_\_\_\_, the controlling terms for this Contract will be interpreted in the following order of precedence, with the first listed being the most controlling, and the last listed being the least controlling: Contract, Exhibit \_\_\_\_, Exhibit \_\_\_\_\_. [INSERT EXHIBIT REFERENCES IN ORDER OF WHICH IS MOST CONTROLLING]

### 3. Changes to Scope of Work

The CITY shall have the right to make changes within the general scope of services and/or deliverables upon execution in writing of a change order or amendment hereto. If the changes will result in additional work effort by CONTRACTOR, the CITY will agree to reasonably compensate the CONTRACTOR for such additional effort up to the maximum amount specified herein or as otherwise provided by City Code.

### 4. On Call Contracts

If the services and deliverables performed under this Contract are on an on call or as assigned basis, service and deliverables may be assigned by Task Authorization or Statements of Work, are subject to Section 9, and cannot augment any other work that the CONTRACTOR is doing for the CITY on another Contract. Actual compensation will depend upon the actual purchases made by the City during the life of this Contract and will be paid at the rates set in Exhibit A

### 5. Term

All services shall be satisfactorily completed on or before [INSERT CONTRACT TERMINATION DATE] and this Contract shall expire on said date unless mutually extended by a written and executed Amendment to this Contract.

## **6. Renewals**

At CITY's sole option, the Term of this Contract may be renewed for additional [INSERT THE RENEWAL PERIOD - 1 YEAR, ETC] periods, not to exceed [INSERT THE MAXIMUM NUMBER OF RENEWAL PERIODS]. CITY will provide written notice of its intent to exercise any renewal options at least 30 days prior to the then existing Term and a written Amendment to this Contract will be mutually executed.

## **7. Delay**

Neither party shall be considered to be in default in the performance of this Contract to the extent such performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party and, in such event, the time for performance shall be extended for a period equal to any time lost as a result thereof. In the event CONTRACTOR is unable to proceed due to a delay solely attributable to CITY, CONTRACTOR shall advise CITY of such delay in writing as soon as is practicable.

## **8. Compensation**

The CITY shall compensate the CONTRACTOR for the services and deliverables performed under this Contract [in accordance with OR on the basis of] [INSERT DESCRIPTION OF COMPENSATION ARRANGEMENTS – REFERENCE EXHIBIT, TIME AND MATERIALS, LUMP SUM ETC.]

## **9. Not to Exceed Amount**

The total price to be paid by CITY for CONTRACTOR'S full and complete performance of the Scope of Work hereunder shall not exceed \$ [INSERT TOTAL AMOUNT OF CONTRACT] plus applicable taxes without a written and executed Amendment to this Contract. Said price shall be the total compensation for CONTRACTOR'S performance hereunder including, but not limited to, all work, deliverables, materials, supplies, equipment, subcontractor's fees, and all reimbursable travel and miscellaneous or incidental expenses to be incurred by CONTRACTOR.

In the event the CONTRACTOR incurs cost in excess of the sum authorized for service under this Contract, the CONTRACTOR shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and the CONTRACTOR shall have no claim against the CITY on account thereof.

## **10. Payment**

CONTRACTOR shall submit XXXXXXXX {monthly, weekly, annual, Contract milestone, etc.} invoices for services completed and/or deliverables furnished during the invoice period. Upon CITY'S request, CONTRACTOR shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables.

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 the CONTRACTOR for any services or deliverables not performed as required hereunder until such time as the CONTRACTOR modifies such services or deliverables to the satisfaction of the CITY.

## **11. Payment Method**

The City's preferred method of payment is by ePayables (Payment Plus), followed by credit card (aka procurement card), then Electronic Funds Transfer (EFT) by Automated Clearing House (ACH), then check or other cash equivalent. CONTRACTOR may be required to have the capability of accepting the City's ePayables or credit card methods of payment. The City of Tacoma will not accept price changes or pay additional fees when ePayables (Payment Plus) or credit card is used. The City, in its sole discretion, will determine the method of payment for this Contract.

## **12. Independent Contractor Status**

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

## **13. Services Warranty**

The CONTRACTOR warrants that all services performed pursuant to this Contract shall be generally suitable for the use to which CITY intends to use said services and deliverables as expressed in the Scope of Work. In the performance of services under this Contract, the CONTRACTOR and its employees further agree to exercise the degree of skill and care required by customarily accepted good practices and procedures followed by professionals or service providers rendering the same or similar type of service. All obligations and services of the CONTRACTOR hereunder shall be performed diligently and completely according to such professional standards.

Unless a higher standard or longer periods of warranty coverage for product deliverables provided under this Contract is provided herein, CONTRACTOR agrees to correct any defect or failure of deliverables supplied under this Contract which occurs

within one year from \_\_\_\_\_ [FILL IN APPROPRIATE TIME FRAME, E.G. GO LIVE, FIRST USE, ETC]. During said warranty period, all of the costs (including shipping, dismantling and reinstallation) of repairs or corrections is the responsibility of the CONTRACTOR. If CONTRACTOR is not the manufacturer of the item of equipment, CONTRACTOR agrees to be responsible for this warranty and shall not be relieved by a lesser manufacturer's guarantee. This Contract warranty period shall be suspended from the time a significant defect is first documented by the CITY until repair or replacement by CONTRACTOR and acceptance by the CITY. In the event less than ninety (90) days remain on the warranty period (after recalculating), the warranty period shall be extended to allow for at least ninety (90) days from the date of repair or replacement and acceptance by the CITY.

#### **14. Reliance on CITY Provided Data or Information**

If the CONTRACTOR intends to rely on information or data supplied by the CITY, other CITY contractors or other generally reputable sources without independent verification, such intent shall be brought to the attention of the CITY.

#### **15. Contract Administration**

[INSERT NAME TITLE AND DEPARTMENT OF CONTRACT ADMINISTRATOR] for the CITY shall have primary responsibility for contract administration and approval of services to be performed by the CONTRACTOR, and shall coordinate all communications between the CONTRACTOR and the CITY.

#### **16. Specific Personnel**

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

#### **17. Right to Audit**

During the Term of this Contract, and for six (6) years thereafter, the CITY shall have the right to inspect and audit during normal business hours all pertinent books and records of the CONTRACTOR and/or any sub-contractor or agent of CONTRACTOR that performed services or furnished deliverables in connection with or related to the Scope of Work hereunder as reasonably needed by CITY to assess performance, compliance and quality assurance under this Contract or in satisfaction of City's public disclosure obligations, as applicable.

CONTRACTOR shall, upon three (3) business days of receipt of written request for such inspection and audit from CITY, provide the CITY with, or permit CITY to make, a copy of any work-related books, accounts, records and documents, in whole or in part, as specified in such request. Said inspection and audit shall occur in Pierce County, Washington or such other reasonable location as the CITY selects. The CITY shall bear the cost of any inspection audit requested hereunder, provided, that if an inspection

audit in accordance with the foregoing provisions discloses overpricing or overcharges (of any nature) by the CONTRACTOR to the CITY in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the CITY's audit shall be reimbursed to CITY by CONTRACTOR. Any adjustments or payments that must be made as a result of any audit and inspection hereunder shall be made no later than 90 days from presentation of CITY's findings to CONTRACTOR.

CONTRACTOR shall ensure that the foregoing inspection, audit and copying rights of the CITY are a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform the Scope of Work under this Contract.

## 18. Records Retention

The CONTRACTOR shall establish and maintain records in accordance with requirements prescribed by the CITY, with respect to all matters related to the performance of this Contract. Except as otherwise authorized by the CITY, the CONTRACTOR shall retain such records for a period of \_\_\_\_\_ [INSERT THE TIME THE RECORDS SHOULD BE KEPT. MOST COMMON IS 6 YEARS] years after receipt of the final payment under this Contract or termination of this Contract.

If CONTRACTOR retains any City records or data hosted in a Cloud Service. CITY shall have the ability to access its records hosted in a Cloud Service at any time during the Term of this Contract. CITY may export and retrieve its records during the Term of the Contract and, no later than 30 days from the termination of this Contract, CONTRACTOR shall export CITY records to City's custody and control.

## 19. Notices

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

CITY:	CONTRACTOR:
Name:	Name:
Title:	Title:
Address:	Address:
Telephone No.:	Telephone No.:
E-mail:	E-mail:

## 20. Termination

Except as otherwise provided herein, the CITY may terminate this Contract at any time, with or without cause, by giving ten (10) business days written notice to CONTRACTOR.

In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the CITY. In the event CITY terminates this Contract due to the CITY's own reasons and without cause due to the CONTRACTOR's actions or omissions, the CITY shall pay the CONTRACTOR the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein. Termination of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

## **21. Suspension**

The CITY may suspend this Contract, at its sole discretion, upon seven (7) business days' written notice to the CONTRACTOR. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the CONTRACTOR'S reasonable expenses and shall be subject to verification. The CONTRACTOR shall resume performance of services under this Contract without delay when the suspension period ends. Suspension of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

## **22. Taxes**

Unless stated otherwise in Exhibit A, CONTRACTOR is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and CONTRACTOR agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, the CONTRACTOR holds CITY harmless from such costs, including attorney's fees.

If CONTRACTOR fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including by Tacoma City ordinance, and including by a court of law, CITY will deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. Any such payments shall be deducted from the CONTRACTOR's total compensation.

## **23. Licenses and Permits**

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

## **24. Indemnification**

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject



matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the sole negligence of the CITY, or its officers, agents, or employees. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.

It is expressly agreed that with respect to design professional services performed by CONTRACTOR herein, CONTRACTOR's duty of indemnification, including the duty and cost to defend, against liability for damages arising out of such services or out of bodily injury to persons or damage to property shall, as provided in RCW 4.24.115 apply only to the extent of CONTRACTOR's negligence.

CONTRACTOR hereby warrants and represents CONTRACTOR is owner of any products, solutions or deliverables provided and licensed under this Contract or otherwise has the right to grant to CITY the licensed rights under this Contract, without violating the rights of any third party worldwide. CONTRACTOR shall, at its expense, defend, indemnify and hold harmless CITY and its employees, officers, directors, contractors, agents and volunteers from any claim or action against CITY which is based on a claim against CITY for infringement of a patent, copyright, trademark, or other propriety right or appropriation of a trade secret.

## **25. Title 51 Waiver**

CONTRACTOR specifically assumes potential liability for actions brought by the CONTRACTOR'S own employees against the CITY and, solely for the purpose of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the state industrial insurance law, Title 51 RCW. THE CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.

## **26. Insurance**

During the course and performance of the services herein specified, CONTRACTOR will 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 and deliverables provided under this Contract. The City of Tacoma Insurance Requirements documents are fully incorporated herein by reference.

Failure by City to identify a deficiency in the insurance documentation provided by Contractor or failure of City to demand verification of coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

## **27. Nondiscrimination**

The CONTRACTOR agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the

presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

## **28. Conflict of Interest**

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

## **29. City ownership of Work/Rights in Data and Publications**

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

## **30. Public Disclosure**

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

such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and CONTRACTOR has complied with the requirements herein to mark all content considered to be confidential or proprietary, CITY agrees to provide CONTRACTOR ten (10) days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, including any damages, attorneys fees or costs awarded by reason of having opposed disclosure. CITY shall not be liable for any release where notice was provided and CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the "Notices" provision herein.

### **31. Confidential or Proprietary Records Must be Marked**

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

### **32. Duty of Confidentiality**

CONTRACTOR acknowledges that unauthorized disclosure of information or documentation concerning the Scope of Work hereunder may cause substantial economic loss or harm to the CITY.

Except for disclosure of information and documents to CONTRACTOR's employees, agents, or subcontractors who have a substantial need to know such information in connection with CONTRACTOR's performance of obligations under this Contract, the CONTRACTOR shall not without prior written authorization by the CITY allow the release, dissemination, distribution, sharing, or other publication or disclosure of information or documentation obtained, discovered, shared or produced pursuant to this Contract.

CONTRACTOR shall inform its employees, agents, and subcontractors of the confidentiality obligations under this Contract and instruct them so as to ensure such obligations are met. If so requested by the CITY, the CONTRACTOR further agrees to require all such individuals and entities performing services pursuant to this Contract to execute a Confidentiality and Non-Disclosure Agreement in a form acceptable to CITY.

This Section shall survive for six (6) years after the termination or expiration of this Contract.

CITY is required to provide notice of the Red Flags Rules published by the Federal Trade Commission in Title 16 Code of Federal Regulations, Part 681 ("Rules") to all entities that receive confidential or otherwise protected personal information of CITY's customers. Terms in quotations in this Section refer to defined terms contained in the "Rules." CONTRACTOR is, as to "Covered Accounts" of CITY for which CONTRACTOR

performs activities under the Contract, a "Service Provider." "Service Provider" will perform in accordance with its reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft and will promptly report to CITY any specific "Red Flag" incidents detected as to "Covered Accounts" of CITY and upon request by CITY will respond to or reasonably assist CITY in responding reported "Red Flags." This Section shall survive for six (6) years after the termination or expiration of this Contract.

### **33. Approval for Release of Information Related to Contract**

If requested by CITY, CONTRACTOR shall not release any information or documentation concerning the work under this Contract or any part thereof for marketing, advertising, or other commercial activities or publication including, but not limited to, news releases or professional articles without CITY's prior written approval. CONTRACTOR may submit at any time for review and approval a generic abstract describing the component parts of the completed Scope of Services ("Project Abstract"). After receiving written approval of the Project Abstract from the CITY, the CONTRACTOR may make minor insignificant changes to the Project Abstract and use all or parts of the Project Abstract in proposals.

This Section shall survive for six (6) years after the termination or expiration of this Contract.

### **34. Dispute Resolution**

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

### **35. Miscellaneous Provisions**

#### **Governing Law and Venue**

Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration, or litigation arising out of this Contract.

#### **Assignment**

The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.

#### **No Third Party Beneficiaries**

This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

**Waiver**

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

**Severability and Survival**

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

**Entire Agreement**

This Contract and the attached Exhibits, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.

**Modification**

No modification or amendment of this Agreement shall be effective unless set forth in a written and executed Amendment to this Contract.

**Direct Solicitation and Negotiation**

For service contracts valued \$25,000 or less the City signature authorizes waiver of competitive solicitation by "Direct Solicitation and Negotiation" of professional and personal services in accordance with Tacoma Municipal Code 1.06.256 and the Purchasing Policy Manual.

IN WITNESS WHEREOF, the Parties hereto have accepted and executed this Contract, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable. The undersigned Contractor representative, by signature below, represents and warrants they are duly authorized to execute this legally binding Contract for and on behalf of Contractor.

CITY OF TACOMA:  
By: \_\_\_\_\_

CONTRACTOR:  
By: \_\_\_\_\_

**(City of Tacoma use only - blank lines are intentional)**

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Director of Finance: \_\_\_\_\_

City Attorney (approved as to form): \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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This Insurance Requirements shall serve as an attachment and/or exhibit form to the Contract. The Agency entering a Contract with City of Tacoma, whether designated as a Supplier, Contractor, Vendor, Proposer, Bidder, Respondent, Seller, Merchant, Service Provider, or otherwise referred to as "Contractor".

## 1. GENERAL REQUIREMENTS

The following General Requirements apply to Contractor and to Subcontractor(s) performing services and/or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following insurance requirements:

- 1.1. Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the City of Tacoma.
- 1.2. Contractor shall keep in force during the entire term of the Contract, at no expense to the City of Tacoma, the insurance coverage and limits of liability listed below and for Thirty (30) calendar days after completion of all work required by the Contract, unless otherwise provided herein.
- 1.3. Liability insurance policies, except for Professional Liability and Workers' Compensation, shall:
  - 1.3.1. Name the City of Tacoma and its officers, elected officials, employees, and agents as **additional insured**
  - 1.3.2. Be considered primary and non-contributory for all claims with any insurance or self-insurance or limits of liability maintained by the City of Tacoma
  - 1.3.3. Contain a "Waiver of Subrogation" clause in favor of City of Tacoma
  - 1.3.4. Include a "Separation of Insureds" clause that applies coverage separately to each insured and additional insured
  - 1.3.5. Name the "City of Tacoma" on certificates of insurance and endorsements and not a specific person or department
  - 1.3.6. Be for both ongoing and completed operations using Insurance Services Office (ISO) form CG 20 10 04 13 and CG 20 37 04 13 or the equivalent
  - 1.3.7. Be satisfied by a single primary limit or by a combination of a primary policy and a separate excess umbrella
- 1.4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements below. Verification of coverage shall include:
  - 1.4.1. An ACORD certificate or equivalent
  - 1.4.2. Copies of requested endorsements
- 1.5. Contractor shall provide to City of Tacoma Procurement & Payable Division, prior to the execution of the Contract, Certificate(s) of Insurance and endorsements from the insurer certifying the coverage of all insurance required herein. Contract or Permit number and the City of Tacoma Department must be shown on the Certificate of Insurance.
- 1.6. A renewal Certificate of Insurance shall be provided electronically prior to coverage





# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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expiration via email sent annually to [coi@cityoftacoma.org](mailto:coi@cityoftacoma.org).

- 1.7. Contractor shall send a notice of cancellation or non-renewal of this required insurance within Thirty (30) calendar days to [coi@cityoftacoma.org](mailto:coi@cityoftacoma.org).
- 1.8. "Claims-Made" coverages, except for pollution coverage, shall be maintained for a minimum of three years following the expiration or earlier termination of the Contract. Pollution coverage shall be maintained for six years following the expiration of the Contract. The retroactive date shall be prior to or coincident with the effective date of the Contract.
- 1.9. Each insurance policy must be written by companies licensed or authorized (or issued as surplus line by Washington surplus line broker) in the State of Washington pursuant to RCW 48 with an (A-) VII or higher in the A.M. Best key rating guide.
- 1.10. Contractor shall not allow any insurance to be cancelled, voided, suspended, or reduced in coverage/limits, or lapse during any term of this Contract. Otherwise, it shall constitute a material breach of the Contract.
- 1.11. Contractor shall be responsible for the payment of all premiums, deductibles and self-insured retentions, and shall indemnify and hold the City of Tacoma harmless to the extent such a deductible or self-insured retained limit may apply to the City of Tacoma as an additional insured. Any deductible or self-insured retained limits in excess of Twenty Five Thousand Dollars (\$25,000) must be disclosed and approved by City of Tacoma Risk Manager and shown on the Certificate of Insurance.
- 1.12. City of Tacoma reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services changes.
- 1.13. All costs for insurance are included in the initial Contract and no additional payment will be made by City of Tacoma to Contractor.
- 1.14. Insurance coverages specified in this Contract are not intended and will not be interpreted to limit the responsibility or liability of Contractor or Subcontractor(s).
- 1.15. Failure by City of Tacoma to identify a deficiency in the insurance documentation or to verify coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 1.16. If Contractor is a government agency or self-insured for any of the above insurance requirements, Contractor shall be liable for any self-insured retention or deductible portion of any claim for which insurance is required. A certification of self-insurance shall be attached and incorporated by reference and shall constitute compliance with this Section.

## 2. SUBCONTRACTORS



# CITY OF TACOMA

## INSURANCE REQUIREMENTS FOR CONTRACTS

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It is Contractor's responsibility to ensure that each subcontractor obtain and maintain adequate liability insurance coverage that applies to the service provided. Contractor shall provide evidence of such insurance upon City of Tacoma's request. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.

### 3. REQUIRED INSURANCE AND LIMITS

The insurance policies shall provide the minimum coverages and limits set forth below. Providing coverage in these stated minimum limits shall not be construed to relieve Contractor from liability in excess of such limits.

#### 3.1 Commercial General Liability Insurance

Contractor shall maintain Commercial General Liability Insurance policy with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. This policy shall be written on ISO form CG 00 01 04 13 or its equivalent and shall include product liability especially when a Contract is solely for purchasing supplies. It includes Products and Completed Operations for three years following the completion of work related to performing construction services. It shall be endorsed to include: A per project aggregate policy limit (using ISO form CG 25 03 05 09 or equivalent endorsement)

#### 3.2 Commercial (Business) Automobile Liability Insurance

Contractor shall maintain Commercial Automobile Liability policy with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury and property damage and bodily injury and property damage coverage for owned (if any), non-owned, hired, or leased vehicles. Commercial Automobile Liability Insurance shall be written using ISO form CA 00 01 or equivalent. Contractor must also maintain MCS 90 and CA 99 48 endorsements or equivalent if "Pollutants" are to be transported unless in-transit Pollution coverage is covered under required Contractor's Pollution Liability Insurance.

#### 3.3 Workers' Compensation

Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington, as well as any other similar coverage required for this work by applicable federal laws of other states. Contractor must comply with their domicile State Industrial Insurance laws if it is outside the State of Washington.

#### 3.4 Employers' Liability Insurance

Contractor shall maintain Employers' Liability 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.

#### 3.5 Professional Liability Insurance or Errors and Omissions

For contracts with professional licensing, design, or engineering services. Contractor and/or its subcontractor shall maintain Professional Liability or Errors and Omissions with limits of One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate covering acts, errors and omissions arising out of the professional services under this Contract. Contractor shall maintain this coverage for Two Million Dollars (\$2,000,000) if the policy limit includes the payment of claims or defense costs, from the policy limit. If the scope of such design-related professional services includes work related to pollution conditions, the Professional Liability policy shall include Pollution Liability coverage.

#### 3.6 Other Insurance



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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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 City of Tacoma. The costs of such necessary and appropriate Insurance coverage shall be borne by Contractor.