DEPARTMENT OF ENVIRONMENTAL SERVICES

REQUEST FOR BIDS

HOOK-LIFT CONTAINERS FOR TAGRO

OPERATIONS SPECIFICATION NO. ES20-0100N
SPECIAL NOTE

Forms 1 – 4 under Forms to be returned with Bid Submittal must be completed and submitted
City of Tacoma
Department of Public Works, Engineering Division

REQUEST FOR BIDS
ES20-0100N
Hook-lift Containers for TAGRO Operations

Submittal Deadline: 11:00 a.m., Pacific Time, Monday, March 30, 2020

Submittal Delivery:

<table>
<thead>
<tr>
<th>By Carrier:</th>
<th>In Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Tacoma Procurement &amp; Payables Division</td>
<td>City of Tacoma Procurement &amp; Payables Division</td>
</tr>
<tr>
<td>Tacoma Public Utilities</td>
<td>Tacoma Public Utilities Lobby Security Desk</td>
</tr>
<tr>
<td>3628 S 35th Street</td>
<td>Administration Building North – Main Floor</td>
</tr>
<tr>
<td>Tacoma, WA 98409</td>
<td>3628 S 35th Street</td>
</tr>
<tr>
<td></td>
<td>Tacoma, WA 98409</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>By Mail:</th>
<th>By Email:</th>
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</thead>
<tbody>
<tr>
<td>City of Tacoma Procurement &amp; Payables Division</td>
<td><a href="mailto:sendbid@cityoftacoma.org">sendbid@cityoftacoma.org</a></td>
</tr>
<tr>
<td>Tacoma Public Utilities</td>
<td></td>
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<tr>
<td>PO Box 11007</td>
<td></td>
</tr>
<tr>
<td>Tacoma, WA 98411-0007</td>
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</tbody>
</table>

Submittal Opening: Submittals in response to a RFB will be opened by a Purchasing representative. After 1:00 p.m. the day of bid opening, the names of vendors submitting proposals are posted to the website for public viewing.

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

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

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

Project Scope: The City of Tacoma (City) Environmental Services Department, Business Operations Division is solicitation bids from qualified suppliers for the one-time purchase of custom fabricated 25-yard hook lift containers, for the safe transportation and dumping of biosolids at the Central Wastewater Treatment Plant, per the attached technical specifications.

Estimate: $190,000, plus applicable sales tax.

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

Additional Information: Requests for information regarding the specifications may be obtained by contacting Dawn De arlais, Buyer by email to dde arlais@cityoftacoma.org.

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

Meeting sites are accessible to persons with disabilities. Reasonable accommodations for persons with disabilities can be arranged with 48 hours advance notice by calling 253-502-8468.
**BIDDER’S SUBMITTAL CHECK LIST**

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

Submittals must be received by the City of Tacoma Procurement and Payables Division by the date and time specified in the Request for Bids page.

<table>
<thead>
<tr>
<th>The following items make up your bid proposal:</th>
</tr>
</thead>
<tbody>
<tr>
<td>One original hard copy or electronic copy in either Word or PDF format, arranged in the sequence listed in the</td>
</tr>
<tr>
<td>bidder’s checklist.</td>
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<tr>
<td>Signature Page</td>
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<tr>
<td>Bid Proposal Sheet</td>
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<td></td>
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<tr>
<td>References Data Sheet (With at least 5 references)</td>
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<tr>
<td></td>
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<tr>
<td>References</td>
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<tr>
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<tr>
<td><strong>After award, the following documents will be executed:</strong></td>
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<tr>
<td></td>
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<tr>
<td>Contract</td>
</tr>
</tbody>
</table>
GENERAL PROVISIONS
Specification No.
ES20-0100N

The City of Tacoma (City) Environmental Services Department, Business Operations Division is soliciting bids from qualified suppliers for the one-time purchase of custom fabricated 25-yard hook lift containers, for the safe transportation and dumping of biosolids at the Central Wastewater Treatment Plant, per the attached technical specifications.

1.01 RFB EVENT SCHEDULE

The tentative schedule of events for this RFB is listed below:

- Questions due by 3:00 p.m. PST on March 20, 2020
- Questions and answers posted by 3:00 p.m. PST on March 24, 2020
- Submittals are due by 11:00 a.m. PST on March 30, 2020

The City retains the sole discretion to alter this schedule as needed. Any adjustments to this schedule will be posted as an addendum on the purchasing website at www.tacomapurchasing.org.

1.02 CITY CONTACTS

For all RFB inquiries please contact Dawn DeJarlais, Buyer, at (253) 502-8112.

1.03 QUESTIONS AND ANSWERS

A pre-submittal bid conference will not be held; however, questions and requests for clarification of these specifications must be submitted electronically via e-mail by 3:00 P.M. PST, March 20, 2020, to Dawn DeJarlais, Buyer, at ddejarlais@cityoftacoma.org.

Questions shall be presented directly in the body of the email with simple formatting (i.e. Arial 11, flush left) cross reference a specific section of the RFB, as applicable, and contain the RFB specification number and title in the subject line. The City reserves the discretion to group similar questions and provide a single answer or to not respond when the requested information is confidential.

Any questions that do not meet the criteria or are received after the date outlined above will not be answered. The supplier will assume all responsible for their unsuccessful question submittal.

Written answers to questions shall be posted on the purchasing website, along with the specification, by 3:00 p.m. PST on March 24, 2020. To receive notice of the posted answers, you must register as a ‘bid holder’ for this solicitation. A notice will not be posted with the specification if no questions are received.

1.04 PRICING AND PRICE ADJUSTMENTS

The City reserves the right to increase or decrease quantities purchased through this solicitation. The quantities shown are estimates for the anticipated purchase and not a guarantee of any particular dollar or unit volume.

Unit prices shall be all-inclusive and submitted as FOB destination, freight pre-paid and allowed. At no point, during the duration of this contract, will surcharges be permitted.

Quoted prices must be available for 120-days beyond the bid opening date.
1.05 BID EVALUATION

This purchase will be awarded to the lowest responsible bidder, complying with the specifications and bidding regulations, provided such bid is reasonable and it is in the best interested of the City to accept. The City, however, reserves the right to reject any bid and to waive any informality in bids received.

The City reserves the right to award this purchase to the lowest responsible bidder whose bid will be the most advantageous to the City, price and any other factors considered.

In evaluating the submittal, the City may also consider any/all of the following:

- Compliance with specification
- Time of completion/delivery
- Warranty terms
- Sustainability practices

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

Minor deviations from these specifications will be considered, provided the bidder submits in writing a full description, in detail, for each variation with reference made to each item to which the variation will apply. These variations must be submitted with and made a part of the bid. If no variations are called out the bidder will be required to meet or exceed each item in the specification as written.

1.06 DELIVERY EXPECTATIONS

Delivery of the containers may start after award to the successful bidder.

TAGRO Operations
2301 Cleveland Way
Tacoma, WA 98421

The hook-lift containers shall be delivered within 45-working days of the Purchase Order. Date of delivery will be date of receipt and/or acceptance of containers, whichever is later, at the designated City location.

1.07 ACCEPTANCE

Authorized City personnel will inspect each container. The containers must be compatible with the City’s current truck fleet. The containers will be fully assembled when delivered and must conform in quality and workmanship to industry standards. All parts or design not specifically mentioned, but by which are necessary to provide a quality container, shall be included in the bid.

1.08 LIQUIDATED DAMAGES

If the supplier does not meet all terms of this contract by the delivery date stipulated in these specifications, the supplier shall pay the City not a penalty, but as liquidated damages, the amount equal to costs the City would pay to others, as a result, of the unavailability of equipment specified under this contract.
The supplier agrees to pay a late delivery assessment for any delay in delivery exceeding 10 working days beyond the required delivery date indicated in the specifications and shown on the proposal sheet, in the amount of, $100.00 per working day (Monday through Friday, excluding legal holidays). Any such late delivery assessments may be deducted from the invoice except for delays which are out of his/her or manufacturer’s reasonable control, or due to act of God, fire, strikes, epidemics, war, riot, unavoidable delay in transportation or rail car/transport shortages, or documented unavoidable material shortages, provided the City is notified in writing by the supplier of such pending or actual delay and the reasons therefore. If deemed excusable, the City shall authorize an extension of time. In the event of such an excusable delay, the date of delivery shall be extended for a period equal to the time lost due to the reason for delay. Any damage assessment or extensions of time are to be authorized by written purchase order changes issued by the City.

1.09 WARRANTY

The supplier shall furnish the City with a warranty against defects in material and workmanship, under normal use and service, for a minimum period of twelve (12) months.

1.10 PAYMENT

Upon certification that all equipment has been received and accepted by TAGRO Operations, payment will be made within thirty days of receipt of invoice. The approval shall certify that the equipment has received in accordance with the specifications and is in satisfactory condition.

Invoices shall be mailed to:

City of Tacoma  
Attn: Dominic Greco  
2201 E Portland Ave  
Tacoma, WA 98421

1.11 SUPPLIER QUALIFICATIONS

Only suppliers experienced in this type of work, and with a record of successful completion of contracts of similar scope and value will be considered for this contract. The City will be the sole judge of the supplier’s ability to meet the requirements of this solicitation. Bidders are required to submit, on the attached Bid Proposal Sheet, three references.

1.12 SUSTAINABILITY

The City has an interest in measures used by its suppliers to ensure sustainable operations with minimal adverse impact on the environment. Please state whether your firm has a formal sustainability program or policy and, if so, please submit a copy with your proposal.

Any sustainability program should address recycling, re-use of materials, and reduction of waste. Please list measures such as alternative fuel vehicles, recycling measures, and energy reduction measures used by your firm in its operations.
All parts or design criteria, not specification mentioned, but by which are necessary to provide quality containers, shall be included in the bid. The containers, at a minimum, must conform to the following technical specifications.

1.01 TECHNICAL SPECIFICATIONS

- Dimensions of Container
  - Capacity of 25-cubic yards
  - Length 19’ x Width 7-1/2’ x Height 5’

- Construction
  - Front panel of container shall be constructed of 10-gauge steel
  - Side walls and floor shall have a steel plate thickness of 3/16”
  - 6” x 2” x 1/4” steel tube main rails with Swaploader Hook lift
  - 61-3/4” bail hook height
  - Inside seams of the container shall be continuous welds
  - A certified welder shall complete all welds using A1 steel

- Wheels
  - Landing gear (wheel mount) 6” x 3” x 3/16” hi-tensile formed channel
  - 5-1/2” std pipe with 1-1/4” extra heavy pipe hubs and 1 3/16” cold rolled shaft
  - Full length hubs for axel support and mount to the landing gear cross member

- Rear Doors
  - Dump-style tailgate with air actuated release
  - Chemical resistant P-seal with manual pressure tightening mechanism

- Painting
  - Two coats of anticorrosive primer on all exterior surfaces
  - Two coats of industrial enamel paint in any single color on all exterior surfaces
  - Sandblasted interior container surfaces to near white finish
  - Two coats of industrial epoxy urethane primer on all interior surfaces
  - Two coats of industrial epoxy urethane coating on all interior surfaces

- Tarp
  - Roll Rite TarpMaster 500 powered waterproof vinyl tarp
SIGNATURE PAGE
CITY OF TACOMA
Department of Environmental Services

All submittals must be in ink or typewritten and must be executed by a duly authorized officer or representative of the bidding/proposing entity. If the bidder/proposer is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.

Submittals will be received and time stamped only at the City of Tacoma Procurement & Payables Division, located in the Tacoma Public Utilities Administration Building North, 4th Floor, at 3628 South 35th Street, Tacoma, WA 98409. See the Request for Bids page near the beginning of the specification for additional details.

REQUEST FOR BIDS SPECIFICATION NO. ES20-0100N
Hook Boxes- TAGRO

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 into Contracts for Bidder/Proposer Date

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


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.
Bidder agrees to furnish the following FOB, City of Tacoma, Environmental Services, TAGRO Operations, 2301 Cleveland Way, Tacoma, WA 98421 freight prepaid and allowed.

Section 1 – Bid Summary
Enter the cost per container (Unit Price) for each item below. The unit price and total cost must be shown in the spaced provided. Total cost shall be determined by multiplying the unit price by the estimated quantity (Quantity). Unit prices shall be all-inclusive and available for 120-days beyond the opening date.

Vendor: ________________________________

Bid Summary:

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hook-Lift Containers</td>
<td>10</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>Custom Built per Specifications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sales Tax (10.2%)</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Cost</td>
<td></td>
<td>$</td>
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Successful supplier can deliver materials within _____ days after receipt of purchase order.

NOTE: Late penalty provisions shall apply as detailed within this specification.

Prompt payment discount _____ %, _____ days, net 30.

Payment discount periods of 20-calendars days or more may be considered in determining lowest responsible bid.

Supplier agrees to furnish the City with a warranty against defects in material and workmanship, under normal use and service for a period of _____ months.

Warranty periods of more than 12-months may be considered in determining lowest responsible bid.
Section 2 – References

In order to verify competent experience, submittals must include three references, to whom which the contractor has provided equivalent services for. Failure to submit this minimum requirement will result in the bidder being non-responsive to the bid.

Professional Reference #1

Company Name:

Contact Name/Title:

Mailing Address:

Phone Number:

E-Mail:

Brief Project Description:

Professional Reference #2

Company Name:

Contact Name/Title:

Mailing Address:

Phone Number:

E-Mail:

Brief Project Description:

Professional Reference #3

Company Name:

Contact Name/Title:

Mailing Address:

Phone Number:

E-Mail:

Brief Project Description:
Section 3 – Sustainability

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

1. Please describe how you have incorporated sustainability into your everyday business practices?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

2. Please describe how you have taken measures to minimize impacts to the environment in the delivery of the proposed services?

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

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

1.1. City reserves the right to approve or reject the insurance provided based upon the insurer, terms and coverage, the Certificate of Insurance, and/or endorsements.

1.2. The insurance must be written by companies licensed in the State of Washington pursuant to RCW 48 with an (A-) VII or higher in the A.M. Best’s Key Rating Guide www.ambest.com.

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

1.4. Policies of Insurance, such as Commercial General Liability or Commercial Auto Liability or Marine General Liability or Aircraft General Liability or Excess Liability, required under this Contract that name City as Additional Insured shall:
   1.4.1. Be considered primary and non-contributory for all claims.
   1.4.2. Contain a “Severability of Insureds”, “Separation of Interest”, or “Cross Liability” provision and a “Waiver of Subrogation” clause in favor of City.

1.5. A Waiver of Subrogation in favor of City for General Liability and Automobile Liability.

1.6. Insurance limits shown below may be written with an excess policy that follows the form of an underlying primary liability policy or an excess policy providing the required limit.

1.7. Insurance policy(ies) shall be written on an “occurrence” form, except for Professional Liability/Errors and Omissions, Pollution Liability, and Cyber/Privacy and Security.

1.8. If coverage is approved and purchased on a “Claims-Made” basis, Contractor warrants continuation of coverage, either through policy renewals or by the purchase of an extended reporting period endorsement as set forth below.

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

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

1.11. Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract, otherwise it shall constitute a material breach of the Contract, upon which City may, after giving five (5) business day notice to Contractor to correct the breach, immediately
terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith; with any sums so expended to be repaid to City by Contractor upon demand, or at the sole discretion of City, offset against funds due Contractor from City.

1.12. Contractor shall be responsible for all premiums, deductibles and self-insured retentions. All deductibles and self-insured retained limits shall be shown on the Certificates of Insurance. Any deductible or self-insured retained limits in excess of Ten Thousand Dollars ($10,000) must be approved by City Risk Management Division.

1.13. Insurance coverages specified in this Contract are not intended and will not be interpreted to limit the responsibility or liability of Contractor or Subcontractor(s).

1.14. City reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services has been expanded.

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

1.16. City, including its officers, elected officials, employees, agents, and authorized volunteers, and any other entities, as required by the Contract, shall be named as additional insured(s) by endorsement for all liability insurance policies set forth below. No specific person or department should be identified as the additional insured.

1.17. Contractor shall deliver a Certificate of Insurance for each policy of insurance meeting the requirements set forth herein when Contractor delivers the signed Contract for the work to City. Contractor shall deliver copies of any applicable Additional Insured, Waiver of Subrogation, and primary and non-contributory endorsements. Contract or Permit number and the City Department must be shown on the Certificate of Insurance.

1.18. 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.

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

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

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

The CGL policy shall be written on an Insurance Services Office (ISO) form CG 00 01 (04-13) or its equivalent. Products and Completed Operations shall be maintained for a period of one year following final acceptance of the work. The CGL policy shall be endorsed to include:
3.1.1 A per project aggregate policy limit.
3.1.2 Contractual Liability-Railroad using ISO form CG 24 17 (10-01) or equivalent if Contractor is performing work within fifty (50) feet of a City railroad right of way.
3.1.3 City as additional insured using ISO form endorsements CG 20 10 (04-13) and CG 20 37 (04-13) or equivalent for ongoing and completed operations, or using ISO form endorsement CG 20 26 (04-13) or equivalent for Facility Use Agreements. Neither additional insured provisions within an insurance policy form, nor blanket additional insured endorsements will be accepted in lieu of the endorsements specified herein.

3.2 Workers’ Compensation

Contractor shall comply with Workers’ Compensation coverage as required by the Industrial Insurance laws of the State of Washington, as well as any other similar coverage required for this work by applicable federal laws of other states.

3.3 Employers’ Liability (EL) (Stop-Gap) Insurance

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

3.4 Other Insurance

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

4. CONTRACTOR

As used herein, "Contractor" shall be the Supplier(s) entering a Contract with City, whether designated as a Supplier, Contractor, Vendor, Proposer, Bidder, Respondent, Seller, Merchant, Service Provider, or otherwise.
This Contract is made and entered into effective this _____ day of Choose an item. 20 _____ , (“Effective Date”) by and between the City of Tacoma, a Municipal Corporation of the State of Washington (“City”), and (“Contractor”).

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

I. Contractor shall fully execute and diligently and completely perform all work and provide all services and deliverables described herein and in the items listed below each of which are fully incorporated herein and which collectively are referred to as “Contract Documents”:

   1. Specification No. and together with all authorized addenda.
   2. Contractor’s submittal (or specifically described portions thereof) dated submitted in response to Specification No. and .
   3. Describe with specific detail and list separately any other documents that will make up the contract (fee schedule, work schedule, authorized personnel etc.) or any other additional items mutually intended to be binding upon the parties.

Remove this paragraph and #1 and #2 if there are no additional attachments to the contract (attachments would be things other than a specific, contract, or bonds).

In the event of a conflict or inconsistency between the terms and conditions contained in this document entitled Contract and any terms and conditions contained the above referenced Contract Documents the following order of precedence applies with the first listed item being the most controlling and the last listed item the least controlling:

   1. Contract
   2. List remaining Contract Documents in applicable controlling order.

II. The total price to be paid by City for Contracts full and complete performance hereunder may not exceed: , plus applicable sales tax.

III. Contractor agrees to accept as full payment hereunder the amounts specified herein and in Contract Documents, and the City agrees to make payments at the times and in the manner and upon the terms and conditions specified. Except as may be otherwise provided herein or in Contract Documents Contractor shall provide and bear the expense of all equipment, work and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work and providing the services and deliverables required by this Contract.

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

V. Contractor and for its heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the requirements contained herein and in Contract Documents.

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

IN WITNESS WHEREOF, the Parties hereto have accepted and executed, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable.

CITY OF TACOMA:  CONTRACTOR:

By:  By:  Enter title of dept or div staff w/auth to sign for this $ amt  Signature

By:  By:

Choose an item.

CITY OF TACOMA:  CONTRACTOR:

By:  By:  Enter title of dept or div staff w/auth to sign for this $ amt  Signature

By:  By:

Choose an item.

Form No. SPEC-120A  Revised: 06/28/2018
By: ________________________________

Director of Finance

Title

APPROVED AS TO FORM:

By: ________________________________

City Attorney

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

1.18 **RESERVED RIGHTS**
A. By providing a submittal in response to a City solicitation, Supplier acknowledges and consents to the below City rights and conditions. With regard to this procurement process, the City reserves, holds without limitation, and may exercise, at its sole discretion, the following rights and conditions:
   1. To terminate the procurement process or decide not to award a contract as a result thereof by written notice to the Suppliers for any reason whatsoever with or without substitution of another solicitation.
   2. To waive any defect, technicality, or any other minor informality or irregularity in any submittal, or any other response from Suppliers.
   3. To issue addenda for any purpose including:
      a. To make minor or major changes or alterations to the evaluation, selection and/or performance schedule(s) for any events associated with a procurement.
      b. To supplement, amend, reduce, cancel, or otherwise modify a Solicitation, including but not limited to modifications to the description of services and/or products contained in the solicitation, by omitting services/products and/or including services/products.
   4. To request clarifications, additional information, and/or revised Submittals from one or more Suppliers.
   5. To conduct investigations with respect to the qualifications and experience of Supplier(s), including inspection of facilities and to request additional evidence to support any such information.
6. To eliminate any Supplier that submits an incomplete or inadequate response, or is non-responsive to the requirements of a Solicitation, or is otherwise deemed to be unqualified during any stage of the procurement process.

7. To select and interview a single finalist or multiple finalists to further the City’s evaluation of Submittals provided in response to a Solicitation. The City may, in its sole and exclusive discretion as to what is in the City’s best interest, elect not to conduct interviews of any or all Suppliers in connection with a solicitation process.

8. Except in the case of Requests for Bids, to negotiate any rate/fee offered by a Supplier. The City shall have the sole right to make the final rate/fee offer during contract negotiations. If the selected Supplier does not accept the City’s final offer, the City may, in its sole discretion discontinue contract negotiations and commence negotiations with another Supplier, except as otherwise provided in Chapter 39.80, RCW.

9. To select and enter into a Contract with one or more Suppliers whose Submittal best satisfies the interests of the City and is most responsive, in the sole judgment of the City, to the requirements of a Solicitation.

10. To award by line item or group of line items.

11. To not award one or more items.

12. To issue additional or subsequent solicitations.

13. To seek partnerships between one or more Suppliers.

14. Request additional related products and services from the selected Supplier(s) as necessary throughout the term of the Contract.

15. Negotiate costs or fees in the event of new legislation or regulatory changes, or issuance of related compliance guidance, technology enhancements, and innovative solutions.

16. In the event the City receives questions concerning a Solicitation from one or more Suppliers prior to the deadline for response, the City reserves the right to provide such questions, and the City’s responses, if any, to all Suppliers.

17. If an award is made and, prior to entering into a contract, subsequent information indicates that such award is not in the best interest of the City, the City may rescind the award without prior notice to Supplier and either award to another Supplier or reject all submittals or cancel this solicitation.

18. To cancel award of a contract at any time before execution of the Contract by both parties if cancellation is deemed to be in the City’s best interest. In providing a submittal, Suppliers agree that the City is not liable for any costs or damages for the cancellation of an award. Supplier assumes the sole risk and responsibility for all expenses connected with the preparation of its submittal.

19. To add additional City departments or divisions to the Contract or develop a separate Contract with the Supplier subject to all terms, conditions and pricing of the original Contract.

20. To take any other action affecting a Solicitation or a procurement process that is determined to be in the City’s best interests.

1.19 SUBMITTAL CLARIFICATION

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

1.20 EVALUATION OF SUBMITTALS

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

   a. Compliance with a Solicitation and with applicable City requirements, including by not limited to, the City’s Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs.

   b. Submittal prices, listed separately if requested, as well as a lump sum total (if the unit price does not compute to the extended total price, the unit price shall govern).

   c. The total cost to the City, including all applicable taxes, may be the basis for contract award.

   d. Time of delivery and/or completion of performance (delivery date(s) offered).

   e. Warranty terms.

   f. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City’s Ethics Code.

   g. Previous and existing compliance with laws and ordinances relating to contracts or services.

   h. Sufficiency of financial resources.

   i. Quality, availability, and adaptability of the supplies or services to the particular use required.

   j. Ability to provide future maintenance and service on a timely basis.

   k. Location of nearest factory authorized warranty repair facility or parts dealership.

   l. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications, and skill to perform the contract or provide the services required.

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

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

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

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

1.28 DEFAULT/BREACH

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

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

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

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

1.30 SERVICES DO NOT INCLUDE PUBLIC WORK
Unless otherwise stated, the services and/or work contracted for herein exclude public work and improvements as defined in RCW 39.04, as that statute may hereafter be amended.

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

B. If applicable, a Schedule of Prevailing Wage Rates for the locality or localities where the Contract will be performed is attached and made part of the Contract by this reference. If prevailing wages do apply to the Contract, Supplier and its subcontractors shall:
   1. Be bound by the provisions of Chapter 39.12 RCW, as amended, relating to prevailing wages and usual fringe benefits,
   2. Ensure that no worker, laborer or mechanic employed in the performance of any part of the Contract shall be paid less than the prevailing rate of wage specified on that Schedule, and
   3. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages must be submitted by Contractor and its subcontractors to the City, in the manner requested by the City, prior to any payment by the City hereunder, and an Affidavit of Wages Paid must be received or verified by the City prior to final Contract payment.

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

B. Surcharges of any type will not be paid.

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

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

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

1.33 APPROVED EQUALS WHEN ALTERNATES ARE ALLOWED

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

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

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

1.34 RISK OF LOSS, SHIPPING AND DELIVERY

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

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

1.35 DELIVERY OF PRODUCTS AND PROVISION OF SERVICES – IDLING PROHIBITED

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

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

1.36 PACKING SLIPS AND INVOICES

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

1. For transactions conducted in SAP Ariba, invoices shall be submitted through Ariba.

2. For invoices paid by ACH or by check, unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to accountspayable@cityoftacoma.org.

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

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

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

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

1.37 COOPERATIVE PURCHASING

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

1.38 TAXES

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

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

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

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

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

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

1.39 COMPENSATION

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

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

1.40 PAYMENT TERMS

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

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

1.41 PAYMENT METHOD – 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.

1.42 NOTICES

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

1.43 INDEPENDENT CONTRACTOR STATUS

A. Supplier is considered an independent contractor who shall at all times perform his/her duties and responsibilities and carry out all services as an independent contractor and shall never represent or construe his/her status to be that of an agent or employee of the City, nor shall Supplier be eligible for any employee benefits. No payroll or employment taxes or contributions of any kind shall be withheld or paid by the City with respect to payments to Supplier. Supplier shall be solely responsible for all said payroll or employment taxes and/or contributions including, but not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. If the City is assessed, made liable or responsible in any manner for such taxes or contributions, Supplier agrees to indemnify and hold the City harmless from all costs incurred, including attorney fees.
B. Unless otherwise specified in writing, Supplier shall provide at its sole expense all materials, working space, and other necessities and instruments to perform its duties under the Contract. Supplier, at its sole expense, shall obtain and keep in force any and all applicable licenses, permits and tax certificates necessary to perform the Contract.

1.44 NONDISCRIMINATION

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

1.45 FEDERAL, STATE, AND MUNICIPAL LAWS AND REGULATIONS

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

1.46 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.

1.47 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.

1.48 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.

1.49 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.

1.50 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.

1.51 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.

1.52 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.

1.53 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.

1.54 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.
1.55 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.

1.56 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.

1.57 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.

1.58 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.

1.59 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.