



City of Tacoma, WA

**ENVIRONMENTAL SERVICE DEPARTMENT
SOLID WASTE MANAGEMENT**

REQUEST FOR PROPOSAL

ORGANICS PROCESSING SERVICE CONTRACT

SPECIFICATION NO. ES21-0615F



**City of Tacoma
Environmental Services/Solid Waste Management**

**REQUEST FOR PROPOSALS ES21-0615F
Organics Processing Service Contract**

Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, December 7, 2021

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, bids@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.

Submittal Delivery: Sealed submittals will be received as follows:

By Email:

bids@cityoftacoma.org

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

Bid Opening: Held virtually each Tuesday at 11AM. Attend [via this link](#) or call 1 (253) 215 8782. Submittals in response to a RFP 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.

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

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

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

Project Scope: The City of Tacoma Environmental Services Department is seeking qualified firms to enter into a long term contract for organics processing services.

Estimate: N/A

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. For more information, visit [our Minimum Employment Standards Paid Sick Leave webpage](#).

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 Gail Himes at ghimes@cityoftacoma.org, or by calling her collect at 253-591-5785.

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.

Additional Information: Requests for information regarding the specifications may be obtained by contacting Dawn DeJarlais, Senior Buyer by email to ddejarlais@cityoftacoma.org

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



Meeting sites are accessible to persons with disabilities.

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

**CITY OF TACOMA
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).
5. Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW and must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection.

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 via email to bids@cityoftacoma.org no later than 5:00 p.m. Pacific Time, three days prior to the submittal deadline. 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.

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 \$500,000 and by Contracts and Awards Board for contracts greater than \$500,000.


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SUBMITTAL CHECK LIST

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

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

The following items make up your submittal package:	
Electronic copy of your complete submittal package	
Signature Page (Appendix A)	
Information in Section 9 Content To Be Submitted	
Price Proposal Calculator Tool (Excel file for completion by Proposer in Separate Document, PDF Version for reference in Appendix A)	
After award, the following documents will be executed:	
Services Contract and Exhibits (Appendix B)	
Performance Bond (Appendix B)	
Certificate of Insurance and related endorsements (Appendix C)	

1. BACKGROUND

The City of Tacoma (City) Environmental Services Solid Waste Management Division (City) is soliciting firms with experience in processing organics materials that the City collects curbside and through self haul by residential and commercial customers to the City's Recovery and Transfer Station. It is the intent of the City to enter into one or more 5-year Service Contracts (beginning December 1, 2022 through November 30, 2027) with the City retaining the sole option for two 5-year renewal periods, ending 2032 and 2037, respectively. The City reserves the right not to enter into a contract or enter into a shorter contract(s) as appropriate.

If the City enters into a Service Contract with two companies as a result of this RFP, the total tons of organics allocated to each company monthly would be split approximately 50%/50% or 30%/70% (plus or minus 5 percentage points). During operations, that approximate tonnage split would typically be applied each operating week but the City reserves the right to deviate from the target allocation should operating conditions, road closure/congestion, or emergencies suggest a deviation is in the City's best interest.

In your proposal, you will be required to indicate the maximum percentage of City organics that you are proposing to receive (30, 50, 70, and/or 100 percent). **NOTE:** you must submit a per-ton price for your proposed percent and all others lower. In other words, if you plan to propose 100 percent, you must also provide price proposals for 70, 50, and 30 percent (See Proposal Cost Calculator instructions).

Current quantities of City organic materials are included below for the past 9 years with additional waste characterization data available through the external web links provided. For the purposes of proposal preparation and evaluation, the City has provided estimated annual tonnages for each of the years covered in the contract (see Price Proposal Calculator tool provided via separate file titled "Proposal Cost Calculator.xlsx" and in PDF version in Appendix A). Actual tonnage allocations will be determined in the contract(s) awarded.

The Proposer's facility and technology for processing organics shall have adequate capacity (as defined in Section 2 of this RFP) to receive and process the maximum percentage of City organics it is proposing on and be designed to control the emissions of noxious odors, dust, noise, surface runoff, and leachate.

Proposals submitted and/or the selected Company may be used for projects of similar type and scope at the sole discretion of the City for up to one year.

Current Quantities of City Organic Material:

The following represents the monthly actual totals of City organic material from curbside and self-haul collection in tons from 2012 through 2020. Pre-consumer waste vegetable produce quantities are incorporated into these figures of annual totals of materials collected. In the past 9 years, the total annual quantity of City organic material has been within the range of 31,000 to 38,000 tons per year, with seasonal and annual fluctuations as shown in the table.

		2012	2013	2014	2015	2016	2017	2018	2019	2020
Curbside	January	906.97	947.13	1,025.66	1,124.15	1,018.93	921.59	1,130.86	1,352.59	981.55
	February	1,353.29	986.60	668.31	1,323.28	1,177.89	864.06	939.91	662.26	1,221.46
	March	1,290.93	1,742.05	1,713.20	2,132.08	2,158.90	1,220.73	1,913.26	1,660.59	1,964.04
	April	3,368.94	3,416.43	3,507.51	3,287.55	3,853.27	2,729.61	2,542.95	3,129.74	3,863.04
	May	4,746.62	3,940.09	4,587.74	3,526.25	3,622.01	4,813.63	4,474.55	4,137.58	4,408.19
	June	4,050.86	3,612.76	3,633.74	2,954.70	2,957.35	3,879.64	2,926.36	2,973.76	4,427.79
	July	3,455.13	3,207.67	2,570.85	2,013.60	2,544.25	2,486.20	2,204.91	2,552.87	3,450.04
	August	2,393.03	2,104.94	1,977.14	1,807.64	2,275.79	1,929.49	1,957.31	2,148.24	2,237.33
	September	1,695.80	2,309.83	2,101.40	2,426.37	1,990.26	1,709.09	1,834.95	2,133.65	2,253.25
	October	1,784.80	2,453.61	2,372.89	2,317.28	1,967.65	1,951.82	2,207.66	2,305.54	2,611.86
	November	2,340.57	2,379.60	2,292.48	2,362.58	2,616.28	2,439.95	2,513.13	2,424.35	2,821.94
	December	1,349.62	987.28	1,556.15	1,408.53	1,127.34	1,494.62	1,269.74	1,236.76	1,833.01
	Total	28,736.56	28,087.99	28,007.07	26,684.01	27,309.92	26,440.43	25,915.59	26,717.94	32,073.49
Self Haul	January	1,509.99	247.07	308.63	320.50	262.30	252.97	296.78	343.23	221.62
	February	1,122.20	338.33	199.39	371.36	349.56	222.48	255.18	232.18	364.90
	March	577.08	533.31	435.55	499.25	561.77	316.21	481.08	615.91	400.81
	April	851.73	555.08	555.69	472.28	689.34	522.04	439.93	476.14	219.75
	May	804.90	596.89	671.87	644.06	650.02	589.05	628.97	594.47	695.46
	June	782.23	768.08	700.29	538.87	615.52	649.90	591.43	707.64	689.39
	July	875.85	659.35	578.48	477.80	614.07	609.88	530.29	683.77	603.40
	August	613.62	558.01	480.79	484.04	473.92	522.34	426.71	596.63	548.20
	September	608.62	481.44	518.04	555.18	439.32	437.08	474.12	485.31	457.22
	October	443.74	529.43	465.64	456.91	364.78	382.26	376.82	408.78	531.43
	November	407.42	488.15	419.32	417.36	397.31	360.50	379.60	516.20	367.57
	December	296.32	236.95	302.16	266.09	201.42	253.43	221.39	239.92	306.24
	Total	8,893.70	5,992.09	5,635.84	5,503.70	5,619.33	5,118.14	5,102.30	5,900.18	5,405.99
Grand Total		37,630.26	34,080.08	33,642.91	32,187.71	32,929.25	31,558.57	31,017.89	32,618.12	37,479.48

Description of Organic Materials Currently Collected:

The City currently collects organic materials from three sources including residential curbside collection, self-haul material brought to the City's Recovery and Transfer Center and pre-consumer produce waste collected at businesses. These materials are composted at Pierce County Recycling, Composting and Disposal, LLC. The current contract expires in November 2022.

The City may consider adding additional organic materials such as post-consumer commercial food waste in the future. In addition, organic materials from other City agencies, such as Metropolitan Park District and Public Works Grounds Maintenance, may be included in the organic waste, as well as organic material from outside the City. A description of these materials is provided below.

Residential Curbside Organic Materials

The food waste program accepts and encourages all food waste both pre-consumer, such as kitchen scraps, and post-consumer waste, such as table scraps and left overs. The yard waste program accepts grass clippings, leaves, sod, prunings. Food and yard waste are not segregated. This waste is collected in the same containers. Tree trimming limbs and brush are required to be cut tied and bundled in lengths of no more than three (3) feet. Pruning's are required to be four (4) inches or less in diameter. There is no guarantee that all materials will be

under three (3) feet in length or four (4) inches in diameter. City Collection staff use a system of tagging containers to communicate with customers when contamination, oversized materials, or other unacceptable conditions are observed during the collection process. Plastic bags are not included with organics.

Self-Haul Organic Materials

Self-Haul organic material may include food and yard waste but typically contains a higher percentage of woody material and can include larger materials such as tree limbs. Self-haul materials are inspected for content and accepted by City staff prior to unloading at the City's Recovery and Transfer Center (RTC). The City owns and operates a Rotochopper grinder at the facility that is used to grind woody debris as needed. Materials may be delivered to the selected company's facility already ground or un-ground, at the City's discretion.

Pre-consumer Produce Collection

The City collects pre-consumer waste vegetable produce from commercial food establishments and florists. The amount of pre-consumer produce collection is outlined in the 2015 Waste Characterization Study (NOTE: this study is 6 years old, however the City does not believe there is substantial change). Produce waste is collected weekly, year around. Produce waste collected will be incorporated into the organic materials prior to delivery. At the City's discretion, the City may implement strategies to promote or incentivize increased customer participation in the collection of food and produce waste for inclusion in the organics processing stream.

Post-consumer Food Waste

The City has the following quantitative data related to the amount of food waste in the collected waste stream: 1) In December 2014, Tacoma Solid Waste Management Organics Feasibility Study (available for review upon request), the following estimate was included, "As of the date of this study, the City has 44,023 residential yard waste customers, which results in an estimate of 5,952 tons per year or 114 tons per week of food scraps that would be diverted to the facility if it were operating today."; 2) The 2015 Waste Composition Study (link below), page 69-71, provides single-family residential composition information for the three seasons that were studied in 2015. Based on that study, food waste was less than 5 percent of the organics stream (Exhibit B). We will be looking at options to increase diversion of food waste to be in line with the state's goal of decreasing food waste. At this time we do not have specific strategies or estimates of potential quantities that might be captured. Based on past experience, the actual increase of food waste collected will be small, and take place over a long period of time.

The post-consumer food waste collected includes meat, fish, dairy, and both pre-consumer and post-consumer produce; Food-soiled paper (including soiled paper plates, cardboard, towels and napkins; non-contaminated leaves and organic materials

Wood Material Diversion

At the City's discretion and if conditions warrant, the City may decide, to use the woody material for other purposes separately from this contract.

Other Organic Materials:

In addition to the above, the City collects non-contaminated leaves and organic materials from street sweeping in fall; limbs, stumps less than three (3) feet in diameter; pallets and wood boxes.

Program History:

The City has developed documents, policies and programs that provide relevant history (including available waste characterization information), support sustainable management of Tacoma's waste stream, support social and environmental justice and climate action planning. These documents are summarized below with links provided to the actual publication.

Tacoma Pierce County Solid Waste Management Plan

The Tacoma Pierce County Solid Waste Management Plan is a planning tool adopted by the City for the management of solid waste activities. The Plan's goals, policies and recommendations provide guidelines for development of programs, capital facilities and annual budgets. The Plan provides a legal basis for Tacoma, Pierce County, the Tacoma-Pierce County Health Department, other jurisdiction and government agencies to make permitting decisions on solid waste or recycling facilities. Private industry can use this Plan to coordinate with municipalities in the planning and delivery of collection, disposal and recycling services.

[Tacoma-Pierce County Solid Waste Management Plan](#)

2016 Supplement to the Solid Waste Management Plan

The 2016 supplement update provides the goals and objectives for the focus of energy and efforts for the next five years (years 2016 through 2020) to coordinate efforts across Pierce County, minimize waste, make recycling easier away from home and focus dollars on the right services to achieve the goals. The vision for the 2016 Supplement to the Solid Waste Management plan is an emphasis on waste reduction and working together with our community. The Plan update provides goals for our systems, culture, decision making and measures for effectiveness.

[2016 Supplement to the Solid Waste Management Plan](#)

2015 Waste Stream Composition Study

In 2015, the City conducted a characterization study to examine the materials in the City's disposed waste and organics material streams. The objective of the study was to assess how the disposed waste stream has changed since the 2009 study, inform Tacoma's sustainable materials management plan and the assessment of Materials Recovery Facility options, and collect residential organics set-out and composition data to assist the City in planning for increased organics diversion.

[2015 Waste Stream Composition Study](#)

Sustainable Materials Management Plan

In 2014, the City established a policy to reaffirm the City's commitment to divert 70 percent of Tacoma's solid waste away from landfills by 2028. The policy called for development of a sustainable materials management plan to ensure that diversion goal of 70 percent or more by 2028 is met and it defined sustainable materials management as "an approach that includes waste prevention and discard management, while seeking to reduce environmental impacts by managing materials through all stages of their life." The commissioned study of Tacoma's waste stream and recycling levels, projections of future diversion levels under business as usual conditions, and an analysis of alternative options and strategies to achieve the 70 percent diversion goal are documented in the Plan. The Plan involved significant stakeholder engagement through interviews, forums and workshops.

Sustainable Materials Management Plan

Environmental Services Equity and Empowerment Framework

As part of the City's Equity and Empowerment Framework, the Environmental Services Department established three goals to meet and achieve equity, advance empowerment and attain excellence under this framework. The three goals are 1) The City of Tacoma Workforce Reflects the Community It Serves through increasing the racial and gender diversity of the workforce and improving accountability for ensuring equity in hiring processes; 2) Purposeful Community Outreach and Engagement by developing and maintaining relationships with people and organizations that represent diverse racial, ethnic, and cultural communities and make efforts to continue and improve meaningful engagement; 3) Equitable Service Delivery to All Residents and Visitors by applying an equity lens to programs and services annually to address inequities in service delivery.

Environmental Services Equity and Empowerment Framework

Climate Action Plan

Tacoma's Climate Action Plan establishes carbon reduction goals for the City and community and offers more than 40 strategies to achieve these goals. The City's commitment is to reduce greenhouse gas emissions. In 2006, the City adopted a policy supporting efforts to curb global warming and reduce greenhouse gases, while encouraging the continued growth and development of clean technology businesses in Tacoma. The 2006 policy noted that greenhouse gas reduction activities complement many of the City's environmental values, including the promotion of clean and efficient energy use, commuter trip reduction efforts and clean air initiatives, solid waste reduction and recycling, salmon recovery, assuring a reliable and affordable water supply, protecting urban and rural forests and promoting low-impact development. An update to the City's Climate Action Plan is currently in progress.

Climate Action Plan

To learn more about the City of Tacoma, visit www.cityoftacoma.org.

2. MINIMUM REQUIREMENTS

Proposer must be a legal entity and have at least 3 years experience with relevant organics processing, permitting, and regulatory compliance and must demonstrate that its primary processing facility and all potential backup processing facilities have “adequate capacity.” For the purposes of this RFP, “adequate capacity” means that the respondent has demonstrated it has the existing capacity, or has documented expansion plans with a high likelihood of successful implementation. This would apply to managing the maximum percentage of City organics it is proposing on recognizing anticipated annual and seasonal fluctuations over the past 9 years as shown in the Table above under Current Quantities. This implies organics are managed in a manner consistent with its permits and in a manner that limits non-marketable residuals.

3. CONTRACT TERM

It is the intent of SWM as a result of this RFP to enter into one or more 5-year Service Contracts (beginning December 1, 2022 through November 30, 2027) with the City retaining the sole options for two (2) additional 5-year renewal periods, ending 2032 and 2037, respectively. The City will provide the contractor(s) of its intent to renew approximately two years prior to the expiration date. Any such renewal would commence on the effective dates noted above, and the Contract terms (including any price escalation formula specified in the Contract) will remain in effect during the renewal(s). The City, however, also reserves the right not to enter into a contract or to enter into a shorter contract(s) as appropriate, as the result of this RFP process and future renewals. The City reserves the right to cancel the contract for any reason, by written notice, as stipulated in the contract.

The percentage of material awarded to each company is subject to negotiation.

4. CALENDAR OF EVENTS

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

Contract may be issued after City Council approval.

The anticipated schedule of events concerning this RFP is as follows:

Publish and issue RFP:	10/26/2021
Pre-Submittal Questions:	11/9/2021
Response to Questions:	11/16/2021
Submittal Due Date:	12/7/2021
Submittal Evaluated:	1/7/2022
Interviews/presentations, on or about (to include site tours, if conducted by City):	1/17/2022
Pre-Negotiations Award Recommendation:	1/31/2022

Contract Negotiations Commence	February of 2022
Final Award Recommendation	May of 2022
City Council Approval:	June of 2022

5. INQUIRIES

Please submit questions in writing to Dawn Dejarlais, Senior Buyer via email to ddejarlais@cityoftacoma.org concerning this solicitation. Make email subject line read: ES21-0615F – Organics Processing Service Contract – *VENDOR NAME*.

- 5.1 Questions marked confidential will not be answered or included.
- 5.2 The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.
- 5.3 The answers are not typically considered an addendum.
- 5.4 The City will not be responsible for unsuccessful submittal of questions.
- 5.5 Written answers to questions will be posted approximately 1 week after the question deadline.

6. PRE-PROPOSAL MEETING

No pre-proposal meeting will be held; however, questions and request for clarifications of the specifications may be submitted as stated in the [inquiries](#) section.

7. 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 to any subsequent requirements of the contract negotiation process.

8. 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(s) 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.

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

Proposals should be formatted as 8 ½" x 11". A "page" is defined as one single-side of a document that has written text or graphics. The font should be Times New Roman or Arial with font size no smaller than 11 and the margins shall be 0.75" or greater. Submittals should be limited to a maximum of 20 pages, double sided, or 40 pages total, excluding any required forms or resumes. All pages that exceed the specified page limit will not be part of the evaluation.

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, or not in conformity with law, may be rejected as being non-responsive. The City will not accept any submittal containing a substantial deviation from the requirements outlined in this RFP.

Submittals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the respondent's/team'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.

General Information

1. Legal name of the lead firm, type of firm (corporation, partnership, individual, LLC, or other; if "other," please describe). Also include the firm names and roles of other team partners.
2. Please provide the following information for the lead firm:
 - a. Corporate office – address, phone number, email address and website.
 - b. Local / Regional office – Address, phone number, email address and website (if different than Corporate).
 - c. Federal tax ID#.
 - d. Project manager and direct contact information.

Performance – Proposed Technology, Environmental Controls, End Products

1. The vendor must be able to accept the following materials: Yard debris (leaves, grass clippings, prunings that are 4 inches or less in diameter); All food scraps (including meat, fish, dairy and both pre-consumer and post-consumer produce); Food-soiled paper (including soiled paper plates, cardboard, towels, and napkins); Non-contaminated leaves and organic material from street sweeping in fall. **NOTE:** The City may not advertise that all such materials (listed above) are acceptable for collection in the various City programs, but it would like that flexibility from its vendor.

Provide a statement describing what processing technology that you propose to use to process these materials and provide confirming information that your permit and process can accommodate all of these materials, and meet or exceed current State and local regulatory standards. Note any concerns you have about this list of materials.

2. Provide a narrative that describes your proposed facilities and process for managing the City organic materials (starting with how City trucks will unload at your primary facility, and if necessary at your backup facility), preprocessing, processing, and product/residual management). Include the following at a minimum:
 - a. Name and address of primary processing facility, where City trucks will deliver organics, and all potential backup processing facilities that you or the City may need to haul to.
 - b. The City plans to weigh trailers at its scales and transport organics from its transfer station to the vendor's processing facility. Please describe the logistics and anticipated queue time associated with City trailers unloading organics at your primary and any potential backup processing facility.
 - c. Provide an 8.5"x11" plan view of primary processing facility and all potential backup processing facilities denoting access/egress roads, pre-processing/receiving area, processing area (i.e. active composting, anaerobic digester, etc.), curing area, material load out, offices, and other relevant features.
 - d. Describe the processes and controls that you will have in place to mitigate dust, odor, noise, surface runoff, and leachate.
 - e. Provide a narrative how you will maximize organics diversion with minimal residual and produce quality products.
 - f. Provide a narrative explaining how you can adapt to varying feedstocks and contamination levels.
 - g. Provide a narrative that outlines how you will manage springtime peak material flows. For example, do you have a single site that has adequate capacity, will you engage backup partner sites, are you planning to develop a new site?
 - h. The City may select multiple vendors. Provide a narrative discussing your ability to accommodate changes in material quantities from the City (i.e, more or less based on vendor performance in addition to seasonal flows). How much notice would you require to increase or decrease quantities by 50% of your initial allocation, and what would you do operationally should the City make such a request.
3. Provide annual quantities (in tons) for 2018, 2019, and 2020 for each of the following categories of product distribution for the primary processing facility and all potential backup processing facilities:
 - a. Retail Compost

- b. Wholesale Compost
 - c. Public Sector Uses (such as roadway medians, Department of transportation roadway uses, stormwater diversion or filtering via compost socks),
 - d. Landfill Cover
 - e. Other Beneficial Uses (specify the type of use)
- 4. Provide information on how the Proposer identifies and removes unacceptable materials delivered with the organic loads. How are these materials tracked and disposed of?
- 5. Provide an organization chart, showing key roles, followed by one paragraph bios of key personnel, and 2-page resumes for key staff (in an appendix).

Feasibility – Proposer Experience, Financial Resources, Site Readiness, Schedule

- 1. Provide three client references able to verify your firm’s overall expertise for this type of work and using the relevant processing technologies included in your proposal. The references must have worked with the firm within the last year. Provide complete information including name of company, contact person, address, phone number, and email address.
- 2. Provide details that outline your track record in resolving operational and regulatory challenges and environmental and community issues including, but not limited to, odor, air quality, and surface water management
- 3. Provide copies of audited financial statements for the entity proposed to enter into an agreement with the City from the three most recent fiscal years. Audited financial statements should include: balance sheet, income statement, cash flow statement, footnotes, and subsidiary schedules. In the event Proposer does not have audited financial statements, the three most recent years of business tax returns, with supporting schedules, may be provided.
- 4. Provide a brief description about the status/readiness of your primary and potential backup processing facilities including the following:
 - a. Whether primary and back-up facilities are fully operational, are in the process of being expanded, or are a new facility under development. If you are proposing to use a facility that is not currently fully operational, provide details on the status of that site, the timeline for when it will be fully operational, and what it will be permitted to take and when that is expected to occur. If you are proposing to use a fully operational facility, but that facility will need to shift existing tonnages received from others to another site, please describe your schedule and general plans for doing this.
 - b. Provide monthly in-coming quantities (in tons), from January 2018 through December 2020 for the primary processing facility and all potential backup processing facilities and compare that to the permitted capacity of those facilities. If the primary processing facility is nearing permitted or over permitted capacity what are your plans to take on additional organics as part of this contract? Include a timeline for this plan.

- c. Confirm that each of the primary and back up sites are currently zoned and permitted for processing the organic materials that are subject to this contract. If not currently zoned or permitted for this, provide details showing how you plan to meet the required timelines to be operational by December 1, 2022.
 - d. Are the primary and back up sites owned or in long-term leases (if so, what are the terms of the lease)?
 - e. Describe your contingency plans for utilizing back up sites.
- 5. How do you plan to work with the City to resolve issues that may arise over the course of the contract term?
 - 6. Provide a copy of the current operating permit for the primary processing facility and all potential backup processing facilities. **NOTE:** the City will reach out to the permitting agencies as part of this proposal evaluation.
 - 7. Provide details outlining your key steps for meeting the City's proposed start date.

Support for Workforce, Community, Sustainability, and Diversity in Employment and Contracting

- 1. Provide information that documents your company's workforce diversity and equity in subcontracting in your operations program. Document if your firm, or the firm you are partnering with, is 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)
- 2. Provide Experience Modification Rate (EMR) documentation from your insurance carrier for 3 most recent years. If your EMR is over 1.0, please attach a written explanation of the methods that are being implemented by your company to reduce this rate.
- 3. Demonstrate how your company is committed to the environment, including sustainable business practices to minimize greenhouse gas emissions for transportation, operations and products produced.
- 4. Please elaborate on any opportunities for advancing sustainability, innovation, and environmental performance you could offer the City as part of this project.
- 5. Demonstrate your company's commitment to the community where material is provided to produce your end product. Include information on outreach partnership

opportunities to increase diversion, limit contamination and reduce customer confusion with compostable products.

System Costs

1. Using the Proposal Cost Calculator tool (provided as a separate Excel file, *Proposal Cost Calculator.xlsx*) indicate the maximum percentage of City organics that you are proposing on (30, 50, 70, or 100 percent). **NOTE:** you must submit a per-ton price for your maximum proposed percent and all others lower. In other words, if you plan to propose on 100 percent, you must also provide price proposals for 70, 50, and 30 percent (as described in the Proposal Cost Calculator instructions).

Proposers must enter the required information in the blue cells noted in the Inputs sheet of the *Proposal Cost Calculator.xlsx* file. These inputs are used to provide the City with the information necessary to calculate the present value of your cost to the City for differing organic quantities. More definition of the inputs and calculations of the spreadsheet are provided in Section 10.1, under the System Costs section of the RFP below.

The Proposer's submittal shall include a PDF version of the Inputs and Calculations sheets from their Proposal Cost Calculator.

Exceptions to Contract Terms

1. Do you take exceptions to any of the RFP Specifications such as the City of Tacoma's Service Contract and associated Exhibit A, Scope or Work or Exhibit B, Insurance Requirements? If so, Proposers are required to specify in writing (i.e. page number and line items of the RFP explaining the exception and providing any proposed alternative wording for each exception.

The City reserves the right to request clarification of any aspect of a firm's submittal, or request additional information that might be required to properly evaluate the submittal. A firm's failure to respond to such a request may result in rejection of the firm's submittal. Firms 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 Proposer's responsibility to submit a submittal that is current, clear, complete and accurate.

10. EVALUATION PROCESS

A Selection Advisory Committee (SAC) will review and evaluate submittals. The City may also engage independent third-party evaluators and/or subject matter experts to assist with any or all aspects of the evaluation process. Proposals received that conform to the proposal instructions will be evaluated. The initial evaluation will take place using the evaluation criteria identified in the following section.

The SAC will review the proposals, evaluate the proposals using specified evaluation criteria, and develop a ranking of proposals, from highest to lowest. A ranking of proposals will be established for each percentage of City organics for which a proposal was submitted.

After the evaluation, the SAC may conduct interviews of the most qualified Respondents before final selection (see Section 11). The purpose of the interviews would be to allow selected proposers to clarify or expand on their proposal and will be worth 25 points in addition to the initial evaluation score.

The following table represents the criterion the City will use to evaluate each written proposal. A description of each criterion are describe in the following section.

Criteria	Max Points
General Information	0
Performance – Proposed Technology, Environmental Controls, End Products	30
Feasibility – Proposer Experience, Financial Resources, Site Readiness, Schedule	20
Support for Workforce, Community, Sustainability and Diversity in Employment and Contracting	10
System Costs	40
Exceptions to the City's Service Contract and Exhibit A & B	0
Total	100

10.1 Evaluation Criteria

The SAC will use the following criteria to assign scores to each responsive proposal. The below identifies the categories from the Content to be Submitted (Section 9.0) and the corresponding value for the criterion.

1. General Information (0 points)

2. Performance – Proposed Technology, Environmental Controls, End Products (maximum 30 points)

- Processing technology for composting and/or anaerobic digestion meets or exceeds current State and local regulatory standards
- State of the art systems for receiving, grinding, and moving materials on site
- Effective environmental controls and mitigation measures for dust, odor, noise, surface runoff, and leachate management
- Flexibility to receive and process a range of organic material types and quantities
- Flexibility to manage varying feedstock contamination levels
- Ability to manage seasonal material quantity spikes
- Operations that maximize organics diversion with minimal residual

- Successful quality, quantity, and market stability for end products with high environmental benefit that avoids sending materials to landfill
- Experienced and proven staff and systems

3. Feasibility – Proposer Experience, Financial Resources, Site Readiness, Schedule (maximum 20 points)

- Experience with relevant processing, permitting, and regulatory compliance
- Successful track record in resolving operational and regulatory challenges and environmental and community issues including, but not limited to, odor, air quality, and surface water management
- Strong financial and legal standing
- Status/readiness of your primary and potential backup processing facilities
- Proposed site ownership or long-term lease
- Zoned for processing with required regulatory permits and approvals
- Reliable contingency back-up plans and permitted back-up facilities
- Existing permitted processing capacity capable of receiving and processing the total quantity of material proposer indicates it is interested in accepting (i.e., the maximum percent) identified in your proposal response to this question above.
- Commitment to partnership with the City to resolve issues over the contract term
- Adequacy of Project schedule; clarity, thoroughness, and reasonableness in detailing the key steps and timelines for meeting the City's proposed start date

4. Support for Workforce, Community, Sustainability, and Diversity in Employment and Contracting (maximum 10 points)

- Fill out the questionnaire addressing your company's workforce diversity and equity in subcontracting in your operations program. Document if your firm, or the firm you are partnering with, is certified with Washington State for any of the mentioned categories **(pass/fail, 5 points if you have one or more category, 0 otherwise, of the total 10 point for this section)**
- Plans and record to support worker health and safety including a demonstrated record of strong safety performance
- Minimizing net greenhouse gas impacts from combined City and proposer transportation, operations, and products
- Leadership in sustainability, innovation, and environmental performance
- Opportunities for product use, sales or giveaways to City or City customers

- Proposed outreach partnerships with the City to increase diversion, limit contamination, and reduce customer confusion

5. System Costs (maximum 40 points)

The Proposal Cost Used in the Evaluation (Proposal Cost) as calculated in the Proposal Cost Calculator will be compared to the Proposal Cost of other proposers for the same percentage of City organics accepted. For example, the Proposal Cost for 30% of City organics will be compared to the Proposal Costs for 30% of City organics of other proposers.

To submit your Proposal Cost, the City requires that Proposers access the Proposal Cost Calculator.xlsx file referenced in Appendix A to input information necessary to calculate the Proposal Cost for select percentages of City organics (actual fees to be paid to the selected Proposer will be as outlined in the Service Agreement). That information includes:

- A cost escalation factor. This factor multiplied by the annual increase in the Consumer Price Index (CPI) that determines the annual escalation of per ton prices.
- The one-way distance in miles from the Tacoma Recovery and Transfer Center (RTC) to the Proposer's primary processing facility
- The maximum percentage of City organics you commit to accepting
- The per-ton prices for the maximum percentage of City organics you commit to accepting and for all lower percentages. (For example, if you commit to accepting 100 percent, you must also provide per-ton prices for 70, 50, and 30 percent.

Please note, the instruction for the Proposal Cost Calculator.xlsx file (see Appendix A for access details) are included in the Inputs sheet. When pricing is complete, print/PDF the Inputs and Calculations sheets and include it as part of Appendix A to your submittal.

As outlined in the Proposal Cost Calculator, the Proposal Cost considers proposer's input information, and the following City-specified parameters:

- Inflation rate (2.5 percent)
- Discount rate (5.0 percent)
- Average trailer payload (22.0 tons)
- Parameters required to estimate the cost of City transportation of organics from the Tacoma Recovery and Transfer Center to your primary processing facility:
 - Fuel, maintenance, depreciation (\$4.37 per two-way mile)
 - Burdened labor (\$61.50 per hour)

- City estimate, round trip travel time to your facility (hours); This will be estimated by the City using fastest route plus 10 percent (%) reported by Google maps averaged from 9 estimates taken during 8-9 am, 11am-12 pm, and 4-5 pm on the first Tuesday, Wednesday, and Thursday after the RFP submittal deadline.
- Assumed unload time (0.25 hours)
- Toll cost per trip, if applicable (\$15.75 per one-way trip, no cost for return)

The lowest Proposal Cost for a given percentage of City organics is calculated as the present value of cost over the five year contract term as shown in the Calculations and PV Cost of the Proposal Cost Calculator.

System Costs points for each percentage of City organics will be assigned as follows. The lowest Proposal Cost for a percentage of City organics will receive all 40 points for System Costs. Proposals that are not the lowest cost for that percentage of City organics will be allocated points based on a percentage of the lowest Proposal Cost. The formula to allocate points to proposals other than the lowest cost is as follows:

“Other” Proposal Cost \$____ minus “Lowest” Proposal Cost \$____ = Difference

Percentage = $1 - (\text{Difference divided by “Lowest” Proposal Cost})$

Percentage times 40 points = Points for other than lowest cost proposal

A simple example is provided for the purpose of illustration. If two companies were to submit proposals for a given percent of City organics, and the total cost for Company A’s proposal is \$100, and the total cost for Company B’s proposal is \$110, then Company A, as the low-cost proposer, would receive all 40 points for System Costs for that percentage of City Organics. Company B would receive 36 points. Per the preceding formula, Company B’s points for that percentage of City organics would be calculated as follows:

Difference: $\$110 - \$100 = \$10$

Percentage: $1 - (\$10/\$100) = 0.90$ or 90%

Percentage x 40 points: $90\% \times 40 = 36$ points for System Costs.

6. Exceptions to the City’s Service Contract and Standard Terms and Conditions(0 points)

Provide any exceptions to the City’s Service Contract and Exhibit A, Scope of Work and Exhibit B, Insurance Requirements.

10.2 Example of City Selection Process

If the City elects to award one contract for this service, it will begin negotiations with the highest ranked proposer for 100% of City organics.

If the City elects to award two contracts for this service, it will begin negotiations with the highest ranked proposer for each percentage of City organics for which a proposal was submitted, unless the second-highest rank proposer for a percentage of City organics must be selected in order to select two proposers.

An example of how the highest ranked proposer will be selected for each percentage of City organics follows. The table below is an example scoring matrix for four proposers with example scores with a maximum score of 100 points. The green highlight in the table represents the highest rank proposer.

Example: Proposal Points for Percentages of City Organics

	30%	50%	70%	100%
Proposer A	85	83	82	
Proposer B	92	88	87	91
Proposer C	71	78		
Proposer D	84	84	85	88

In this example:

- If the City elected to award one contract, it would begin negotiations with Proposer B.
- If the City elected to award two contracts with a 30%/70% split it would begin negotiations with Proposer B for 70% and Proposer A for 30%.
- If the City elected to award two contracts with a 50%/50% split it would begin negotiations with Proposer B and Proposer D.

The City may negotiate elements of the proposal as required to best meet the needs of the City, with the apparent successful Proposer. The City may negotiate any aspect of the proposal or the solicitation.

10.3 Clarification

Throughout the evaluation process, the City reserves the right to seek clarifications from any Proposer at any time. The City may also, in its sole discretion, verify any information received, including any references, and, for that purpose, Proposer shall be deemed to consent to and authorize the release of such information to the City.

10.4 Reference Verification

The City may contact references provided by Proposers in their Proposal to collect input on any area relevant to the RFP, including but not limited to management experience, operational and technical skills and capabilities, relationships with local governments, community groups and regulatory agencies and ability to meet schedules.

The City also reserves the right to contact references not provided by the Proposer of which it may be aware of as having dealings with the Proponents that may be relevant to selection for the Project, including but not limited to host municipalities, controlling regulatory agencies, and other independent sources to discuss issues relevant to the RFP.

The City is under no obligation to check references provided by the Proposers.

The City may reject any Proposal if it considers that, within its sole and absolute discretion, the references verified are unsatisfactory.

10.5 Visits to Proposer Facilities

The City may visit, at its expense, any facility (primary, backup) identified by Proposers in their submittal. By identifying any facility in its Proposal, a Proponent will be deemed to consent, within three business days notice of a request, to having the City tour such facility(ies) to review and/or to discuss any issue the City may consider relevant, including communicating with facility owners, facility operators, local governments, regulatory agencies, and/or neighbors to the facility.

11. 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 with the contact person provided in the RFP. 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 manager and key personnel that will have direct involvement with the Proposer's operations and hear about their relevant experience and expertise. The City does not intend to meet with company officials unless they are to be directly involved with the facility's operation(s).

The relative weight of each part of the interview is indicated in the table below.

Criteria	Max Points
Presentation by finalist	40
Interview / Questions and Answers	60
Total	100

12. ACCEPTANCE / REJECTION OF SUBMITTALS

Respondents are advised that the City reserves the right to cancel award of this 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 submitting a Submittal, Respondents agree that the City is not liable 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.

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

- To waive any or all informalities
- To award one or more contracts
- To not award a contract
- To issue subsequent solicitation

13. ACCEPTANCE OF SUBMITTAL CONTENTS

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

14. CONTRACT OBLIGATION

The selected Respondent(s) will be expected to execute a contract with the City. As part of the negotiation process, Respondents may propose changes to the contract, but the City, at its sole option, will decide whether to open discussion on each proposed change and determine the final contract to be used. At a minimum, any contract will incorporate the terms and conditions contained herein. A draft of the Service Contract is included in Appendix B.

15. STANDARD TERMS AND CONDITIONS

City of Tacoma Standard Terms and Conditions apply. A copy of the City's Standard Terms and Conditions can be found in Appendix B.

16. INSURANCE REQUIREMENTS

Successful proposer will provide proof and maintain the insurance coverage in the amounts and in the manner specified in the City of Tacoma Insurance Requirements document applicable to the services, products, and deliverables provided under the RFP. The City may accept lower limits for an Umbrella Liability Insurance based upon the amount of the actual contract awarded. The City of Tacoma Insurance Requirements document is fully incorporated into the RFP by reference and is included in Appendix C.

17. PAID LEAVE

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

18. PERFORMANCE BOND

A performance bond, including power of attorney, for this project is required in the amount of 5 percent of the Contract total. See sample in Appendix B.

1. The City's performance bond form must be used.
2. The performance bond must be executed by a surety company licensed to do business in the state of Washington.
3. The cost of a performance bond must be included in submittal prices. Bonds will not be paid as a separate line item.
4. For a supply-type contract, a certified cashier's check or cash may be substituted for the bond; however, this cash or check must remain with the City through the guarantee period and any interest on said amount shall accrue to the City.

The initial five-year term of this Contract shall be divided into five separate one-year phases. The total Contract value shall be pro-rated according to one-year phases. Prior to start of work, the Contractor shall furnish a performance bonds for 5 percent of the value of the first year of the Contract. On or before the start of the second through fifth year, the Contractor shall furnish a performance bond securing 5 percent of the value assigned to that year's phase of the Contract. Said payment and performance bonds shall be for the purpose of ensuring the Contractor's full and faithful performance of its obligations under this Contract during each annual phase and payment of all labor, material suppliers, labor benefits, and related taxes.

As discussed above, extensions may be considered upon mutual agreement of both parties under the existing Service Contract terms with adjustments in costs based on CPI as noted elsewhere. In the event that the Contract is extended, the Contractor will be required to execute a Contract amendment and shall furnish a performance bond securing 5 percent of the value assigned to each year extended.

19. PARTNERSHIPS

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

and the Prime Respondent. The City reserves the right to select more than one Prime Respondent.

20. COMMITMENT OF FIRM KEY PERSONNEL

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

21. AWARD

After the Respondent(s) is selected by the SAC and prior to award, all other Respondents will be notified via email by the Purchasing Division.

Once a finalist (or finalists) has been selected by the Selection Advisory Committee, contract negotiations with that finalist or finalists will begin, and if a contract is successfully negotiated, it will, if required, be submitted for final approval by the City Council.

22. 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

23. 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](#).

24. 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.

Information that is confidential or proprietary must be clearly marked. Further, an index must be provided indicating the affected page number(s) and location(s) of all such identified material. Information not included in said index will not be reviewed for confidentiality or as proprietary before release.

25. ADDENDUMS

In the event it becomes necessary to revise any part of this RFP, an addendum will be issued through the event in Ariba. Failure to acknowledge addendum(s) on the required Signature Page may result in a submittal being deemed non-responsive by the City.

Appendix A – Submittal Forms

Price Proposal Form – available at City Procurement website (PDF Version include here)

Signature Page

Tacoma Organics Processing Service Contract, ES21-0615F
Proposal Cost Calculator - Input Sheet

Instructions

The information in the QuantityProjections sheet are used only for the purposes of proposal evaluation, are not a forecast of available quantities, and represent no material guarantee.
The cost shown in row 6 in the Calculations and PV Cost Sheet is the cost that will be used for various percentages of City organics as the basis for assigning points to cost in the evaluation of proposals.
The sheets in this file are password protected. Enter information only in the Input sheet as instructed.
Enter information into the blue cells as instructed below.

Enter your Cost Escalation Factor (Z) in percent ^a

Enter the one-way distance (miles) from the Tacoma Recovery and Transfer Center to your primary facility

Use the drop-down to enter Yes if City trucks will need to pay a toll on the Tacoma Narrows Bridge to access your primary facility. Enter No if they will not.

Enter 30, 50, 70, or 100 to represent the maximum percentage of City organics you commit to accepting

one-way miles (rounded to nearest one-tenth mile)

In cells B18-B21, enter your price for the maximum percentage of City organics you are interested in receiving, and for all lower percentages. In other words, if you commit to accepting 100 percent, you must also provide per-ton prices for 70, 50, and 30 percent. For any percentage greater than the maximum percentage you are interested in receiving, leave that cell(s) blank. More specifically:

If the maximum amount of organics you are proposing on is 30%, enter your price per ton in cell B18 and leave cells B19-B21 blank. **DO NOT ENTER \$0 in those cells.**

If the maximum amount of organics you are proposing on is 50%, enter your prices per ton in cells B18 and B19 and leave cells B20 and B21 blank. **DO NOT ENTER \$0 in those cells.**

If the maximum amount of organics you are proposing on is 70%, enter your prices per ton in cells B18-B20 and leave cell B21 blank. **DO NOT ENTER \$0 in that cell.**

If the maximum amount of organics you are proposing on is 100%, enter your prices per ton in cell B18-B21.

Enter your price for 30% of Tacoma organics (which applies to 20%-39.9% during operations)

Enter your price for 50% of Tacoma organics (which applies to 40%-59.9% during operations)

Enter your price for 70% of Tacoma organics (which applies to 60%-79.9% during operations)

Enter your price for 100% of Tacoma organics (which applies to >80% during operations)

	per ton
	per ton
	per ton
	per ton

Price1

Price2

Price3

Price4

^a This is a factor multiplied by the annual increase in the Consumer Price Index (CPI) that determines the annual escalation of per-ton prices. For example, if the CPI increases by 2.0 percent one year and you propose a Cost Escalation Factor (Z) of 60 percent, then per-ton prices will increase for the next year by 1.2 percent (2.0 percent x 60 percent).

Tacoma Organics Processing Service Contract, ES21-0615F
Quantity Projections

Year	Approx- imate Contract Year	Annual Tons	30%	50%	70%	100%
2021		32,060				
2022		32,060				
2023	1	32,060	9,620	16,030	22,440	32,060
2024	2	32,060	9,620	16,030	22,440	32,060
2025	3	32,060	9,620	16,030	22,440	32,060
2026	4	32,060	9,620	16,030	22,440	32,060
2027	5	32,060	9,620	16,030	22,440	32,060

Tacoma Organics Processing Service Contract, ES21-0615F
Proposal Cost by Percentage of City Organics

PV of Escalated Annual Cost	Proposal Cost Used in Evaluation, for select percentages of City organics			
	30%	50%	70%	100%
	\$46,202	\$76,988	\$107,773	\$153,975

Note: Prior to inputting your costs, the costs shown reflect assumed unloading time only.

Assumptions

Annual Inflation	2.5% Inf
Discount Rate (nominal)	5.0% Disc
Trailer Payload (tons)	22.0 Payload
City Transportation Cost Parameters	
Fuel, maintenance, depreciation (per two-way mile)	\$4.37 Tcostmile
Burdened labor (per hour)	\$61.50 Tcosthr
City estimate, round trip travel time to your facility (hours) ¹	0 Ttime
Assumed unload time (hours)	0.42 Utime
Toll cost per trip (one-way, no cost for return)	\$15.75
Tolls (if applicable)	\$0.00 Toll

¹ Will be estimated by the City using fastest route plus 10 percent (%) reported by Google maps averaged from 9 estimates taken during 8-9 am, 11am-12 pm, and 4-5 pm on the first Tuesday, Wednesday, and Thursday after the RFP submittal deadline.

Calculations

Year	Tons (mid-point of price range)			
	30%	50%	70%	100%
2022	n.a.	n.a.	n.a.	n.a.
2023	9,620	16,030	22,440	32,060
2024	9,620	16,030	22,440	32,060
2025	9,620	16,030	22,440	32,060
2026	9,620	16,030	22,440	32,060
2027	9,620	16,030	22,440	32,060

Year	Trips to Facility (mid-point of price range)			
	30%	50%	70%	100%
2022	n.a.	n.a.	n.a.	n.a.
2023	437	729	1,020	1,457
2024	437	729	1,020	1,457
2025	437	729	1,020	1,457
2026	437	729	1,020	1,457
2027	437	729	1,020	1,457

Year	Annual Transportation Cost (no inflation)			
	30%	50%	70%	100%
2022	n.a.	n.a.	n.a.	n.a.
2023	\$11,205	\$18,671	\$26,138	\$37,343
2024	\$11,205	\$18,671	\$26,138	\$37,343
2025	\$11,205	\$18,671	\$26,138	\$37,343
2026	\$11,205	\$18,671	\$26,138	\$37,343
2027	\$11,205	\$18,671	\$26,138	\$37,343

Year	Annual Processing Cost (no inflation)			
	30%	50%	70%	100%
2022	n.a.	n.a.	n.a.	n.a.
2023	\$0	\$0	\$0	\$0
2024	\$0	\$0	\$0	\$0
2025	\$0	\$0	\$0	\$0
2026	\$0	\$0	\$0	\$0
2027	\$0	\$0	\$0	\$0

Year	Escalated Annual Total Cost			
	30%	50%	70%	100%
2022	\$0	\$0	\$0	\$0
2023	\$11,205	\$18,671	\$26,138	\$37,343
2024	\$11,205	\$18,671	\$26,138	\$37,343
2025	\$11,205	\$18,671	\$26,138	\$37,343
2026	\$11,205	\$18,671	\$26,138	\$37,343
2027	\$11,205	\$18,671	\$26,138	\$37,343

Tacoma Organics Processing Service Contract, ES21-0615F

Proposal Cost Calculator - Example method for assigning points to cost proposals for each percentage of City Organics

Example method for assigning points to cost proposals for each percentage of City Organic

RFP points assigned to cost = 40

	Proposal Cost Used in Evaluation	Percent Above Low Cost Proposal	Points Assigned to Cost
Proposer A	\$100	0%	40
Proposer B	\$110	10%	36

SIGNATURE PAGE

CITY OF TACOMA ENVIRONMENTAL SERVICES/SOLID WASTE MANAGEMENT

All submittals must be in ink or typewritten, executed by a duly authorized officer or representative of the bidding/proposing entity, and received and time stamped as directed in the **Request for Proposal 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 PROPOSAL SPECIFICATION NO. ES21-0615F Organics Processing Service Contract

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

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

Non-Collusion Declaration

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

Bidder/Proposer's Registered Name

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

Address

Printed Name and Title

City, State, Zip

(Area Code) Telephone Number / Fax Number

E-Mail Address

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

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

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

E-Mail Address for Communications

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

THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITTAL.

Appendix B - Sample Documents

Service Contract and Exhibit A Scope of Work

Performance Bond

Standard Terms and Conditions

SERVICES CONTRACT

THIS CONTRACT, made and entered into effective as **TBD** ("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"). CITY and CONTRACTOR may be referred to individual as a "Party" or collectively as the "Parties";

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

1. Order of Precedence

The Parties agree that the terms and conditions stated in Exhibits A & B attached hereto shall also apply and be incorporated herein ("Contract Documents").

To the extent there is any discrepancy or conflict between and/or amongst the terms of this Contract and exhibits, 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 A ("Scope of Work"), Exhibit B ("CITY of Tacoma Insurance Requirements").

2. Scope of Services/Work

The CONTRACTOR agrees to diligently and completely perform the services and/or deliverables consisting of providing processing of the CITY's Organic Materials as is described in Exhibit A attached hereto and incorporated herein and the terms and conditions of this Contract.

3. Acceptable Organic Materials

The CONTRACTOR must be able to accept and process the following Organic Materials: Yard debris (leaves, grass clippings, sod, pruning's that are 4 inches or less in diameter); All food scraps (including meat, fish, dairy, and both pre-consumer and post-consumer produce); Food-soiled paper (including soiled paper plates, cardboard, towels, and napkins); Non-contaminated leaves and organic material from street sweeping in fall; limbs and stumps less than 3 feet in diameter; pallets and wood boxes.

4. Unacceptable Materials

Unacceptable materials are metals of any kind including foil, cans, and lids; treated or painted wood, plastics, glass, rocks, ceramics, mixed municipal solid waste, biosolids.

All loads containing less than 5% unacceptable material will be the responsibility of the CONTRACTOR. If the CONTRACTOR receives a load(s) with more than 5% unacceptable material, it may notify the CITY. In response, the CITY will investigate the source of the unacceptable material and assess possible mitigation actions such as enhanced education of organic material generators.

In the event the CITY desires to add additional items to the list of acceptable Organic Materials, the parties agree to establish mutually acceptable approach to include such items.

5. Material Exclusions

The CITY may exclude woody or bulky material for use by the CITY as the CITY chooses.

6. End Products

Composting system shall be capable of composting the recyclables to Grade AA specifications. The CONTRACTOR is responsible for transporting and marketing all end products. Marketing of the product is at the CONTRACTOR's risk, expense and profit (or loss). The CONTRACTOR is responsible for marketing of any electrical energy or fuel produced from anaerobic digestion technologies.

7. Percentage of CITY Organic Materials

Each month, the CITY will provide to the CONTRACTOR % of CITY Organic Materials available for processing plus or minus 10 percentage points. The CITY may, at its sole discretion, reduce the percentage provided to the CONTRACTOR. The CITY may request that it increase the percentage provided to the CONTRACTOR (but the CONTRACTOR is under no obligation to process a higher percentage). The CITY will provide CONTRACTOR with six month notice of any reduction or proposed increase in the percentage of Organic Materials provided to the CONTRACTOR.

8. 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.

9. Term

All services shall be satisfactorily completed on or before November 30, 2027 and this Contract shall expire on said date ("Term") unless mutually extended by a written and executed Amendment to this Contract.

This Contract may be extended with the CITY retaining sole options for two additional 5-year renewal periods, ending 2032 and 2037, respectively. The CITY will provide the CONTRACTOR of its intent to renew approximately two years prior to the date any such renewal would commence, and the Contract terms (including any price escalation formula specified herein) will remain in effect during the renewal(s).

10. Testing Requirements

CITY may require periodic reports and test results of the finished compost product. Sampling and testing results required by permitting authorities will be provided to the CITY within 10 business days of submittal to the permitting authority, with the understanding that the process meets all compost requirements of city, county, state, and federal governments.

11. Reporting Requirements

Reporting to the CITY as follows:

The CONTRACTOR shall submit monthly reports to the CITY. These reports shall be due with the monthly invoice submitted at the end of each calendar month. Each report shall include the following information:

1. Summary of tonnages of all received material by source and type.
2. Itemization of each delivery to the Facility identifying the trailer and truck number, the "pink ticket" number, the weight ticket number and the weight of each load.
3. Unacceptable material that are sent to disposal or not processed into a marketable product (e.g. daily cover), by weight.

The CONTRACTOR shall submit quarterly reports to the CITY to the CITY. These reports shall be due with the monthly invoice at the end of each quarter in months April, July, October and January (for previous year). Each report shall include the following information:

1. Summary of monthly data for quarter and contract year to date.
2. Summary of end products sold.

12. Backup Locations

If the CONTRACTOR is temporarily unable to comply with Health Department regulations, or other applicable federal, state or local regulations and/or codes, and/or Agreement stipulations, the CONTRACTOR shall arrange for composting of collected organics at a facility that is in compliance with all such regulations and/or Agreement stipulations at no additional cost to the CITY. CONTRACTOR's inability to satisfy, or otherwise comply with any applicable federal, state or local regulations and/or codes, and/or Agreement stipulations on a prolonged basis (45 days) shall be grounds for termination of the Agreement.

CONTRACTOR must ensure that contingency capacity arrangements are in place in case of capacity limitations.

If the CITY is required to transport organics to a backup location at a cost that is higher than transporting Organic Materials to the primary facility, the CITY will reduce the payment to the CONTRACTOR by that added cost. The CITY's transportation cost for organics will be based on the following cost parameters:

Fuel, maintenance, depreciation	\$4.37 per two-way mile
Burdened labor (two-way transportation and unloading)	\$61.50 per hour
Toll cost per trip, if applicable (one-way, no cost for return)	\$15.75
Escalation factor (current quarter CPI \ Q4 2021 CPI)	

The travel time per trip (in hours) will be calculated as the weekly average for all loads transported during the second week of service to the backup facility.

13. 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.

14. Compensation

The CITY shall compensate the CONTRACTOR at a rate of \$X/ton of Organic Materials processed subject to the terms and conditions stated in the Contract.

15. Rate Adjustment

Commencing on the first anniversary of the effective date of the Agreement and annually on each anniversary of the effective date thereafter (each an "Adjustment Date"), the CONTRACTOR will receive an adjustment to the then-current per-ton rate multiplied by ___ percent (___%) of the annual percent change in the Consumer Price Index for All Urban Consumers (CPI-U), Seattle-Tacoma-Bremerton, WA, 1982-84=100, published by the United States Department of Labor, Bureau of Labor Statistics ("BLS"), or successor indices and the previous year's CPI.

16. 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 MAXIMUM TOTAL AMOUNT OF AUTHORIZED COMPENSATION] 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.

17. Payment

CONTRACTOR shall submit monthly 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.

18. 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 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.

19. 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.

20. 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 and the terms of the Contract. 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.

21. 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.

22. Contract Administration

Lewis Griffith, Division Manager, Environmental Services Department 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.

23. 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.

24. Right to Audit

Upon CITY's request, CONTRACTOR shall make available to CITY all accounts, records and documents related to the performance of this Contract for CITY's inspection, auditing or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance and quality assurance under this Contract or in satisfaction of CITY's public disclosure obligation, as applicable.

25. 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 6 years after receipt of the final payment under this Contract or termination of this Contract.

26. 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: Lewis Griffith, P.E.	Name: TBD
Title: Division Manager	Title:
Address: 3510 South Mullen Street, Tacoma WA 98409	Address:
Telephone No.: 253-573-2420	Telephone No.:
E-mail: lgriffit@CITYoftacoma.org	E-mail:

27. Taxes

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.

28. 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.

29. 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 ("Exhibit B") is attached hereto and fully incorporated herein.

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.

* The CITY may accept lower limits of Excess or Umbrella Liability Insurance than stated in the Insurance Requirements Document, dependent on the actual amount of the contract.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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).

35. 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.

36. Performance Bonds

Prior to start of work, the CONTRACTOR shall furnish a performance bond for 5 percent of the value of the first year of the Contract. On or before the start of the second through fifth year, the CONTRACTOR shall furnish a performance bond securing 5 percent of the value assigned to that year's phase of the Contract. Said payment and performance bonds shall be for the purpose of ensuring the CONTRACTOR's full and faithful performance of its obligations under this Contract during each annual phase and payment of all labor, material suppliers, labor benefits, and related taxes.

In the event that the Contract is extended, the CONTRACTOR will be required to execute a Contract amendment and shall furnish a performance bond securing 5 percent of the value assigned to each year extended.

The CONTRACTOR shall be named as Principal and the CITY of Tacoma shall be named as Obligee. The Bond must be in place prior to the beginning of processing under this Contract. The Bond shall be conditioned upon full performance of all obligations imposed upon the CONTRACTOR in this Contract.

The Bond shall be subject to approval by the City Attorney as to the company, form, and sufficiency of surety. If the instrument is found by the City Attorney to be flawed, the CONTRACTOR must correct the flaw promptly prior to contract execution or the award may be terminated.

The Bond must be executed by a company that is included in the U. S. Department of the Treasury's Listing of Approved Sureties (Circular 570), is included on the Washington State Insurance Commissioner's Authorized Insurance Company List, and is acceptable to the CITY. The Bond shall be in full force effect and shall be the obligation

of the surety unless the CONTRACTOR shall faithfully perform all of the provisions of this Contract and pay all laborers, mechanics, sub-contractors, material men and all persons who shall supply such CONTRACTOR or sub-contractors with provisions and supplies for the performance of this Contract. The Bond shall contain appropriate recitations that it is issued pursuant to this Section of this Contract, that it shall be construed to meet all requirements specified herein and that any condition or limitation in the Bond which is in conflict with the conditions and requirements of this Section is void.

Failure of the CONTRACTOR to furnish and maintain a Bond required by this Contract shall be considered a material breach of this Contract and grounds for its immediate termination at the option of the CITY.

37. Contract Termination and Suspension

- A. Except in the case of impossibility of performance or a curable breach, as set forth in subparagraph C below, either Party may terminate this Agreement upon a material breach of the Agreement by the other Party by giving the breaching Party thirty (30) calendar days' written notice. A Party's decision to terminate this Agreement shall be subject to dispute resolution obligations set forth in Section 43.
 - 1. If the cause of termination is by reason of the breach of this Agreement by the CONTRACTOR and the CITY is not in breach of this Agreement, then termination shall not relieve the CONTRACTOR of liability to the CITY for damages sustained by the CITY and the CITY may withhold any payments to the CONTRACTOR until such time as the exact amount owing the CONTRACTOR is determined.
 - 2. If the cause of termination is not by reason of the breach of this Agreement by the CONTRACTOR or the CITY, the CITY shall be liable only for payment for work performed or furnished prior to the effective date of termination.
- B. The CITY may suspend this Agreement, in its reasonable discretion, upon seven (7) calendar 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 Agreement without delay when the suspension period ends. Provided, however, no such suspension shall continue for longer than fifteen days, unless mutually agreed to by the parties.
- C. Neither party shall be considered to be in breach of this Agreement to the extent that (i) performance is prevented or delayed by any event arising from causes beyond the reasonable control of the affected party that delays or prevents the performance of any obligation under this Agreement, or (ii) the breach can be reasonably cured within fifteen (15) calendar days of notice thereof and the breaching party undertakes in good faith to cure such breach immediately upon notice thereof from the other party.
- D. Any and all notices affecting or relating to this Agreement shall be effective if in writing and delivered or mailed, postage and fees prepaid, either by registered U.S. Mail or a nationally recognized overnight courier service, to the respective party being notified at the address listed with that party's signature on the signature page of this Agreement. The parties' addresses may be changed by the same method of notice.

E. The CITY may terminate this Agreement by written notice to the CONTRACTOR if the CONTRACTOR becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise.

38. 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.

39. 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.

40. Liquidated Damages and Performance Adjustments

Liquidated Damages pursuant to this Section shall be deducted from the monthly payment to the CONTRACTOR. These damages do not apply in the event that a major disaster or emergency causes a disruption in the facility operations or transportation services.

The following acts or omissions are a breach of this Contract that will result in the associated Liquidated damages.

Failure to accept, for more than a 3-hour period during the defined regular open hour described in Exhibit A, acceptable Organic Materials delivered by the CITY at the primary or back-up Receiving or Processing Facility (\$250 per inbound truck per hour).

41. Disposal Prohibition

The CONTRACTOR is prohibited from disposing of acceptable Organic Materials delivered under this Contract as garbage or marketing materials that the CONTRACTOR knows, or has reason to know, will be disposed in a landfill or incinerator or disposed of as garbage. Disposal of acceptable Organic Materials shall be considered a Breach.

42. Major Emergencies or Disasters

The CITY may undergo an emergency or disaster that may require the CONTRACTOR to either increase or decrease quantities from normal deliveries, or that may disrupt the CONTRACTOR's ability to provide normal performance. Such events may include, but are not limited to, a storm, high wind, earthquake, flood, hazardous material release, and

transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above. In such events, the following shall apply.

- A. The CITY shall notify the CONTRACTOR that the CITY is experiencing an emergency or disaster and will request emergency and priority services from the CONTRACTOR.
- B. The CITY may request that the CONTRACTOR provide either increased or decreased quantities from traditional orders or may request CONTRACTOR provide additional products or services.
- C. Upon such notice by the CITY, the CONTRACTOR shall make reasonable efforts to provide the CITY the materials in the quantities requested and within the schedule specified by the CITY, adhering to the conditions in this Section.
- D. The CONTRACTOR shall provide its best and priority efforts to provide the requested goods and/or services to the CITY in as complete and timely manner as possible. Such efforts by the CONTRACTOR are not to be diminished as a result of CONTRACTOR providing service to other customers, except as mandated by State or Federal governments.
- E. If the CONTRACTOR is unable to respond in the time and/or quantities requested by the CITY, the CONTRACTOR shall promptly assist the CITY to the extent practicable, to gain access to alternative materials and/or services. This may include:
 - 1) Coordinating with the distributors or subsidiaries beyond those in the local region to fulfill order requests.
 - 2) Offering the CITY substitutions provided the CONTRACTOR obtains prior approval from the CITY for such substitution.

43. 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.

44. Federal, State, and Local Compliance

The CONTRACTOR, at no expense to the CITY, shall comply with all laws of the United States and Washington, the Charter and ordinances of the CITY of Tacoma; as well as the rules, regulations, orders and directives of their administrative agencies and officers in regards to COVID-19 safety recommendations.

Any violation of the requirements in this section shall be a material breach of contract for which the CONTRACTOR may be subject to damages, sanctions, or other remedies as provided for under this Agreement or under applicable law. In the event CONTRACTOR is in violation of this section, CONTRACTOR may also be subject to debarment from CITY contracting activities.

45. 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.

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:

Signature: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR:

Signature: _____

Name: _____

Title: _____

Date: _____

(CITY of Tacoma use only - blank lines are intentional)

Director of Finance: _____

Deputy/CITY Attorney (approved as to form): _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

EXHIBIT A

Scope of Work

The Scope of Work consists of accepting, processing organics, marketing the finished product and disposing of any residuals.

The organics provided to the Contractor will be collected by the City from three sources including residential curbside collection, self-haul material brought to the City's Recovery and Transfer Center and pre-consumer produce waste collected at businesses.

- Residential curbside organic material includes both food and yard waste. For the food waste portion, the program accepts and encourages all food waste both pre consumer such as kitchen scraps and post-consumer such as table scraps & leftovers. For the yard waste portion, the program accepts grass clippings, leaves, and prunings. Food and yard waste are not segregated: they are collected mixed in the same container. Tree trimming limbs and brush are required to be cut tied and bundled in lengths of no more than three (3) feet. There is no guarantee that all materials will be under three (3) feet in length. Containers are inspected by City collection staff at the time of collection. Plastic bags are not included with organics.
- Self-Haul organic material may include food and yard waste but typically contains a higher percentage of woody material and can include larger materials such as tree limbs. Self-haul materials are inspected for content and acceptability by City staff prior to unloading at the Recovery and Transfer Center (RTC). The City owns and operates a Rotochopper grinder at the facility that is used to grind woody debris as needed. Materials may be delivered to the selected vendor's facility already ground or un-ground, at the City's discretion.
- The City collects pre-consumer waste vegetable produce from commercial food establishments and florists. The amount of pre-consumer produce collection is outlined in the 2015 Waste Characterization Study (NOTE: this study is 6 years old, however the City does not believe there is substantial change). Produce waste is collected weekly, year around. Produce waste collected will be incorporated into the materials prior to delivery. At the City's discretion, there may be an increase during the life of the contract of the collection of produce waste.

The Contractor must be able to accept the following materials: Yard debris (leaves, grass clippings, prunings that are 4 inches or less in diameter); All food scraps (including meat, fish, dairy and both pre-consumer and post-consumer produce); Food-soiled paper (including soiled paper plates, cardboard, towels, and napkins); Non-contaminated leaves and organic material from street sweeping in fall.

Organics will be transported to and from the Contractor's processing facility in walking floor transfer trailers. Payloads are anticipated to average approximately 22 tons. Contractor must facilitate the unloading of City trailers with an average turnaround (entering to exiting gate) of 25 minutes or less.

The Contractor's facility and technology for processing organics shall have the capability to receive and process up to X% of City organic material currently collected, or that might be collected and available, during the term of the contract. Current quantities of City organic

materials for the past 9 years were included in the RFP with additional waste characterization data available through the external web links provided.

The processing facility and processing technology must be proven to process organics in a scale equivalent to the amount of material handled by the City and future volumes that might be generated by the City or surrounding communities and must be designed to control the emissions of noxious odors, dust, noise, surface runoff, and leachate.

Contractor shall make arrangements for providing a backup facility that can process City organics in the event that the primary processing facility is unavailable. Any added cost to the City resulting from transporting organics to and from the backup facility, above the cost of transporting to the primary processing facility, shall be deducted to the compensation due the Contractor for organics processing.

The Contractors hours of operations shall be Monday through Saturday from 7 a.m. to 5 p.m.



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 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. Department of the Treasury.

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.

Principal: Enter Vendor Legal Name

By: _____

Surety:

By: _____

Agent's Name: _____

Agent's Address: _____

**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, if applicable, 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 or cancellation of contract award. 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

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. Prompt Payment 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.
 - a. ePayable/Credit Card Acceptance. Submittals offering ePayable/Credit card acceptance may be compared against submittals offering a prompt payment discount to evaluate the overall cumulative effect of the discount against the advantage to the City of the ePayable/Credit card acceptance, and may be considered in determining the apparent lowest responsible submittal.
 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. Termination for Convenience

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

B. Termination for Cause. The City may terminate a Contract for either services or supplies in the event of any material breach of any of the terms and conditions of the Contract if the Supplier's breach continues in effect after written notice of breach and 30 days to cure such breach and fails to cure such breach.

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.

1.29 SCOPE OF SERVICES/CONTRACT MODIFICATION

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

- 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.

1.30 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.

1.31 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 and/or the current prevailing wage determination made by the Secretary of Labor 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 and perform all transactions regarding the Contract relating to prevailing wages and the usual fringe benefits in compliance with the provisions of Chapter 39.12 RCW, as amended, the Washington State Prevailing Wage Act and/or the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable, including the federal requirement to pay wages not less than once a week,
 - 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/or specified in a wage determination made by the Secretary of Labor (unless specifically preempted by federal law, the higher of the Washington state prevailing wage or federal Davis-Bacon rate of wage must be paid)and Additionally, in compliance with applicable federal law, contractors are required to pay wages not less than once a week.
 - 3. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington and/or the federal Department of Labor, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages and/or other or additional documentation required by applicable federal law, 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 and/or other or additional documentation required by federal law must be received or verified by the City prior to final Contract payment.

1.32 COPELAND ANTI-KICKBACK ACT

For contracts subject to Davis Bacon Act the following clauses will be incorporated into the Contract:

1. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

1.33 FEDERAL AID PROJECTS

The City of Tacoma, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR, part 26, will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

1.34 FEDERAL FINANCIAL ASSISTANCE

If federal funds, including FEMA financial assistance to the City of Tacoma, will be used to fund, pay or reimburse all or a portion of the Contract, Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives and the following clauses will be incorporated into the Contract:

- A. **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Contract, Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
1. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 3. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
 4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (B)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (B)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
3. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B)(2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (B)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (B)(1) through (4) of this section.

C. CLEAN AIR ACT

1. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

D. FEDERAL WATER POLLUTION CONTROL ACT

1. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

E. DEBARMENT AND SUSPENSION

1. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

F. BYRD ANTI-LOBBYING AMENDMENT

1. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification with City. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the City.

2. If applicable, Contractor must sign and submit to the City the following certification:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap.38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

G. PROCUREMENT OF RECOVERED MATERIALS

1. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
2. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
3. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

1.35 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, or the result of a tariff.
- 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.

1.36 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.

1.37 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.

1.38 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.

1.39 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.

1.40 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.

1.41 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.

1.42 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.

1.43 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.

1.44 PAYMENT METHOD – EPAYABLES – CREDIT CARD ACCEPTANCE – EFT/ACH ACCEPTANCE

- A. Payment methods include:
 - 1. EPayables (Payment Plus). This is payment made via a virtual, single use VISA card number provided by the City's commercial card provider. Suppliers accepting this option will receive "due immediately" payment terms. Two options for acceptance are available to suppliers. Both are accompanied by an emailed advice containing complete payment details:
 - a. Straight-through processing (buyer initiated). Immediate, exact payments directly deposited to supplier accounts by the City's provider bank; the supplier does not need to know card account details.
 - b. Supplier retrieves card account through the secure, on-line portal provided via email notifications sent by the City's commercial card provider.
 - 2. 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. It provides "due immediately" payment terms.
 - 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.
 - 3. Electronic Funds Transfer (EFT) by Automated Clearing House (ACH). Standard terms are net 30 for this payment method.
 - 4. Check or other cash equivalent. Standard terms are net 30 for this payment method.
- B. The City's preferred method of payment is by ePayables (Payment Plus) followed by credit card (aka procurement card). Suppliers 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.**
- C. The City, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract.

1.45 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.

1.46 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.

1.47 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.

1.48 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.

1.49 INSURANCE

- A. 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.
- B. 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.

1.50 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.

1.51 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.

1.52 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.

1.53 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.

1.54 DISPUTE RESOLUTION

In the event of a dispute pertaining to a 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.

1.55 GOVERNING LAW AND VENUE

- A. 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.
- B. Respondents providing submittals from outside the legal jurisdiction of the United States of America will be subject to Tacoma's City Attorney's Office (CAO) opinion as to the viability of possible litigation pursuant to a contract resulting from this Specification. If it is the opinion of the CAO that any possible litigation would be beyond reasonable cost and/or enforcement, the submittal may be excluded from evaluation.

1.56 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.

1.57 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.

1.58 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.

1.59 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.

1.60 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.

Appendix C - Insurance Requirement

City of Tacoma Insurance Requirements



CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

The Contractor (Contractor) shall maintain at least the minimum insurance set forth below. By requiring such minimum insurance, the City of Tacoma shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Contract. Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

1. GENERAL REQUIREMENTS

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

- 1.1. City of Tacoma reserves the right to approve or reject the insurance provided based upon the insurer, terms and coverage, the Certificate of Insurance, and/or endorsements.
- 1.2. Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by City of Tacoma.
- 1.3. 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.
- 1.4. Insurance policies required under this Contract that name "City of Tacoma" as Additional Insured shall:
 - 1.4.1. Be considered primary and non-contributory for all claims.
 - 1.4.2. Contain a "Separation of Insured provision and a "Waiver of Subrogation" clause in favor of City of Tacoma.
- 1.5. Section 1.4 above does not apply to contracts for purchasing supplies only.
- 1.6. Verification of coverage shall include:
 - 1.6.1. An ACORD certificate or equivalent.
 - 1.6.2. Copies of all endorsements naming the City of Tacoma as additional insured and showing the policy number.
 - 1.6.3. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.
- 1.7. Liability insurance policies, with the exception of Professional Liability and Workers' Compensation, shall name the City of Tacoma and its officers, elected officials, employees, agents, and authorized volunteers as additional insured.
 - 1.7.1. No specific person or department should be identified as the additional insured.
 - 1.7.2. All references on certificates of insurance and endorsements shall be listed as "City of Tacoma".
 - 1.7.3. The City of Tacoma shall be additional insured for both ongoing and completed operations using Insurance Services Office (ISO) form CG 20 10 04 13 and CG 20



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37 04 13 or the equivalent for the full available limits of liability maintained by the Contractor irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract and irrespective of whether the Certificate of Insurance describes limits lower than those maintained by the Contractor.

- 1.8. Contractor shall provide a Certificate of Insurance for each policy of insurance meeting the requirements set forth herein when Contractor provides the signed Contract for the work to City of Tacoma. Contractor shall provide copies of any applicable Additional Insured, Waiver of Subrogation, and Primary and Non-contributory endorsements. Contract or Permit number and the City Department must be shown on the Certificate of Insurance.
- 1.9. Insurance limits shown below may be written with an excess policy that follows the form of an underlying primary liability policy or an excess policy providing the required limit.
- 1.10. Liability insurance policies shall be written on an "occurrence" form, except for Professional Liability/Errors and Omissions, Pollution Liability, and Cyber/Privacy and Security
- 1.11. If coverage is approved and purchased on a "Claims-Made" basis, Contractor warrants continuation of coverage, either through policy renewals or by the purchase of an extended reporting period endorsement as set forth below.
- 1.12. The insurance must be written by companies licensed or authorized in the State of Washington pursuant to RCW 48 with an (A-) VII or higher in the A.M. Best's Key Rating Guide www.ambest.com.
- 1.13. Contractor shall provide City of Tacoma notice of any cancellation or non-renewal of this required insurance within Thirty (30) calendar days.
- 1.14. Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract, otherwise it shall constitute a material breach of the Contract, upon which City of Tacoma may, after giving Five (5) business day notice to 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 City of Tacoma by Contractor upon demand, or at the sole discretion of City of Tacoma, offset against funds due Contractor from City of Tacoma.
- 1.15. 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.
- 1.16. 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



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services has changed.

- 1.17. 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 City of Tacoma to Contractor.
- 1.18. 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).
- 1.19. Failure by City of Tacoma to identify a deficiency in the insurance documentation provided by Contractor or failure of City of Tacoma 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.
- 1.20. If Contractor is a State of Washington or local government and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this Section.

2. CONTRACTOR

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

3. SUBCONTRACTORS

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

4. 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.

4.1 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. The Commercial General Liability Insurance policy shall be written on an Insurance Services Office form CG 00 01 04 13 or its equivalent. Products and Completed Operations shall be maintained for a period of three years following Substantial Completion of the Work related to performing construction services.

This policy shall include product liability especially when a Contract solely is for purchasing supplies. The Commercial General Liability policy shall be endorsed to include:

- 4.1.1 A per project aggregate policy limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

4.2 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



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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 an MCS 90 endorsement or equivalent and a CA 99 48 endorsement or equivalent if "Pollutants" are to be transported.

4.3 Workers' Compensation

4.3.1 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. The Contractor must comply with their domicile State Industrial Insurance laws if it is outside the State of Washington.

4.4 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.

4.5 Professional Liability Insurance or Errors and Omissions

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.

If the policy limit includes the payment of claims or defense costs, from the policy limit, the per claim limit shall be Two Million Dollars (\$2,000,000).

If the scope of such design-related professional services includes work related to pollution conditions, the Professional Liability policy shall include Pollution Liability coverage.

If provided on a "claims-made" basis, such coverage shall be maintained by policy renewals or an extended reporting period endorsement for not less than three years following the end of the Contract.

4.6 Excess or Umbrella Liability Insurance

Contractor shall provide Excess or Umbrella Liability Insurance with limits not less than Ten Million Dollars (\$10,000,000) per occurrence and in the aggregate. This coverage shall apply, at a minimum, in excess of primary underlying Commercial General Liability, Employer's Liability, Pollution Liability, Marine General Liability, Protection and Indemnity, and Automobile Liability if required herein.

4.7 Pollution Liability Insurance

Contractor shall maintain a Pollution Liability or Environmental Liability Insurance providing coverage, including investigation and defense costs, for bodily injury and property damage, including loss of use of damaged property or of property that has been physically damaged or destroyed.

Such coverage shall provide both on-site and off-site cleanup costs and cover gradual and sudden pollution, and include in its scope of coverage the City of Tacoma damage claims for loss arising out of Contractor's work with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate.

This policy shall include Environmental Resource Damage coverage and Hazardous Substance Removal. If such coverage is provided on a "claims-made" basis, the following additional conditions must be met:

4.7.1 The policy must contain no retroactive date, or the retroactive date must precede the commencement date of this Contract.

4.7.2 The extended reporting period (tail) must be purchased to cover a minimum of Six (6)



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years beyond completion of work.

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