



City of Tacoma, WA

**CITY OF TACOMA**

**TACOMA POWER**

**LOW VOLTAGE 216Y/125V  
NETWORK PROTECTORS**

**SPECIFICATION NO. PT20-0275F**



**CITY OF TACOMA**  
**Tacoma Power / Transmission & Distribution**  
**REQUEST FOR BIDS PT20-0275F**  
**Low Voltage, 216Y/125V Network Protectors**

**Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, January 12, 2021**

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

**By Email:**

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

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

**By Carrier:**

City of Tacoma Procurement & Payables Division  
Tacoma Public Utilities  
3628 S 35<sup>th</sup> Street  
Tacoma, WA 98409

**In Person:**

City of Tacoma Procurement & Payables Division  
Tacoma Public Utilities Administration Building North  
Guard House (east side of main building)  
3628 S 35<sup>th</sup> Street  
Tacoma, WA 98409

**By Mail:**

City of Tacoma Procurement & Payables Division  
Tacoma Public Utilities  
PO Box 11007  
Tacoma, WA 98411-0007

**Until further notice, public Bid Opening meetings have been cancelled.**

Submittals in response to a RFB will be recorded as received. As soon as possible on the day of submittal deadline, preliminary results will be posted to [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org).

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

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

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

**Project Scope:** To procure submersible, transformer mounted, three-phase, robotic racked and manual racked, network protectors suitable for installation on the City of Tacoma's 216Y/125 volt, 60 hertz, 4 wire, solidly grounded WYE-WYE system.

**Estimate: \$1,300,000**

**Paid Leave and Minimum Wage:** Effective February 1, 2016, the City of Tacoma requires all employers to provide paid leave and minimum wages, as set forth in Title 18 of the Tacoma Municipal Code. For more information visit [www.cityoftacoma.org/employmentstandards](http://www.cityoftacoma.org/employmentstandards).

**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](mailto:ghimes@cityoftacoma.org), or by calling her collect at 253-591-5785.

**Federal 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 Seth Hartz, Senior Buyer by email to [shartz@cityoftacoma.org](mailto:shartz@cityoftacoma.org)

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



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

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**SUBMITTAL CHECKLIST**

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

**Please do not include the entire specification document with your submittal.**

Submittals must be received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Bids page at the front of this Specification or subsequent addenda. Respondents are encouraged to use recycled/recyclable products and both sides of paper for printed and photocopied materials, wherever possible.

The following items, in this order, make up your submittal package:		
<b>1</b>	<b>One original</b> of your complete submittal package (hard copy or electronic in either Word or PDF format). If submitting a hard copy by mail, a complete electronic copy (flash drive) shall be included. The electronic copy must exactly match the original submittal.	
<b>2</b>	<b>Signature Page</b> with <b><u>ink signature or digital signature</u></b> , including acknowledgement of any addenda.  This form is intended to serve as the first page of your submittal.	
<b>3</b>	<b>Proposal Sheets</b>	
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**SUBMITTAL GENERAL INFORMATION**

**PRE-SUBMITTAL QUESTIONS**

- A. Questions and requests for clarification of these Specifications may be submitted in writing by **3:00 p.m., Pacific Time, December 22, 2020**, via email addressed to the Purchasing contact below. Questions received after this date and time may not be answered.
1. Please indicate the specification number and title in the email subject line.
  2. Present your questions in MS Word format or directly in the body of the email message. If applicable, cross reference the specific section of the RFB.
  3. Questions will not be accepted by telephone or fax.
  4. Questions marked confidential will not be answered.
  5. Individual answers will not be provided directly to Respondents.
  6. The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.
  7. The City will not be responsible for unsuccessful submittal of questions.
- B. Written answers to all questions will be posted on the Purchasing website at [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org) on or about **December 29, 2020**. Navigate to *Contracting Opportunities / Supplies*, and scroll to this RFB. A notice will not be posted with the Specification if no questions are received.
- C. The answers are not typically considered an addendum.
- D. To receive notice of the posted answers, you must register as “bid holder” for this solicitation.

Communication	Addressee
For all questions regarding Specification PT20-0275F	<b>Seth Hartz</b> <b>Senior Buyer</b> <a href="mailto:shartz@cityoftacoma.org">shartz@cityoftacoma.org</a> - email



## Material Specification PT20-0275F Low Voltage, 216Y/125V Network Protectors

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### **REVISIONS TO SPECIFICATION**

- A. All revisions to this specification will be in the form of written addenda, and no oral revision should be relied upon for any purpose. In the event it becomes necessary to revise any part of this RFB, addenda will be issued to registered plan-holders and posted on the Purchasing website at [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org): Navigate to Current Contracting Opportunities / Supplies Solicitations, and scroll to this RFB. Failure to acknowledge addenda may result in a submittal being deemed non-responsive.

### **SUBSTITUTION REQUESTS**

- A. If the Respondent elects to bid alternative equipment, materials, or processes where allowed, a Substitution Request Form must be submitted by email to Seth Hartz, [shartz@cityoftacoma.org](mailto:shartz@cityoftacoma.org), a minimum of ten (10) business days prior to the submittal deadline. Substitution Request Forms received after this time will not be accepted. Respondents will be notified of an approved or rejected Substitution Request Form no later than five (5) business days prior to the submittal deadline. See Section 1.07.4.



## SIGNATURE PAGE

### **CITY OF TACOMA TACOMA POWER**

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 Bids 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 BIDS SPECIFICATION NO. PT20-0275F Low Voltage, 216Y/125V Network Protectors**

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

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

#### **Non-Collusion Declaration**

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

\_\_\_\_\_  
Bidder/Proposer's Registered Name

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
(Area Code) Telephone Number / Fax Number

\_\_\_\_\_  
E-Mail Address

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

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

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

Addendum acknowledgement #1\_\_\_\_\_ #2\_\_\_\_\_ #3\_\_\_\_\_ #4\_\_\_\_\_ #5\_\_\_\_\_

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



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\_\_\_\_\_  
(Vendor name)

**PROPOSAL AND DATA SHEET**

NETWORK PROTECTORS TO INCLUDE IN THE BID PROPOSAL

Item No.	Amps	Secondary Voltage	Approx. Annual Quantity	Delivery Time (Weeks)	Unit Price (\$)	Weight (lb.)	Are Relays included?	Are Fuses included?	Is Phasing 3-2-1?	Total Price (Quantity x Unit Price)
<b>ROBOTICALLY RACKED</b>										
1	2,000	216Y/125	1							
2	3,000	216Y/125	6							
<b>*ALTERNATE ITEMS – MANUALLY RACKED</b>										
A1	2,000	216Y/125	1							
A2	3,000	216Y/125	6							
Subtotal (excluding sales tax)										
Sales Tax @ 10.2% (See Paragraph 1.41 of the Standard Terms and Conditions)										\$
										\$

\* The City reserves the right to award alternate items at its sole discretion. Respondents may bid on one or both racking types.

Prompt Payment discount offered \_\_\_\_\_%, \_\_\_\_\_ days.

Only discounts offered of 20 days or more will be considered for bid evaluation purposes.

**ONLY FIRM PRICES WILL BE ACCEPTED FOR THE FIRST YEAR**

Maximum percentage escalation of unit prices for the second year \_\_\_\_\_%.

Maximum percentage escalation of unit prices for the third year \_\_\_\_\_%.

Maximum percentage escalation of unit prices for the fourth year \_\_\_\_\_%.

Maximum percentage escalation of unit prices for the fifth year \_\_\_\_\_%.



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\_\_\_\_\_  
(Vendor name)

**TECHNICAL DATA SHEET**

NOTES:

1. All bidders must have in place a third party certified quality assurance program
2. **All Price Escalations Shall be a Percentage Increase of the Previous Year's Price.**

**Technical Information**

Short Circuit Withstand Capacity in  
Amp-seconds for Item 1:

\_\_\_\_\_

Short Circuit Withstand Capacity in  
Amp-seconds for Item 2:

\_\_\_\_\_

Fuse Manufacturer:

\_\_\_\_\_

Fuse Type and Size for Item 1:

\_\_\_\_\_

Fuse Type and Size for Item 2:

\_\_\_\_\_

Relay Manufacturer:

\_\_\_\_\_

Relay catalog number for Item 1:

\_\_\_\_\_

Relay catalog number for Item 2:

\_\_\_\_\_

Delivery Time if Expedited Delivery is Used:

\_\_\_\_\_

Price Adder for Expedited Delivery:

\_\_\_\_\_



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\_\_\_\_\_  
(Vendor name)

**QUALITY ASSURANCE DATA SHEET**

Do you have in place a third party certified quality assurance program that conforms to ISO 9001, ISO 9002, or IEEE/ASQC Q91, IEEE/ASQC Q92? Yes \_\_\_\_\_ No \_\_\_\_\_

List the standard that you are using. \_\_\_\_\_



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\_\_\_\_\_  
(Vendor name)

**REFERENCES DATA SHEET**  
**(AS DESCRIBED IN SECTION 1.01.3)**

UTILITY NAME AND ADDRESS	YEAR PROTECTOR SOLD	CONTACT NAME	TELEPHONE NUMBER



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\_\_\_\_\_  
(Vendor name)

**SUB-VENDOR DATA SHEET**  
**(AS DESCRIBED IN SECTION 1.01.4)**

<b>SUB-VENDOR NAME AND ADDRESS</b>	<b>CONTACT NAME</b>	<b>TELEPHONE NUMBER</b>	<b>DESCRIPTION OF WORK PROVIDED</b>



## **I - SPECIAL PROVISIONS**

### **1.01 - SCOPE OF BID**

#### **1.01.1 PURPOSE**

The purpose of this specification is to define the scope of supply for low voltage, network protectors that meet the minimum requirements as to quality, function, and capacity as outlined in Section 2 - Technical Provisions, which follow.

#### **1.01.2 DEFINITIONS**

For the purposes of this specification, the following definitions shall apply:

<b>Term</b>	<b>Definition</b>
<b>BIDDER</b>	A potential vendor offering a proposal to supply equipment in accordance with this specification
<b>SPECIFICATION</b>	This document, detailing the scope of supply
<b>VENDOR</b>	A successful bidder supplying equipment and/or services under this specification
<b>SUB-VENDOR</b>	Any supplier of parts, materials, and/or services to the vendor under this specification
<b>EQUIPMENT/ MATERIAL</b>	A fully functional piece of equipment/material supplied and tested in accordance with this specification
<b>MANUFACTURER</b>	The original manufacturer of the equipment/material
<b>ENGINEER</b>	The project engineer and/or contract administrator
<b>CITY</b>	The City of Tacoma, Tacoma Power
<b>DELIVERY TIME</b>	The length of time starting at the date of vendor receipt a Purchase Order, Purchase Order Release, or Notice to Proceed and ending at the time that the item(s) are received at Tacoma Power
<b>EXPEDITED DELIVERY</b>	The length of time starting at the date of vendor receipt a Purchase Order, Purchase Order Release, or Notice to Proceed and ending at the time that the item(s) are received at Tacoma Power that can be obtained if the City pays a vendor identified price adder

#### **1.01.3 – QUALIFICATIONS**

##### **1.01.3A - References**

Each bidder shall complete the Reference Data Sheet as required in the proposal section.

##### **1.01.3B – Minimum Experience**

Only bidders experienced in this type of work and with a record of successful completion of jobs of similar scope and complexity over a period of **FIVE (5) YEARS**, or more, will be considered.



1.01.3C – Minimum Number of References

A minimum of **five** (5) different users, who are located in the United States, shall be listed.

1.01.3D – City's Authority

The City shall be the sole judge of the Bidder's ability to meet the requirements of this section.

1.01.4 – SUB-VENDORS

The Bidder shall list, on the form provided in the proposal section, all sub-vendors it intends to use to fulfill any part of this specification. Included in the listing shall be the sub-vendor's name, address, and telephone number; contact name; and description of work they are to perform. It shall be the responsibility of the Vendor to police, enforce, and ensure that all work performed by any sub-vendor shall be in accordance with this specification.

1.01.5 - FACTORY TESTING

If the Engineer deems it necessary, the City shall be permitted to have an authorized representative(s) present to witness factory testing of the completely assembled material/equipment. The vendor shall notify the Engineer of the scheduling of these events at least four weeks in advance of test date. E-mailed notification of these test dates is required.

1.01.5A - Factory Assistance

The manufacturer shall have engineering, manufacturing, quality control, and operational factory personnel available that speak technical and conversational English without the need of an interpreter.

**1.02 - PREBID CONFERENCE**

A pre-bid conference shall not be required for the acquisition of the material contained in this specification.

**1.03 - CONTRACT PERIOD**

1.03.1 – CONTRACT PERIOD

The contract period shall be for a term of one (1) year from the date of the award of the contract.



1.03.3 – CONTRACT RENEWALS

At the option of the City, the contract may be renewed for up to four (4) additional one (1) year periods, subject to following pricing clause, Section 1.04.

1.03.3A – Pricing Review

Prior to renewal (or extension) of the contract, a review of the prices and delivery terms and track record shall be required. (Refer to Section 1.04.3 of this document).

#### 1.03.4 – INTENT FOR CONTRACT RENEWALS

Subject to the mutual consent of the parties, it is the City's present intent to maintain this contract for the full five (5) years, but this shall not be deemed to create any obligation by the City.

#### 1.03.5 – CONTRACT CANCELLATION

The City reserves the right to cancel the contract for any reason with thirty (30) days written notice.

### **1.04 – PRICING**

#### 1.04.1 – CONTRACT QUANTITY REVISIONS

The City reserves the right to increase or decrease quantities under this contract and pay according to the unit prices quoted in the proposal. (See Section 1.35 of the Standard Terms and Conditions).

#### 1.04.2 – FIRM PRICE PERIOD

The initial price provided by the supplier shall be firm for ninety (90) days from the day the bids are opened. (See Section 1.35 of the Standard Terms and Conditions).

#### 1.04.3 – PRICE ESCALATION / DE-ESCALATION

##### 1.04.3.A – Description

Price increases and/or decreases will be allowed on a per item basis for each renewed contract period, as described in Section 1.03.2 of this document, providing the prices are firm for the entire length of the renewal period.

##### 1.04.3B – Vendor's Responsibilities for Price Revisions

Vendor will be required to submit all proposed price increases/decreases upon request or thirty (30) days prior to contract renewal.

##### 1.04.3C – Required Documentation

Any proposed increase/decrease in price to contract items must be beyond control of vendor and supported by written documentation from the manufacturer and/or wholesale distributor, indicating new higher/lower price in effect and/or for raw materials used in the manufacturing of the equipment/material.

##### 1.04.3D – Limitation on Price Revisions

Prices will be adjusted only by the percentage of increase or decrease in the vendor's costs as described in 1.04.3C above.

##### 1.04.3E – City's Response to Price Revisions

The City reserves the right to accept or reject all such increases/decreases.

##### 1.04.3F – Price Discounts

The City is entitled to any promotional pricing during contract period that is lower than the City's standard pricing as provided in bid. This promotional pricing shall include, but not be limited to, sale prices, price lowering, and/or lump sum rebates.

### **1.05 - PERFORMANCE BOND/BID BOND**

The Performance and Bid Bonds have been waived for this contract.

### **1.06 - FILLING IN PROPOSAL FORMS**

#### **1.06.1 – COMPLETION OF BID FORMS**

The bidder will submit their proposal on the forms furnished in the proposal section of the bid package. All blank spaces in the proposal section shall be properly filled in, printed in ink, or typewritten. The forms shall be signed by the responsible company official and include printed or typewritten designation of the office they hold in the company. The complete address of the bidder will be typed or printed on the proposal in the spaces provided.

#### **1.06.2 – ENGLISH LANGUAGE REQUIREMENTS**

##### **1.06.2A – Written Documents**

All drawings, correspondence, catalogs, submittals, nameplates, etc., shall be in the English language as used in the U.S. Dimensions and tolerances shall conform to IEEE Y14.5M and shall be in the U.S. customary units. If units are fabricated utilizing SI units (metric system), both units shall be shown on the drawings, nameplate, etc. U.S. units shall be shown above the SI units. Conversion tolerances shall have a maximum tolerance of 1/32-inch (2.70 mm) and/or one ounce (28.4 grams).

##### **1.06.2B – Factory Assistance at Tacoma Power**

The manufacturer's engineering, construction, and/or operational field personnel, if required on the City's premises during installation, training, and/or testing, shall speak technical and conversational English without the need of an interpreter.

### **1.07 - BIDDER'S PROPOSAL**

#### **1.07.1 – BID PACKAGE**

Submittals must be emailed or sealed in an envelope or package labeled with the Specification number, Specification title, and Respondent name and address, and received by the City of Tacoma Purchasing Division by the date and time specified in the "Request for Bids" page or subsequent addenda.

The bid package submitted must be returned with the Respondent's proposal filled in as directed, including all data requested by the provisions of these Specifications. All blank spaces on the proposal forms will be properly populated.

##### **1.07.1A - Signature Page**

The "Signature Page" included with the original submittal shall be **signed** by the responsible company official and include printed or typewritten designation of the office they hold in the company.

#### 1.07.2 – COPIES

If submitting a hard copy, in addition to the completed original bid documents, **all Respondents are required to provide one (1) electronic copy (flash drive) of the complete submittal package.** The electronic copy shall exactly match the original hard copy.

#### 1.07.3 – COST OF COMPLIANCE

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 and be subject to these Specifications in full.

#### 1.07.4 – ALTERNATE BIDS

Each submittal, including alternates, shall contain an original Signature Page and information completed as requested by these Specifications.

##### 1.07.4A - Alternate Bid Proposals

Alternate bid proposals must be submitted as a separate Bid Package and identified as an **“ALTERNATE”**.

##### 1.07.4B - Alternate Materials

If the Respondent elects to bid alternative equipment, materials, or processes where allowed, a Substitution Request Form must be submitted by email to Seth Hartz, <mailto:shartz@cityoftacoma.org> a minimum of **ten (10) business days** prior to the submittal deadline. Respondents will be notified of an approved or rejected Substitution Request Form no later than **five (5) business days prior to the submittal deadline.**

An approved Substitution Request Form shall not indicate acceptance of the alternate by the City. Complete data must be submitted with the bid, including the information as requested in Section 1.11 “Approved Equal”. The data shall demonstrate that the alternative item is of a quality equal to or better than that specified and has the required characteristics for the intended use. Failure to submit such data will render the bid **non-responsive**.

##### 1.07.4C - Alternate Evaluation

Upon request, the Respondent shall furnish to the City, within five (5) working days, additional information relating to such alternative items as the City may require. The City shall be the sole judge as to the equality and suitability of a proposed alternate. The decision of the City as to what items are equal shall be final and conclusive per City of Tacoma Standard Terms and Conditions Section 1.36.

#### 1.07.5 - DATA SHEET REQUIREMENTS

All items requested on the General Data Sheet shall be included with the bidder’s proposal.

### **1.08 - ITEMS TO BE INCLUDED WITH BID**

#### 1.08.1 – MAJOR COMPONENTS

All major components of the requested equipment must be manufactured or distributed by the original equipment manufacturer and be advertised on a factory brochure as a standard or optional component.

#### 1.08.2 – FACTORY BROCHURE

The bidder is to include the factory brochure with the bid.

##### 1.08.2A – Factory Minimums

Features and minimums listed on this brochure as factory-required minimums, for the size of the unit bid, must be included in the bid so that the piece of equipment being offered by the vendor not only meets these specifications, but also includes factory-listed requirements for its particular size.

#### 1.08.3 – FACTORY REQUIRED MINIMUM SPECIFICATIONS

Equipment with features and/or sizes below factory stated minimums will not be accepted.

#### 1.08.4 – OPERATIONS MANUAL

A complete electronic copy of the operations manual shall be included for each unit type within the bid. This manual shall provide a complete description of the operation and installation of the equipment.

#### 1.08.5 – MAINTENANCE MANUAL

A complete electronic copy of the maintenance manual shall be included for each unit type within the bid. This manual shall provide a complete description of all the utility required maintenance and the appropriate maintenance intervals.

#### 1.08.6 – RELAY OPERATION, MAINTENANCE, AND APPLICATION GUIDE

A complete electronic copy of the relay manuals shall be included with the bid. These manuals shall provide a comprehensive description of the application, installation, setting, testing, and operation of the relays.

##### 1.08.6A - Programming Guides

Microprocessor based relays frequently allow programming of the relay and/or downloading of data from the relay. An electronic copy of the programming guides shall be provided with the bid.

##### 1.08.6B – Relay Test Equipment

If specialized relay test equipment is required from the manufacturer, then a complete an electronic copy shall be supplied with the bid. This shall include descriptive literature concerning the operation, calibration, use, and testing of the equipment.

#### 1.08.7 – NETWORK PROTECTOR FUSE

A complete descriptive electronic copy of the proposed fuses performance documents shall be included with the bid. This brochure shall provide a complete description of the operation and installation of the equipment. In addition, electronic data sheets for time-current curves, shall be supplied.

#### 1.08.8 – DESIGN TESTS

An example of a certified copy of the Design Tests specified in Sections 5 & 6 of IEEE C57.12.44.2014 shall be provided for each bid item type.

**1.08.8A – Tests Required**

One (1) electronic copy of the test criteria for the following tests shall be provided:

- Continuous Current Thermal Test
- Interrupting Rating Test
- Short-Time Current Test
- Fault Close Test
- Fuse Interruption Test
- Mechanical Endurance Test

**1.08.9 – OUTLINE DRAWING**

A fully dimensioned, clear and legible, electronic data copy of the proposed protector outline drawing shall be submitted for each bid item.

**1.08.9A – Required Dimensions**

Provide an electronic drawing for each bid item that shows all applicable dimensions in US standard units as specified in 1.06.2A of this document.

**1.08.9B - Required Views**

The drawings must show the proposed material/equipment in the following views:

- Top view
- Left side view
- Right side view
- Front view with door open
- Front view with door closed
- View showing connection provisions to the transformer

**1.08.10 – NAMEPLATE DRAWING**

Submit a clear electronic copy of example nameplate drawings for each bid line item. The drawing shall show all of the requirements as listed in Section 2.07.1 of this document.

**1.08.11 – SCHEMATIC WIRING DIAGRAMS**

Submit a clear electronic copy of each bid line item's schematic wiring diagram.

**1.08.12 – PAINTING SYSTEM**

Provide a complete written description of the proposed painting system to meet the technical specifications of this document.

**1.08.12A – Certified coating Test Reports**

Provide example of certified test reports demonstrating the supplier's compliance with IEEE C57.12.32.2002 for this bid's submersible equipment.

**1.09 - SAFETY AND STANDARDS**

#### 1.09.1 - GENERAL

All of the material/equipment, supplied under this contract, shall meet the appropriate IEEE, OSHA, WISHA, and all federal, state, and local standards for the type of equipment provided for its intended use.

#### 1.09.2 - STANDARDS

All of the material/equipment, supplied under this contract, shall meet the most recent editions of the standards in the following table and all other standards that are applicable to material/equipment of this nature:

<b>Standard Number</b>	<b>Standard Title</b>
IEEE B1.1	Unified Inch Screw Threads (UN and UNR Thread Form)
IEEE B1.20.1	Standard for Pipe Threads, General Purpose
IEEE C37.09	IEEE Standard Test Procedure for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis
IEEE C57.12.32.2002	IEEE Standard for Submersible Equipment - Enclosure Integrity
IEEE C57.12.40.2017	IEEE Standard for Secondary Network Transformers - Subway and Vault Types (Liquid Immersed) Requirements
IEEE C57.12.44.2014	IEEE Standard for Secondary Network Protectors
IEEE C57.12.70.2011	American National Standard for Terminal Markings and Connections for Distribution and Power Transformers
IEEE C57.12.80	IEEE Standard Terminology for Power and Distribution Transformers
ISO 9001 & 9002	Quality Assurance standards in Design, Development, Production, Installation, and Servicing
IEEE Std. 1	IEEE Standard General Principles for Temperature Limits in the Rating of Electric Equipment and for the Evaluation of Electrical insulation

### **1.10 - MATERIALS, DESIGN, WORKMANSHIP, AND TRADE NAMES**

Unless otherwise noted in this specification, all materials and equipment incorporated into any item covered by the specifications shall be new and of the most suited of their respective kinds for their intended use. All workmanship shall be in accordance with accepted industry construction practices.

#### 1.10.1 - MANUFACTURING REQUIREMENTS

All major components of the material/equipment must be manufactured or distributed by the original equipment manufacturer and advertised on a factory brochure as a standard or optional component.

##### 1.10.1A - Design

Only units of the latest design as verified by catalog numbers and serial numbers and conforming in all other details to the requirements of these specifications, will be acceptable. All other units will be returned to the contractor, at the contractor's expense.

#### 1.10.2 - SPECIFIED TRADE OR MANUFACTURE NAME AND CATALOG NUMBERS

For ease of reference in this specification, a trade name, manufacturer's name, manufacturer's catalog number, or other similar designation may designate certain equipment and materials or processes. Wherever such designation appears in this specification, it shall be deemed to be followed by the words "**OR APPROVED EQUAL.**" The exception to this is when the reference is followed by the word "**REQUIRED.**" These particular items have been identified in an effort to standardize the City's inventory of replacement parts and **NO EXCEPTIONS/ALTERNATES** will be permitted in these cases.

### 1.11 - APPROVED EQUAL

The term "approved equal" shall mean that the quality and characteristics of equipment or materials intended for use must be equal to that named.

#### 1.11.1 – DETERMINATION OF EQUALITY

The City or its designee will determine the suitability, reliability, and serviceability of a proposed substitute.

#### 1.11.2 – REQUIRED MATERIALS

To be considered by the City, the request for substitution shall be accompanied with the complete physical data, technical data, certified test results, manufacturer's catalog data, photographs, user's lists, failure data, samples, and the address of the nearest authorized service representative. Any other information, as required by the Engineer, shall be promptly provided upon request.

#### 1.11.3 – SOLE ARBITER

The City shall be the sole arbiter in the determination of equality. (See Section 1.36 of the Standard Terms and Conditions).

### 1.12 - EVALUATION

#### 1.12.1 – BASIS FOR DECISION

The City will make evaluation on information supplied.

#### 1.12.2 - AWARD OF ITEMS

The award will be made so that the items will be awarded on an "All or None" basis.

Award will be made to the lowest responsive, responsible bidder(s). The City may also take into consideration all other criteria for determining award, including evaluation factors set forth in Municipal Code Section 1.06.262.

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



The City reserves the right to give a purchase order to the lowest responsible bidder(s) whose bid(s) will be the most advantageous to the City, price and any other factors considered, as described in Paragraph 1.20 of the Standard Terms and Conditions.

#### 1.12.3 – CALCULATION OF TOTAL CONTRACT PRICE

##### 1.12.3A – Data to be Utilized

The City shall utilize the information provided on the Proposal and Data Sheet, of this document, to determine the total five-year price of the contract.

##### 1.12.3B – First Year Contract Price

The City shall use the annual estimated quantity of items required and the first year per unit price, of each item, to determine the first year estimated contract price.

##### 1.12.3C – Annual Per Unit Item Price

The maximum annual price escalations, provided by the bidder, will be used to determine the per unit price in each of the following contract years.

##### 1.12.3D – Annual Contract Price

The annual estimated quantity of items required during each year of the contract and the appropriate years per unit price, of each item, will be used to determine the estimated contract price for each of the subsequent contract years.

##### 1.12.3E – Total Price for All Years

The annual contract price for each year will be summed to arrive at the estimated total contract price. This value will be used to compare the total contract price of each proposal.

#### **1.13 - DELIVERY DATE**

The Bidder shall state on the proposal, the maximum delivery time of the equipment being furnished. Delivery time will be calculated from the date of the Purchase Order, Purchase Order Release, or Notice to Proceed.

##### 1.13.1 - TIME OF DELIVERY

The time of delivery of the units as listed by the Vendor, in the proposal, is an important consideration in awarding this contract.

##### 1.13.1A - Delays Beyond the Control of the Vendor

Delays caused by problems beyond the control of the vendor, if fully documented and submitted to the city, may be excused. This allowance shall in no way be construed to apply to or excuse delays caused by negligence on the part of the vendor. (For additional information, refer to the Force Majeure portion, located in Section 1.14.8 of this document)

##### 1.13.2 - CLAIMS BY THE CITY

Nothing contained herein shall preclude claims by the City for damages caused by vendor errors, omissions, or negligence unrelated to delay in completing the contract on time.

#### 1.13.3 – EXPEDITED DELIVERY

On the Technical Data Sheet, in the Proposal Section of this document, the City has requested an expedited delivery.

##### 1.13.3A - Description

Expedited Delivery is the absolute best delivery time that can be provided, in weeks, after the Purchase Order, Purchase Order Release, or Notice to Proceed has been issued.

##### 1.13.3B – Expedited Delivery Price Adder

The expedited delivery price adder is a percentage of the current per item price, in percent, required to receive expedited delivery.

##### 1.13.3C – Late Delivery

If the City elects to utilize an available expedited delivery, then delivery shall be subject to the Liquidated Damages Clause, Section 1.14, of this document.

### **1.14 - LIQUIDATED DAMAGES**

#### 1.14.1 – DESCRIPTION

If the vendor does not meet all terms of this contract by the delivery date stipulated in the proposal section, the vendor shall pay the City not as a penalty, but as liquidated damages, associated with the unavailability of equipment specified under this contract, an amount described below. The assessment of liquidated damages, by the City to the vendor, shall in no way relieve the vendor from any of the terms and conditions of this contract.

#### 1.14.2 – APPLICABLE UNITS

The vendor shall pay liquidated damages, to the City, for each and every item of equipment/material that is not provided according to the terms and conditions of this contract.

#### 1.14.3 – COMPUTATION OF CHARGES

Because of the difficulty in computing the actual damages which will result from failure to deliver the equipment/material under this contract on time, the amount of liquidated damages will be assessed at the rate of \$200.00 per unit, of equipment, per day. This amount will continue to accrue until the equipment/material is received in accordance with these specifications.

#### 1.14.4 – PAYMENT

Any moneys due the vendor, or to become due the vendor at or after the contract completion date, may be retained by the City as may be necessary to pay said liquidated damages. If such amounts are not sufficient to pay the liquidated damages, the vendor shall immediately pay any deficiency to the City.

#### 1.14.5 – IMPACT ON CONTRACTOR'S OBLIGATIONS

Deductions or amounts retained by the City shall not release the vendor, to any degree whatsoever, from further obligation and liability with respect to fulfilling the contract.

#### 1.14.6 – LIMIT ON LIQUIDATED DAMAGES

The total amount of liquidated damages, that the City may assess, shall be limited to a maximum of 10% of the total purchase order price.

#### 1.14.7 – IMPACT OF CONTRACT RENEWALS

The contract completion date may be renewed by a written change order, signed by both the vendor and the City for any cause which the City shall decide is reasonable to justify a delay and extension of time. If the contract completion date is renewed, the date for commencement of liquidated damages shall be the completion date as established by change order.

#### 1.14.8 FORCE MAJEURE

##### 1.14.8A – Description

The application of this clause shall be limited to events that prevent or delay the vendor from complying with any provisions of this contract by reasons of strikes, lockouts, labor shortages, power shortages, wars, acts of God, governmental regulations restricting normal operations, or any other reason or reasons beyond the reasonable control of the vendor.

##### 1.14.8B – Vendor's Recourse

The vendor's recourse shall be limited to an extension of the time limit for the performance of contract.

##### 1.14.8C – Contract Extension

Any contract extension shall be limited to a period of time equal in length to the period of such prevention and/or delay.

##### 1.14.8D – Due Diligence

It shall be the responsibility of the vendor to supply the City with adequate documentation to demonstrate that the vendor exercised due diligence in endeavoring to avoid the delay.

##### 1.14.8E – Notification

The vendor shall, insofar as possible, promptly give written notice to the City of the reasons for such prevention or delay.

### **1.15 - POST-AWARD MEETING**

#### 1.15.1 – LOCATION

Following the award of contract, the engineer will notify the selected vendor of the time and date of any required pre-production meeting. This meeting will be held virtually. This meeting, if necessary, is for clarification (as required) of this specification, statement of the City's expectations, and development of relationships between both the vendor and the City. The City retains the right to waive this meeting if desired.

#### 1.15.2 - MINUTES

Minutes of any post-award meetings will be routed to the vendor and all in attendance. All recipients of the post-award meeting minutes will be required to direct any comments or changes to the engineer within seven (7) days from the date of receipt. If no changes or

comments are received within the seven (7) days, the meeting minutes will become part of the project file.

### **1.16 - PACKING AND SHIPPING**

The Vendor shall be responsible for industry standard packing that conforms to the requirements of the carrier's tariffs and the ICC regulations.

#### **1.16.1 - LABELING**

The material/equipment must be clearly marked as to lot number, destination, address, engineer, and purchase order number.

#### **1.16.2 - SHIPPING REQUIREMENTS**

All material/equipment shall be delivered using one pallet per item.

### **DO NOT STACK**

#### **1.16.2A - Pallets**

Pallets shall be designed and constructed for movement by pallet jack or forklift. The minimum vertical clearance for forks shall be as indicated in the following table for each applicable transformer size:

<b>Size (Amps)</b>	<b>Minimum Clearance for Forks (in inches)</b>
2,000 to 3,000A	4" vertical with at least 3 runners

#### **1.16.2B - Attachment to Pallets**

Each item shall be bolted or banded to the required pallet. If banding is used, nonmetallic banding material is preferred to protect the painted surfaces of the unit.

#### **1.16.3 - FLUIDS**

All of the items specified in this document shall be shipped complete with all necessary fluids and lubricating oils and ready for testing and installation.

#### **1.16.4 - CONDITION**

All items shall be completely assembled, adjusted, operationally tested, and shipped in a condition that will not require significant make-ready work prior to permanent installation.

#### **1.16.5 – ORIENTATION**

All units shall be shipped in a position that will avoid and prevent fluid leakage during shipping.

### **1.17 - DELIVERY**

#### **1.17.1 - DELIVERY TIME**

Delivery time will be as stated on the proposal.

**1.17.2 – MATERIAL/EQUIPMENT DELIVERY LOCATION**

The completed material/equipment shall be delivered F.O.B. Destination Prepaid and Allowed, Tacoma, WA between 9:00 a.m. and 3:00 p.m., Monday through Friday **ONLY**. Weekday Holiday delivery is not acceptable. Deliver to:

Tacoma Power  
Breaker Shop  
3628 South 35th Street (rear)  
Tacoma, Washington 98409  
(Contact information to be provided post award)

**1.17.3 - SHIPPING NOTICES**

Shipping notices shall be transmitted via email (address to be provided post award)

**1.17.4 - INVOICES**

Invoices shall be emailed to:

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

**1.17.5 - CERTIFIED TEST REPORTS**

Certified test reports and additional data shall be emailed (address to be provided post award).

**1. 18 - INSPECTION**

All goods are subject to final inspection and acceptance by Tacoma Power's Engineer and the appropriate shop Foreman.

**1.18.1 - FAILURE OF INSPECTION**

Material failing to meet the requirements of this contract will be held at vendor's risk and may be returned to vendor. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping, or other like expenses are the responsibility of the vendor.

**1.18.2 - WARRANTY WORK**

The City has determined that the repair of material/equipment, under warranty, can best be done at the manufacturer's facility, that makes this style or similar material/equipment, or at a mutually agreeable local repair facility.

**1.18.2A - Return of Material/Equipment**

All material/equipment requiring warranty work will be returned to the manufacturer at its expense, or the manufacturer may replace the defective material/equipment(s) with new units.

**1.18.2A1 – Disposition of Replaced Units**

All replaced units will be held for pick up (no more than) 30 days after the arrival of replacement material/equipment. Any unit not picked up within 30 days will be disposed of by Tacoma Power, at its discretion.

1.18.2B - Minor Warranty Work

Minor warranty work may be done on the City's property if, in the opinion of the engineer and in agreement with the vendor, the useful life of the material/equipment is not affected by doing this work on site.

1.18.2C - Return Time Frame

1.18.2C1 – Time to Complete Repairs

All warranty repair work on returned material/equipment shall be accomplished within the specified lead-time for delivery in the bid proposal plus three weeks.

1.18.2C2 – Time Period Calculation

Warranty repair time will be calculated from the time material/equipment is shipped.

1.18.2C3 – Liquidated Damages

Should delivery, of the repaired unit, not be completed on or before the date stipulated, the contractor may be subject to liquidated damages.

**1.19 - DOCUMENTS REQUIRED FOR PAYMENT OF INVOICE**

All items required, including but not limited to, the necessary manuals and written test results, must be supplied to the City before the final invoice can be processed.

1.19.1 - Certified Test Reports

The successful Bidder will furnish certified test reports, for all Production Tests as specified in Section 6 of IEEE C57.12.44.2014, on each unit delivered.

1.19.1A - Test Procedures

Routine tests on all protectors shall be made as specified in Section 6 of IEEE Standard C57.12.44.2014. All tests shall be performed at the manufacturer's factory.

1.19.1B - Required Information

Test reports shall be formatted as follows.

1.19.1B.1 - General Information

The following information shall appear at least once on each page of the report:

- The contract item number
- The City's purchase order number
- Amp rating
- Voltage rating
- Serial number

1.19.3 - MATERIAL SAFETY DATA SHEETS (MSDS)

Bidders must submit a clear and legible copy of the manufacturer's Material Safety Data Sheet (MSDS) that complies with all of the appropriate OSHA and WISHA guidelines for the Hazard Communications Standard, WAC 296-62-054 (requirements for items

identified as hazardous materials or items in whose normal use produces a hazardous material).

### **1.20 - PAYMENT**

Upon certification by the Engineer that each shipment of transformers has been received in accordance with the specifications and are in satisfactory condition, payment will be made.

#### **1.20.1 - UNSATISFACTORY PERFORMANCE**

In the case of unsatisfactory performance, the payment shall be made after the vendor has made the necessary repairs and/or modifications and satisfactory performance is obtained, or the unit is replaced.

### **1.21 – CONTRACT EXCEPTIONS**

#### **1.21.1 – NON-RESPONSIVE**

**Bid proposals that claim exceptions to the terms and conditions stated within these specifications may be declared non-responsive and the bid proposal may be rejected.**



**Material Specification PT20-0275F**  
**Low Voltage, 216Y/125V Network Protectors**

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**These Technical Specifications have been prepared  
under the direction of a licensed Professional Engineer  
registered in the State of Washington.**

Date: \_\_\_\_\_

## **II - TECHNICAL PROVISIONS**

For Network Protectors.

<b>Subsection</b>	<b>Title</b>
2.00	Scope
2.01	Service Conditions
2.02	Enclosure
2.03	Network Protector Breaker Construction & Ratings
2.04	Relays
2.05	Back-up Fuse
2.06	Accessories
2.07	Name Plate
2.08	Enclosure Finish
2.09	Testing
2.10	Submittals for the Successful Bidder

### **2.00 - SCOPE**

These technical provisions are for submersible, transformer mounted, three-phase, robotic racked and manual racked, network protectors described in this specification. They shall be suitable for installation on the City of Tacoma's 216Y/125 volt, 60 hertz, 4 wire, solidly grounded WYE-WYE system.

All of the required fuses, relays, and documentation shall be supplied with each network protector.

As a minimum, the protector shall comply with the following industry standards:  
Submersible equipment **IEEE C57.12.32.2019**,  
Secondary Network Protectors **IEEE C57.12.44.2014**, and  
Network, Three-phase transformers **IEEE C57.12.40.2017**.

This document has some categories that specify more stringent requirements than the IEEE standards noted above.

## **2.01 – SERVICE CONDITIONS**

The usual service conditions shall apply as described in Section 4.1 of IEEE C57.12.44.2014.

## **2.02 - ENCLOSURE**

The following enclosure specifications shall be required for the protectors listed in this specification.

<b>Subsection</b>	<b>Title</b>
2.02.1	Type
2.02.2	Material
2.02.3	Door Seal
2.02.4	Enclosure Door
2.02.5	Mounting Configuration
2.02.6	Hardware
2.02.7	Operating Handle
2.02.8	Lifting Provisions
2.02.9	Air Test Provisions
2.02.10	Rollout Rails
2.02.11	Enclosure Grounding

### **2.02.1 - TYPE**

The network protector shall be a submersible type enclosure that meets the requirements of Sections 10.1 and 11.1 of IEEE C57.12.44.2014.

#### **2.02.1A - Enclosure Pressure Limits**

The enclosure shall withstand a static internal pressure of 7 psi without permanent distortion, displacement of the components of the protector, or damage to any seals and/or gaskets. Section 6.5.2 of IEEE C57.12.44.2014

### **2.02.2 – MATERIALS**

The enclosure shall be constructed from corrosion resistant materials and meet the requirements of Section 10.5.9 of IEEE C57.12.44.2014.

### **2.02.3 – DOOR SEAL**

The door seal of the protector shall allow the enclosure to meet the pressure requirements of Section 2.02.1, of this document, and remain watertight.

### **2.02.4 – ENCLOSURE & DOOR**

#### **2.02.4A – Door Handle**

The door handle(s) shall be integrated with the submersible door clamp provisions.

## 2.02.4B – HINGES

### 2.02.4B1 – Hinge Flexibility

The enclosure shall allow the door hinges to be relocated to either side as described in Section 10.5.4.6 of IEEE C57.12.44.2014.

### 2.02.4B2 – Initial Hinge Placement

With a worker standing in front of the enclosure and looking at it, when it is properly mounted on a transformer, the hinges shall be initially installed so that they are to the worker's left.

### 2.02.4B3 – Door Opening

The submersible door shall open a minimum of 160 degrees when hinged on either side.

## 2.02.4C – Inspection Windows

The door shall be provided with inspection window(s), as described in Section 10.5.3 of IEEE C57.12.44.2014, to allow viewing of the operations counter, the internal open/close position indicator and a view of the open and closed NWP contacts. The window(s) must also allow viewing of the master relay display and fuses. All viewing via inspection windows noted above enable the operator to perform visual inspections without the need to open the network protector enclosure.

### 2.02.4C1 – Position Indicators window(s)

Only the appropriate "Open" or "Close" label is to be visible through the indicator window(s) and must match the status of the protector.

## **2.02.5 – MOUNTING CONFIGURATION**

The protector shall be suitable for transformer throat mounting as described in Section 11.4.1 of IEEE C57.12.44.2014.

### 2.02.5A – Dimensional Requirements

All the holes for the network protector flange and buses shall match up to the transformer dimensional requirements of Figures 3 & 4 of IEEE C57.12.40.2017.

### 2.02.5B – Shipping Cover

The provided shipping cover and gasket as described in Section 10.5.11 of IEEE C57.12.44.2014 shall be watertight and UV rated.

## **2.02.6 – HARDWARE**

### 2.02.6A – Hardware Condition

All hardware shall be tight and properly secured, as described by Section 10.5.2 of IEEE C57.12.44.2014, to prevent loosening during transportation and normal use.

**2.02.6B – Exterior Hardware**

All exterior hardware and fasteners shall be Type 304 Stainless Steel or better. Except for electrical contact locations which can be SI-Bronze, Brass or Silver plated contacts.

**2.02.7 – OPERATING HANDLE**

**2.02.7A – Location**

The external operating handle shall be mounted on the side of the enclosure with provisions included to allow the handle to be transferred to the opposite side of the enclosure if required. (See Section 10.5.4.5 of IEEE C57.12.44.2014).

**2.02.7B – Positions**

The handle shall be provided with positions for open, automatic and close operation as defined in Section 10.5.4 of IEEE C57.12.44.2014.

**2.02.7B1 - Labeling**

Each physical position of the operating handle shall be clearly labeled with the appropriate designation.

**2.02.7B2 – Locking**

The handle shall be supplied with provisions for padlocking in any position.

**2.02.7B3 – Operation**

The external operating handle shall allow the protector to be opened or closed without the need to open the enclosure.

**2.02.7C – Seal Replacement**

Operating handle seals, on both sides of the enclosure, shall be replaceable from the outside of the enclosure.

**2.02.8 – LIFTING PROVISIONS**

Each protector shall be provided with lifting provisions as specified in Section 10.5.5 of IEEE C57.12.44.2014.

**2.02.9 – AIR TESTING PROVISIONS**

The enclosure shall meet the requirements of the air pressure test provision as specified in Section 10.5.4.7 of IEEE C57.12.44.2014.

**2.02.9A – Thread Sealing Compound**

Non-conducting pipe thread compound shall be applied to the threaded portion of the air test sampling provision.

### **2.02.10 – ROLLOUT RAILS**

Rollout rails, rail stops and rail storage shall be provided as specified in Section 10.5.6 of IEEE C57.12.44.2014. The rail storage within the enclosure must provide for safely energizing the network protector at normal operational voltage.

#### **2.02.10A - Interlocks**

Interlocks shall be provided so that the removable breaker cannot be rolled into or out of the enclosure unless the removable breaker is in the open position. (See Section 10.5.4 of IEEE C57.12.44.2014).

### **2.02.11 – ENCLOSURE GROUNDING**

#### **2.02.11A – Description**

Exterior enclosure grounding provisions shall be welded as specified in Section 10.5.8 of IEEE C57.12.44.2014. The grounding pads shall be located within 12 inches of the bottom, one pad on either side of the network protector case.

#### **2.02.11B Protector operating mechanism, frame, & structure**

The protector operating mechanism, frame, & other structural members, and non-conductor metallic parts, shall be solidly grounded both when fully rolled in, and when rolled along, and out to the ends of the rail extensions. Grounding solely via the rails is acceptable only when in the rolled-out position. (See in Section 10.5.20 of IEEE C57.12.44.2014).

#### **2.02.11C – Details**

The ground pads shall be drilled and tapped for NEMA 2-bolt standard as follows:

<b>Description</b>	<b>Value</b>
Number of Holes	2
Center to Center Hole Spacing	1.75 inches
Thread	½ - 13 - UNC
Thread Depth	½ inch
Copper Facing Thickness	0.015 inches

#### **2.02.11D – Grounding to Other Devices**

The network protector operating mechanism and relay case shall be grounded and remain grounded to the enclosure through the breaker even while out onto the maintenance rails.

## **2.03 – NETWORK PROTECTOR BREAKER CONSTRUCTION & RATINGS**

The following ratings are required for the network protectors and all associated components listed in this specification.

<b>Subsection</b>	<b>Title</b>
2.03.1	Network Protector Breaker Design
2.03.2	Continuous and Interrupting Current Ratings
2.03.3	AC Voltage Rating
2.03.4	Dielectric Test Voltage
2.03.5	Control Voltage
2.03.6	Closing Voltage
2.03.7	Tripping Currents

### **2.03.1 NETWORK PROTECTOR BREAKER DESIGN**

The overall design and construction shall be as rugged as possible. Easily replaceable subassemblies shall be used whenever possible to simplify field replacement of small parts not readily accessible. The network protector shall be designed, tested and constructed in accordance with IEEE C.57.12.44.2014. The protector shall be a dead front design.

#### **2.03.1A The operating mechanism**

The operating mechanism shall have a standard spring-close design that does not allow pre-charging of the closing spring. The spring close mechanism has a toggle-cam system that does not allow closure of the contacts until the spring contains sufficient energy to close and latch the main current carrying contacts.

#### **2.03.1B The main panel backboard**

The main panel backboard on which the bus structure is mounted and any insulating material which comes in contact with the main current carrying conductors shall be made of polyester glass (GPO-3).

#### **2.03.1C The protector structure materials**

Excluding the backboard, arc chutes, inter-phase barriers, and other insulating materials, the protector structure, mechanism, linkages, and all engagements, shall utilize metallic construction. Industrial class power breaker using a high temperature thermoset mold construction may be used if certified for network protector applications.

2.03.1D The use of resistors

All resistors shall be wire wound on ceramic cores and shall be coated with a vitreous enamel. The ratings of the resistor shall be clearly marked on the resistor. All resistors shall be rated for continuous duty operation. Where this is impractical, these resistors shall be selected to fail open before any other component or wiring can be damaged.

**2.03.2 – Continuous Current ratings for interrupting and close & latching.**

The ratings of the network protectors shall meet the requirements of Section 9.2 of IEEE C57.12.44.2014 as shown below:

Secondary Voltage	Continuous Current Rating (Amps)	Interrupting Current Rating (kA)	Close & Latch Rating (kA)
216Y/125	2,000	35	35
216Y/125	3,000	60	40

2.03.2A- Network side terminals

The Network (load) side terminals shall be fully rated tin plated copper or silver plated spade connectors with 2-hole NEMA drilled patterns. The number of holes and plate sized for the terminals shall be follow section 11.5.2 of IEEE C57.12.44.2014.

**2.03.3 – AC Voltage Rating**

The AC low voltage design rating of the protectors shall meet the requirements of Section 9.3 of IEEE C57.12.44.2014.

Secondary Voltage	Maximum Design Voltage
216Y/125 Wye-Wye	500

**2.03.4 – Dielectric Test Voltage**

The 1-minute continuous, 60 Hz, dielectric test voltages for the protectors shall meet the requirements of Section 9.4 of IEEE C57.12.44.2014.

Motor and Solid State Devices	Relays	All Other Components
900 VAC	1500 VAC	2,200 VAC

**2.03.5– Control Voltage**

The control voltages for the protectors shall meet the requirements of table 5, Section 9.5, of IEEE C57.12.44.2014.



The protector shall operate properly when the control voltages are within the ranges specified in the table below.

Secondary Voltage	Connect Between	Closing Relay Range 80% - 106% (Volts)	Closing Motor Range 73% - 106% (Volts)	Trip Range 7.5% - 106% (Volts)
216Y/125	L-G	100-135	90-135	10 - 135
216Y/125	L-L	170 - 230	157 - 230	16 - 230

### **2.03.6 – Closing Voltage**

Provisions for the adjustment of the closing voltage, of the protectors, shall meet the requirements of table 6, Section 9.6, of IEEE C57.12.44.2014.

The closing voltages shall comply with the values in the table below when the closing voltage is in-phase with the network voltage.

Rated Secondary Voltage	Available Closing Voltages		
	Low	Median	High
216Y/125	1.0	1.5	2.0

### **2.03.7 – Tripping Current**

Provisions for adjusting the tripping current shall be as required in table 7, Section 9.7, of IEEE C57.12.44.2014.

The tripping current shall comply with the values in the table below when the closing voltage is in-phase with the network voltage.

Rated Current	CT Rating	Tripping Currents		
		Low (0.05%)	Nominal (0.2%)	High (5%)
2,000	2,000	1.0	4.0	100
3,000	3,000	1.5	6.0	150

## **2.04 – RELAYS**

The following relay specifications will be required for the transformers listed in this specification.

Subsection	Title
2.04.1	General Description
2.04.2	Trip Requirements
2.04.3	Close requirements
2.04.4	Anti-pump provisions
2.04.5	Measurement Sampling Rate
2.04.6	(blank)
2.04.7	Shelf Life of Memory
2.04.8	Relay Enclosure
2.04.9	Ambient Temperature Range
2.04.10	Frequency
2.04.11	Protocol

### **2.04.1 – GENERAL DESCRIPTION**

A single relay shall handle all network protector relaying functions. The relay must be microprocessor based, three-phase, protective device as described in Section 7 of IEEE C57.12.44.2014.

#### **2.04.1A – Voltage Operating Range**

The relay shall utilize 216Y/125 volts, regardless of the three-phase, four-wire system voltage.

#### **2.04.1A1 – Immunity to Network Voltage Sags**

The relay algorithm shall ensure that the relay will provide consistent trip and close response times at any network voltage.

#### **2.04.1B – Monitoring & communications**

The relay shall continually monitor voltage and phasing across an open protector and measured values through a closed protector. The relay must have the capability to monitor, display and communicate out to a SCADA system: the network protector's measured values of amps, volts, var and temperature as well as the network protector's status for open/close/auto and lockout.

#### **2.04.1C – Programming**

All values, for the setting of the relay, shall be field programmable.

#### **2.04.1C1 – Default Values**

The factory must pre-program the relays to all parameter default values.

2.04.1C2 – Programming Tools

The associated network protector relay's programming tool is to be bid separately and included within the contractors bid values. The tool version must have a separate designation ID number. If a smart phone relay programming application is available then the relay must have a level of security from non-authorized access.

2.04.1C3 – Phase Rotation

The relay shall have field settable, provisions that accommodate ABC or CBA phase rotation.

2.04.1C4- Relay software version

The software version ID must be indicated on the outside of the relay's case.

**2.04.2 – TRIP REQUIREMENTS**

The relay shall enable the protector to trip in accordance with the requirements of Section 7.3 of IEEE C57.12.44.2014.

2.04.2A – Trip Conditions

2.04.2A1 – Power Flow from the Network

The network protector shall open automatically when true polyphase power flows, through protector, from the network to the transformer exceed the set value.

2.04.2A2 – Reverse Magnetizing Current

The network protector shall open automatically upon the flow of reverse magnetizing current to its associated transformer.

2.04.2A3 – Watt and Watt-VAR Characteristics

The relay shall have field selectable Watt and Watt-VAR trip characteristics.

2.04.2A4 – Tripping Characteristics

The relay's trip characteristics shall be as specified in Section 7.5 of IEEE C57.12.44.2014.

2.04.2A5- Forward power flow tripping option on fault detection

Not applicable for 216/125V network protectors.

2.04.2B – Conditions That Shall Not Cause a Trip

2.04.2B1 – Network Faults

The network protector shall not open under fault conditions that occur on the low voltage network. With the exception of when a worker safety relay system is activated for arc energy mitigation for personnel protection.

2.04.2B2 – Power Flow into the Network

The network protector shall not open if the flow of true polyphase power is from the associated transformer into the network.

2.04.2C – Reverse Current Setting Range

The relay shall have an in-phase reverse current setting that is adjustable from 0.05 percent to 5.0 percent of the continuous current rating of the current transformers within the protector.

**2.04.3 – CLOSE REQUIREMENTS**

The relay shall command the protector to close automatically in accordance with the requirements of Section 7.2 of IEEE C57.12.44.2014.

2.04.3A - Power Flow into the Network

The relay shall ensure that the network protector closes only if the vector relationship between the transformer voltage and the network voltage is such that polyphase power will flow from the transformer into the network.

2.04.3B – Close Contact

The relay close contact shall close only if the ensuing positive sequence power will be into the network.

2.04.3C – Adjustment Range

The closing voltage adjustment range of the network relay shall be for the in phase difference between the network and the transformer voltages as shown in the table below.

<b>Protector voltage</b>	<b>Low closing Voltage</b>	<b>High closing Voltage</b>
216Y/125	1.0	2.0

**2.04.4 – ANTI-PUMP PROVISIONS**

The relay shall include a selectable provision that will temporarily lock the protector in the event that an excessive number of protector operations have occurred within a specific time interval.

**2.04.4A – Number of Pumping Operations**

The relay shall have a field programmable setting to allow the utility to specify the maximum number of allowable operations before the relay determines that pumping has occurred.

**2.04.4B - Pumping Period**

The relay shall have a field programmable setting to allow the utility to specify the time period, in which the above operations shall be monitored, before the relay determines that pumping has occurred.

**2.04.4C – Reset Time**

The relay shall have a field programmable time delay that inhibits reclosing if it has detected a pumping condition.

**2.04.4D- Remote polling of anti-pump operations**

The relay shall be able to report remotely the number of pumping lock out operations it has seen during a settable time duration.

**2.04.5 – MEASUREMENT SAMPLING RATE**

The minimum rate at which the relay samples the current and voltage waveforms, for calculation of currents and voltages, shall be 32 samples per cycle.

**2.04.5A – Harmonic Immunity**

The sampling shall “scroll” through the waveform so that consecutive zero crossings are not taken at the same sampling point to prevent the aliasing of harmonic frequencies.

**2.04.6 – (BLANK)**

**2.04.7 – SHELF LIFE**

Battery equipped relays shall have a minimum service life of ten (10) years. The relay’s battery must be able to be replaced in the field by utility technicians.

**2.04.8 – RELAY ENCLOSURE**

The relay enclosure shall withstand 7 days of 25ft of head of water.

**2.04.9 – AMBIENT TEMPERATURE RANGE**

The relay shall be accurate and fully functional within the ambient temperature range of -20°C to +110°C.

**2.04.10 – FREQUENCY**

The relay shall be designed for a 60Hz system.

**2.04.11 – PROTOCOL**

Tacoma Power’s SCADA system utilizes a DNP 3.0 protocol over Ethernet. Communication provisions shall be compatible with our existing system.

## **2.05 – BACK-UP FUSE**

The following are the back-up fuse requirements for the protectors listed in this specification.

<b>Subsection</b>	<b>Title</b>
2.05.1	General Description
2.05.2	Planned Application
2.05.3	Mounting
2.05.4	Interlocks
2.05.5	Spare Fuses
2.05.6	Network Transformer Impedances

### **2.05.1 – General Description**

Each network protector shall be equipped with internal backup network protector fuses as specified in Section 8 of IEEE C57.12.44.2014.

### **2.05.2 – Planned Application**

#### **2.05.2A – Associated Transformers**

The transformer that will be associated, with each size of protector, shall be as described in the following table.

<b>Secondary Voltage</b>	<b>Network Protector Size (Amps)</b>	<b>Associated Transformer Size (kVA)</b>
216Y/125	2,000	500
216Y/125	3,000	750
216Y/125	3,000	1000

#### **2.05.2B – Fuse type and sizing**

Protectors shall be equipped with fuses that provide the transformer protection specified in Section 8.2 of IEEE C57.12.44.2014 and match the protector's continuous load rating.

### **2.05.3 – FUSE MOUNTING**

One fuse per phase shall be mounted on the load side of the network protector.

#### **2.05.3A – Protection for Workers**

All network protector fuses shall be internally mounted.

#### **2.05.3B - Removability**

All network protector fuses shall be easily removable.

2.05.3C- Protector fuses are to remain connected

Fuses must remain attached to the bus after the self-racking mechanism disengages the protector (not applicable for manually racked protectors).

2.05.3D- Externally viewable fuses

Network protector case shall be equipped with a site glass that allows visual observation of all three (3) fuse's condition.

**2.05.4 – INTERLOCKS AND DISCONNECTs**

A network disconnect device shall be required to be operated in a dead-break arrangement prior to accessing the fuses.

**2.05.5 – SPARE FUSES**

For each size network protector shipped, the vendor shall supply three spare fuses.

**2.05.6 – NETWORK TRANSFORMER IMPEDANCES**

All of the City's network transformers are to conform to the impedance requirements listed in Section 5 of IEEE C57.12.40.2017.

**2.06 – ACCESSORIES**

The following are the accessory requirements for the protectors listed in this specification.

Subsection	Title
2.06.1	Wiring & bulk head
2.06.2	Instrument Transformers
2.06.3	Auxiliary Contacts
2.06.4	Network Side Terminations
2.06.5	Remote Robotic Racking system
2.06.6	Manual Racking system
2.06.7	Intentionally left blank
2.06.8	Self diagnostic system
2.06.9	Indicating means for protector status
2.06.10	Operations counter
2.06.11	Closing motor

### **2.06.1 – WIRING & bulk head**

#### **2.06.1A - Wiring**

All harness wiring within the protector shall be 16 AWG, insulated in accordance with Section 9.4 of IEEE C57.12.44.2014 and rated to withstand a maximum temperature of 110°C.

#### **2.06.1B - Bulkhead**

The network protector shall have an external submersible bulkhead wiring connection point to interface to its internal wiring. The interface terminal strips shall provide access to the protector control and annunciation wiring to accommodate external communications devices and control. The Bulkhead shall have a submergibility rating for 25ft of depth for 7-days.

### **2.06.2 – INSTRUMENT TRANSFORMERS**

Current, potential, and control Instrument transformers shall be provided as required.

#### **2.06.2A – CURRENT TRANSFORMERS**

##### **2.06.2A1 – CT Ratings**

All current transformers shall meet the minimum ratings as specified in the table below.

<b>Rated Current (Amps)</b>	<b>CT Rating</b>
2,000	2,000
3,000	3,000

##### **2.06.2A2 – NEMA Ratings**

Current transformers and relay coils shall be NEMA Class H or better.

##### **5.03.2A3**

#### **2.06.2B – POTENTIAL AND CONTROL TRANSFORMERS**

Potential and control transformers shall be supplied, as required, for the correct operation of the network protector's relays.

### **2.06.3 – AUXILIARY CONTACTS**

A minimum of two (2) mechanically driven auxiliary contacts, one each 'a' and 'b' contact as required in Section 10.5.14 of IEEE C57.12.44.2014 shall be provided that indicates the protectors open/close status



#### **2.06.3A – AUXILIARY CONTACT RATINGS**

The auxiliary contacts shall have a minimum current rating of 5 Amps and be rated for 600 Volts.

#### **2.06.4 – NETWORK SIDE TERMINATIONS**

All network protector enclosures shall be supplied with spade type terminations to connect on the network load side. The number of holes in each spade is to be based upon the protector's ampacity rating in accordance with Section 11.5.2 of IEEE C57.12.44.2014.

#### **2.06.5 – Remote Robotic Racking system**

The network protector breaker shall be designed with an integrated motor racking system. The system must be capable of opening the breaker and rolling it out; also rolling the breaker back and closing, all while the enclosure door remains closed. A manual override option must be available. The racking system must be controllable via local and remote secure control via SCADA communications and/or an externally connected pendant.

Mechanical and electronic interlocks must inhibit the protector from racking unless the network protector breaker is in the open position.

The remote operational control pendant or application must interlocked and be able to open/auto the protector breaker remotely and rack the protector in & out. The remote controller must provide protector status confirmation. The Racking controller shall be equipped with status indicators for: 1. Power on 2. Protector breaker closed 3. Protector breaker open 4. Racked "out" and 5. Racked "in". Controlling Pendants must have a minimum of 30ft control extension cords. The electrical connection port to connect the racking control pendant must be via a sealed bulkhead.

The network protector's racking motor shall be separate from the protector's closing motor. The racking system must interlocked such that it is only operable when the operating handle is in the "open" position and when the network protector contacts are open.

Manual operation of the racking system must be blocked when protector breaker contacts are closed.

The remote racking unit must have wheel rail interlocks on both sides that prevent mechanism from rolling out unless the rail extensions are engaged.

Protector Mechanism (roll-out) must be completely de-energized upon completing its Rack-Out sequence.

Motorized racking system energy is limited to single phase fused 120V source.

**2.06.6 – Manual Racking system**

The network protector breaker shall be designed for manual racking. Mechanical and electronic interlocks must inhibit the protector from racking unless the network protector breaker is in the open position.

Manual raking operation of the protector must be blocked when protector breaker contacts are closed.

The rack out rails must have wheel rail interlocks on both sides that prevent protector breaker mechanism from rolling out unless the rail extensions are engaged.

**2.06.7 – ( Intentionally left blank)**

**2.06.8 -- Self diagnostic system**

The network protector relay must have a self-diagnostic system to indicate key component failures (Closing/Opening motor, racking motor, Trip circuit, and spring release coil). Opening motor and racking motor only apply for robotically racked. The relay in the network protector must be able to transmit a trouble signal that the system owner can communicate the event via their SCADA interface.

**2.06.9 – Indicating means for protector status**

The relay or mechanical position contacts in the network protector must have a means to operate external indication lights to indicate the open or closed breaker status to a location external to the protector cabinet.

**2.06.10 - Operations Counter**

A five-digit mechanical operations counter without a reset option shall be provided that meets the requirements of Section 10.5.15 of IEEE C57.12.44.2014. The register counts once for each combined cycle of close/open operation.

**2.06.11 – Closing motor**

The closing motor shall receive power from the transformer side of the rollout unit. Motors shall be capable of providing the required torque to ensure proper closure in 2.5 seconds or less with the minimum closing voltage applied without over-heating.

## **2.07 - NAMEPLATE INFORMATION**

The following are the nameplate requirements for the protectors listed in this specification.

<b>Subsection</b>	<b>Title</b>
2.07.1	General Description
2.07.2	Nameplate Material

### **2.07.1 - NAMEPLATE INFORMATION AND LOCATION**

The nameplate shall meet the requirements of Section 9.1 of IEEE C57.12.44.2014. The nameplate shall be located in the front standard of the protector rollout.

### **2.07.2 – NAMEPLATE MATERIAL**

The nameplate shall be constructed of stainless steel or City approved, non-corrosive, non-ferrous material and affixed using stainless steel hardware.

## **2.08 – ENCLOSURE FINISH**

The following are the enclosure finish requirements for the protectors listed in this specification.

<b>Subsection</b>	<b>Title</b>
2.08.1	Coating
2.08.2	Ground Provisions

### **2.08.1 - COATING**

The entire network protector housing, both inside and out, shall have the manufacturer's premium paint system applied.

#### **2.08.1A – Paint Thickness**

This paint system shall have a uniform corrosion-resistant finish with a minimum thickness of 10 mil.

#### **2.08.1B – Paint Standard**

The paint system applied shall meet or exceed the most recent IEEE Standard C57.12.32.

#### **2.08.1C – Paint Color**

##### **2.08.1C1 – Exterior Paint Color**

The exterior of the protector enclosure shall be painted black.

##### **2.08.1C2 – Interior Paint Color**

The interior of the protector enclosure shall be white. Bushings, linkages, relays, and current carrying components shall not be painted.

### **2.08.2 – GROUND PROVISIONS**

Grounding pads and terminals shall not be painted and any threaded areas shall be protected during painting, so paint removal is unnecessary.

## **2.09 - TESTING**

### **2.09.1 – DESIGN AND PRODUCTION TESTS**

All design and production tests shall be performed in accordance with ANSI/IEEE C57.12.44.2014, "IEEE Standard for Secondary Network Protectors". In addition, there shall be a mechanical inspection of all components to insure all fasteners, springs, pins, connectors, switches, etc. are properly installed and functional. The network protector unit (Network Protector, Enclosure and all Accessories) shall be tested for electrical operation tested when fully assembled, "ready-to-install", with the supplied control relay.

## **2.10 – SUBMITTALS FROM THE SUCCESSFUL BIDDER**

The following are the successful bidder submittal requirements for the protectors listed in this specification.

<b>Subsection</b>	<b>Title</b>
2.10.1	Certified Test Reports
2.10.2	Detailed Drawings
2.10.3	Schematic Diagrams
2.10.4	Maintenance Documents
2.10.5	Spare Parts
2.10.6	Operations Manual
2.10.7	Relay Information
2.10.8	Network Protector Fuse
2.10.9	Outline Drawing
2.10.10	Nameplate Drawing
2.10.11	Relay Immunity to Voltage Sags

**Paper copies** of manuals shall be packed with the individual units shipped.

**Electronic copies** shall be directed to Tacoma Power's Technical Contact to be identified after the contract is awarded.

### **2.10.1 - CERTIFIED TESTS REPORTS**

Provide (1) electronic copy of the certified test reports of all Production Tests as specified in Section 6 of IEEE C57.12.44.2014 for each completed network protector. The test reports and documentation shall be transmitted so that they are received at, or before, the time of delivery the network protector.

### **2.10.2 - DETAILED DRAWINGS**

One (1) detailed, dimensioned, electronic drawing of the complete network protector shall be required for each item. All mounting and construction dimensions and details shall be included.

#### **2.10.2A - Dimensional Tolerances**

Dimension tolerances shall be as specified in Section 1.06.2A of this document. Provide one (1) electronic copy of each drawing for each network protector.

### **1.10.3 - SCHEMATIC DIAGRAMS**

Provide one (1) electronic copy of the complete electrical control schematic and connections diagrams for each network protector.

### **2.10.4 - MAINTENANCE DOCUMENTS**

Provide one (1) electronic copy of the complete manual for the maintenance and testing of the network protectors.

#### **2.10.4A – Utility Maintenance**

The maintenance manual shall provide a complete description of all the utility required maintenance and the appropriate maintenance intervals.

### **2.10.5 - SPARE PARTS**

Provide a catalog of all available spare parts for each differently rated network protector.

#### **2.10.5A - Recommended Spare Parts**

Provide one (1) electronic recommended spare parts list based upon a per 100-network protector inventory for each different rating.

#### **2.10.5B - Number of Copies**

Provide one (1) electronic copy of the catalog and spare parts list for each differently rated network protector.

### **2.10.6 – OPERATIONS MANUAL**

Provide one (1) electronic copy of the complete operations manual for each item. This manual shall provide a complete description of the operation and installation of the protector.

### **2.10.7 – RELAY OPERATION, MAINTENANCE, AND APPLICATION GUIDE**

#### **2.10.7A – Relay Guides**

Provide one (1) electronic copy for the complete set of relay manuals for each item. These manuals shall provide a comprehensive description of the application, installation, setting, testing, and operation of the relays.

2.10.7B - Programming Guides

Microprocessor based relays frequently allow programming of the relay and/or downloading of data from the relay. Provide one (1) electronic copy of each programming guide for each different item.

**2.10.8 – NETWORK PROTECTOR FUSE**

Provide one (1) electronic copy of the complete descriptive brochure of each type of fuse supplied with each order. This brochure shall provide a complete description of the operation and installation of the equipment.

2.10.8A – Fuse Curves

Provide the minimum melt and maximum clear time current curves for each size and type of fuse.

**2.10.9 – OUTLINE DRAWING**

A fully dimensioned, clear and legible, One (1) electronic copy of the proposed protector outline drawing shall be provided for each differently rated item. The drawing shall show all applicable dimensions in US standard units as specified in sections of 1.06 of this document. The drawing shall show the proposed protector in the following views:

- Top view
- Left side view
- Right side view
- Front view with door open
- Front view with door closed
- View showing connection provisions to transformer

**2.10.10 – NAMEPLATE DRAWING**

One (1) electronic copy that is clear and legible of the actual nameplate shall be provided for each protector. The drawing shall show all of the requirements as listed in Sections of 2.07 of this document.

**2.10.11 – RELAY IMMUNITY TO VOLTAGE SAGS**

One (1) electronic copy of certified test reports and appropriate published literature shall be included to verify compliance with Sections of 2.04 of this document.

# Appendix A



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**SUBSTITUTION REQUEST FORM**

Specification No. PT20-0275F

Prospective bidders may request the use of substitute equipment below.

All requests must be submitted electronically, via e-mail to Seth Hartz, [shartz@cityoftacoma.org](mailto:shartz@cityoftacoma.org) no later than ten (10) business days prior to the submittal deadline.

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Manufacturer/Model: \_\_\_\_\_

Manufacturer Contact Information

Name/Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Describe the differences between the proposed substitution and specified equipment:

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Please attach documentation from manufacturer that certifies the equipment meets all the criteria outlined in Technical Specifications of this bid specification.

Contractor Name: \_\_\_\_\_

Preparer Name/Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Signature: \_\_\_\_\_





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**INTERNAL USE ONLY**

- ☐ Approved as Substitute\*
- ☐ Rejected – Equipment Not Acceptable
- ☐ Rejected – Inadequate Information
- ☐ Rejected – Request Received After Deadline

*\*Subject to review and approval of submittal documents*

**Remarks**

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Reviewer Name/Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Appendix B

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

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

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

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

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

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

**1.01 SUPPLIER / CONTRACTOR**

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

**1.02 SUBMITTAL**

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

**1.03 FORMS OF SUBMITTAL**

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

**1.04 COSTS TO PREPARE SUBMITTAL**

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

**1.05 LICENSES/PERMITS**

- A. Suppliers, 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/](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](mailto: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](mailto: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

## CHAPTER 1.07

### EQUITY IN CONTRACTING

#### Sections:

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

#### **1.07.010 Policy and purpose.**

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

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 27867 Ex. A; passed Dec. 15, 2009)

#### **1.07.020 Definitions.**

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

- A. “Bid” means an offer submitted by a Respondent to furnish Supplies, Services, and/or Public Works in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.
- B. “Bidder” means an entity or individual who submits a Bid, Proposal or Quote. See also “Respondent.”
- C. “City” means all Departments, Divisions and agencies of the City of Tacoma.
- D. “Contract” means any type of legally binding agreement regardless of form or title that governs the terms and conditions for procurement of Public Works and Improvements and/or Non-Public Works and Improvements Supplies and Services. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City. A “Contract” as used in this chapter shall include an agreement between the City and a non-profit entity to perform construction-related services for Public Works. A “Contract” does not include: (1) awards made by the City with federal/state grant or City general funds monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program, and the recipient of the grant awards uses the grant moneys to provide services to the community; (2) sales transactions where the City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4) lease, franchise; (5) agreements to use City real property (such as Licenses, Permits and Easements) and, (6) banking and other financial or investment services.
- E. “Contractor” means any Person that presents a Submittal to the City, enters into a Contract with the City, and/or performs all or any part of a Contract awarded by the City, for the provision of Public Works, or Non-Public Works and Improvements, Supplies or Services.

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

G. “MWBE Certified business” (or “MWBEs”) means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department Program Manager.

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

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

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

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

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

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

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

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

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

Q. “Services” means non-Public Works and Improvements services and includes professional services, personal services, and purchased services, as such terms are defined in Section 1.06.251 TMC and/or the City’s Purchasing Policy Manual.

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

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

T. “Tacoma Public Utilities Service Area” means any ZIP code in which Tacoma Public Utilities maintains infrastructure or provides retail services.

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

### **1.07.030 Discrimination prohibited.**

A. No person that is engaged in the construction of public works for the City, engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services to the City, shall discriminate against any other person on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of



any sensory, mental or physical disability in employment. Such discrimination includes the unfair treatment or denial of normal privileges to a person as manifested in employment upgrades, demotions, transfers, layoffs, termination, rates of pay, recruitment of employees, or advertisement for employment.

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

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

#### **1.07.040 Program administration.**

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

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

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

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

#### **1.07.050 Certification.**

A. The Program Manager shall approve a business as a Certified Business if all of the following criteria are satisfied:

1. The business is certified as a SBE, MBE, WBE, or MWBE through the state of Washington's Office of Minority & Women Business Enterprises; and
2. The company can demonstrate that it also meets at least one of the following additional requirements:
  - a. The personal residence of the owner is located within the City of Tacoma or Tacoma Public Utilities Service Area, or
  - b. The company's business offices are located in any county of the Tacoma Public Utilities Service Area or any county adjacent to Pierce County, or
  - c. When the work is performed outside of Pierce County, the company's business offices may be located in an adjacent county in which the work is performed, or
  - d. Such additional information as the Program Manager or designee may require.

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

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

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28147 Ex. A; passed May 7, 2013; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.060 Program requirements.**

A. The program shall meet the following requirements:

1. Establishment of Annual Goals. The Program Regulations adopted pursuant to this chapter shall state reasonably achievable cumulative annual goals for utilization of MWBEs and SBEs in the provision of supplies, services, and public works procured by the City. Cumulative annual goals for the participation of MWBEs and SBEs in City contracts shall be based on the number of qualified MWBEs and SBEs operating within the Tacoma Public Utilities Service Area. The dollar value of all contracts awarded by the City to MWBEs and SBEs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable goal.

2. Application of Annual Goals to Contracts. The Program Manager shall consult with City departments/divisions to establish department/division specific goals for competitively solicited contracts in accordance with this chapter and the Program Regulations.

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

1. Emergency: The supplies, services and/or public works must be provided with such immediacy that neither the City nor the contractor can comply with the requirements herein. Such emergency and waiver must be documented by the department/division awarding the contract.

2. Not Practicable: Compliance with the requirements of this chapter would impose an unwarranted economic burden or risk to the City after consideration of existing budgetary approvals.

3. Sole source: The supplies, services, and/or public works are available from only one source, and subcontracting possibilities do not reasonably exist as determined by the finance purchasing manager.

4. Government purchasing. The City is a party to or included in a federal, state or inter-local government purchasing agreement as approved by the finance purchasing manager.

5. Lack of certified contractors: An insufficient number of qualified contractors exist to create utilization opportunities.

6. Best interests of the City: Waiver of goals is in the best interests of the City due to unforeseen circumstances, provided that said circumstances are set forth in writing by the requestor.

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

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.070 Evaluation of submittals.**

A. All submittals for a supplies, services, or public works and improvements contracts shall be evaluated for attainment of the MWBE and SBE requirements established for that contract in accordance with this chapter and the Program Regulations.

B. The determination of MWBE and SBE usage and the calculation of MWBE or SBE requirements per this section shall include the following considerations:

1. General. The dollar value of the contract awarded by the City to a MWBE or SBE in the procurement of supplies, services, or public works shall be counted toward achievement of the respective goal.

2. Supplies. A public works and improvements contractor may receive credit toward attainment of the MWBE and/or SBE requirement(s) for expenditures for supplies obtained from an MWBE or SBE; provided such MWBE or SBE assumes the actual and contractual responsibility for delivering the supplies with its resources. The contractor may also receive credit toward attainment of the MWBE or SBE goal for the amount of the commission paid to a MWBE or SBE resulting from a supplies contract with the City; provided the MWBE or SBE performs a commercially useful function in the process.

3. Services and Public Works subcontracts. Any bid by a certified MWBE and/or SBE or a bidder that utilizes a certified MWBE and/or SBE shall receive credit toward requirement attainment based on the percentage of MWBE and/or SBE usage demonstrated in the bid. A contractor that utilizes an MWBE and/or SBE subcontractor to provide services or public works

shall receive a credit toward the contractor's attainment of the respective requirement based on the value of the subcontract with that firm.

4. Brokers, Fronts, or Similar Pass-Through Arrangements. MWBEs and/or SBEs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the Program Regulations) shall not count toward the requirement attainment unless the activity reflects normal industry practices and the broker performs a commercially useful function.

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

1. When contract award is based on price. The lowest priced bid submitted by a responsive and responsible bidder will be reviewed to determine if it meets the requirement. An MWBE and/or SBE firm may self-count utilization on such bids if they will perform the work for the scope the requirement is based upon.

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

b. any bidder that does not meet the MWBE and/or SBE requirements shall be considered a non-responsible bidder unless the bidder receives a waiver from the Program Manager or C&A Board.

2. When contract award is based on qualifications or other performance criteria in addition to price. Solicitations shall utilize a scoring system that promotes participation by certified contractors. The Program Regulations may establish further requirements and procedures for final selection and contract award, including:

a. Evaluation of solicitations for Architectural and Engineering (A&E) services;

b. Evaluation and selection of submittals in response to requests for proposals; and

c. Selection of contractors from pre-qualified roster(s).

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

#### **1.07.080 Contract compliance.**

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

1. Any substitutions for or failure to utilize MWBE or SBEs projected to be used must be approved in advance by the Program Manager. Substitution of one MWBE or SBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original MWBE or SBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.

2. Where it is shown that no other MWBE or SBE is available as a substitute and that failure to secure participation by the MWBE or SBE identified in the solicitation is not the fault of the respondent, substitution with a non-MWBE or non-SBE shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.

3. If the Program Manager determines that the contractor has not reasonably and actively pursued the use of replacement MWBEs or SBEs, such contractor shall be deemed to be in non-compliance.

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

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

#### **1.07.090 Program monitoring.**

A. An Advisory Committee shall monitor compliance with all provisions of this chapter and the related Regulations. The Program Manager shall establish procedures to collect data and monitor the effect of the provisions of this chapter to assure, insofar as is practical, that the remedies set forth herein do not disproportionately favor one or more racial, gender, ethnic, or other protected groups, and that the remedies do not remain in effect beyond the point that they are required to eliminate the effects of under utilization in City contracting, unless such provisions are supported by a Disparity Study. The Program Manager shall have the authority to obtain from City departments/divisions, respondents, and contractors such relevant records, documents, and other information as is reasonably necessary to determine compliance.

B. The Program Manager shall submit an annual report to the Community and Economic Development Director, Director of Utilities, and the City Manager detailing performance of the program. The report shall document MWBE and SBE utilization

levels, waivers, proposed modifications to the program, and such other matters as may be specified in the Program Regulations.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

#### **1.07.100 Enforcement.**

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

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

#### **1.07.110 Remedies.**

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

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

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

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

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

#### **1.07.120 Unlawful acts.**

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

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

#### **1.07.130 Severability.**

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

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

#### **1.07.140 Review of program.**

This chapter shall be in effect through and until December 31, 2024, unless the City Council shall determine at an earlier date that the requirements of this chapter are no longer necessary. If this chapter has not been repealed by July 1, 2024, the City Council shall determine by the end of that year whether substantial effects or lack of opportunity of MWBEs and/or SBEs remain true in the relevant market and whether, and for how long, some or all of the requirements of this chapter should remain in effect.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)