

Request for Proposal

Truck Dismantling and Sales Service for Scrappage and Replacement for Air in Puget Sound (ScRAPs) Program

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Section I. INTRODUCTION

The Puget Sound Clean Air Agency requests proposals for the following purpose according to the terms and conditions attached. In this RFP, the terms "bidder," "contractor" and "consultant" are used interchangeably.

REQUEST FOR PROPOSAL - 1

Form No. 61-145 (03/16) bhw

Purpose: To solicit proposals to provide services for the following project:

Accept Class 8 heavy-duty diesel trucks for destruction of engine and frame, and auction and/or sell remaining components, and remit to the Agency percentage of the gross sales price of the disable truck's components and any scrap metal value. Bidders may partner with another entity in order to submit a proposal that provides all of the required services.

Schedule: The following is a tentative schedule of events:

Date	Event
5/27/2016	Release of RFP
5/31/2016	Responses will be accepted beginning at 12:00 p.m.
As submittals received	Contract preparation begins
After contract is signed weeks after	Agreement term** begins (estimated to be two to three weeks after submittal is received)
12/31/2017	RFP closes*

*This RFP is contingent on grant funding and may close sooner if grant funds are exhausted.

**Term end-date is expected to be December 31, 2017, but is subject to available funding for truck replacements and contractor performance.

Contact Project Manager For Further Information: Questions on the requirements of this RFP or how to apply should be directed by telephone, e-mail, or in writing to the Project Manager.

Project Manager: Kathy Boucher
 Phone Number: (206) 932-0317
 E-mail address: kathyb@pscleanair.org
 Mailing Address: 1904 Third Avenue, Suite 105
 Seattle, WA 98101

The Project Manager is the sole point of contact in the agency for this RFP. Any other communication will be considered unofficial and non-binding on the agency.

Agency Not Obligated By This RFP. Release of this RFP or selection of a bidder does not obligate the agency in any way to contract for the services specified herein or approve or expend any funds for the services described herein. Such funds shall only be approved or expended by the agency subsequent to execution of a contract between the agency and the successful bidder.

The agency will not be liable for any costs incurred by any bidder in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP. No claim for reimbursement of time, material or travel expenses shall be made by a bidder against the agency, regardless of the results of the selection process.

Bidders should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of a bidder's proposal. It is understood that submitted proposals will become part of the agency's records on this matter without obligation to the agency.

Proposals Become Property of the Agency. All proposals become the property of the agency, and are subject to disclosure under the state public disclosure laws. Any information in a proposal that a bidder desires to claim as proprietary and exempt from disclosure under RCW 42.56 or 70.94.205 must be clearly designated as such. The information must be clearly identified and the particular exemption from disclosure upon which the bidder is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as proprietary information will not be honored. The agency will consider a bidder's request for exemption from disclosure to the extent permitted by law.

Revisions to the RFP. In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all individuals who have made the Project Manager aware of their interest. Addenda will also be published on <http://www.pscleanair.org/business/RFP/RFPRFQ/Pages/default.aspx>. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFP and will be placed on the Website. If you downloaded this RFP from the Agency website located at:

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Form No. 61-145 (03/16) bhw

<http://www.pscleanair.org/business/RFPREQ/Pages/default.aspx>, you are responsible for sending you name, e-mail address, and telephone number to the Project Manager in order for your organization to receive any RFP Addenda.

The agency reserves the right to cancel or to reissue the RFP in whole or in part, prior to the execution of a contract.

Minority and Women-Owned Business Participation. It is the agency's policy that small businesses, minority and women's business enterprises (MWBE) have the opportunity to participate in the performance of agency contracts. Bidders, and their vendors of goods and services in fulfillment of this contract, should afford equal opportunity in employment while providing goods and services to the agency; and should take the necessary steps to ensure that small businesses and MWBEs have the opportunity to participate in the performance of contracts and agreements with the agency. Participation may be either on a direct basis in response to this RFP or on a subcontractor basis.

No preferences for MWBE participation will be included in the evaluation of responses, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals will not be rejected for not including MWBE participation.

Bidders shall not discriminate on the basis of race, creed, color, national origin, religion, age, gender, marital or veteran status, or the presence of any sensory, mental or physical handicap in the award and performance of contracts and subcontract agreements.

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in contract documents will apply.

Bidders may contact OMWBE at (360) 664-9750 or www.omwbe.wa.gov to obtain information on certified firms.

Title VI. The agency, 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 ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 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.

Section II. BACKGROUND AND SCOPE OF SERVICES

The agency is a municipal corporation responsible for protecting and enhancing the air quality in King, Kitsap, Pierce and Snohomish counties in Washington State. The Agency is partnering with the Northwest Seaport Alliance to provide a financial incentive to owners of pre-2007-engined drayage trucks that are currently serving the ports to scrap and replace their trucks. Replacement trucks will need to meet the United State Environmental Protection Agency's emission standards for 2007 and newer heavy-duty diesel truck engines. All trucks being replaced under the ScRAPs financial incentive program must be scrapped, in accordance with the terms of the grants providing the incentive funds.

The purpose of this RFP is to solicit proposals from companies that can provide the following services, either alone or as part of a pre-arranged partnership.

- Accept trucks from owners participating in the ScRAPs program at a location within the Agency's four-county jurisdiction.
- Destroy their engines and cut their frame rails.
- Sell and/or auction the remaining components of the disabled trucks.
- Remit to the Agency a specific percentage of the value of the sold and/or auctioned components and any scrap metal value. The Agency and the selected contractor will negotiate the actual percentage to be remitted to the Agency during final contract preparation.

Note that bidders may partner with another entity in order to submit a proposal that provides all of the required services. If such a partnership is formed to submit a proposal, the entity that accepts the trucks from participating owners must be located within the Agency's four-county jurisdiction; the other tasks may be performed at a facility outside of the Agency's jurisdiction.

Specific tasks under this RFP will include:

Task I: Disabling Trucks

- A. Accept scheduled appointments, via email from the Agency's program manager, for the truck owners to deliver their fully operational trucks to the bidder's facility.
- B. Take possession of heavy-duty Class-8 diesel trucks, which have been pre-

approved by the Agency, from the truck's owner at a location within the Agency's jurisdiction during normal business hours.

- C. Remove fluids and hazardous materials from the truck and dispose of them in accordance with applicable federal, state, and local laws.
 - D. Drill a 3" by 3" hole in the side of the engine block of each truck, making a cut from the hole to the bottom of the block thru the oil pan flange.*
 - E. Cut the frame rails of each truck completely through in between the cab and the rear axle so that the truck's structural integrity is destroyed and the truck is rendered inoperable.*
 - F. Refer all questions regarding the ScRAPS program, policies and requirements to the Agency's project manager.
- * Both D & E must be completed within one week of taking possession.
- G. Allow site visits by Agency personnel to inspect the facility and ensure the above tasks are being performed properly.

Task II: Providing Required Documentation of Disabled Trucks

- A. Provide truck owner with a signed and dated receipt (see Appendix 1 for sample form).
 - B. Complete a Certificate of Destruction/Disabling form for each truck rendered inoperable (see Appendix 2 for sample form).*
 - C. Obtain original truck title signed off by legal owner.
 - D. Prepare and remit report to State of Washington Department of Licensing as required by law to reflect "destroyed" vehicle.
 - E. Digitally photograph all of the following items:
 - 1. Trucks full VIN
 - 2. Hole in its engine
 - 3. Cut in the frame
 - 4. Side profile of truck
- * Both B & E must be completed and emailed to program manager within one week of taking possession.

Task III: Selling Disabled Trucks and/or Components

- A. Have a minimum of one (1) active employee who is familiar in the requirements of the Agency and the ScRAPS incentive program and equipment disabling procedures, including sales and/or auction of the components.

- B. Provide transportation for the disabled truck, when necessary, from the location it was received under Task I, to the selling location at the bidder's own expense.
- C. Sell only trucks, or pieces of trucks, that have been permanently disabled pursuant to the program guidelines in Task I. No operable trucks or engines may be sold under this program.
- D. Sell, via private sale and/or auction, each disabled truck for the value of its parts and/or scrap metal. (Note that any proposal submitted in response to this RFP must describe the bidder's prior experience selling or auctioning trucks or similar vehicles/equipment for parts/scrap metal value, including providing copies of any required licenses or permits to perform such work as part of the bidder's proposal.)
- E. If a disabled truck is not sold or auctioned on the first sales attempt by the bidder, the bidder may either hold for a later auction or sell to a salvage dealer, metal recycling facility, or scrap metal dealer. The Agency reserves the right to direct the bidder to the option the Agency would like Bidder to pursue.
- F. Retain an agreed-upon percentage of the gross sales price of the disabled truck, its components, and any scrap metal value. The bidder must include the percentage of the gross sales price and the percentage of the scrap metal value that it proposes to retain in the response of this proposal. The actual percentage to be retained by the bidder will be subject to negotiation with the Agency during contract preparation.
- G. Remit the balance {gross sales minus retained agreed-upon percentage(s)} to the Agency on the last day of each month for any month in which the bidder sells and/or auctions a disabled truck or its components. The remittance must show each disabled truck's remittance amount separately, with the corresponding customer number assigned by the Agency.
- H. Allow site visits by Agency personnel to inspect the facility and ensure the above tasks are being performed properly.

Task IV: Reporting and Recordkeeping

- A. Maintain original records of each truck's disabling and sale and make these records available for inspection by representatives of the Agency during regular business hours. Records must include:
 - 1. A copy of the receipt given to truck owner

2. A copy of the signed-off title
 3. A copy of the Certificate of Destruction/Disabling form for each truck disabled
 4. A copy of the report sent to the State of Washington Department of Licensing recording the truck as “destroyed”
 5. Original bills of sale for all disabled trucks sold at auction, or to a salvage dealer, metal recycling dealer or scrap metal dealer.
 6. Any other records related to transactions under the ScRAPs program that the Agency deems necessary to comply with its grants requirements.
- B. Respond to requests from the Agency for copies of any records relevant to transactions under the ScRAPs program by providing the requested records within three (3) business days of such request.

Section III. CONTRACT TERM

The contract is anticipated to commence within two to three weeks after the Agency has received the bidder’s submittal and continue through 12/31/2017, but may end sooner, upon written notification from the Agency Project Manager, including for example, if available funds for truck replacements are exhausted. If additional funds become available, the contract may be extended by mutual agreement of the parties. Any amendments extending the period of performance shall be at the sole discretion of the agency. Failure of the bidder to maintain continuous compliance with the terms of the contract may result in the Agency removing the bidder from the ScRAPs program.

Section IV. FORMAT AND CONTENTS OF PROPOSALS

Format. The agency prefers proposals submitted in hard copy meet the following format (for proposals submitted electronically, please see Section V below):

- Submitted on white recycled paper, stapled (not bound), and printed double-sided.
- No longer than twenty (20) 8½ x 11 double-sided sheets of paper. (Do not send samples of work unless requested by the agency.)
- No three-ring, spiral bound, or plastic bound proposals.
- No card stock or colored paper.

Contents of Proposals. Proposals should include all the items identified in this RFP, with emphasis on conforming to the RFP requirements, and clarity of content. Elaborate or unnecessarily lengthy submittals are discouraged.

Proposals must include all of the following information:

- **Title Page** - Bidders shall place as the first page of their proposal a completed copy of the RFP Title Page, which is included as Appendix 3 attached to this RFP. This form must include the name of the individual who is the primary contact for the bidder during the proposal evaluation, the contact's position, telephone number, fax number, and e-mail address. The Title Page must also contain the signature of a person legally authorized to bind the bidder. The bidder must also certify the length of time the proposal will remain in effect (minimum 120 days) and the length of time that all prices will remain in effect (minimum twelve months).
- **Table of Contents** - Clearly identify material contained in the proposal by section and page number.
- **Objectives (Section I)** - Identify the objectives of the project and describe the scope of work from the bidder's perspective.
- **Relevant Experience of Bidder (Section II)** - Provide a description of the Bidder's organization, agency or firm. Describe prior experience selling/auctioning disabled trucks or similar vehicle for parts and/or salvage relevant to this contract and provide at least three appropriate references which include contact name, address, and current telephone number. If the bidder is entering into a partnership with another entity (ies) in order to submit a proposal that provides all of the required services, this Section must describe and document that relationship.
- **Work Statement (Section III)** - Describe the work to be performed. Include all relevant information regarding how the contract objectives will be met. Bidders must address each of the tasks outlined above in Section II of this RFP, "BACKGROUND AND SCOPE OF SERVICES," and describe how they will accomplish the tasks. In this section of the proposal, the bidder must include the percentage of the gross sales price

of the auctioned disabled trucks that it proposes to retain and the percentage that will be paid to the agency. If the bidder is entering into a partnership in order to submit a proposal that provides all of the required services, this Section must also define the roles of each entity.

- **Schedule of Deliverables (Section IV)** - Provide a list of all work products and a schedule of work to be done which shows timelines for specific tasks, if needed.
- **Personnel (Section V)** – Identify all personnel who will be involved in implementing the tasks within the proposal, by name.

Signature. All proposals shall be signed by the bidder.

Number of proposals. If submitted by hard copy, bidders must submit one signed original of the bid and one copy.

Section V. SUBMISSION OF PROPOSALS

Introduction. Proposals may be submitted in hard copy, fax, or electronically. Bidders are solely responsible for ensuring proposals are delivered on time and assume the risk for the method of delivery chosen. Submitted bids are considered final. Late proposals will not be accepted. Any correction or resubmission by the bidder will not extend the submittal due date.

Specific Instructions for Submitting Proposals by Hard Copy. The bidder shall submit two complete copies of the proposal in a sealed envelope that is plainly marked in the upper, left-hand corner with the name and address of the bidder. The agency address should contain the name of the project, the project manager, and the term

CONFIDENTIAL.

Bids for this proposal are due beginning noon on 5/31/2016, and must be delivered to:

**Receptionist
Puget Sound Clean Air Agency
1904 Third Avenue, Suite 105
Seattle, WA 98101**

If proposals are mailed, they must be received by the agency by noon on the due date. Bidders mailing proposals should allow normal delivery time to ensure timely receipt of their proposals by the agency. The agency assumes no responsibility for delays caused by any delivery service, including the U. S. Postal Service.

Specific Instructions for Electronically Submitting Proposals. Proposals submitted electronically must be submitted as an attachment to an e-mail message to Betsy Wheelock at RFP@pscleanair.org. Proposals may be sent beginning at noon local time in Seattle, Washington, on 5/31/2016. Attachments to an e-mail message shall be in Microsoft Word format, Microsoft Excel or Adobe PDF. Zipped files cannot be received by the agency and cannot be used for submission of proposals. Bidders should include the title of the project and the name of the project manager in the subject line of the e-mail. The agency does not assume responsibility for any problems in the e-mail transmission.

Bidders submitting proposals by e-mail must include with their proposal, signed and scanned copies of Appendices 3, 5 and 6. In addition, bidders submitting by email shall also send hard copies of Appendices 3, 5 and 6 with original signatures to the Project Manager.

General Provisions Applicable to All Proposals

Instruction to Bidders. The attachments to the Request for Proposal, identified as Appendices 1 through 6, are an integral part of the Request for Proposal and set forth policy and compliance requirements.

Disposition of Proposals. The agency reserves the right to reject any and all proposals received without penalty and to not issue a contract as a result of this RFP.

Rejection of Proposals. The agency will reject a proposal for any one of the following reasons:

- A proposal does not include all the information listed in Section IV of this RFP, Format and Contents of Proposals.
- A proposal is received any time after the above date and time set for receipt of proposals.
- A proposal is not signed by the bidder.
- A proposal does not contain signed Appendices 3, 5 and 6.
- Two copies of the proposal are not submitted (if submitted by hard copy).

Discrepancies. If discrepancies between sections or other errors are found in a proposal, the agency may reject the proposal. However, at its discretion, the agency

may correct any mathematical errors. Bidders are responsible for all errors or omissions in their proposals, and any such errors will not diminish a bidder's obligations to the agency.

Clarifications. The agency reserves the right to obtain clarification of any information in a bidder's proposal or to obtain additional information necessary to properly evaluate a proposal.

Proposals Become Property of the Agency. All proposals become the property of the agency, and are subject to disclosure under the state public disclosure laws. Any information in a proposal that a bidder desires to claim as proprietary and exempt from disclosure under RCW 42.56 or 70.94.205 must be clearly designated as such. The information must be clearly identified and the particular exemption from disclosure upon which the bidder is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as proprietary information will not be honored. The agency will consider a bidder's request for exemption from disclosure to the extent permitted by law.

Section VI. PROPOSAL EVALUATION CRITERIA

The agency will evaluate all proposals and award points (100 points maximum) based on the following criteria:

1. **Level of qualification** - experience, knowledge and availability of qualified personnel.

(Total possible points – 25)

2. **Responsiveness to the RFP** - understanding of the project, project purpose and the importance of the project to the interests of the agency.

(Total possible points - 50)

3. **Project organization** - responsiveness to the specific tasks outlined in the work statement, including the proposed percentage of the gross sales price of the disabled trucks, their components, and any scrap metal value to be retained by the contractor.

(Total possible points - 25)

The agency reserves the right to select a bidder without further discussion of the proposal submitted. Therefore, proposals should be submitted initially on the most favorable terms bidders can propose.

Section VII. SELECTION OF SUCCESSFUL BIDDERS

The successful bidder will be selected based on the above criteria. Selection is expected to be made no later than two or three weeks after proposal received.

Section VIII. PROTEST PROCEDURE

Who May Protest. This procedure is available to bidders who submit a response to this RFP. Any bidder who wants to protest the agency's selection of a successful bidder must submit a written protest to the agency within 7 calendar days of receiving written notification from the agency of the selection of the successful bidder. (A protest is considered submitted to the agency on the date the agency actually receives the protest, not the date the protest is mailed.)

Protest Procedures Must Be Followed. Bidders protesting the agency's selection of a successful bidder must follow the procedures in this section. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available under this RFP.

Protest Procedures. All protests must be in writing and signed by the protesting party or authorized agent. Protests must include the name and address of the protesting party, a detailed description of the specific grounds for the protest and all supporting documentation, and the specific relief requested. Protests must be addressed to the agency Project Manager. Protests may be submitted by e-mail, but must be followed by an original signed document.

Only protests stipulating an issue of fact concerning the following subjects will be considered:

- A matter of bias, discrimination or conflict of interest by the evaluator, or
- Errors in computing scores, or
- Noncompliance with procedures described in the RFP.

Protests will be rejected as without merit if they address issues such as an evaluator's judgment on the quality of a proposal, or the agency's assessment of its own needs or the needs or requirements of other agencies.

Protest Review. Upon receiving a protest, the agency will hold a protest review. The agency Executive Director or designee not previously involved in evaluating the bids received will consider the record and all available information, and issue a written decision, usually within ten business days of receipt of the protest.

In the event a protest may affect the interest of other bidders that submitted proposals, the agency will provide such bidders an opportunity to submit their views and any relevant information on the protest to the agency. Such information will be considered during the protest review.

Agency Determinations. After holding a protest review, the agency will make one of the following determinations:

- The protest lacks merit and uphold the agency's original action; or
- Technical or harmless errors in the agency's RFP process were made, the agency is in substantial compliance, and the protest is rejected, or
- The protest has merit and the agency will take appropriate action, which may include:
 - correct the errors and reevaluate all proposals,
 - reissue the RFP and begin a new process, or
 - other courses of action as appropriate

If the agency determines the protest is without merit or rejects the protest, the agency will proceed with contracting with the apparently successful bidder. If the agency determines the protest has merit, the agency will take one of the alternatives described above.

Section IX. CONTRACT PREPARATION

The selected contractor will enter into a contract with the agency as a condition of receiving funds. Contract preparation will begin promptly upon selection of contractor. Before beginning contract discussions with project manager, the successful bidder should become familiar with the agency's standard contract language, included as

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Appendix 4 in the RFP, which will be used by the agency for any contract signed pursuant to this RFP.

This material is available in alternate formats for individuals with disabilities. Please contact Betsy Wheelock by e-mail: BetsyW@psc Cleanair.org, or by phone: (206) 689-4080 or 1-800-552-3565, ext. 4080.

APPENDIX 1: SAMPLE SCRAPPING RECEIPT



Seaport Truck Scrappage and
Replacements for Air in Puget Sound

RECEIPT

Completed by Scrap Yard – FORM-13

Section #2

Voucher # _____

**Bidder
ADDRESS**

To: Puget Sound Clean Air Agency
1904 Third Avenue, Suite 105
Seattle, WA 98101

On _____, _____
Month day year

<<Bidder>> received the following truck for dismantling:

Year:	
Make:	
Model:	
VIN:	

<<Bidder>> received a released and dated vehicle title from:
_____ who is shown as the legal owner of the
above-listed truck.

<<Bidder>>

Signed:	
Printed Name:	
Title:	
Date:	

APPENDIX 2: CERTIFICATE OF DESTRUCTION/ DISABLING



Seaport Truck Scrappage and
Replacements for Air in Puget Sound

CERTIFICATE OF DESTRUCTION/DISABLING

VOUCHER # _____

Completed by Scrap Yard –FORM-14 Section #2

Instructions

1. A representative of the Dismantling Company must complete Section 1 and sign Section 2 of this “Certificate of Destruction/Disabling” and return this original document to the Puget Sound Clean Air Agency.
2. Obtain original title signed off by the legal owner of the truck.
3. Digitally photograph the truck’s serial number, the destroyed engine, frame rails and one side profile of the truck prior to its destruction.
4. Photographs of the disabled truck must be emailed to the Agency Project Manager within a week of taking possession of the truck.
5. Email copies of the Certificate of Destruction/Disabling and payment to the Agency’s Project Manager on the last day of each month.

Section 1. Truck Owner Information

Truck Owner: «FIRST NAME» «LAST NAME»
Phone No.: _____
Street Address (Truck Owner): «Household Street»
City: «Household City» ZIP: «Household Zip»

Section 2. Certification of Destruction/Disabling

I certify that the truck identified below was rendered inoperable. I will submit this document along with payments for disabled truck components and/or scrap metal to the Agency by the last day or the last day of each month, .

Yr., Make, Model & VIN of truck scrapped: _____

Name of Bidder : _____

Bidder signature: _____ Date: _____



APPENDIX 3 – RFP RESPONSE FORM – TITLE PAGE

The undersigned agrees to furnish the services and items described herein at the price stated, subject to the conditions and requirements of this proposal. The proposal must be signed by someone with the authority to legally bind the bidder.

This proposal will remain in effect for _____ days (*minimum 120*) from date submitted.

Upon award, the prices will remain in effect for _____ months (*minimum 12*) from the date of the contract.

Bidder Identification and Authorized Signature:

Firm Name: _____

Address: _____

Signed By: _____

Printed Name: _____

Title: _____

Please indicate person to be contacted by the Puget Sound Clean Air Agency concerning this proposal:

Title: _____

Name: _____

Telephone: _____

E-Mail: _____

Fax Number: _____

APPENDIX 4:
Standard Portion of Puget Sound Clean Air Agency Contract

7. **Changes.** The Agency may, from time to time, require changes to this contract. Only the Agency's Project Manager shall have the authority to negotiate changes on behalf of the Agency. The parties shall mutually agree to all changes by written amendment to the contract.

8. **Termination.** The Agency may terminate this contract at any time with or without cause by giving a thirty day (30) written notice to the Contractor of such termination and by specifying the effective date of the termination. Upon termination of this contract, the Agency, in addition to any other rights provided in this contract, may require the Contractor to deliver to the Agency any property specifically produced or acquired for the performance of such part of this contract as has been terminated.

The Agency shall pay to the Contractor the amount agreed upon by the Contractor and the Agency for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, and (iii) other property or services which are accepted by the Agency, unless the termination is for default, in which case the Agency shall determine the extent of the liability of the Agency. The Agency may withhold from any amounts due the Contractor such sums as the Agency determines to be necessary to protect the Agency against potential loss or liability.

9. **Agency Access to Data and Records.** (a) The Contractor shall provide the Agency, at no additional charge, access to all data generated under this contract. "Data" includes, but is not limited to, all information that supports the findings, conclusions and recommendations of the Contractor's reports and deliverables, including computer models and the methodology for those models. (b) The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the Agency, personnel duly authorized by the Agency, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

10. **Right of Inspection.** The Contractor shall provide right of access to its facilities to the Agency, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

11. **Funding Contingency.** In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to completion of the work in this contract, the Agency may at its sole option:

(a) terminate this contract with 30 (thirty) days advance written notice. If this contract is terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this contract prior to the effective date of termination;

(b) renegotiate the terms of the contact under new funding limitations and conditions;

(c) suspend work performed under this contract for a temporary period upon written notification of the suspension and the suspension period; or

(d) after a review of the status of expenditures and deliverables, extend the end date of this contract and postpone deliverables or portions of deliverables.

The Agency may also suggest such other alternative as the parties mutually agree to in writing.

12. **Copyright Provisions.** Unless otherwise provided, all materials produced under this contract shall be considered “works for hire” as defined by the U.S. Copyright Act and shall be owned by the Agency. The Agency shall be considered the author of such materials. In the event the materials are not considered “works for hire” under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the Agency, effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, communications, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, the Contractor hereby grants to the Agency a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly

perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights, and rights of publicity, necessary to grant such a license to the Agency.

The Contractor shall exert all reasonable effort to advise the Agency, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. The Agency shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. The Agency shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

13. **Contractor Not An Employee of the Agency.** The Contractor and the Agency intend that an independent contractor relationship will be created under this contract. The Contractor and its employees or agents are not employees of the Agency and shall not be entitled to compensation or benefits of any kind other than as specifically provided herein. The Contractor will not hold itself out as nor claim to be an officer or an employee of the Agency or of the State of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to an employee under the law. Conduct and control of the work will be solely with the Contractor.

14. **Indemnification.** The Contractor shall release, indemnify, defend and hold harmless the Agency, its Board of Directors, officers, employees and agents from and against any and all liability, loss, damage, expense, actions, or claims, including costs and attorney's fees which the Agency, its Board of Directors, officers, employees and agents may hereafter sustain, incur, or be required to pay asserting or arising directly or indirectly due to any act or omission of the Contractor, its agents, employees or subcontractors, in the execution, performance or failure to adequately perform the Contractor's obligations pursuant to this contract; provided, however, this paragraph does not purport to indemnify the Agency against liability for damages arising out of bodily injuries to persons or damages caused by or resulting from the sole negligence of the Agency, its Board of Directors, its officers, employees and agents in the execution, performance or failure to adequately perform its obligations pursuant to this contract.

15. **Subcontracting.** The Contractor shall not enter into subcontracts for any of the services or work contemplated under this contract without obtaining prior written approval of the Project Manager. In no event shall the existence of any subcontract

operate to release or reduce the liability of the Contractor to the Agency for any breach in the performance of the Contractor's duties.

16. **Assignment.** The work provided under this contract, and any claim arising thereunder, is not assignable or delegable by either party, in whole or in part, without the express prior written consent of the other party.

17. **Payroll and Taxes.** The Contractor assumes full and sole responsibility for the payment of all wages, unemployment contributions, payroll taxes, use, sales, income or other form of taxes, fees and licenses.

18. **Licensing, Accreditation, and Registration.** The Contractor shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements/standards, necessary for the performance of this contract.

19. **Industrial Insurance Coverage.** The Contractor shall provide or purchase industrial insurance coverage prior to performing work under this contract and shall maintain full compliance with Chapter 51.12 RCW during the term of this contract. If a Contractor is exempt from the requirements of Chapter 51.12 RCW, he/she must carry appropriate liability insurance equivalent to the coverage provided under that chapter. The Agency will not be responsible for the payment of industrial or liability insurance premiums or for any other claim or benefit for this Contractor, or any subcontractor or employee of the Contractor, which might arise under the industrial insurance laws during the performance of duties and services under this contract. If the Department of Labor and Industries, upon audit, determines that industrial insurance payments are due and owing as a result of work performed under this contract, those payments shall be made by the Contractor; the Contractor shall indemnify the Agency and guarantee payment of such amounts.

20. **Waiver.** A failure by either party to exercise its rights under this contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this contract. Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by personnel authorized to bind each of the parties.

21. **Governing Law.** This contract shall be governed by the laws of the state of Washington. The Contractor, by execution of the contract, acknowledges the jurisdiction of the courts of the state of Washington in this matter. The venue of any

action brought under this contract shall be the superior Court of King County, Washington.

22. **Certification regarding Debarment.** The Contractor, by signature to this contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The Contractor also agrees to include the above requirements regarding debarment in all subcontracts into which it enters. The Contractor shall immediately notify the Agency if, during the term of this contract, the Contractor becomes debarred. If Contractor becomes debarred during the term of this contract, the Agency may, at its sole option, immediately terminate this contract by providing written notice to the Contractor.

23. **Nondiscrimination.** During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Agency. The Contractor shall, however, be given a reasonable time in which to remedy this noncompliance.

24. **Title VI.** During the performance of this contract, the Contractor, for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations

The Contractor shall comply with the Regulations relative to non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Sub-contracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the Contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, sex, or national origin.

4. Information and Reports

The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Agency, the Washington State Department of Transportation (WSDOT) or the United States Department of Transportation (USDOT) as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Non-compliance

In the event of the Contractor's non-compliance with the non-discrimination provisions of this contract, the Agency shall impose such sanctions as it or the USDOT may determine to be appropriate, including, but not limited to: (a) withholding of payments to the Contractor under the contract until the Contractor complies, and/or (b) cancelling, terminating, or suspending of the contract, in whole or in part.

6. Incorporation of Provisions

The Contractor shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any sub-contractor or procurement as the Agency or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in

the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request WSDOT enter into such litigation to protect the interests of the state and, in addition, the Contractor may request the USDOT enter into such litigation to protect the interests of the United States.

25. **Utilization of Minority and Women-Owned Business Enterprises (MWBE).** To the extent practicable, when performing the services agreed to under this contract, the Contractor should utilize MWBEs certified by the Office of Minority and Women's Business Enterprises under the State of Washington certification program.

26. **Third Party Beneficiary.** The State of Washington is named as an express third party beneficiary of this contract with full rights as such.

27. **Attorneys' Fees.** In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys' fees and costs.

28. **Severability.** The provisions of this contract are severable. If any provision is illegal or invalid for any reason whatsoever, that illegality or invalidity shall not affect the validity of the rest of the contract.

29. **Content and Understanding.** This contract contains a complete and integrated understanding and contract between the parties. No other statements or representations, written or oral, shall be deemed a part hereof.



RFP APPENDIX 5

Certifications and Assurances

The following certifications and assurances are a required element of a proposal and required for an award or continuation of a contract. The undersigned bidder certifies the truthfulness of the statements.

1. I/we declare that all answers and statements made in the proposal are true and correct.

2. The prices and/or cost data have been determined independently, without consulting, communicating, or agreeing with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.

3. The attached proposal is a firm offer for a period of a minimum of 120 days following receipt. The agency may accept the proposal without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 120 day period.

4. In preparing this proposal, I/we have not been assisted by any current or former employee of the agency whose duties related (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. Any exceptions to this assurance is described in full on a separate page and attached to this document.

5. I/we understand that the agency will not reimburse me/us for any costs incurred in preparing this proposal. All proposals become the property of the agency and I/the company claim no proprietary right to the ideas, writings, items, or samples, unless so stated in the proposal.

6. Unless otherwise required by law, the prices and/or costs data which I/we submitted have not been knowingly disclosed and will not knowingly be disclosed prior to opening, directly or indirectly to any other bidder or to any competitor.

7. I/we agree that submitting the attached proposal constitutes acceptance of the agency's solicitation contents and the attached sample contract and general terms and conditions. If I/we have any exceptions to these terms, they are described in detail on a page attached to this document.

8. I/we have not induced any other person or firm to submit, or not submit a proposal for the purpose of restricting competition.

If submitted electronically, signer agrees:

On behalf of the firm submitting this proposal, my name below attests to the accuracy of the above statements:

Signature of Bidder

Printed Name of Bidder

Title

Date



1904 3rd Avenue, Suite 105
Seattle, WA 98101

RFP APPENDIX 6

Certification Regarding

Debarment, Suspension and Other Responsibility Matters

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is attached.