



City of Tacoma, WA

**TACOMA POWER/GENERATION
REQUEST FOR BIDS
MOSSYROCK DAM SAFETY BARRIER
SPECIFICATION NO. PG23-0167N**



City of Tacoma
Generation / Power

REQUEST FOR BIDS PG23-0167N
Mossyrock Dam Safety Barrier

Submittal Deadline: 11:00 a.m., Pacific Time, Wednesday, December 13, 2023

Submittals must be received by the City's Procurement and Payables Division prior to 11:00 a.m. Pacific Time.

For electronic submittals, the City of Tacoma will designate the time of receipt recorded by our email, sendbid@cityoftacoma.org, as the official time of receipt. This clock will be used as the official time of receipt of all parts of electronic bid submittals. Late submittals will be returned unopened and rejected as non-responsive.

Submittal Delivery: Submittals will be received as follows:

By Email:

sendbid@cityoftacoma.org

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

Bid Opening: Submittals in response to a RFB will be opened at the time listed in the submittal deadline.

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: Supply a waterway safety barrier system for Mossyrock Dam on Riffe Lake, and supply a waterway safety barrier system for the Mayfield Lake Park Swim Area.

Estimate: \$155,000

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

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

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 Aaron Bratton, Buyer by email to abrattont@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.

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SUBMITTAL CHECK LIST

This checklist identifies items to be included with your submittal. Any submittal received without these required items may be deemed non-responsive and not be considered for award. Submittals must be received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Bids page.

| | |
|---|---|
| <p>The following items make up your complete electronic submittal package (include all the items below):</p> |  |
| <p>Signature Page (Appendix B) To be filled in and executed by a duly authorized officer or representative of the bidding entity. If the bidder is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.</p> | |
| <p>Price Proposal Form (Appendix B) The unit prices bid must be shown in the space provided. Check your computations for omissions and errors.</p> | |
| <p>Content listed under Section 14. SUBMITTALS, A. Additional Required With Submittal</p> | |
| | |
| <p>After award, the following documents will be executed:</p> | |
| <p>Purchase Order</p> | |
| | |
| | |
| | |

HEALTH & SAFETY: Be sure to comply with all City of Tacoma health and safety requirements.

This project has been deemed to be an essential project by the City of Tacoma and it is anticipated that the contract will be operational during the COVID-19 outbreak. Therefore, the contractor shall complete a health and safety plan describing how the contractor will complete the work while combating the COVID-19 spread (social distancing practices) and what Personal Protective Equipment (PPE) will be in place.

SPECIAL NOTICE TO BIDDERS

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

I. STATE OF WASHINGTON

A. RESPONSIBILITY CRITERIA – STATE OF WASHINGTON

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

1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of bid submittal.
2. Have a current Washington Unified Business Identifier (UBI) number.
3. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW.
 - b. Have a Washington Employment Security Department number, as required in Title 50 RCW.
 - c. Have a Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW.
4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 (unlicensed or unregistered contractors) or 39.12.065(3) (prevailing wage).
5. Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW and must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection.

B. RECIPROCAL PREFERENCE FOR RESIDENT CONTRACTORS:

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

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

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

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

The City of Tacoma will evaluate all non-resident contractors for an out of state bidder preference. If the state of the non-resident contractor provides an in-state contractor preference, a comparable percentage disadvantage will be applied to the non-resident contractor's bid prior to contract award. The responsive and lowest and best responsible bidder after application of any non-resident disadvantage will be awarded the contract.

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

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

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

C. SUBCONTRACTOR RESPONSIBILITY

1. The Contractor shall include the language of this subcontractor responsibility section in each of its first-tier subcontracts and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier.
2. At the time of subcontract execution, the Contractor shall verify that each of its first-tier subcontractors meets the following bidder responsibility criteria:
 - a. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal.
 - b. Have a current Washington Unified Business Identifier (UBI) number.
 - c. If applicable, have:
 - i. Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW.
 - ii. A Washington Employment Security Department number, as required in Title 50 RCW.
 - iii. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW.
 - iv. An electrical contractor license, if required by Chapter 19.28 RCW.
3. An elevator contractor license, if required by Chapter 70.87 RCW.

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

II. CITY OF TACOMA

A. SUPPLEMENTAL RESPONSIBILITY CRITERIA – CITY OF TACOMA:

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

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

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

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

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

D. DETERMINATION OF BIDDER RESPONSIBILITY

If the City determines the bidder does not meet the criteria above and is therefore not a responsible bidder, the City shall notify the bidder in writing with the reasons for its determination. If the bidder disagrees, the bidder may appeal the determination in a manner consistent with the City's Protest Policy. Appeals are coordinated by the Purchasing Division heard by the Procurement and Payables Division manager for contracts less than or equal to \$500,000 and by Contracts and Awards Board for contracts greater than \$500,000.

1. STANDARD TERMS AND CONDITIONS

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

2. DESCRIPTION OF WORK

The City of Tacoma (City) / Tacoma Public Utilities (TPU) is soliciting bids to establish one or more contracts with qualified vendors to fulfill the City's needs for Floating Debris Boom Materials. Contract(s) will be awarded to the lowest responsive and responsible bidder(s) based on price, product quality and availability.

3. CALENDAR OF EVENTS

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

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

| | |
|--------------------------------------|-------------------|
| Publish RFB: | 11/29/2023 |
| Question Deadline: | 12/4/2023 |
| City response to Questions: | 12/6/2023 |
| Submittal Due Date: | 12/13/2023 |
| Anticipated Award Date, on or about: | 12/15/2023 |

4. INQUIRIES

4.1 Questions can be submitted to *Aaron Bratton*, Buyer, via email to abratton@cityoftacoma.org.

PG23-0167N - Mossyrock Dam Safety Barrier - VENDOR NAME

4.2 Questions are due by 3 pm on the date included in the Calendar of Events section.

4.3 Questions marked confidential will not be answered or included.

4.4 The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.

4.5 The answers are not typically considered an addendum.

4.6 The City will not be responsible for unsuccessful submittal of questions.

4.7 Written answers to questions will be posted alongside these specifications at www.tacomapurchasing.org.

5. PRE-BID MEETING

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

Request for Bids
Template Revised: 05/11/2023

Specification No. PG23-0167N

6. DISCLAIMER

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

7. RESPONSIVENESS

Bid submittals must provide ninety (90) days for acceptance by City from the due date for receipt of submittals. All submittals will be reviewed by the City to determine compliance with the requirements and instructions specified in this RFB. The Respondent is specifically notified that failure to comply with any part of this RFB may result in rejection of the submittal as non-responsive. The City reserves the right, in its sole discretion, to waive irregularities deemed immaterial. The City also reserves the right to not award a contract or to issue subsequent RFB's

8. AWARD

Awardee shall be required to comply with 2 CFR part 25 and obtain a unique entity identifier and/or be registered in the federal System for award Management as appropriate.

Award will be made to the lowest responsive, responsible bidder. All bidders shall provide unit or lump sum pricing for each line item. Each line item will be added up for a subtotal price. The subtotal price will be compared amongst each bidder, including any payment discount terms offered twenty (20) days or more. 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 the contract. The final award decision will be based on the best interests of the City.

The City reserves the right to let the contract to the lowest responsible bidder whose bid will be the most advantageous to the City, price and any other factors considered. In evaluating the proposals, the City may also consider any or all of the following:

1. Compliance with specification.
2. Proposal prices, listed separately if requested, as well as a lump sum total
3. Time of completion/delivery.
4. Warranty terms.
5. Bidder's responsibility based on, but not limited to:
 - a) Ability, capacity, organization, technical qualifications and skill to perform the contract or provide the services required.
 - b) References, judgment, experience, efficiency and stability.
 - c) Whether the contract can be performed within the time specified.
 - d) Quality of performance of previous contracts or services

9. DELIVERY

9.1 Delivery shall be to the **City of Tacoma, Cowlitz River Project, 253 Hydro Lane Silver Creek WA 98585**. Each vendor will be required to submit a delivery timeline they can commit to. Purchase order delivery dates will reflect this timeline. In the event a purchase order deliver date is not met, the City reserves the right to purchase these products elsewhere if they are in a time constraint. If constant late deliveries occur, the City may terminate the contract.

9.2 Hours of operation shall be Monday through Friday, 7:00 a.m. to 3:00 p.m., excluding legal holidays, as referred to in the Standard Terms and Conditions or as otherwise approved by the City.

10. INSPECTION

All goods are subject to final inspection and acceptance by the City. If any inspection fails, the vendor shall be required to make arrangements to exchange the goods at their own expense and replace it in a timely manner acceptable to the City.

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, repackaging, reshipping, or other like expenses are the responsibility of the Vendor.

11. APPROVED ITEM EQUIVALENT

A specific manufacturer for almost all line items has been listed in the Technical Specifications because this is the current manufacturer accepted. For those line items, which do not list a specific manufacturer, bidders shall provide the technical specifications for the manufacturer they are offering. The City may request, after the bid due date, a sample of that product for review and approval by the City. The City reserves all rights to be the sole judge as to whether any other manufacturer can meet or exceed the current specifications they use. Unless an item is indicated "No Substitute", approved equivalents shall be submitted by the date listed in the Calendar of Events section. Equivalents will be approved by Addendum to the solicitation.

12. COMPLIANCE WITH SPECIFICATIONS

All products shall be new and unused. Any product that does not comply with any part of these technical specifications shall be rejected and the vendor shall, at its own expense, including shipping, replace the item.

13. MATERIALS AND WORKMANSHIP

The successful bidder shall be required to furnish all materials necessary to perform contractual requirements. Materials and workmanship for this contract shall conform to all codes, regulations and requirements for such specifications contained herein and the normal uses for which intended. Material shall be manufactured in accordance with the best commercial

practices and standards for this type of goods. All literature and products must be packaged and labeled to sell in the United States.

14. ENVIRONMENTALLY PREFERABLE PROCUREMENT

In accordance with the [City's Sustainable Procurement Policy](#) and [Climate Action Plan](#), it is the policy of the City of Tacoma to encourage the use of products or services that help to minimize the environmental and human health impacts of City Operations. Respondents are encouraged to incorporate environmentally preferable products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, products, manufacturing, packaging, distribution reuse, operation, maintenance or disposal of the product or service.

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

- Durability, reusability, or refillable
- Pollutant releases, especially persistent bioaccumulative toxins (PBTs), low volatile organic compounds (VOCs), and air quality and stormwater impacts
- Toxicity of products used
- Greenhouse gas emissions, including transportation of products and services, and embodied carbon
- Recycled content
- Energy and water resource efficiency

APPENDIX A

Special & Technical Provisions

Safety Boom Material Specification

SPECIFICATION NO. PG23-0167N

These Special and Technical Specifications have been prepared under the direction of a licensed Professional Engineer, registered in the State of Washington

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SPECIAL PROVISIONS

1. PROJECT DESCRIPTION

This specification is for purchase only, Tacoma Power will install Waterway Safety Barrier (Waterway Safety Barrier maybe used interchangeably with Waterway Safety Boom).

Supply materials for two (2) sections of waterway safety barrier (boom) system for the North Shore and South Shore Public Fishing areas at Mossyrock Dam on Riffe Lake.

Supply materials for one (1) section of waterway safety barrier (boom) safety boom system to be placed at the Swimming Area at Mayfield Lake Park on Mayfield Lake.

2. MATERIAL SHIPPING QUANTITIES

- Mossyrock (Riffe Lake) 80 boom units will be delivered to the Mayfield Project office.
- Swimming Area (Mayfield Lake) 64 boom units of boom will be delivered to the Mayfield Project office.

3. CONTRACT PERIOD

- A. The City intends this supply contract to be one (1) time purchase contract based on the contract documents.

4. PROJECT COORDINATION

- A. Management for this project, with whom the vendor shall coordinate all their activities with, will be Mr. Stephen Fairchild, at 253-820-4867.
- B. Vendor technical inquires pertaining to this specification may be directed to Mr. Stephen Fairchild, at 253-820-4867 or Mr. Chad Chalmers, at 253-779-7557.

5. PROPOSAL ITEMS

- A. Refer to Proposal for Specification page(s) for a listing of the required bid item.
- B. Bid item shall be measured by unit payment price per each (EA) unless otherwise noted and shall be full and complete compensation including delivery. (See Delivery Section).

6. WORKING DAYS

Working days, as they correspond to product delivery, are weekly Monday through Friday. City observed holidays as listed in Section 1.14 of the Standard Terms and Conditions would not be included.

7. QUALIFICATION OF VENDORS

- A. Only vendors with five (5) or more years' experience in this type of work, and with a record of successful completion of jobs of similar scope, will be considered for this contract. The city will be the sole judge of the vendor's ability to meet the requirements of this paragraph.

8. CONTRACT USAGE

During the term of this contract, other City of Tacoma Departments/Divisions shall have the right to enter into additional service contracts or issue purchase orders based on the unit prices and/or service rates stated in this contract. An exception taken specifically to this provision at time of submittal shall not constitute a material deviation in the bidding process.

9. QUANTITIES

The City reserves the right to increase or decrease quantities under this contract and pay according to the unit prices in accordance with the attached specifications and as listed in the proposal.

10. DELIVERY DATE / EXCEPTIONS

The vendor must state in the proposal section the number of days after the date the purchase order is received or after the date of notification to make delivery that they will guarantee delivery of the required materials. Notification of delivery quantities may either be by letter or, via phone or fax from contact person in Section – Project Coordination.

The vendor shall include with the bid proposal any exceptions or additions to the terms or conditions contained in this specification that apply to their bid. These terms shall include a schedule of delivery. All statements regarding exceptions shall be noted on the proposal pages.

11. ADMINISTRATION - MEASUREMENT AND PAYMENT

A. UNIT QUANTITIES SPECIFIED

Quantities indicated in the proposal are for bidding and contract purposes only. Quantities and measurements supplied or placed in the work and verified by the engineer and vendor determine payment.

Adjustments to contract prices due to changes in quantity shall be in accordance with the latest edition of the Standard Specifications, unless otherwise modified by this specification.

Unless otherwise specified, the engineer and/or City's representative shall provide, in writing, to the vendor the quantities of purchase prior to acceptance of order.

The City reserves the right to delete any bid item from the contract by notifying the vendor in writing of its intent. In the event of deleted work, the vendor's sole compensation shall be the money due the vendor for materials that had been purchased and obtained by the vendor on an authorized written order prior to the deletion of the work.

B. CONTRACT PRICE

The unit bid prices shall be full and complete compensation for the contract work stated, together with all appurtenances incidental thereto, including materials, equipment, tools, labor, and all the costs to the vendor for completing the contract in accordance with the plans, specifications, and instructions of the engineer.

All work not specifically called out in these specifications, but required to construct complete and operable systems, structures or amenities shall be considered incidental to the contract.

C. PROPOSAL ITEMS

1. ITEM 1 FURNISH WATERWAY SAFETY BARRIER – MOSSYROCK DAM, RIFFE LAKE

MEASUREMENT

Supply Waterway Safety Barrier system, As Ordered, shall be measured per each (EA).

PAYMENT

The contract unit price per each (EA) shall be full compensation for all costs associated with supply and delivery of Items. Waterway Safety Barrier product shall include floating Barrier (boom), all associated hardware for a complete and functional system to connect booms and shall include an anchorage system, in accordance with the attached specifications.

2. ITEM 2 FURNISH WATERWAY SAFETY BARRIER – MAYFIELD LAKE PARK SWIM AREA

MEASUREMENT

Supply Waterway Safety Barrier, As Ordered, shall be measured per each (EA).

PAYMENT

The contract unit price per each (EA) shall be full compensation for all costs associated with supply and delivery of Items. Waterway Safety Barrier product shall include floating Barrier (boom), all associated hardware for a complete and functional system to connect booms and shall include an anchorage system, in accordance with the attached specifications.

D. PAYMENTS

Refer to the Standard Terms and Conditions, Section 1.18.

100-Percent upon delivery of material/product.

12. CONTRACT CHANGES

The City has developed four (4) forms to facilitate and track communications with the vendor. These are the **Request for Information (RFI)**, **Engineering Change Directive (ECD)**, **Proposal Request (PR)**, and **Change Order Proposal (COP)**. These forms are included at the end of the Special Provisions.

The **Request for Information (RFI)** shall be used by the vendor whenever written direction on conflicts in plans, insufficient or non-constructable details are shown, or any other issue which should be documented. The City may also use the form to inquire on vendor's methods, schedule or other issues not warranting more formal letter correspondence. The vendor shall maintain the numbering system and, as such, any issued by the City will be unnumbered until delivered to the vendor.

The **Engineering Change Directive (ECD)** shall be used by the City to transmit new or revised drawings, issue additions or modifications to the contract or furnish any other direction which should be documented. Directives are effective immediately. Should the vendor believe that such Directive should result in either a change in cost or time for the project, they shall notify the engineer prior to commencing such work and, if possible, submit a **Change Order Proposal** prior to the start of such work, but in no case, less than seven (7) days from receipt of said Directive. Should no Change Order Proposal be received by the City within seven (7) days, such claim for extra cost or time shall be presumed to be dropped. Directives are numbered by the City.

The **Proposal Request (PR)** shall be used by the City to request pricing on a possible change in plans or additional work. The PR may also be used to request credits for deletion or changes in scope of work. The vendor shall respond to such requests with a **Change Order Proposal** within seven (7) days from receipt of said Request unless more time has been agreed to. Requests are numbered by the city.

The **Change Order Proposal (COP)** shall be used by the vendor to respond to City issued Proposal Requests, Engineering Change Directives or when the vendor believes that changed conditions or omitted, but necessary, work items exist. The COP may be used for requested changes in cost or time of the contract. COPs shall be numbered by the vendor, and, in the case of revision or resubmission of the same basic COP, the number shall be hyphenated with the letter "B", "C", etc.

13. QUALITY OF MATERIAL WORKMANSHIP

Materials shall be delivered to the project site in the manufacturer's original containers, bundles or packages unopened with the seals unbroken and the labels intact.

All materials and equipment to be provided under this contract in no case shall be contrary to the laws of the State of Washington and/or Federal Government. The equipment supplied shall meet appropriate ANSI, OSHA, WISHA, SAE and all Federal, state, and local standards for the type of equipment provided for its intended use.

Unless otherwise noted in this specification, all materials and equipment incorporated into any item covered by the specification 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.

For ease of reference in this specification, certain equipment and materials or processes may be designated by a trade name, manufacturer's name, manufacturer's catalog number, or other similar designation. 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 Utilities inventory of replacement parts and **NO EXCEPTIONS/ALTERNATES** will be permitted in these cases.

If the vendor elects to bid alternative equipment, materials, or processes where allowed, then complete data must be submitted with the bid showing that the alternative item or process 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.

Upon request, the vendor shall furnish to the City within five (5) working days such additional information relating to such alternative items as the City may require. In the event that the equivalency is not readily ascertained from the information supplied by the successful vendor, the City may test the material or equipment, or have it tested. The successful vendor shall bear all expense of the City's determination of whether or not alternative equipment, materials or processes are equal to those designated. The City shall keep expense records of all costs and charges associated with such determination of equivalency.

14. SUBMITTALS

Prior to final acceptance of contract pricing, material submittals for any alternate materials proposed shall be provided for engineer review. Submittals to the City, as specified herein, are intended to show compliance with the contract documents. Signatures, corrections or comments made on submittals do not relieve the vendor from compliance with requirements of the contract. Neither does acceptance or approval of submittals by signature add to or delete from any contract requirements resulting from these specifications regardless of the wording of the submittals. Submittals will not be reviewed or approved when the term "By Others" is used. Submittals are reviewed or approved for general conformance with the design concept of the project and general compliance with the information given in the contract documents.

Piecemealing of submittals shall not be accepted.

A. ADDITIONAL REQUIRED WITH SUBMITTAL

1. Provide documentation showing three (3) or more projects of similar size and scope providing waterway safety barriers for the specified purpose.
2. Submit Waterway Safety Barrier specification materials showing compliance meeting or exceeding contract specifications, barrier freeboard.
3. Details showing length and shape of barrier, barrier-hardware connection and barrier-anchorage connection.
4. Copy of five (5) year warrantee.

B. PRODUCT DATA

1. Number of Copies: Submit four (2) copies to the engineer for review. One (1) copy, with corrections/comments, to be returned to vendor.
2. Identification: Mark each copy to identify specific products, models, options, tolerances, dimensions, and other pertinent data.
3. Vendor must provide a detailed comparison of any proposed product as it compares with the equivalent proposed to allow evaluation. Incomplete submittals will not be reviewed, and bids will be rejected.

15. MAINTENANCE AND OPERATION MANUALS AND DRAWINGS

- A. Three (3) complete sets of maintenance and operations (O&M) manuals and supplement drawings for the care and maintenance of materials and equipment items supplied.

These manuals shall be prepared by the manufacturer's representatives and collected and bound in separate brochures by the vendor. These manuals shall include all provided equipment data, electrical data and other necessary information pertaining to the materials.

- B. The vendor shall also include necessary instructions or training to the City's personnel to such care and maintenance as directed by the manufacturer.
- C. Electronic Copies: Provide a .pdf file format copy of all the complete mechanical O&M manuals on a compact disk (CD). Furnish one (1) CD for each hard copy of O&M manual provided; located CD in pocket on inside of manual cover.

16. GUARANTEES AND WARRANTIES

All guarantees, warranties, and/or agreements for such equipment and materials as carry such guarantees shall be provided to the City.

Equipment shall be warranted by the manufacturer to be free from all manufacturing defects and capable of providing satisfactory operation for a period of five (5) years (or longer, see Technical Specifications for additional warranty requirements) after the date of project acceptance. Vendor shall include in their bid all costs associated with this warranty to ensure that the warranty extends to five (5) years after the date of project acceptance and/or factory start-up.

Possible project delays and failure by others to complete their work may cause the date of project acceptance to be substantially delayed. The vendor shall be responsible for increasing the warranty dates by corresponding amounts to still provide five (1) years warranties.

17. PACKING AND SHIPPING

A. VENDOR RESPONSIBILITIES

The vendor shall be responsible for industry standard packing which conforms to requirements of carrier's tariffs and ICC regulations. Containers must be clearly marked as to lot number, destination, address, engineer, and purchase order number and release number.

B. PREPARATION FOR SHIPMENT

All items shall be properly prepared for shipment.

All heavy parts shall be provided with skids to facilitate handling.

All heavy parts shall be securely boxed and identified as to content.

The vendor will be responsible for all damage to the shipment incurred in transit.

C. SHIPPING

Shipping as detailed under this paragraph will constitute the only shipping instructions under these specifications. All items shall be shipped F.O.B. to the destinations stated herein. A complete packing list must be included.

18. DELIVERY

This section is in addition to the Standard Terms and Conditions, Section 1.34 – Price, Risk of Loss, Delivery.

A. SHIPPING

The ordered materials shall be delivered F.O.B. to:

Tacoma Power
Cowlitz River Project
253 Hydro Lane,
Silver Creek, WA 98585

Attention: Chad Chalmers

Notification must be received at least 48 hours prior to delivery.

Delivery is F.O.B. destination, freight pre-paid and allowed. Quotes with freight allowances to Tacoma will be declared non-responsive.

B. SHIPPING NOTICES AND INVOICES

This section is in addition to the Standard Terms and Conditions, Section 1.36 – Packing Slips, Shipping Notices and Invoices.

Shipping notices shall be mailed to:

Tacoma Power
Cowlitz River Project
PO Box 109,
253 Hydro Lane,
Silver Creek, WA 98585

Attention: Chad Chalmers

Invoices shall be emailed to: skoscik@cityoftacoma.org

19. INSPECTION

A. INSPECTION AND ACCEPTANCE

All goods are subject to final inspection and acceptance by the engineer. 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.

B. FACTORY INSPECTION

If deemed necessary by the engineer, an authorized representative shall be permitted to be present to witness the manufacture of bid items and/or perform a quality audit of the facility.

END OF SECTION

TECHNICAL SPECIFICATIONS

SAFETY BARRIER

PART 1 GENERAL

Waterway safety barrier (booms) to be used for public safety and debris management at Mossyrock Dam on the Cowlitz River Project near Mossyrock, Washington.

Riffe Lake

80 waterway safety barriers Tuffboom system for use on Riffe Lake, **or** waterway safety barriers shall be able to span 831-feet, plus three extra safety booms.

Mayfield Lake

64 waterway safety barriers Tuffboom system for use on Mayfield Lake, **or** waterway safety barriers shall be able to span 660-feet, plus three extra safety booms.

PART 2 PRODUCT

Waterway barrier shall be equivalent to the TUFFBOOM system as Manufactured by Worthington Products, Inc. or approved equal.

Waterway barriers, associated products and all connection hardware shall be designed to meet or exceed the following operational conditions. Manufacturer shall submit through drawings, calculations and or test results proof that the products being offered are suitable to withstand the conditions below:

1. Waterway Barriers shall be new units supplied by a manufacturer with not less than 5-years' experience providing waterway barriers for the specified purpose.
2. THE SPECIFICATIONS BELOW ARE SOLELY INTENDED TO BE USED WITH HOT DIPPED GALVANIZED STEEL HARDWARE. WHERE THE STEEL SPECIFICATION CALLS FOR STAINLESS STEEL HARDWARE, THE LOAD CAPACITIES AND CERTAIN HARDWARE ITEMS MAY DIFFER FROM WHAT IS SHOWN BELOW.
3. Booms shall be designed such that the minimum tensile strength in the connecting hardware is 120,000 lbs. Barrier supplier shall certify to owner via independent test reports that the connection system as designed meets the above design resistance.
4. Booms shall be cylindrical in shape and be UV-stabilized for long- term environmental exposure.
5. Booms shall include recessed longitudinal ribbing to provide impact strength and load resistance.
6. The longitudinal ridges shall be incorporated into each boom such that they function as hand holds allowing an individual to grip and hold on to the boom.
7. Booms units shall be of a modular design such that each barrier with all hardware

attached can be carried by two adults.

8. Boom units shall be designed such that they resist rolling.
9. Length of each flotation unit is to be approximately 10 feet. When connected together, the nominal distance from boom float to boom shall not exceed 10.8-feet.
10. Boom floats should have a minimum 12 inches of freeboard in still water conditions.
11. The boom floats shall be colored Yellow per U.S. Federal Standard 595B color #FS-13655 such that they are visible in low-light conditions and to individuals who suffer from color blindness. Where float color is achieved by the use of external coatings using epoxy resins, paints or similar, manufacturer shall be able to clearly demonstrate via toxicology or environmental reports that such coatings will not be harmful when ingested by aquatic or avian wildlife. Manufacturer shall also warrant any externally applied coatings for the life of the float shell.
12. The total weight of each barrier float with all hardware attached shall be between 135 – 150 lbs.
13. The external encasement of each boom shall have a nominal wall thickness of not less than 0.170 inch. Manufacturer shall certify that the wall thickness as offered is suitable for the intended application. Where rotationally molded boom units are offered, such units shall be rotationally molded using linear low-density polyethylene or linear medium grade polyethylene. Polyethylene encasement shall have a minimum density of 0.935 g/cm³ as determined by ASTM D1505-68 and be UV-stabilized for long-term environmental exposure. Manufacturer shall be able to provide ultrasonic wall measurements certifying the thickness of the material.
14. Where the external encasement includes an end-cap fitting, it shall be of the same shape as the main boom encasement. The end-cap design shall allow for a male/female style fitting to the main boom encasement and be additionally secured in place using rivets and plastic welding.
15. Where the end cap fittings are also used to mount inter-boom connection hardware such that boom loads are transferred through the end cap welds, manufacturer shall be able to provide dynamic load testing reports verifying breaking or tear strength of the end cap welds to be not less than 120,000 lbs.
16. Rotationally molded boom units shall contain an internal structural full-length steel channel through which all external inter-boom connections are attached. Structural steel channel shall be of material type ASTM A572, Grade 50 Steel and a weight of not less 5.4 lbs/ft.
17. Boom floats shall include a solid foam core to prevent sinking. If punctured, they shall maintain their original freeboard. Foam core shall meet the requirements of ASTM C-578 with a minimum in- place density of 0.9 pounds per cubic foot. Water absorption of foam core shall not exceed 3% by volume per ASTM C-272. Foam core must take up a minimum of 95% of the interior volume of the boom.
18. Boom floats shall be suitable for use in temperatures ranging from - 38°F (-38°C) up to 130°F (55°C).

Inter-boom Connection Hardware:

1. Connections between boom units shall permit full freedom of motion simultaneously in horizontal and vertical planes.
2. Shackles shall not be used to connect boom units.
3. Wire rope connections, if used to connect boom units, must meet the minimum breaking strength requirements, spacing requirements and must include a swage fitting and thimble eye on each end. The use of Flemish eyes, and wire rope clips is not permitted.
4. The minimum acceptable tensile strength for connection hardware shall not be less than 120,000 psi.
5. Manufacturer shall submit to owner certified independent test results confirming the minimum breaking strength is not less than 120,000 psi.
6. Hot dipped galvanizing should be in accordance with the current version of ASTM A-123/A 123M and ASTM A-153/A 153M as applicable.
7. Graphics, if required, are to be millennium type Mold-In graphics, Arial, font, all caps, black, boldfaced font and shall be placed on the upstream face of the boom unit.

APPENDIX B

Signature Page

Proposal Form

Standard Terms & Conditions

SIGNATURE PAGE

**CITY OF TACOMA
Tacoma Power/Generation**

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 6 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 BID SPECIFICATION NO. PG23-0167N
Mossyrock Dam Safety Barrier**

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

Address

ate
into Contracts for Bidder/Proposer

D

City, State, Zip

Printed Name and Title

Authorized Signatory E-Mail Address

(Area Code) Telephone Number / Fax Number

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

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

E-Mail Address for Communications:

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.

Name of Bidder

PROPOSAL

| | <u>QUANTITY</u> | <u>BID UNIT</u> | <u>UNIT COST</u> | <u>TOTAL COST</u> |
|--|------------------------|----------------------------|-------------------------|--------------------------|
| <u>ITEM 1</u> Waterway Safety Barrier - Mossyrock Dam Riffe Lake | 80 | EA | \$ _____ | \$ _____ |
| <u>ITEM 2</u> Waterway Safety Barrier Mayfield Lake Park Swimming Area | 64 | EA | \$ _____ | \$ _____ |

Delivered pricing F.O.B. Destination, Freight Pre-paid and Allowed per Specification

TOTAL ITEMS 1 - 3 \$ _____

**Sales Tax @ _____ \$ _____

(Note Paragraph 1.38 of the Standard Terms and Conditions)

TOTAL AMOUNT \$ _____

Name of Bidder

PROPOSAL

Prompt payment discount offered _____%, _____ days.

Only discounts offered in excess of twenty (20) days will be considered for bid evaluation purposes.

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED.

Indicate below whether you are offering any alternatives to makes/models included in this specification.

Alternates: Yes _____ How Many _____

Name of Bidder

**PROPOSAL
NOTICE**

All attachments of "Standard Terms and Conditions" or letters modifying the Proposal shall be referenced on this page under the appropriate headings or they will not be considered a part of the Proposal.

Bidder's Statement of Delivery Time:

Bidder's Statement of Price Guarantee:

(ONLY FIRM PRICES WILL BE ACCEPTED)

Manufacturer's/Bidder's Guarantees and/or Warranties of Material or Equipment:

State Whether Exception "IS" or "IS NOT" Taken to this Specification. Itemize any exceptions taken*

***NOTE:** The City cannot legally accept a substantial deviation from these specifications. Bids containing any substantial deviation will be rejected as non-responsive.

Where the bidder indicates that exception is not taken to this specification, but then attaches non-conforming warranties or other modifications to the specification, it is then agreed that the bidder warrants that where the specification deviates from the attachment, the bidder will perform to the highest standard indicated.

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

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

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

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

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

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

1.01 SUPPLIER / CONTRACTOR

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

1.02 SUBMITTAL

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

1.03 FORMS OF SUBMITTAL

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

1.04 COSTS TO PREPARE SUBMITTAL

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

1.05 LICENSES/PERMITS

- A. Suppliers, if applicable, must have a Washington state business license at the time of Submittal and throughout the term of the Contract. Failure to include a Washington state business license may be grounds for rejection of the Submittal or cancellation of contract award. Information regarding Washington state business licenses may be obtained at <http://bls.dor.wa.gov>.
- B. Upon award, it is the responsibility of the Supplier to register with the City of Tacoma's Tax and License Division, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, 253-591-5252, https://www.cityoftacoma.org/government/city_departments/finance/tax_and_license/. Supplier shall obtain a business license as is required by Tacoma Municipal Code Subtitle 6C.20.
- C. During the term of the Contract, Supplier, at its expense, shall obtain and keep in force any and all necessary licenses and permits.

1.06 PUBLIC DISCLOSURE: PROPRIETARY OR CONFIDENTIAL INFORMATION

- A. Supplier Submittals, all documents and records comprising the Contract, and all other documents and records provided to the City by Supplier are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, City may be required, upon request, to disclose the Contract and documents or records related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and Supplier has complied with the requirements to mark records considered confidential or proprietary as such requirements are stated below, City agrees to provide Supplier 10 days written notice of impending release. Should legal action thereafter be initiated by Supplier to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by Supplier, including any damages, attorneys' fees or costs awarded by reason of having opposed disclosure. City shall not be liable for any release where notice was provided and Supplier took no action to oppose the release of information.
- B. If Supplier provides City with records or information that Supplier considers confidential or proprietary, Supplier must mark all applicable pages or sections of said record(s) as "Confidential" or "Proprietary." Further, in the case of records or information submitted in response to a Request for Proposals, an index must be provided indicating the affected pages or sections and locations of all such material identified Confidential or Proprietary. Information not included in the required index will not be reviewed for confidentiality or as proprietary before release. If Supplier fails to so mark or index Submittals and related records, then the City, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and Supplier expressly waives its right to allege any kind of civil action or claim against the City pertaining to the release of said record(s).
- C. Submission of materials in response to City's Solicitation shall constitute assent by Supplier to the foregoing procedure and Supplier shall have no claim against the City on account of actions taken pursuant to such procedure.

1.07 SUSTAINABILITY

- A. The City has interest in measures used by its contractors to ensure sustainable operations with minimal adverse impact on the environment. The City seeks to do business with vendors that value community and environmental stewardship that help us meet our sustainable purchasing goals.
- B. The City encourages the use of environmentally preferable products or services that help to minimize the environmental and human health impacts of City operations. Suppliers are encouraged to incorporate environmentally preferable products or services into Submittals wherever possible. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.
- C. Environmental Standards. The City seeks to ensure that all purchases comply with current environmental standards and product specifications. Where appropriate, third party independent certifiers such as Green Seal and USEPA Standards shall be a minimum specification for products to the City, unless specified otherwise herein.
- D. The City encourages the use of sustainability practices and desires any awarded Suppliers to assist in efforts to address such factors when feasible for:
 - 1. Pollutant releases
 - 2. Toxicity of materials used
 - 3. Waste generation
 - 4. Greenhouse gas emissions, including transportation of materials and services
 - 5. Recycle content
 - 6. Energy consumption
 - 7. Depletion of natural resources
 - 8. Potential impact on human health and the environment

1.08 ALTERATIONS NOT ALLOWED

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

1.09 CORRECTION OF AMBIGUITIES AND OBVIOUS ERRORS

- A. The City reserves the right to correct obvious errors in Supplier's Submittal. In this regard, if the unit price does not compute to the extended total price, the unit price shall govern.
- B. Supplier shall notify the City of Tacoma Procurement and Payables Division in writing of any ambiguity, conflict, discrepancy, omission or other error in a Solicitation no later than five business days prior to the submittal deadline.
 - 1. For solicitations conducted in SAP Ariba, Supplier shall notify the City of Tacoma Procurement and Payables Division on the message board of the event.
 - 2. For all other solicitations, Supplier shall notify the contract person listed in the Solicitation.
- C. The City will make necessary modifications by addendum.
- D. Supplier is responsible for identifying ambiguities, conflicts, discrepancies, omissions or other errors in the Solicitation prior to providing its Submittal or the ambiguity, conflict, discrepancy, omission, or other error is waived. Any Submittal that includes assumed clarifications and/or corrections without the required authentication of the same is subject to rejection.

1.10 WARRANTIES/GUARANTEEE

- 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 |
| Juneteenth | June 19 |
| 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 are accepted and all prices shall remain firm during the term of a Contract.
- E. At City's sole discretion, price increases may be passed along during a Contract period if the increase is mandated by statute, or the result of a tariff. Supplier will immediately notify the City at bids@cityoftacoma.org with contract number and accompanied by documentation demonstrating such mandate and request for price increase.
- F. At City's sole discretion, stated pricing terms may be adjusted for extraordinary conditions that could not have been known by either party at the time of bid or other circumstances beyond the control of both parties. Requests for increases or decreases, other than those previously authorized, shall be sent to City of Tacoma Procurement and Payables Division at: bids@cityoftacoma.org, addressed to specific buyer, with contract number and accompanied by documentation supporting the requested change. Requests sent elsewhere will not be considered or granted. No other individual or City Department is authorized to approve such modifications. Agreed upon price changes shall be applicable as of the Effective Date of a mutually executed written Amendment or other written modification to the Contract.
- 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, Supplier will immediately notify the City at bids@cityoftacoma.org of such fact with contract number and the Contract with the City shall thereupon be 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. The City is entitled to any promotional pricing during the Contract period.
- I. Price decreases shall be immediately passed on to the City.

- J. 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.
- K. Item prices are to include freight as part of the FOB Destination terms (Section 1.37.A). If adjustments requested are due to freight costs rather than the item cost, documentation from freight carriers supporting the increase shall be submitted to the City.
- L. Delays or supply shortages caused by problems beyond the reasonable control of the Supplier, if fully documented and submitted to the City, may be excused and at City's sole discretion any applicable liquidated damages provisions may be waived. This allowance shall in no way be construed to apply to or excuse delays or shortages caused by negligence on the part of the Supplier. Events beyond Supplier's reasonable control, include acts 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 at bids@cityoftacoma.org with contract number and accompanied by documentation of such pending or actual shortage or 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 waiver of liquidated damages or extensions of time are to be authorized by written Amendment or modification to the Contract issued by City and acknowledged in writing by Supplier. In such event, the time for performance shall be extended for a period equal to any time lost as a result thereof. In the event Supplier is unable to proceed due to a delay solely attributable to the City, Supplier shall advise City of such delay in writing as soon as is practicable
- M. An established price index such as the CPI will be used by City as a reference for substantiation of the Supplier documentation in support of a requested price adjustment.
 - i. For Hourly Rates or Service Pricing - the direct result of increases to wage rates and not exceed the U.S. Dept. of Labor Consumer Price Index (CPI) for All Urban Consumers Seattle-Tacoma-Bellevue or other appropriate service rate index agreed upon between the Buyer and the Contractor
 - ii. For Supplies - the United States published indices such as the U.S. Dept. Of Labor Consumer Price Index (CPI), Producer Price Index (PPI) or other data may be referenced to help substantiate the Contractor's documentation.

1.36 APPROVED EQUALS WHEN ALTERNATES ARE ALLOWED

- A. Unless an item is indicated as "no substitute," special brands, when named, are intended to describe the standard of quality, performance, or use desired. Equal items will be considered by the City, provided that Supplier specifies the brand and model, and provides all descriptive literature, independent test results, specification sheets, schematic drawings, photographs, product samples, local servicing, parts availability, etc., to enable the City to evaluate the proposed equal. Performance testing in the field may be required.
- B. The decision of the City as to what items are equal shall be final and conclusive. If the City elects to purchase a brand represented by Supplier to be an "equal," the City's acceptance of the item is conditioned on the City's inspection and testing after receipt. If, in the sole judgment of the City, the item is determined not to be an equal, the item shall be returned at Supplier's expense.
- C. When a brand name or level of quality is not stated in Supplier's submittal, it is understood Supplier's submittal shall exactly confirm with those required in the Contract. If more than one brand name is stated in a Solicitation, Supplier(s) must indicate the brand and model/part number to be supplied.

1.37 RISK OF LOSS, SHIPPING AND DELIVERY

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

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

1.38 DELIVERY OF PRODUCTS AND PROVISION OF SERVICES – IDLING PROHIBITED

- A. The City of Tacoma has a commitment to reduction of unnecessary fuel emissions and improving air quality by reducing unnecessary air pollution from idling vehicles. Limiting car and truck idling supports cleaner air, healthier work environments, the efficient use of city resources, the public's enjoyment of City properties and programs, conservation of natural resources, and good stewardship practices.
- B. Vehicles and/or diesel fuel trucks shall not idle at the time and location of the delivery to the City of Tacoma for more than three minutes. The City requires contractors to utilize practices that reduce fuel consumption and emission discharge, including turning off trucks and vehicles during delivery of products to the City. Exceptions to this requirement include when associated power is necessary to make a delivery or provide the service, when the engine is used to provide power to another device, and when a running engine is required for proper warm-up and cool-down of the engine.

1.39 PACKING SLIPS AND INVOICES

- A. Each invoice shall show City of Tacoma purchase order number, release number if applicable, quantity, unit of measure, item description, unit price and extended price for each line if applicable, services and deliverables provided if applicable. Line totals shall be summed to give a grand total to which sales tax shall be added, if applicable.
 - 1. For transactions conducted in SAP Ariba, invoices shall be submitted through Ariba.
 - 2. For invoices paid by ACH or by check, unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to accountspayable@cityoftacoma.org.
 - 3. For invoices paid by credit card, invoices shall also display the last name of the cardholder and last four digits (only) of the card number (e.g., Jones/6311). Unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to (do not combine different POs into one invoice or charge) to pcardadmin@cityoftacoma.org.

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

1.55 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.