CITY OF TACOMA, WASHINGTON
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

REQUEST FOR PROPOSALS:
FOR SALE

APPROXIMATELY 10.6 ACRES OF
THE TACOMA DOME SITE
FOR DESTINATION ENTERTAINMENT RETAIL

SPECIFICATION NUMBER: ED18-0098F

PREMIERE LOCATION ON INTERSTATE 5

ISSUE DATE: MARCH 7, 2018
RESPONSES DUE: 11:00 A.M. May 8, 2018
REQUEST FOR PROPOSALS ED18-0098F
Tacoma Dome Site

Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, May 8, 2018

Submittal Delivery: Sealed submittals will be received as follows:

<table>
<thead>
<tr>
<th>By Carrier:</th>
<th>In Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Tacoma Procurement &amp; Payables Division</td>
<td>City of Tacoma Procurement &amp; Payables Division</td>
</tr>
<tr>
<td>Tacoma Public Utilities</td>
<td>Tacoma Public Utilities Lobby Security Desk</td>
</tr>
<tr>
<td>3628 S 35th Street</td>
<td>Administration Building North – Main Floor</td>
</tr>
<tr>
<td>Tacoma, WA 98409</td>
<td>3628 S 35th Street</td>
</tr>
<tr>
<td></td>
<td>Tacoma, WA 98409</td>
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<tr>
<td><strong>By Mail:</strong></td>
<td><strong>Note:</strong> This is a change in location for in-person deliveries.</td>
</tr>
<tr>
<td>City of Tacoma Procurement &amp; Payables Division</td>
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<tr>
<td>Tacoma Public Utilities</td>
<td></td>
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<tr>
<td>PO Box 11007</td>
<td></td>
</tr>
<tr>
<td>Tacoma, WA 98411-0007</td>
<td></td>
</tr>
</tbody>
</table>

Submittal Opening: Sealed submittals in response to a RFP will be opened by a Purchasing representative and read aloud during a public bid opening held in Conference Room M-1, located on the main floor in the same building. Submittals in response to an RFP or RFQ are recorded as received but are not typically opened and read aloud. After 1:00 p.m. the day of bid opening, the names of vendors submitting proposals are posted to the website for public viewing.

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

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

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

Project Scope: Tacoma Dome Site

Estimate: Minimum bid $8,000,000 or its equivalent value

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

The following is applicable to 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.

Additional Information: Requests for information regarding the specifications may be obtained by contacting Kim Ward, Senior Buyer by email to kward2@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.
PROPOSAL CONTENTS PAGE

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Surplus Terms and Conditions
PROPOSAL SUBMITTAL CHECK LIST

This checklist is provided for convenience only and identifies the documents that must be submitted with each proposal. Any proposal received without these documents may be deemed non-responsive and not be considered for award.

**One electronic, one original and seven (7) copies** of your Proposal must be received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Proposal sheet.

<table>
<thead>
<tr>
<th>The following information/documentation makes up your submittal package.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal Form and Signature Page (Appendix A)</td>
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<tr>
<td>Information requested in Section 4.0 – Contents of Proposal</td>
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<tr>
<td>Earnest Money or Alternative Consideration (See Section 3.4)</td>
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<tr>
<td><strong>After selection, the following documents will be executed:</strong></td>
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<tr>
<td>Excise Tax Affidavit (Conveyance Document with Reversionary Rights)</td>
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<tr>
<td>Seller Disclosure Statement</td>
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<tr>
<td>Alternative Consideration Agreement, if applicable</td>
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</tbody>
</table>
1.0 INTRODUCTION:

The City of Tacoma ("City") is soliciting proposals from persons or entities ("Proposers") interested in purchasing and developing City property.

This Request for Proposals (RFP) invites Proposers to submit proposals for the acquisition of a portion of the real property located at 2727 East D Street, Tacoma, WA 98421. This property is commonly referred to as the Tacoma Dome.

In general, proposals will be evaluated based on the proposed future use(s) of the property, the proposed purchase price and the willingness of the proposer to work creatively with the City and Tacoma Dome on parking and circulation issues for both the Dome and Proposed Project. The proposed future uses of the property will also be evaluated based on their impacts to the neighboring community and the City.

This is not a typical bid solicitation awarding the property to the highest bidder. Instead, this solicitation will take into account the offered purchase price or its equivalent value (up to 30 points) as well as the proposed future uses (up to 35 points), willingness and capability to partner on parking and circulation solutions (up to 35 points) and the compatibility of those uses with the neighboring community’s and the City’s goals.

Proposers must be willing and able to pay at least the amount established as the minimum bid amount or its equivalent value.

In order for a proposal to be considered for award, it must conform to all the requirements of this RFP, including the Minimum Proposal Requirements provided below.

Ultimately, the sale of the property is subject to the approval of the City Council and shall be deemed a negotiated disposition as authorized by Tacoma Municipal Code 1.06.280.

2.0 PROPERTY INFORMATION:

2.1 Address: 2727 East D Street, Tacoma, WA 98421.
2.2 Tacoma Dome Site, generally defined as Lot G and adjoining parcels.
2.3 A portion of Pierce County Tax Parcel No. 2078211001 and 2077280010, 2077300012, 2077260060, 2077260050 and 2077260040.
2.3.1 Together with those portions of alleys, East G Street, East I Street and McKinley Avenue abutting and adjoining thereto currently contemplated to be vacated by City-initiated vacation action.
2.4 Land currently serving as Surface Parking Lots, vacant land and dedicated rights of ways.
2.5 Approximately 10.6 acres
2.6 Zoning: DMU (Downtown Mixed Use). Height limit: 100 feet. This site is located within the Tacoma South Downtown Subarea, for which environmental review per the State Environmental Protection Act ("SEPA") has already been completed, provided the project meets zoning and development requirements.
2.7 Parking replacement requirement: 594 parking spaces currently located within the development site must be replaced within walking distance of the Tacoma Dome. Walking distance is herein defined as a distance no greater than one quarter (1/4) to
one-half (1/2) mile of the Tacoma Dome arena structure. The City is requesting creative proposals to address parking and site circulation.

2.8 **Proposer is Responsible for Independent Due Diligence.** The information and documentation provided herein and in the Appendices is not to be relied upon by Proposers in the evaluation or creation of Proposals. The City makes no warranty as to information regarding the value, title to, or condition of the property provided herein, and Proposer acknowledges that he/she shall have no right to rely on such information. Further, by submitting a Proposal, Proposer acknowledges that Proposer is solely responsible for the independent verification of all property information and for performing independent due diligence of the condition, value, and title of the property.

2.9 For a general map depiction of the property please see Appendix B.

Hereinafter, the term “Property” shall mean all land, improvements, buildings, structures, and fixtures, located on that portion of Pierce County Tax Parcel Nos. 2078211001, 2077280010, 2077300012, 2077260060, 2077260050 and 2077260040, located at 2727 East D Street, Tacoma, WA 98421. Together with those portions of alleys, East G Street, East I Street and McKinley Avenue abutting and adjoining thereto currently contemplated to be vacated by City-initiated vacation action at no additional cost to the selected developer.

3.0 **MINIMUM PROPOSAL REQUIREMENTS**

This property is classified as a Tier 1 property, as defined within the City of Tacoma’s *Policy for the Sale-Disposition of City-Owned General Government Real Property, approved by the Tacoma City Council on August 21, 2012*. The overall objectives of Tier 1 property are to achieve a reasonable return on investment through outcomes such as: generate new property taxes, sales tax, business and occupation taxes, and other taxes; generate new family wage jobs; catalyze new private investment and/or leverage existing public facilities; minimize public liability; implement City master plans; encourage density and promote sustainability.

In order for a Proposal to be considered responsive, a proposal must conform to all the requirements of this RFP, including the following:

3.1 **Proposal Form.** Proposer must submit an executed copy of the Proposal Form provided herein as provided in Appendix B.

3.2 **Proposal Content.** The contents of the Proposal should generally conform to the requirements of Section 4 herein.

3.3 **Purchase Price.** Proposers must submit a Purchase Price on the Proposal Form provided herein in Appendix A.

3.3.1 **Minimum Bid Amount:** The Purchase Price offered must be no less than eight million dollars ($8,000,000) or its equivalent value, which repayment schedule and, if applicable, estimated value of direct public benefits must be provided.

The higher the purchase price or its equivalent value offered, the more points a Proposal will earn: A maximum of thirty (30) points will be allowed for scoring the purchase price offered or its equivalent value. Points will be allocated by
normalizing the scores against the highest purchase price offered or its equivalent value by a responsive Proposal. The time value of money will also be considered with earlier payment schedules viewed as more favorable. See Section 7 below.

3.4 **Earnest Money/ Alternative Consideration.** Each Proposal must be accompanied either by a certified or cashier’s check for ten-percent (10%) of the Purchase Price applicable to the purchase price, payable to the City Treasurer. The City will not accept a bond or in lieu promissory note as payment for the earnest money requirement.

3.4.1 **Refund.** Earnest Money will be refunded to all Proposers who are not selected for the sale of the Property, and the City will make best efforts to make this refund as soon as possible after the Proposers are notified of the City’s selection. The Earnest Money will not be refunded to the Proposer who is selected for award, unless the City is unwilling or unable to finalize the sale of the Property to the selected Proposer due to no fault of the Proposer, in which case the Earnest Money will be refunded in full.

3.5 **Transactional Documents.** By submitting a Proposal, Proposer agrees to enter into and accept as appropriate the following agreements and documents with and from the City of Tacoma. Following the selection of the highest ranking proposal, the City and the selected Proposer shall negotiate mutually agreeable terms to the agreements:

3.5.1 **Exclusive Negotiating Rights Agreement (“ENRA”).** To be provided upon selection.
3.5.2 **Purchase and Development Agreement (“PDA”)**
3.5.3 **Quit Claim Deed.**

3.6 **Exclusive Negotiating Rights Agreement.** By submitting its Proposal, Proposer agrees to (at the time of receiving notice of selection) execute an ENRA to be provided, which includes but is not limited to the following requirements:

3.6.1 **Term.** Proposer agrees to a nine (9) month term.
3.6.2 **Inspections.** Proposer agrees that it will rely on its own inspections and evaluations of the Property, with the exception of any disclosures required by law, to determine the suitability of the Property for Proposer’s intended use.
3.6.3 Proposer acknowledges that any and all testing and/or studies performed are at their own expense and will not be reimbursed by the City.

3.7 **Purchase and Development Agreement (“PDA”).** By submitting its Proposal, Proposer agrees to (at the expiration of the ENRA term) execute a (PDA), which shall include but is not limited to the following requirements:

3.7.1 **Contingent upon City Council Approval.** The Sale of the Property must be duly approved by the Tacoma City Council prior to Closing. If Tacoma City Council approval is not obtained, the PDA will terminate, and all documents and other funds will be returned to the Proposer, and neither party will have any further rights, obligations, or remedies under the Purchase and Development Agreement.
3.7.2 **Closing.** Closing shall occur no later than sixty (60) calendar days from the City Council’s Approval of the Sale. Proposer is responsible for paying all closing costs, including all recording, lender, brokerage services and title insurance costs and fees as applicable.

3.7.3 **“As Is”**. Proposer acknowledges that the Property will be purchased under the Purchase and Sale Agreement in an “as is” condition. No warranties as to the condition of the Property shall be given or implied.

3.7.4 **Title Conveyance.** The City shall convey title to the Property via a Quit Claim Deed. No warranties as to the Title of the Property shall be given or implied.

4.0 **CONTENTS OF PROPOSAL.**

4.1 **Proposer Description.** In its Proposal, Proposer must provide the following information:

- Provide Name and Addresses of Proposer. If Proposer is a business entity, provide names of principals, officers, members, shareholders, state of incorporation, and principal business address, as applicable.

- Provide relevant background information explaining Proposer’s interest in this Property and interest in investing in real estate in Tacoma and within the Tacoma Dome entertainment venue/district.

- Provide relevant background information explaining whether Proposer’s interest in acquiring the Property has a relationship to Proposer’s existing or intended connection to the neighborhood or community, if any, and/or whether and to what extent Proposer’s interest is financial or speculative in nature.

4.2 **Proposal Description.** In the Proposal, Proposer will provide sufficient information to enable the City to understand and evaluate the Proposer’s intended future use(s) and plans for the Property. Proposals with more specific and detailed information about the future intended use(s) of the Property are preferred as they will provide the City with more information to evaluate the Proposals. Proposals should at least provide information regarding the nature, type and scope of the future intended use(s), the nature of any proposed construction, rehabilitation, development, or demolition anticipated, and the timing associated with putting the Property to Proposer’s intended uses. Proposals that include responses which address the following categories and questions are encouraged:

4.2.1 **Types/Kinds of Uses:**

The City prefers the following uses for the Property: Destination Entertainment/Retail. (Mixed use including a major component of Destination Entertainment/Retail can be considered.)
What is the nature, type and scope of specific use(s) the Proposer will use the Property for and for how long?

What kinds of businesses, programs, services, or other endeavor(s) does the Proposer intend to conduct at the Property and, if applicable, what kind of market will Proposer target?

If Proposer intends to lease out all or a portion of the project, what kind of tenant business operations will Proposer target? (If owner/user Proposal, please state so clearly.)

Estimate the number of permanent Full Time Equivalent (FTE) jobs to be created within the project.

Identify the average hourly starting wage for personnel (clarify whether wage rates are in 2018 dollars or future dollars).

From what geographic radius does the Proposer believe customers will travel to and use the site?

What is the estimated annual attendance at the site?

What are the projected days and hours for operating at the site?

Are there any synergies with Dome District transit, other regional destinations such as the Tacoma Dome, LeMay America’s Car Museum, Tacoma Museum District and/or other regional attractions and amenities?

Is there any anticipated benefit to Tacoma hotel occupancy rates predicted by the project? If so, provide an estimate or narrative.

4.2.2 Construction/Development:

What nature, type, and scope of construction, rehabilitation, or development does the Proposer intend to perform at and on the facility and Property? (Please submit a conceptual site plan and rendering.)

Has Proposer confirmed that the proposed construction/repair is allowed by applicable zoning and laws?

Demolition. If the condition of the Property warrants partial demolition, will Proposers plans for development or use change, and if so, how?

4.2.3 Timing:

What is Proposer’s expected timeframe for putting the Property to Proposer’s intended futures use(s) and/or constructing or developing or rehabilitating the Property.

4.3 Describe Alignment with City and District Goals: In its Proposal, Proposer should describe and explain how his/her Proposal, where applicable, aligns with the following
goals of the City and the Neighborhood. Proposer need only offer information to the extent the Proposal does, in fact, align with applicable goals below.

4.3.1 How does the Proposal align with the vision and goals of the District?

Specifically, how does the Proposal:

a. Support and complement the entertainment district surrounding the Tacoma Dome.

b. Positively impact the adjacent neighbors and create an enhanced visual gateway to Tacoma from Interstate 5.

c. Improve the quality of life and property values in the neighborhood.

d. Provide valuable services and/or jobs to residents and businesses.

4.3.2 How does the Proposal align with the City’s goal to be a safe, clean and attractive community?

Specifically, how does the Proposal:

a. Foster a safe environment for residents.

b. Reduce crime and blight in the community.

c. Improve and/or beautify the facility or site.

d. Encourage community engagement and participation to improve the neighborhood.

4.3.3 How does the Proposal align with City’s planning and economic development goals.

Specifically, how does the Proposal:

a. Ensure compatibility with the character and nature of existing development in the area.

b. Create jobs and increase tax revenue.

c. Support commercial activity in the district.

4.4 Required Form: Proposal Form: Proposers participating in this RFP process shall submit a completed Proposal Form with their Proposal (see Appendix A).

5.0 RFP SCHEDULE

5.1 A summary of the anticipated schedule activities associated with this request for proposal process is provided below:

<table>
<thead>
<tr>
<th>No</th>
<th>Activity</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Publish and Issue RFP</td>
<td>March 7, 2018</td>
</tr>
<tr>
<td>2</td>
<td>Inspection Period (Scheduled by Proposer)</td>
<td>March 7 - 21, 2018</td>
</tr>
<tr>
<td>3</td>
<td>Deadline for Submitting Written Questions re: RFP</td>
<td>5:00 p.m. Pacific Time, March 28, 2018</td>
</tr>
<tr>
<td>4</td>
<td>Response to Questions Issued</td>
<td>April 4, 2018</td>
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</tbody>
</table>
These are tentative dates only, and the City reserves the right to adjust these dates at its sole discretion.

5.2 **Explanation of Anticipated Schedule Activities:**

5.2.1 **Publish and Issue RFP.** On this date, the City will publish on its website the RFP soliciting proposals to acquire the Property. From this date forward until the Proposal Submittal Date, the City will accept Proposals for the Property.

5.2.2 **Inspection Period.** During the Inspection Period, Proposers will have an opportunity to schedule a physical inspection(s) of the Property. Proposer’s inspection of the Property may include performing any structural, mechanical, environmental, cosmetic, or other feasibility investigation and analysis necessary for Proposer to perform its due diligence; provided that any intrusive analysis of the Property and facility located thereon must be approved in advance by the City; and not result in damage to the Property unless promptly repaired by Proposer to the previous condition of said Property prior to the investigation to the satisfaction of the City. _In order to schedule an Inspection, Proposers may contact the City at 253-591-5039._

5.2.3 **Deadline for Submitting Written Questions to RFP.** On this date, by the close of business (5 pm), Proposers will have the last opportunity to submit questions to the City regarding the Property or RFP process.

5.2.4 **Response to Questions Issued.** On this date, City staff will provide responses to questions submitted regarding the Property or RFP process.

5.2.5 **Proposal Submittal Date.** Proposals must be submitted by the date and time specified on the Request for Proposals page located toward the beginning of this document. Proposals submitted after this time and date will not be considered.

5.2.6 **Review Written Proposals.** During this week, the Selection Advisory Committee will review the written proposals submitted and determine whether interviews are warranted. If interviews are unnecessary, the Selection Advisory Committee will score the Proposals based on the written Proposals and select the highest ranking written Proposal.

5.2.7 **Interview/Presentations (City Discretion).** An invitation to be interviewed may be extended to a limited number of Proposers based on review of the written Proposals. Proposers must be able to interview during this period. The City
reserves the right to modify the schedule for interviewing at its sole discretion. Further, the City reserves the right to adjust proposal scoring based on additional information and/or clarification provided during the interviews, if conducted.

5.2.8 **Selection of Proposal.** During this week, the Selection Advisory Committee will score the Proposals based on the Proposals and Interview/Presentations. If the City decided not to conduct interviews, then the highest ranking written Proposal will be selected.

5.2.9 **Notify Proposer.** During this week, the Selection Advisory Committee will notify the Proposer with the highest ranking of its recommendation to sell the property to the selected Proposer.

5.2.10 **City Council for Approval.** All sales of Surplus Real Property are subject to the approval of the City Council. Following selection of the proposal and completion of the ENRA term, City staff will seek the approval of the sale of the Property to the selected Proposer at a public City Council Meeting.

6.0 **SELECTION PROCESS.**

6.1 **Selection Advisory Committee.** A Selection Advisory Committee will be formed consisting of City staff members. The City reserves the right to include citizens and/or property owners on the Selection Advisory Committee.

6.2 **Proposal Review and Scoring.** Proposals will be reviewed and scored by the Selection Advisory Committee based on the Evaluation Criteria provided in Section 7.0 herein.

6.3 **Optional Interview/Presentation.** An invitation to be interviewed may be extended to a limited number of Proposers based on review of the written Proposals. Proposers must be able to interview pursuant to this RFP. Any Proposer invited to conduct an interview who is unable to attend an interview during the period provided in the RFP Schedule will waive their right to the interview and presentation. The City reserves the right to modify the schedule for interviewing at its sole discretion. The Selection Advisory Committee reserves the right to adjust Proposal scoring based on additional information and/or clarification provided during the interviews, if conducted. The City reserves all rights to select a Proposal and begin negotiations without conducting any interviews.

6.4 **Selection Advisory Committee Recommendation.** The Selection Advisory Committee will evaluate the Proposals based on the Evaluation Criteria and will recommend their selection to City management and the City Council.

6.5 **Negotiation.** Prior to seeking City Council approval, the selected Proposer will negotiate and execute the final transactional documents with the City. If Proposer is unwilling or unable to honor the requirements of this RFP or its Proposal, or negotiations otherwise fail, the City will retain the right to suspend or cancel negotiations with the highest-ranked Proposer and proceed to negotiations with the next highest-ranked Proposer.

6.6 **City Council Approval.** Once the ENRA term is complete and Proposer has executed the Purchase and Development Agreement, City staff will recommend approval to the
Tacoma City Council. If Tacoma City Council approval is not obtained, the Purchase and Development Agreement will terminate, and all documents and other funds will be returned to the Proposer, and neither party will have any further rights, obligations, or remedies under the Purchase and Development Agreement.

6.7 **After Council Approval.** Following City Council Approval, the City and the Proposer will execute all additional necessary agreements and documentation and will work to ‘Close’ the sale as soon as possible—no later than sixty (60) days from Council Approval.

7.0 **EVALUATION CRITERIA (Maximum of 100 Points)**

7.1 **Purchase Price Offered (Up to 30 Points)**

7.1.1 **Minimum Bid Amount.** Pursuant to Section 3.3.1, the Purchase Price or its equivalent value offered must be no less than eight million dollars ($8,000,000).

7.1.2 **Price Scoring.** A maximum of thirty (30) points will be allowed for scoring the Purchase Price or its equivalent value offered. Points will be allocated by normalizing the scores against the highest purchase price offered by a responsive Proposal.

7.2 **Future Uses: Up to thirty five (35) points:**

7.2.1 How well does the proposed use align with the vision and goals of the Tacoma Dome Entertainment District (Up to 15 Points).

7.2.2 How well does the proposed use align with the City’s goal to be a safe, clean and attractive community (Up to 10 Points):

7.2.3 How well does the proposed use align with City’s planning and economic development goals (Up to 10 Points):

7.3 **Proposal to partner on parking and circulation solutions: Up to thirty five (35) points:**

7.3.1 Replacement of 594 parking stalls within walking distance of the Tacoma Dome structure (within ¼ to 1/2 mile). (25 points)

7.3.2 Accommodation of parking for proposed project (5 points)

7.3.3 Proposal to partner regarding circulation solutions (5 points)

8.0 **PROPOSER INQUIRIES TO RFP.**

8.1 Proposal questions and request for clarifications of this RFP may be submitted in writing by 5:00 p.m., Pacific Time, March 28, 2018, to Kimberly Ward, Purchasing Division, by email to Kward2@cityoftacoma.org. No further questions will be accepted after this time and date. The City of Tacoma will not be responsible for unsuccessful submittals of questions via email.

8.2 Written answers to questions will be posted to the Purchasing website at [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org) on or about April 4, 2018. The City reserves the discretion
to group similar questions to provide a single answer or not to respond when the information is confidential. The answers are not typically considered an addendum.

9.0 **PROPOSAL SUBMITTAL.** An electronic, a hard copy original and seven copies of the Proposal must be delivered to the Purchasing Office, Tacoma Public Utilities (TPU), 3628 South 35th Street, Tacoma, WA 98409. Proposals will be received until **11:00 a.m., Pacific Time, May 8, 2018**, as described in the Request for Proposals page located toward the front of this document.

9.1 **PROPOSAL VALIDITY.** Proposer will honor its Proposal for one hundred twenty (120) days for acceptance by City of Tacoma from the due date for Proposal Submittal.

9.2 **COSTS TO PREPARE PROPOSAL.** The City of Tacoma is not liable for any costs incurred by the Proposer for the preparation of a Proposal submitted in response to this RFP, for conducting any presentations to the City, or any other activities related to responding to this RFP.

10.0 **RFP REVISIONS.** In the event it becomes necessary to revise any part of this RFP, an addendum will be published on-line on the Purchasing website. The notice of addendum will be sent to all registered plan holders for this solicitation.

11.0 **RESPONSIVENESS.** All proposals will be reviewed by the City to determine compliance with the requirements and instructions specified in this RFP. The Proposer is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive. The City of Tacoma reserves the right, in its sole discretion, to waive irregularities deemed by the City of Tacoma to be immaterial. The final selection, if any, will be that proposal which, in the sole judgment of the City of Tacoma, after review of submissions and potential interviews, best meets the requirements set forth in the RFP.

12.0 **CITY RIGHTS AND PROCUREMENT CONDITIONS:** The City reserves, holds without limitation, and may exercise, at its sole discretion, all rights (which rights shall be exercisable by the City at its sole discretion) available to it under applicable law, including without limitation, the following, with or without cause and with or without notice. By responding to this RFP, Proposers acknowledge and consent to the following City rights and conditions:

12.1 The right to cancel, withdraw, postpone or extend the RFP in whole or in part at any time without incurring any obligations or liabilities and to terminate the RFP process or decide not to select a Proposal for any reason whatsoever.

12.2 The right to issue a new RFP.

12.3 The right to reject any and all submittals, responses and proposals received at any time and to eliminate any Proposer that submits an incomplete or inadequate response, or is not responsive to the requirements of this RFP, or is otherwise deemed to be unqualified during any stage of the RFP process.

12.4 The right to modify all schedule dates set or projected in this RFP.

12.5 The right to terminate evaluations of proposals received at any time.

12.6 The right to suspend and terminate the RFP process at any time.

12.7 The right to revise and modify, at any time prior to the Proposal submittal date, factors it will consider in evaluating responses to this RFP and to otherwise revise its evaluation methodology.
12.8 The right to issue addenda, supplements and modifications to this RFP, including but not limited to modifications of evaluation criteria or methodology and weighting of evaluation criteria and to without prior notice, supplement, amend or otherwise modify this RFP, or otherwise request additional information.

12.9 The right to hold meetings and conduct discussions and correspondence with one or more of the Proposers responding to this RFP to seek an improved understanding and evaluation of the responses to this RFP.

12.10 The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the RFP, including the right to seek clarifications from Proposers.

12.11 The right to add or delete Proposer responsibilities from the information contained in this RFP.

12.12 The right to appoint and change appointees of the Selection Advisory Committee.

12.13 The right to use assistance of outside technical and legal experts and consultants in the evaluation process.

12.14 The right to waive deficiencies, informalities and irregularities in a Proposal, accept and review a non-conforming Proposal or seek clarifications or supplements to a Proposal and to waive any defect, technicality or any other informality or irregularity in any Proposal, or any other response from RFP Proposers.

12.15 In the event the City receives questions concerning this RFP from potential Proposers prior to the deadline for response, the City reserves the right to provide such questions, and the City’s responses, if any, to all potential Proposers.

12.16 To conduct investigations with respect to the qualifications and experience of each Proposer or Proposal and to request additional evidence to support any claim made in a Proposal.

12.17 To take any action affecting the RFP process, or the Property that is determined to be in the City’s best interests.

13.0 **CODE OF ETHICS.** By submitting a Proposal in response to the RFP, the Proposer understands that, if selected, it agrees to comply with the City’s Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code.

14.0 **CONFLICT OF INTEREST.** No officer, employee, or agent of the City, nor any member of the immediate family of any such officer, employee, or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Proposal either in fact or in appearance. The Proposer must comply with all federal, state, and city conflict of interest laws, statutes, and regulations.

15.0 **PUBLIC RECORDS ACT.** All information provided by Proposer to the City pursuant to this RFP, including the Proposal, are, upon their receipt by the City, deemed the property of the City, will not be returned to the submitting Proposer and are subject to the Washington Public Records Act, RCW Ch. 42.17 (the “Public Records Act”). Proposers should familiarize themselves with the provisions of the Public Records Act. In no event shall the City, or any of its agents, representatives, employees or consultants, be liable to a Proposer as the result of the disclosure of all or a portion of a Proposal submitted under this RFP.
APPENDIX A

PROPOSAL FORM

Specification No.: __________________________
Specification Title: Tacoma Dome Site, Tacoma, WA

Vendor Name: __________________________________

Proposal Price*: $______________________________

Intended Use(s): __________________________________

Date project will be completed: ____________________________

Demolition required: Yes or No

Signature: __________________________

Name

Title: ______________________________________

Company: ______________________________________

Date submitted: ______________

*Please define cash price plus proposed value of other considerations
APPENDIX B

MAPS

Vicinity Map
Site Map
APPENDIX C
TACOMA DOME FACTS

Owned and operated by the City of Tacoma, the Tacoma Dome is one of the largest wood domed structures in the world with seating configurations from 5,000 to 23,000. The Tacoma Dome welcomed 67 unique events over 119 event days in 2016 and 75 unique events in 2017, with an attendance of 565,880 in 2016, and an attendance of 685,655 in 2017. Event types include concerts, sporting events, family spectacles, commencement ceremonies, consumer shows and exhibitions, corporate meetings, and community events. Further general information regarding the Tacoma Dome may be found online at tacomadome.org.

Ninety-five percent (95%) of attendees to Tacoma Dome events travel by personal automobile, according to a 2018 study by the Tilghman Group. The Tacoma Dome has 1,795 on-site parking stalls and a total of approximately 5,600 stalls are available within one third (1/3) mile. Fifty-five percent (55%) of events generate automobile traffic in excess of the current on-site parking capacity, and twenty-five percent (25%) of events exceeded parking capacity for the Dome District. Parking revenue to the Tacoma Dome currently ranges between $1 - $1.5 million per year and accounts for twelve-percent (12%) of the Tacoma Dome’s operating revenue. Each stall generated approximately $781 in 2017, according to Tilghman.

The Tacoma Dome property is bounded by Interstates 5 and 705 providing great visibility and access. As reported by Washington State Department of Transportation, an average of 228,000 vehicles passed by the Tacoma Dome on Interstate 5 each day in 2016. Proposers should be aware that events held at the Tacoma Dome may generate significant traffic on Interstate 5, and the surrounding area. As a result, travel times into and out of the Dome District are impacted.
APPENDIX D

Link to South Downtown Subarea Plan

CITY OF TACOMA

SURPLUS PROPERTY DISPOSAL/SPECIFICATION NO.
FROM (Dept):
TO (Purchaser/Recipient):

Indemnification--Hold Harmless

Purchaser/Recipient acknowledges that pursuant to the terms of this agreement, Purchaser/Recipient is totally responsible for the safety of all persons and property in the performance of this contract. Purchaser/Recipient assumes the risk of all damages, loss, cost, penalties and expense and agrees to indemnify, defend and hold harmless the City of Tacoma, from and against any and all liability which may accrue to or be sustained by the City of Tacoma on account of any claim, suit or legal action made or brought against the City of Tacoma for the death of or injury to persons (including Purchaser/Recipient’s or subcontractor’s employees) or damage to property involving Purchaser/Recipient, 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, Purchaser/Recipient recognizes that Purchaser/Recipient is waiving immunity under Industrial Insurance Law, Title 51 RCW. This indemnification extends to the officials, officers and employees of the City and also includes attorney’s fees and the cost of establishing the right to indemnification thereunder in favor of the City of Tacoma.

ITEM: $ITEM: $ITEM: $ITEM: $ITEM: $PURCHASER/RECIPIENT: ________________________________
ADDRESS: ________________________________________________
CITY & STATE: _______________ ZIP CODE: ________________
PHONE: ___________________________
NAME: ____________________________ DATE: __________________
SIGNATURE: ______________________

All items are sold/donated/salvaged AS-IS and WHERE-IS, with all faults. Freight costs and arrangements are the responsibility of the bidder. The City of Tacoma makes no warranty, express or implied, with respect to the condition of the goods. The City of Tacoma specifically DISCLAIMS ANY AND ALL UCC WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
CITY OF TACOMA
GENERAL INSTRUCTIONS FOR BIDDING ON SURPLUS PROPERTY

Submittal Information

Sealed bids must be delivered to the office designated on the attached form, on or before the time mentioned thereon. Any bid received after the established opening time will not be considered, and will be returned to the bidder unopened.

When specified by the City, bids must be accompanied by a Certified or Cashier's check as a bid and performance guarantee (good faith deposit) in an amount not less than five percent (5%) of the amount of the bid, made payable to "Treasurer, City of Tacoma." Cash will not be accepted. Deposit checks will be returned to unsuccessful bidders after award of the bid to the successful bidder. The deposit of successful bidder shall be applied to the purchase price. If the successful bidder fails to consummate the purchase, such deposit shall be forfeited as liquidated damages to the City of Tacoma.

Bids must be valid for a minimum of 30 days after the opening date.

Bidders may inspect the items offered for sale at the location indicated on the attached form.

The City reserves the right to reject any or all bids received, to award any or all of the various items to separate bidders, to waive any informalities in the bids, and to award as best serves the interest of the City.

Disclaimer of Warranty

All items are sold AS-IS and WHERE-IS, with all faults. The Seller makes no warranty, express or implied with respect to the condition of the goods. SELLER SPECIFICALLY DISCLAIMS ANY AND ALL UCC WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Quantities/Payment

Unless otherwise indicated, quantities and/or weights are estimates only. Buyer shall not be entitled to any price adjustment in the event of variance in the estimated quantity. The total sale amount will be based on the unit prices quoted and the total quantity or weight as determined by scale weight at the time material is picked up.

Within one week from date of notification of award, the successful bidder must make payment in full for all items awarded. Payment for metals or other items that must be weighed shall be based on the estimated quantities as shown in the bid call, with final payment adjustment to be made based on actual weights picked up as ascertained by the scale tickets. All payments are to be by Certified or Cashier's check, made payable to "Treasurer, City of Tacoma."

Any material, equipment or other items bid upon must be removed by the successful bidder within one week from date of notification of award, unless stated otherwise under special instructions. Material bid on may be added to by like material through normal course of operation of the City of Tacoma between the time of the bid opening and the time the salvage is picked up. However, all material in any designated bin or location must be removed during the normal course of pick-up by the successful bidder.

The successful bidder will be required to pay Washington State sales tax, unless he/she is a qualified dealer, in which case he/she must furnish his/her resale number, as indicated on the bid form.

Hazardous/Toxic Substances

The Buyer shall abide by all local, state and federal laws and regulations pertaining to the use, transport, handling, reclamation, and disposal of hazardous or toxic substances, including but not limited to the following: The Toxic Substance Control Act; the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Hazardous Waste Management Act; the Occupational Safety and Health Act; and the Washington Industrial Safety and Health Act.

Indemnification - Hold Harmless

Purchaser acknowledges that pursuant to the terms of this agreement, Purchaser is totally responsible for the safety of all persons and property in the performance of this contract. Purchaser assumes the risk of all damages, loss, cost, penalties and expense and agrees to indemnify, defend and hold harmless the City of Tacoma, from and against any and all liability which may accrue to or be sustained by the City of Tacoma on account of any claim, suit or legal action made or brought against the City of Tacoma for the death of or injury to persons (including Purchaser's or subcontractor's employees) or damage to property involving Purchaser, 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, Purchaser recognizes that Purchaser is waiving immunity under Industrial Insurance Law, Title 51 RCW. This indemnification extends to the officials, officers and employees of the City and also includes attorney's fees and the cost of establishing the right to indemnification hereunder in favor of the City of Tacoma.
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 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 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. Information regarding Washington state business licenses may be obtained at http://bls.dor.wa.gov.

B. Upon award, it is the responsibility of the Supplier to register with the City of Tacoma’s Tax and License Division, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, 253-591-5252, https://www.cityoftacoma.org/government/city_departments/finance/tax_and_license/. Supplier shall obtain a business license as is required by Tacoma Municipal Code Subtitle 6C.20.

C. During the term of the Contract, Supplier, at its expense, shall obtain and keep in force any and all necessary licenses and permits.
1.06 PUBLIC DISCLOSURE: PROPRIETARY OR CONFIDENTIAL INFORMATION

A. Supplier Submittals, all documents and records comprising the Contract, and all other documents and records provided to the City by Supplier are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, City may be required, upon request, to disclose the Contract and documents or records related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and Supplier has complied with the requirements to mark records considered confidential or proprietary as such requirements are stated below, City agrees to provide Supplier 10 days written notice of impending release. Should legal action thereafter be initiated by Supplier to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by Supplier, including any damages, attorneys’ fees or costs awarded by reason of having opposed disclosure. City shall not be liable for any release where notice was provided and Supplier took no action to oppose the release of information.

B. If Supplier provides City with records or information that Supplier considers confidential or proprietary, Supplier must mark all applicable pages or sections of said record(s) as “Confidential” or “Proprietary.” Further, in the case of records or information submitted in response to a Request for Proposals, an index must be provided indicating the affected pages or sections and locations of all such material identified Confidential or Proprietary. Information not included in the required index will not be reviewed for confidentiality or as proprietary before release. If Supplier fails to so mark or index Submittals and related records, then the City, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and Supplier expressly waives its right to allege any kind of civil action or claim against the City pertaining to the release of said record(s).

C. Submission of materials in response to City’s Solicitation shall constitute assent by Supplier to the foregoing procedure and Supplier shall have no claim against the City on account of actions taken pursuant to such procedure.

1.07 SUSTAINABILITY

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

B. The City encourages the use of environmentally preferable products or services that help to minimize the environmental and human health impacts of City operations. Suppliers are encouraged to incorporate environmentally preferable products or services into Submittals wherever possible. “Environmentally preferable” means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

C. Environmental Standards. The City seeks to ensure that all purchases comply with current environmental standards and product specifications. Where appropriate, third party independent certifiers such as Green Seal and USEPA Standards shall be a minimum specification for products to the City, unless specified otherwise herein.

D. The City encourages the use of sustainability practices and desires any awarded Suppliers to assist in efforts to address such factors when feasible for:

1. Pollutant releases
2. Toxicity of materials used
3. Waste generation
4. Greenhouse gas emissions, including transportation of materials and services
5. Recycle content
6. Energy consumption
7. Depletion of natural resources
8. Potential impact on human health and the environment
1.08 ALTERATIONS NOT ALLOWED
Except as otherwise specifically provided in a Solicitation, Submittals that are incomplete or conditioned in any way, contain erasures, alternatives or items not called for, or not in conformity with law, may be rejected as being non-responsive. Any attempt to condition a Submittal by inserting exceptions to the Solicitation or any conditions, qualifications or additions that vary its terms may result in rejection of the Submittal. The City may reject any submittal containing a material deviation from the Solicitation.

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

1.10 WARRANTIES/GUARANTEE
A. Suppliers warrant that all items, including services, as applicable:
   1. Are merchantable.
   2. Comply with the City's latest drawings and specifications.
   3. Are fit for the City's intended use.
   4. Will be performed according to the skill and care required by customarily accepted good practices and procedures followed by service providers rendering the same or similar type of service.
   5. Are new and unused unless otherwise stated.
   6. Comply with all applicable safety and health standards established for such products by the Occupational Safety and Health Administration (OSHA), Washington Industrial Safety and Health Act (WISHA) and/or Consumer Products Safety Act (CPSA), and all other applicable state and federal laws or agency regulations.
   7. Are properly packaged and contain appropriate instructions or warnings, including applicable MSDS sheets.

1.11 PATENTS, TRADEMARKS AND COPYRIGHTS
Suppliers warrant that equipment and/or materials furnished, including software, do not infringe on any patent, trademark or copyright, and agree to indemnify, defend and hold harmless, the City in the event of any infringement or claim thereof.

1.12 DELIVERY OF SUBMITTALS TO THE CITY’S PROCUREMENT AND PAYABLES DIVISION
A. Submittal packages must be received by the City’s Procurement and Payables Division in SAP Ariba (unless another form of delivery is stated), prior to the scheduled time and date stated in the Solicitation.
B. Supplier is solely responsible for timely delivery of its Submittal.
C. Submittals received after the time stated in the solicitation will not be accepted.
D. For purposes of determining whether a Submittal has been timely received in SAP Ariba, the City’s Procurement and Payables Division will rely on the submittal clock in SAP Ariba.
1.13 SUBMITTAL IS NON-COLLUSIVE
Supplier acknowledges that by its delivery of a Submittal to the City in response to a Solicitation, it represents that the prices in such Submittal are neither directly nor indirectly the result of any formal or informal agreement with another Supplier.

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

1.15 WITHDRAWAL OF SUBMITTALS
A. Prior to Submittal Deadline. Submittals may be withdrawn (including in SAP Ariba) prior to the scheduled submittal deadline.
B. After Submittal Deadline. No Submittal can be withdrawn after having been opened before the actual award of the contract, unless the award is delayed more than 90 calendar days beyond the date of opening. If a delay of more than 90 calendar days does occur, Supplier must submit written notice to the City purchasing manager that Supplier is withdrawing its submittal.

1.16 ACCEPTANCE OF SUBMITTALS
A. If the solicitation announcement so states, submittals, unless previously withdrawn, will be read aloud, irrespective of any irregularities or informalities in such submittal, at the time and place specified in the solicitation announcement.
B. All submittals must remain open for acceptance by the City for a period of at least 90 calendar days from the submittal deadline.

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

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

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

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

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

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

11. To not award one or more items.

12. To issue additional or subsequent solicitations.

13. To seek partnerships between one or more Suppliers.

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

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

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

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

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

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

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

1.19 SUBMITTAL CLARIFICATION

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

1.20 EVALUATION OF SUBMITTALS

A. The City of Tacoma reserves the right to award to the lowest and best responsible Supplier(s) delivering a Submittal in compliance with the Solicitation, provided such Submittals are reasonable and are in the best interest of the City to accept. The City may use a number of criteria for determining award, including evaluation factors set forth in Municipal Code Section 1.06.262. Suppliers who are inexperienced or who fail to properly perform other contracts may have their submittal rejected for such cause.
1. Evaluation Factors. In addition to the factors set forth in Municipal Code Section 1.06.262, the following may be used by the City in determining the lowest and best responsible Submittal:
   
   a. Compliance with a Solicitation and with applicable City requirements, including by not limited to, the City’s Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs.
   
   b. Submittal prices, listed separately if requested, as well as a lump sum total (if the unit price does not compute to the extended total price, the unit price shall govern).
   
   c. The total cost to the City, including all applicable taxes, may be the basis for contract award.
   
   d. Time of delivery and/or completion of performance (delivery date(s) offered).
   
   e. Warranty terms.
   
   f. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City’s Ethics Code.
   
   g. Previous and existing compliance with laws and ordinances relating to contracts or services.
   
   h. Sufficiency of financial resources.
   
   i. Quality, availability, and adaptability of the supplies or services to the particular use required.
   
   j. Ability to provide future maintenance and service on a timely basis.
   
   k. Location of nearest factory authorized warranty repair facility or parts dealership.
   
   l. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications, and skill to perform the contract or provide the services required.

2. Cash 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.

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:

<table>
<thead>
<tr>
<th>Holiday</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Year’s Day</td>
<td>January 1</td>
</tr>
<tr>
<td>Martin Luther King’s Birthday</td>
<td>3rd Monday in January</td>
</tr>
<tr>
<td>Washington’s Birthday</td>
<td>3rd Monday in February</td>
</tr>
<tr>
<td>Memorial Day</td>
<td>Last Monday in May</td>
</tr>
<tr>
<td>Independence Day</td>
<td>July 4</td>
</tr>
<tr>
<td>Labor Day</td>
<td>1st Monday in September</td>
</tr>
</tbody>
</table>
Veteran's Day  
November 11
Thanksgiving Day  
4th Thursday of November
Day after Thanksgiving  
4th Friday of November
Christmas Day  
December 25

B. When any of these holidays occur on Saturday or Sunday, the preceding Friday or the following Monday, respectively, is a legal holiday for the City of Tacoma.

1.25 CONTRACT TERM

All services shall be satisfactorily completed and all deliverables provided by the termination date stated, and the Contract shall expire on said date unless mutually extended in writing by the parties.

1.26 EXTENSION OF CONTRACT

Contracts shall be subject to extension at City’s sole discretion.

1.27 TERMINATION AND SUSPENSION

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

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

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

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

1.28 DEFAULT/BREACH

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

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

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

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

1.29 SCOPE OF SERVICES

Supplier agrees to diligently and completely perform the services required by a Contract.
1.30 SERVICES DO NOT INCLUDE PUBLIC WORK

Unless otherwise stated, the services and/or work contracted for herein exclude public work and improvements as defined in RCW 39.04, as that statute may hereafter be amended.

1.31 PREVAILING WAGES

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

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

1.32 CONTRACT PRICING

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

B. Surcharges of any type will not be paid.

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

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

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

F. By submitting prices, Supplier warrants prices equal to or better than the equivalent prices, terms, and benefits offered by Supplier to any other government unit or commercial customer.

G. Should Supplier, during the term of a Contract, enter into any other contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other government unit or commercial customer, the Contract with the City shall thereupon be deemed amended to provide the same price or prices, terms and benefits to the City. This provision applies to comparable products and purchase volumes by the City that are not less than the purchase volumes of the government unit or commercial customer that has received the lower prices, greater benefits, or more favorable terms.

H. If at any time during the term of the Contract, Supplier reduces prices to other buyers purchasing approximately the same quantities stated on the Contract, Supplier will immediately notify the City purchasing manager of such fact, and the price(s) for future orders under the Contract shall be reduced accordingly.

I. The City is entitled to any promotional pricing during the Contract period.

J. Price decreases shall be immediately passed on to the City.

K. The City reserves the right to increase or decrease the quantities of any item awarded pursuant to the Contract and pay according to the unit prices quoted in the submittal with no adjustments for anticipated profit.
1.33 APPROVED EQUALS WHEN ALTERNATES ARE ALLOWED

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

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

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

1.34 RISK OF LOSS, SHIPPING AND DELIVERY

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

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

1.35 DELIVERY OF PRODUCTS AND PROVISION OF SERVICES – IDLING PROHIBITED

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

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

1.36 PACKING SLIPS AND INVOICES

A. Each invoice shall show City of Tacoma purchase order number, release number if applicable, quantity, unit of measure, item description, unit price and extended price for each line if applicable, 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 accounts payable@cityoftacoma.org.
3. For invoices paid by credit card, invoices shall also display the last name of the cardholder and last four digits (only) of the card number (e.g., Jones/6311). Unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to (do not combine different POs into one invoice or charge) to pcardadmin@cityoftacoma.org.

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

C. Packing slips and shipping notices shall be sent to the specific City Division or Department receiving the item(s) at the address stated in City’s Solicitation or as otherwise stated in the Contract and include complete description of items, contents of items if crated or cased, quantity, shipping point, carrier, bill of lading number and City of Tacoma purchase order.
D. Supplier shall package orders, preferably in environmental friendly packaging such as reduced packaging and recyclable packing materials.

1.37 COOPERATIVE PURCHASING

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

1.38 TAXES

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

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

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

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

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

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

1.39 COMPENSATION

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

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

1.40 PAYMENT TERMS

A. Payment shall be made through the City’s ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced. The City may withhold payment to Supplier for any services or deliverables not performed as required hereunder until such time as Supplier modifies such services or deliverables to the satisfaction of the City.
B. Invoices will not be processed for payment, nor will the period of cash discount commence, until all invoiced items are received and satisfactory performance of the Contract has been attained. Upon CITY’S request, Supplier shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.

1.41 PAYMENT METHOD – CREDIT CARD ACCEPTANCE – EFT/ACH ACCEPTANCE
A. Payment methods include:
   1. 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.
      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.
   2. Electronic Funds Transfer (EFT) by Automated Clearing House (ACH).
   3. Check or other cash equivalent.
B. The City’s preferred method of payment is by Visa credit card (aka procurement card). Suppliers may be required to have the capability of accepting the City’s authorized procurement card as a method of payment. **The City of Tacoma will not accept price changes or pay additional fees when the procurement card is used.**
C. The City, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract.

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

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

1.44 NONDISCRIMINATION
Supplier agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. Supplier shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental, or physical handicap. In the event of non-compliance by Supplier with any of the non-discrimination provisions of the Contract, the City shall be deemed to have cause to terminate the Contract, in whole or in part.
1.45 **FEDERAL, STATE, AND MUNICIPAL LAWS AND REGULATIONS**
Supplier shall comply with all federal, state, municipal, and/or local laws and regulations in the performance of all terms and conditions of the Contract. Supplier shall be solely responsible for all violations of the law from any cause in connection with its performance of work under the Contract.

1.46 **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.

1.47 **INSURANCE**
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.

1.48 **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.

1.49 **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.

1.50 **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.

1.51 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.

1.52 DISPUTE RESOLUTION

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

1.53 GOVERNING LAW AND VENUE

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.

1.54 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.

1.55 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.

1.56 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.

1.57 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.

1.58 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.