



City of Tacoma, WA

**TACOMA EMPLOYEES' RETIREMENT SYSTEM  
REQUEST FOR PROPOSAL  
INVESTMENT CONSULTING  
SPECIFICATION NO. RE21-0767F**



City of Tacoma  
Tacoma Employee Retirement System

REQUEST FOR PROPOSALS  
RE21-0767F  
Investment Consulting

**Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, January 11, 2022**

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

**By Email:**

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

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

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

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

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

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

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

**Project Scope:** Provide investment consulting to include topics such as research and advice on asset classes, asset allocation, performance, fee negotiation, etc.

**Estimate:** N/A

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

**Americans with Disabilities Act (ADA Information):** The City of Tacoma, in accordance with Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all of its programs and activities. Specification materials can be made available in an alternate format by emailing Gail Himes at [ghimes@cityoftacoma.org](mailto:ghimes@cityoftacoma.org), or by calling her collect at 253-591-5785.

**Federal Title VI Information:**

"The City of Tacoma" in accordance with provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. sections 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration of award.

**Additional Information:** Requests for information regarding the specifications may be obtained by contacting Ryan Foster, Senior Buyer by email to [RFoster1@cityoftacoma.org](mailto:RFoster1@cityoftacoma.org)

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



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

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**SUBMITTAL CHECK LIST**

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

Submittals must be received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Proposal page.

<p><b>The following items make up your submittal package:</b></p>	
<p>One electronic copy (pdf) of your complete submittal package via email</p>	
<p>Signature Page (Appendix A)</p>	
<p>Information in Section 12 (Content To Be Submitted)</p>	
<p>Cover letter including complete name, address and phone number of Company. Name, title, phone number and e-mail address of key person to contact for questions and evaluation of the RFP.</p>	
<p><b>After award, the following documents will be executed:</b></p>	
<p>Services Contract</p>	
<p>Certificate of Insurance and related endorsements if required</p>	

## 1. BACKGROUND

The Tacoma Employees' Retirement System (TERS) is a defined benefit plan with approximately \$2.1 billion in assets as of September 30, 2021. The System serves about 3100 active and 2700 retired members, and at January 1, 2021, had a funded status of 96.2%, based on the fair value of assets and using a 6.75% assumed rate of return. TERS requires contributions equal to a percentage of pay, and current rates for contributions are 11.34% from the employer and 9.66% from the employee.

TERS is overseen by a nine member Board composed of elected and appointed members and chaired by the City Mayor. The Board meets monthly on the second Thursday or third Thursday of the month. TERS maintains an internal staff responsible for implementation of the Board approved investment policy and plan administration. Internal staff works under the direction of the Retirement System Director, who reports to the Board.

TERS asset allocation as of September 30, 2021 is shown below:

<b><u>Global Equity</u></b>	
Cap Weighted	\$553,042,903
Min Vol	\$244,181,425
<b><u>Fixed Income</u></b>	
Core/Core Plus	\$349,901,111
High Yield	\$123,279,707
Bank Loans	\$64,258,883
Emerging Market Debt	\$103,904,709
TIPS	\$53,724,223
Long US Govt	\$33,393,674
<b><u>Real Estate</u></b>	
U.S. REITs	\$86,627,834
Private Core	\$110,840,089
<b><u>Real Assets</u></b>	
MLPs	\$63,391,872
Private Real Assets	\$56,699,935
<b><u>Private Equity</u></b>	
	\$286,168,848
<b><u>Cash</u></b>	
	\$11,833,901
<b><u>TERS Total</u></b>	
	\$2,141,249,114

The current allocation is close to target, except for Private Equity, which is currently above target and Private Real Assets which is still under development.

Current investment managers retained by TERS are listed in Table 1 below.

Northern Trust is the custodian for TERS. Wilshire Associates is the current investment consultant; their contract will expire March 31, 2011.

More information on the System can be found on our website:

<http://www.cityoftacoma.org/retirement>

**TABLE 1**

**TERS ASSET ALLOCATION – MANAGER LEVEL – SEPTEMBER 30, 2021**

NTGI ACWI IMI Index	12.35%
DFA MSCI ACWI	2.93%
INTECH MSCI ACWI	3.44%
PIMCO/RAFI ACWI	7.10%
BLACKROCK MIN VOL MSCI ACWI INDEX	11.40%
BLACKROCK CORE	2.86%
TCW/METROPOLITAN WEST CORE PLUS	13.48%
BLACKROCK TIPS	2.51%
BLACKROCK LONG UST	1.56%
PGIM EMERGING MARKET DEBT	4.85%
NEUBERGER BERMAN HIGH YIELD	5.76%
EATON VANCE SENIOR LOAN FUND	1.97%
EATON VANCE SENIOR LOAN FUND PLUS	1.03%
ADELANTE U.S. REITS	4.05%
INVESCO CORE REAL ESTATE FUND	5.18%
TORTOISE MLPs	2.96%
PANTHEON GLOBAL INFRASTRUCTURE FUND II	1.03%
PANTHEON GLOBAL INFRASTRUCTURE FUND III	1.02%
MELODY COMMUNICATIONS INFRASTRUCTURE FUND II	0.60%
PANTHEON GLOBAL SECONDARY FUND IV	0.11%
HAMILTON LANE FUND VII - SERIES A	0.23%
HAMILTON LANE FUND VII - SERIES B	0.11%
HARBOURVEST DOVER STREET VII	0.07%
HARBOURVEST DOVER STREET VIII	0.70%
HARBOURVEST HIPEP VI	0.35%
HARBOURVEST IX BUYOUT	0.20%
HARBOURVEST IX CREDIT OPPORTUNITIES	0.02%
HARBOURVEST IX VENTURE	0.20%

PANTHEON SEPARATE ACCOUNT 1	8.50%
PANTHEON SEPARATE ACCOUNT 2	2.89%
CASH/SHORT-TERM	0.55%
TOTAL	100.00%

To learn more about the City of Tacoma, visit [www.cityoftacoma.org](http://www.cityoftacoma.org).

The City anticipates awarding a single contract for three years with two one-year options to extend. The Contract to be issued to the Consultant(s) may require written authorization from the City when work needs to be executed. The City, in entering into this Contract, does not guarantee that any services, nor any specific dollar amount of work, will be performed during the terms of this Contract

Submittals submitted and/or the selected Consultant(s) may be used for projects of similar type and scope at the sole discretion of the City for up to one year.

## 2. MINIMUM REQUIREMENTS

Minimum requirements for consideration include that the consulting firm:

- Has the ability to provide services listed below in the scope of services section
- Acts as lead investment consulting firm to at least 4 defined benefit plans with assets in excess of \$1 billion in assets, and at least 3 public defined benefit pension plans
- Will assign a lead consultant with at least 10 years experience working with pension funds, endowments, and/or other institutional investors
- Is willing to acknowledge fiduciary responsibility
- Effectively demonstrates that potential conflicts are fully disclosed, managed and limited, and that advice provided will be independent of other financial relationships or compensation.

Proposals from firms not meeting the above minimum requirements will not be considered for award.

### 3. SUMMARY OF SCOPE OF SERVICES AND DELIVERABLES

The scope of services which TERS is seeking will include, but is not limited to, the following:

- Manager research and advice on a broad range of asset classes, including public developed and emerging markets equity, fixed income, real estate, private equity fund of funds, and other alternative assets. TERS staff will conduct manager searches based on a pre-screened list of recommended managers provided by the consultant. The consultant should provide ongoing manager due diligence reports to staff, and make recommendations on any manager hirings, terminations or significant reweighting. The TERS Board retains final decision making for manager hirings.
- Asset allocation advice. The consultant should conduct regular asset liability studies, and make ongoing recommendations on investment structure
- Performance measurement, including monthly performance at the manager, asset class and total fund level, along with written quarterly performance reviews
- Regular (at least quarterly) meetings with the TERS Board, and frequent calls and occasional meetings with TERS staff
- Proactive advice and suggestions for improving the reward to risk ratio of the fund
- General research on industry topics
- Assistance in fee negotiation with managers

### 4. CONTRACT TERM

The contract will be for a three-year period with the option to renew the contract two additional one-year terms. The City reserves the right to cancel the contract for any reason, by written notice, as stipulated in the contract.

### 5. CALENDAR OF EVENTS

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

Contract may be issued after Public Utility Board and/or City Council approval.

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

Publish and issue RFP:	<b>12/10/2021</b>
Pre-Submittal Questions:	<b>12/17/2021</b>
Response to Questions:	<b>12/21/2021</b>
Submittal Due Date:	<b>1/11/2022</b>
Submittal Evaluated:	<b>January 2022</b>
Interviews/presentations, on or about:	<b>January 2022</b>
Award Recommendation:	<b>February 2022</b>
Public Utility Board/City Council Approval:	<b>February 2022</b>

## 6. INQUIRIES

- 6.1 Questions should be submitted to Ryan Foster via email to [rfoster1@cityoftacoma.org](mailto:rfoster1@cityoftacoma.org). Subject line to read: **RE21-0767F – Investment Consulting – VENDOR NAME**
- 6.2 Questions marked confidential will not be answered or included.
- 6.3 The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.
- 6.4 The answers are not typically considered an addendum.
- 6.5 The City will not be responsible for unsuccessful submittal of questions.
- 6.6 Written answers to questions will be posted in the event approximately one week after the question deadline.

## 7. PRE-PROPOSAL MEETING

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

## 8. DISCLAIMER

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

## 9. EVALUATION CRITERIA

A Selection Advisory Committee (SAC) will review and evaluate submittals. After the evaluation, the SAC may conduct interviews of the most qualified Respondents before final selection.

The relative weight of each scoring criteria is indicated in the table below.

Criteria	Max Points
Organizational strength, including staff resources, organizational structure, and experience with defined benefit plans, etc.	30
Capability of assigned consultant and team	15
Asset allocation process and advice	15
Investment manager evaluation/selection process and skills, including breadth of manager coverage	15
Research and Education capabilities	10
Fee proposal	5
Sustainability	5
Equity in Contracting	5
<b>Total</b>	<b>100</b>

- 9.1 The SAC may select one or more respondent to provide the services required.
- 9.2 The SAC may use references to clarify information in the submittals and interviews, if conducted, which may affect the rating. The City reserves the right to contact references other than those included in the submittal.
- 9.3 A significant deficiency in any one criteria is grounds for rejection of the submittal as a whole.

## **10. INTERVIEWS / ORAL PRESENTATIONS**

An invitation to interview may be extended to Respondents based on SAC review of the written submittals. The SAC reserves the right to adjust scoring based on additional information and/or clarifications provided during interviews.

The City reserves all rights to begin contract negotiations without conducting interviews.

Respondents must be available to interview within three business days notice.

If interviews are conducted, the SAC will schedule the interviews with the contact person provided in the SOQs. Additional interview information will be provided at the time of invitation. At this time, it is anticipated that the main objective of the interview will be for the SAC to meet the project manager and key personnel that will have direct involvement with the project and hear about their relevant experience and expertise. The City does not intend to meet with firm officials unless they are to be directly involved with the project.

Following interviews, submittals will be rescored using the same criteria as in Section 12 below.

## **11. RESPONSIVENESS**

Respondents agree their submittal is valid until a contract(s) has been executed.

All submittals will be reviewed by the City to determine compliance with the requirements and instructions specified in this RFP. The Respondent is specifically notified that failure to comply with any part of this RFP may result in rejection of the submittal as non-responsive. The City reserves the right, in its sole discretion, to waive irregularities deemed immaterial.

The final selection, if any, will be that submittal which, after review of submissions and potential interviews, in the sole judgement of the City, best meets the requirements set forth in this RFP.

**12. CONTENT TO BE SUBMITTED – This section represents 100% of the possible scoring criteria.**

Proposals should be formatted as 8 ½” x 11”. A “page” is defined as one single-side of a document that has written text or graphics. The font should be Times New Roman or Arial with font size no smaller than 11 and the margins shall be 0.75” or greater. Submittals should be limited to a maximum of 10 pages, double-sided, or 20 pages total, excluding any required forms or resumes. All pages that exceed the specified page limit will not be part of the evaluation.

A full and complete response to each of the “CONTENT TO BE SUBMITTED” items is expected in a single location; do not cross reference to another section in your submittal.

Information that is confidential must be clearly marked and provide an index identifying the affected page number(s) and location(s) of such identified materials. See Section 1 of the Standard Terms and Conditions – Solicitation 1.06 for Public Disclosure : Proprietary or Confidential Information.

Respondents are to provide complete and detailed responses to all items below. Submittals that are incomplete or conditioned in any way that contain alternatives or items not called for in this RFP, or not in conformity with law, may be rejected as being non-responsive. The City will not accept any submittal containing a substantial deviation from the requirements outlined in this RFP.

Submittals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the respondent’s/team’s abilities to meet the requirement of this RFP. Emphasis will be on completeness of content. The written submittals should be prepared in the sequential order as outlined below.

The City reserves the right to request clarification of any aspect of a firm’s submittal, or request additional information that might be required to properly evaluate the submittal. A firm’s failure to respond to such a request may result in rejection of the firm’s submittal. Firms are required to provide responses to any request for clarification within two (2) business days.

Requests for clarification or additional information shall be made at the sole discretion of the City. The City’s retention of this right shall in no way diminish a Proposer’s responsibility to submit a submittal that is current, clear, complete and accurate.

## 12.1 QUESTIONS

The Respondent shall submit the information as required in this section.

### A. Firm Background

1. Briefly describe your firm's background, history and ownership structure, including any parent, affiliated or subsidiary company and any business partners or joint ventures.
2. Describe the range of services your firm provides.
3. Provide the percentage of total revenues and income derived from major business lines, including investment consulting.
4. Within the past three years, have there been any significant developments in your organization such as changes in ownership, restructuring, changes in senior leadership, personnel reorganizations, terminations or investigations? Do you anticipate future significant changes in your organization?
5. Have any lawsuits or regulatory actions been taken against the firm, its executives or its principals in the last three years? If yes, please describe.

### B. Consulting Organization

1. Please provide biographical information on the proposed lead consultant/consulting team. How many other client relationships does this consultant/team serve? Please describe and list the names of other clients served by the proposed consultant, and whether they serve as the lead or co-lead of the client relationships. NOTE: TERS will request contact information for references only after the finalist candidates have been identified.
2. Discuss the ways you manage growth in the consulting client base, including any limits that may exist for the ratio of clients/consultant.
3. What is your client service philosophy? How do you prefer to work with consulting clients?
4. How many senior/key people have left or joined your firm in the last 3 years? Please list these, and the dates of their addition/departure.
5. Describe your firm's backup procedures in the event that key personnel in this proposed assignment should leave the firm or become incapacitated.
6. What distinguishes your firm in the investment consultant industry? Are there significant contributions that you have made to defining "best practices" in the pension fund investment consulting field?
7. Please describe (in detail) how your firm "on-boards" a new client from their former consultant. List out the necessary steps to ensure a smooth transition.

### C. Consulting Client Profile

1. Please provide a table showing number of consulting clients by size ranges, in categories of Public; Private (DB vs DC); Endowment/Foundation.
2. Please provide a table showing number of consulting clients by length of tenure with your firm.
3. Please provide a full or representative list of your consulting clients which are comparable in size and type to TERS.

4. Please give complete details on the number and asset values of any terminated consulting client relationships in the last five years.
5. Please give complete details on the number and asset values of any new consulting client relationships in the last five years.

#### **D. Standards of Conduct / Conflicts of Interest**

1. State whether or not your employees comply with the Code of Ethics and Standards of Professional Conduct of the CFA Institute. If not, does your firm maintain a Code of Ethics? **Attach a copy of your firm's Code of Ethics as Exhibit A.**
2. Has your firm ever been required to pay damages or penalties or trade / relinquish something of value under any of its existing or past contracts as it relates to services similar to those contemplated by this RFP? If so, describe the situation.
3. Do you or a related company receive any payments from money managers you recommend, consider for recommendation, or otherwise mention to the plan for our consideration? If so, what is the extent of these payments in relation to your other income (revenue)?
4. Aside from the specific issue of doing business with managers, are there any other potential conflicts of interest that you might have in providing consulting services to TERS?
5. If you are hired, will you acknowledge in writing that you have a fiduciary obligation as an investment advisor to the plan while providing the consulting services we are seeking?
6. Do you consider yourself a fiduciary under ERISA with respect to the recommendations you provide the plan? (While TERS is not governed by ERISA, please respond as if this were the case.)

#### **E. Asset Allocation and Investment Policy Development**

1. Provide a brief description of your methodology and philosophy for conducting asset liability studies for public pension plans.
2. Aside from a formal asset liability study, how might you approach recommending a change in asset allocation to a client? If applicable, describe how you make recommendations for changes to a pension system's asset allocation in response to changes in the market environment.
3. Explain your firm's position/approach on the use of active versus passive management in the major asset classes.
4. Describe your process for maintaining a continuous review of investment policies and/or investment guidelines.
5. Describe any risk management tools used by your consultants and or/available to clients. Please detail additional costs to the client, if any.
6. List those asset classes covered under the standard fee in terms of manager research, ongoing due diligence and assistance with potential future mandate search activities. In addition, list out any other asset class coverage performed by your firm that falls outside the standard coverage, including additional costs for clients to gain access to those areas.

## **F. Investment Manager Selection and Review**

1. Does your firm have a separate investment manager research group? If so, please describe the group. If not, describe who performs manager research?
2. Describe your firm's process for evaluation and selection of investment managers to recommend to a client. Include how your firm evaluates a manager's personnel and organization, investment philosophy, investment style(s) and products, research and/or modeling capabilities, financial condition, assets under management, type of clients, client services, and fees.
3. Does your firm maintain a database of investment managers? How many managers are contained in the database and what asset classes are tracked? Describe how your firm gathers, verifies, updates, maintains and analyzes the data collected on managers for the database.
4. Attach a sample of a written report you would provide in a manager search. If available, provide a manager due diligence report on one of TERS' current managers.

## **G. Research and Education**

1. Describe the internal structure and organization of your research department (if no separate department exists, describe how this function is performed).
2. Please describe the detail, the type and frequency of research that would be provided to TERS in an ongoing basis. Through which media is it provided?
3. Please provide three sample research reports on special topics generated by your firm.
4. Describe your online capabilities and relate them to your consulting services or products. Do you provide any customized computer-based analytical tools to your clients? If so are those part of the standard contract or are there additional charges to clients?
5. Describe the educational materials regularly provided to your clients.

## **H. Fees**

1. Please give a detailed proposed fee outline and explain in detail how fees are determined.
2. Project your fees for a contract commencing April 1, 2022. Provide annual fees for a three-year contract and for the additional two one-year optional contract extensions.
3. Clearly delineate what is covered in a standard contract and what additional charges could occur. This would include quarterly in-person Board meetings and necessary travel expenses, access to manager research and consulting evaluations of both public and private asset classes, any ESG related monitoring or analysis of the client portfolio and any other types of analytics offered by your firm.
4. Document any other additional costs to be incurred by the client not specifically mentioned herein.

## I. Performance Measurement, Reporting and Evaluation

1. Describe your data collection and performance measurement process.
2. Please attach a sample monthly and quarterly client performance report. Are these standard client reports? To what extent does the client have input in the content and format of the quarterly investment performance evaluation report?
3. Discuss the portfolio analytics and performance attribution your firm is capable of providing. Please note if there a separate fee for this.
4. Do you reconcile your calculated performance with investment managers' and custodians' reports? If yes, please describe the process.
5. Do you purchase universe data or do you maintain your own? If purchased, from whom? What universes are available to clients and are there costs associated with this access?
6. What period of time is required to prepare reports after the end of each quarter?

## J. Diversity

1. Diversity is important to TERS. Please comment on your organization's commitment to building a diverse workforce within your own firm and include your process to attract, connect with and hire diverse employees. Please also provide the following:
  - i. a. How many minority and women investment consultants are currently employed at your firm? b. How many minorities and women are currently employed on your senior management team? c. Do you have a Chief Diversity Officer or equivalent?
2. How many minority-and/or women-owned asset management firms (at least 51% ownership) are currently in your database? What is the breakdown by asset class?
3. Describe any outreach initiatives your firm has in place to increase the diversity aspects of investment advisers in your proprietary database.
4. When seeking out managers which are considered diverse, do you include employee diversity as a criteria?
5. When defining diversity, which of the following criteria are used when evaluating asset manager ownership and/or employee diversity: race, gender, sexual orientation, disabilities, veteran status, other. If other, please provide details.

## K. ESG

1. Does your firm use Environmental, Social, Governance ("ESG") criteria in selection of Investment Managers and Service Providers? If you do or do not, please explain why.
2. Describe your firm's views on ESG and impact investing and if your firm monitors ESG policies / compliance at the investment manager level?
3. How is your firm integrating ESG issues and climate change concerns into its asset allocation recommendations, manager search process, etc.? **If you provide clients with specific ESG related reporting, append an example to your proposal as Exhibit B.**

4. Does your firm contract or subscribe to any ESG data providers? If so, please list the providers and what data/information/metrics you receive from them and how that information is used in your processes.
5. If you provide portfolio level ESG metrics for clients, please provide an example of a reporting product or describe the metrics and how they are used by clients. Please provide contact information for any client(s) receiving ESG information from your company that would act as a reference on your behalf.
6. Are ESG related metrics and reporting part of the standard client consulting contract or are there additional fees/charges related to providing this data?

### **12.2 Sustainability – 5 points**

Provide information on your company's commitment to the environment. Include your sustainability statement and current practices.

### **12.3 Equity in Contracting – 5 points**

Is your firm, or the firm you are partnering with, certified with Washington State for any of the below categories (select all that apply)? Selecting any item below will award all points for this category.

- Combination Business Enterprise (CBE)
- Disadvantaged Business Enterprise (DBE)
- Minority Business Enterprise (MBE)
- Minority/Women Business Enterprise (MWBE)
- Small Business Enterprise (SBE)
- Socially and Economically Disadvantaged Business Enterprise (SEDBE)
- Women Business Enterprise (WBE)

### **13. ACCEPTANCE / REJECTION OF SUBMITTALS**

Respondents are advised that the City reserves the right to cancel award of this 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 submitting a Submittal, Respondents agree that the City is not liable for any costs or damages for the cancellation of an award.

The City reserves the right and holds at its discretion the following rights and options:

- To waive any or all informalities
- To award one or more contracts
- To not award a contract
- To issue subsequent solicitation

### **14. ACCEPTANCE OF SUBMITTAL CONTENTS**

The Submittal contents of the successful Respondent will become contractual obligations if a contract ensues.

### **15. CONTRACT OBLIGATION**

The selected Respondent(s) will be expected to execute a contract with the City. As part of the negotiation process, Respondents may propose amendments to the contract, but the City, at its sole option, will decide whether to open discussion on each proposed amendment and determine the final contract to be used. At a minimum, any contract will incorporate the terms and conditions contained herein.

### **16. STANDARD TERMS AND CONDITIONS**

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

### **17. INSURANCE REQUIREMENTS**

Successful proposer will provide proof and maintain the insurance coverage in the amounts and in the manner specified in the City of Tacoma Insurance Requirements document applicable to the services, products, and deliverables provided under the RFP. The City of Tacoma Insurance Requirements document is fully incorporated into the RFP by reference.

### **18. PAID LEAVE**

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

### **19. PARTNERSHIPS**

The City will allow firms to partner in order to respond to this RFP. Respondents may team under a Prime Respondent's submittal in order to provide responses to all sections in a single

submission; however, each Respondent's participation must be clearly delineated by section. The Prime Respondent will be considered the responding vendor and the responsible party at contract award. All contract negotiations will be conducted only with the Prime Respondent. All contract payments will be made only to the Prime Respondent. Any agreements between the Prime Respondent and other companies will not be a part of the agreement between the City and the Prime Respondent. The City reserves the right to select more than one Prime Respondent.

## **20. COMMITMENT OF FIRM KEY PERSONNEL**

The Respondent agrees that key personnel identified in its submittal or during contract negotiations as committed to this project will, in fact, be the key personnel to perform during the life of this contract. Should key personnel become unavailable for any reason, the selected Respondent shall provide suitable replacement personnel, subject to the approval of the City. Substantial organizational or personnel changes within the agency are expected to be communicated immediately. Failure to do so could result in cancellation of the Contract. Specific language pertaining to personnel substitution is contained within the sample contract in Appendix A.

## **21. AWARD**

After the Respondent(s) is selected by the SAC and prior to award, all other Respondents will be notified via email by the Purchasing Division.

Once a finalist (or finalists) has been selected by the Selection Advisory Committee, contract negotiations with that finalist will begin, and if a contract is successfully negotiated, it will, if required, be submitted for final approval by the Public Utility Board and/or City Council.

## **22. ENVIRONMENTALLY PREFERABLE PROCUREMENT**

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

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

- Reduction of pollutant releases
- Toxicity of materials used
- Waste generation
- Greenhouse gas emissions, including transportation of materials and services

- Recycle content
- Comprehensive energy conservation measures
- Waste manage reduction plans
- Potential impact on human health and the environment

### **23. EQUITY IN CONTRACTING**

The City of Tacoma is committed to encouraging firms certified through the [Washington State Office of Minority and Women's Business Enterprise](#) to participate in City contracting opportunities. See the **TMC 1.07 Equity in Contracting Policy** at the City's [Equity in Contracting Program website](#).

### **24. PROPRIETARY OR CONFIDENTIAL INFORMATION**

The Washington State Public Disclosure Act ([RCW 42.56 et seq.](#)) requires public agencies in Washington make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act, or are otherwise privileged. Documents submitted under this RFP shall be considered public records and, with limited exceptions, will be made available for inspection and copying by the public.

Information that is confidential or proprietary must be clearly marked. Further, an index must be provided indicating the affected page number(s) and location(s) of all such identified material. Information not included in said index will not be reviewed for confidentiality or as proprietary before release.

### **25. ADDENDUMS**

In the event it becomes necessary to revise any part of this RFP, an addendum will be posted alongside these specifications on [tacomapurchasing.org](http://tacomapurchasing.org). Failure to acknowledge addendum(s) on the required Signature Page may result in a submittal being deemed non-responsive by the City.

## TECHNICAL PROVISIONS

### A. SCOPE OF WORK AND DELIVERABLES

The scope of services which TERS is seeking will include, but is not limited to, the following:

- Manager research and advice on a broad range of asset classes, including public developed and emerging markets equity, fixed income, real estate, private equity fund of funds, and other alternative assets. TERS staff will conduct manager searches based on a pre-screened list of recommended managers provided by the consultant. The consultant should provide ongoing manager due diligence reports to staff, and make recommendations on any manager hirings, terminations or significant reweighting. The TERS Board retains final decision making for manager hirings.
- Asset allocation advice. The consultant should conduct regular asset liability studies, and make ongoing recommendations on investment structure
- Performance measurement, including monthly performance at the manager, asset class and total fund level, along with written quarterly performance reviews
- Regular (at least quarterly) meetings with the TERS Board, and frequent calls and occasional meetings with TERS staff
- Proactive advice and suggestions for improving the reward to risk ratio of the fund
- General research on industry topics
- Assistance in fee negotiation with managers

**Appendix A**

Signature Page

Insurance Requirements

Sample Contract

**SIGNATURE PAGE**

**CITY OF TACOMA  
TACOMA EMPLOYEES' RETIREMENT SYSTEM**

All submittals must be in ink or typewritten, executed by a duly authorized officer or representative of the bidding/proposing entity, and received and time stamped as directed in the **Request for Proposals page near the beginning of the specification**. If the bidder/proposer is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.

**REQUEST FOR PROPOSALS SPECIFICATION NO. RE21-0767F  
Investment Consulting**

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

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

**Non-Collusion Declaration**

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

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

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

\_\_\_\_\_  
Address

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

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

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

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

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

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

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

\_\_\_\_\_  
E-Mail Address for Communications

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

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



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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

## 1. GENERAL REQUIREMENTS

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

- 1.1. City of Tacoma reserves the right to approve or reject the insurance provided based upon the insurer, terms and coverage, the Certificate of Insurance, and/or endorsements.
- 1.2. Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by City of Tacoma.
- 1.3. Contractor shall keep this insurance in force during the entire term of the Contract and for Thirty (30) calendar days after completion of all work required by the Contract, unless otherwise provided herein.
- 1.4. Insurance policies required under this Contract that name "City of Tacoma" as Additional Insured shall:
  - 1.4.1. Be considered primary and non-contributory for all claims.
  - 1.4.2. Contain a "Separation of Insured provision and a "Waiver of Subrogation" clause in favor of City of Tacoma.
- 1.5. Section 1.4 above does not apply to contracts for purchasing supplies only.
- 1.6. Verification of coverage shall include:
  - 1.6.1. An ACORD certificate or equivalent.
  - 1.6.2. Copies of all endorsements naming the City of Tacoma as additional insured and showing the policy number.
  - 1.6.3. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.
- 1.7. Liability insurance policies, with the exception of Professional Liability and Workers' Compensation, shall name the City of Tacoma and its officers, elected officials, employees, agents, and authorized volunteers as additional insured.
  - 1.7.1. No specific person or department should be identified as the additional insured.
  - 1.7.2. All references on certificates of insurance and endorsements shall be listed as "City of Tacoma".
  - 1.7.3. The City of Tacoma shall be additional insured for both ongoing and completed operations using Insurance Services Office (ISO) form CG 20 10 04 13 and CG 20



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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37 04 13 or the equivalent for the full available limits of liability maintained by the Contractor irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract and irrespective of whether the Certificate of Insurance describes limits lower than those maintained by the Contractor.

- 1.8. Contractor shall provide a Certificate of Insurance for each policy of insurance meeting the requirements set forth herein when Contractor provides the signed Contract for the work to City of Tacoma. Contractor shall provide copies of any applicable Additional Insured, Waiver of Subrogation, and Primary and Non-contributory endorsements. Contract or Permit number and the City Department must be shown on the Certificate of Insurance.
- 1.9. Insurance limits shown below may be written with an excess policy that follows the form of an underlying primary liability policy or an excess policy providing the required limit.
- 1.10. Liability insurance policies shall be written on an "occurrence" form, except for Professional Liability/Errors and Omissions, Pollution Liability, and Cyber/Privacy and Security
- 1.11. If coverage is approved and purchased on a "Claims-Made" basis, Contractor warrants continuation of coverage, either through policy renewals or by the purchase of an extended reporting period endorsement as set forth below.
- 1.12. The insurance must be written by companies licensed or authorized in the State of Washington pursuant to RCW 48 with an (A-) VII or higher in the A.M. Best's Key Rating Guide [www.ambest.com](http://www.ambest.com).
- 1.13. Contractor shall provide City of Tacoma notice of any cancellation or non-renewal of this required insurance within Thirty (30) calendar days.
- 1.14. Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract, otherwise it shall constitute a material breach of the Contract, upon which City of Tacoma may, after giving Five (5) business day notice to Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith; with any sums so expended to be repaid to City of Tacoma by Contractor upon demand, or at the sole discretion of City of Tacoma, offset against funds due Contractor from City of Tacoma.
- 1.15. Contractor shall be responsible for the payment of all premiums, deductibles and self-insured retentions, and shall indemnify and hold the City of Tacoma harmless to the extent such a deductible or self-insured retained limit may apply to the City of Tacoma as an additional insured. Any deductible or self-insured retained limits in excess of Twenty Five Thousand Dollars (\$25,000) must be disclosed and approved by City of Tacoma Risk Manager and shown on the Certificate of Insurance.
- 1.16. City of Tacoma reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services has changed.



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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- 1.17. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made by City of Tacoma to Contractor.
- 1.18. Insurance coverages specified in this Contract are not intended and will not be interpreted to limit the responsibility or liability of Contractor or Subcontractor(s).
- 1.19. Failure by City of Tacoma to identify a deficiency in the insurance documentation provided by Contractor or failure of City of Tacoma to demand verification of coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 1.20. If Contractor is a State of Washington or local government and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this Section.

## 2. CONTRACTOR

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

## 3. SUBCONTRACTORS

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

## 4. REQUIRED INSURANCE AND LIMITS

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

### 4.1 Commercial General Liability Insurance

Contractor shall maintain Commercial General Liability Insurance policy with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The Commercial General Liability Insurance policy shall be written on an Insurance Services Office form CG 00 01 04 13 or its equivalent. Products and Completed Operations shall be maintained for a period of three years following Substantial Completion of the Work related to performing construction services.

This policy shall include product liability especially when a Contract solely is for purchasing supplies. The Commercial General Liability policy shall be endorsed to include:

4.1.1 A per project aggregate policy limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

4.1.2

### 4.2 Workers' Compensation

4.2.1 Contractor shall comply with Workers' Compensation coverage as required by the



# CITY OF TACOMA

## INSURANCE REQUIREMENTS FOR CONTRACTS

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Industrial Insurance laws of the State of Washington, as well as any other similar coverage required for this work by applicable federal laws of other states. The Contractor must comply with their domicile State Industrial Insurance laws if it is outside the State of Washington.

#### 4.3 Employers' Liability Insurance

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

#### 4.4 Professional Liability Insurance or Errors and Omissions

Contractor and/or its subcontractor shall maintain Professional Liability or Errors and Omissions with limits of One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate covering acts, errors and omissions arising out of the professional services under this Contract.

If the policy limit includes the payment of claims or defense costs, from the policy limit, the per claim limit shall be Two Million Dollars (\$2,000,000).

If the scope of such design-related professional services includes work related to pollution conditions, the Professional Liability policy shall include Pollution Liability coverage.

If provided on a "claims-made" basis, such coverage shall be maintained by policy renewals or an extended reporting period endorsement for not less than three years following the end of the Contract.

#### 4.5 Excess or Umbrella Liability Insurance

Contractor shall provide Excess or Umbrella Liability Insurance with limits not less than Three Million Dollars (\$3,000,000) per occurrence and in the aggregate. This coverage shall apply, at a minimum, in excess of primary underlying Commercial General Liability, Employer's Liability, Pollution Liability, Marine General Liability, Protection and Indemnity, and Automobile Liability if required herein.

#### 4.6 Other Insurance

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

## SERVICES CONTRACT

Click here for the [Contract Questionnaire Popup Quick Reference](#)

Start Questionnaire

Finalize Document

THIS CONTRACT, made and entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (EFFECTIVE DATE) by and between the CITY OF TACOMA, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and **[INSERT legal name of Supplier exactly as it appears in Ariba]**, (hereinafter referred to as "CONTRACTOR");

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

### 1. Scope of Services/Work

The CONTRACTOR agrees to diligently and completely perform the services and/or deliverables consisting of [INSERT A BRIEF DESCRIPTION OF THE WORK TO BE PERFORMED] as is described in Exhibit XXXXX [A, B, ETC., if needed] attached hereto and incorporated herein.

### 2. Order of Precedence

To the extent there is any discrepancy or conflict between and/or amongst the terms of this Contract and Exhibit(s) \_\_\_\_\_, the controlling terms for this Contract will be interpreted in the following order of precedence, with the first listed being the most controlling, and the last listed being the least controlling: Contract, Exhibit \_\_\_\_, Exhibit \_\_\_\_\_. [INSERT EXHIBIT REFERENCES IN ORDER OF WHICH IS MOST CONTROLLING]

### 3. Changes to Scope of Work

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 amendment hereto. If the changes will result in additional work effort by CONTRACTOR, the CITY will agree to reasonably compensate the CONTRACTOR for such additional effort up to the maximum amount specified herein or as otherwise provided by City Code.

### 4. On Call Contracts

If the services and deliverables performed under this Contract are on an on call or as assigned basis, service and deliverables may be assigned by Task Authorization or Statements of Work, are subject to Section 9, and cannot augment any other work that the CONTRACTOR is doing for the CITY on another Contract. Actual compensation will depend upon the actual purchases made by the City during the life of this Contract and will be paid at the rates set in Exhibit A

### 5. Term

All services shall be satisfactorily completed on or before [INSERT CONTRACT TERMINATION DATE] and this Contract shall expire on said date unless mutually extended by a written and executed Amendment to this Contract.

## **6. Renewals**

At CITY's sole option, the Term of this Contract may be renewed for additional [INSERT THE RENEWAL PERIOD - 1 YEAR, ETC] periods, not to exceed [INSERT THE MAXIMUM NUMBER OF RENEWAL PERIODS]. CITY will provide written notice of its intent to exercise any renewal options at least 30 days prior to the then existing Term and a written Amendment to this Contract will be mutually executed.

## **7. Delay**

Neither party shall be considered to be in default in the performance of this Contract to the extent such performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party and, in such event, the time for performance shall be extended for a period equal to any time lost as a result thereof. In the event CONTRACTOR is unable to proceed due to a delay solely attributable to CITY, CONTRACTOR shall advise CITY of such delay in writing as soon as is practicable.

## **8. Compensation**

The CITY shall compensate the CONTRACTOR for the services and deliverables performed under this Contract [in accordance with OR on the basis of] [INSERT DESCRIPTION OF COMPENSATION ARRANGEMENTS – REFERENCE EXHIBIT, TIME AND MATERIALS, LUMP SUM ETC.]

## **9. Not to Exceed Amount**

The total price to be paid by CITY for CONTRACTOR'S full and complete performance of the Scope of Work hereunder shall not exceed \$ [INSERT TOTAL AMOUNT OF CONTRACT] plus applicable taxes without a written and executed Amendment to this Contract. Said price shall be the total compensation for CONTRACTOR'S performance hereunder including, but not limited to, all work, deliverables, materials, supplies, equipment, subcontractor's fees, and all reimbursable travel and miscellaneous or incidental expenses to be incurred by CONTRACTOR.

In the event the CONTRACTOR incurs cost in excess of the sum authorized for service under this Contract, the CONTRACTOR shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and the CONTRACTOR shall have no claim against the CITY on account thereof.

## **10. Payment**

CONTRACTOR shall submit XXXXXXXX {monthly, weekly, annual, Contract milestone, etc.} invoices for services completed and/or deliverables furnished during the invoice period. Upon CITY'S request, CONTRACTOR shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables.

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 the CONTRACTOR for any services or deliverables not performed as required hereunder until such time as the CONTRACTOR modifies such services or deliverables to the satisfaction of the CITY.

## **11. Payment Method**

The City's preferred method of payment is by ePayables (Payment Plus), followed by credit card (aka procurement card), then Electronic Funds Transfer (EFT) by Automated Clearing House (ACH), then check or other cash equivalent. CONTRACTOR may be required to have the capability of accepting the City's ePayables or credit card methods of payment. The City of Tacoma will not accept price changes or pay additional fees when ePayables (Payment Plus) or credit card is used. The City, in its sole discretion, will determine the method of payment for this Contract.

## **12. Independent Contractor Status**

The services and deliverables shall be furnished by the CONTRACTOR as an independent Contractor, and nothing herein contained shall be construed to create an employer and employee relationship. The CONTRACTOR shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Contract, unless stated otherwise in this Contract. No payroll or employment taxes of any kind shall be withheld or paid by the CITY with respect to payments to CONTRACTOR. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. By reason of CONTRACTOR's status as an independent Contractor hereunder, no workers' compensation insurance has been or will be obtained by the CITY on account of CONTRACTOR. CONTRACTOR may be required to provide the CITY proof of payment of these said taxes and benefits. If the CITY is assessed or deemed liable in any manner for those charges or taxes, the CONTRACTOR agrees to hold the CITY harmless from those costs, including attorney's fees.

## **13. Services Warranty**

The CONTRACTOR warrants that all services performed pursuant to this Contract shall be generally suitable for the use to which CITY intends to use said services and deliverables as expressed in the Scope of Work. In the performance of services under this Contract, the CONTRACTOR and its employees further agree to exercise the degree of skill and care required by customarily accepted good practices and procedures followed by professionals or service providers rendering the same or similar type of service. All obligations and services of the CONTRACTOR hereunder shall be performed diligently and completely according to such professional standards.

Unless a higher standard or longer periods of warranty coverage for product deliverables provided under this Contract is provided herein, CONTRACTOR agrees to correct any defect or failure of deliverables supplied under this Contract which occurs

within one year from \_\_\_\_\_ [FILL IN APPROPRIATE TIME FRAME, E.G. GO LIVE, FIRST USE, ETC]. During said warranty period, all of the costs (including shipping, dismantling and reinstallation) of repairs or corrections is the responsibility of the CONTRACTOR. If CONTRACTOR is not the manufacturer of the item of equipment, CONTRACTOR agrees to be responsible for this warranty and shall not be relieved by a lesser manufacturer's guarantee. This Contract warranty period shall be suspended from the time a significant defect is first documented by the CITY until repair or replacement by CONTRACTOR and acceptance by the CITY. In the event less than ninety (90) days remain on the warranty period (after recalculating), the warranty period shall be extended to allow for at least ninety (90) days from the date of repair or replacement and acceptance by the CITY.

#### **14. Reliance on CITY Provided Data or Information**

If the CONTRACTOR intends to rely on information or data supplied by the CITY, other CITY contractors or other generally reputable sources without independent verification, such intent shall be brought to the attention of the CITY.

#### **15. Contract Administration**

[INSERT NAME TITLE AND DEPARTMENT OF CONTRACT ADMINISTRATOR] for the CITY shall have primary responsibility for contract administration and approval of services to be performed by the CONTRACTOR, and shall coordinate all communications between the CONTRACTOR and the CITY.

#### **16. Specific Personnel**

If before, during, or after the execution of this Contract, CONTRACTOR represents to the CITY that certain personnel would or will be responsible for performing services and deliverables under this Contract, then the CONTRACTOR is obligated to ensure that said personnel perform said Contract services to the maximum extent permitted by law. This Contract provision shall only be waived by written authorization by the CITY, and on a case-by-case basis.

#### **17. Right to Audit**

During the Term of this Contract, and for six (6) years thereafter, the CITY shall have the right to inspect and audit during normal business hours all pertinent books and records of the CONTRACTOR and/or any sub-contractor or agent of CONTRACTOR that performed services or furnished deliverables in connection with or related to the Scope of Work hereunder as reasonably needed by CITY to assess performance, compliance and quality assurance under this Contract or in satisfaction of City's public disclosure obligations, as applicable.

CONTRACTOR shall, upon three (3) business days of receipt of written request for such inspection and audit from CITY, provide the CITY with, or permit CITY to make, a copy of any work-related books, accounts, records and documents, in whole or in part, as specified in such request. Said inspection and audit shall occur in Pierce County, Washington or such other reasonable location as the CITY selects. The CITY shall bear the cost of any inspection audit requested hereunder, provided, that if an inspection

audit in accordance with the foregoing provisions discloses overpricing or overcharges (of any nature) by the CONTRACTOR to the CITY in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the CITY's audit shall be reimbursed to CITY by CONTRACTOR. Any adjustments or payments that must be made as a result of any audit and inspection hereunder shall be made no later than 90 days from presentation of CITY's findings to CONTRACTOR.

CONTRACTOR shall ensure that the foregoing inspection, audit and copying rights of the CITY are a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform the Scope of Work under this Contract.

**18. Records Retention**

The CONTRACTOR shall establish and maintain records in accordance with requirements prescribed by the CITY, with respect to all matters related to the performance of this Contract. Except as otherwise authorized by the CITY, the CONTRACTOR shall retain such records for a period of \_\_\_\_\_ [INSERT THE TIME THE RECORDS SHOULD BE KEPT. MOST COMMON IS 6 YEARS] years after receipt of the final payment under this Contract or termination of this Contract.

If CONTRACTOR retains any City records or data hosted in a Cloud Service. CITY shall have the ability to access its records hosted in a Cloud Service at any time during the Term of this Contract. CITY may export and retrieve its records during the Term of the Contract and, no later than 30 days from the termination of this Contract, CONTRACTOR shall export CITY records to City's custody and control.

**19. Notices**

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

CITY:	CONTRACTOR:
Name:	Name:
Title:	Title:
Address:	Address:
Telephone No.:	Telephone No.:
E-mail:	E-mail:

**20. Termination**

Except as otherwise provided herein, the CITY may terminate this Contract at any time, with or without cause, by giving ten (10) business days written notice to CONTRACTOR.

In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the CITY. In the event CITY terminates this Contract due to the CITY's own reasons and without cause due to the CONTRACTOR's actions or omissions, the CITY shall pay the CONTRACTOR the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein. Termination of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

## **21. Suspension**

The CITY may suspend this Contract, at its sole discretion, upon seven (7) business days' written notice to the CONTRACTOR. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the CONTRACTOR'S reasonable expenses and shall be subject to verification. The CONTRACTOR shall resume performance of services under this Contract without delay when the suspension period ends. Suspension of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

## **22. Taxes**

Unless stated otherwise in Exhibit A, CONTRACTOR is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and CONTRACTOR 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. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, the CONTRACTOR holds CITY harmless from such costs, including attorney's fees.

If CONTRACTOR fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including by Tacoma City ordinance, and including by a court of law, CITY will deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. Any such payments shall be deducted from the CONTRACTOR's total compensation.

## **23. Licenses and Permits**

The CONTRACTOR, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The CONTRACTOR shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30. If applicable, CONTRACTOR must have a Washington state business license.

## **24. Indemnification**

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject

matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the sole negligence of the CITY, or its officers, agents, or employees. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.

It is expressly agreed that with respect to design professional services performed by CONTRACTOR herein, CONTRACTOR's duty of indemnification, including the duty and cost to defend, against liability for damages arising out of such services or out of bodily injury to persons or damage to property shall, as provided in RCW 4.24.115 apply only to the extent of CONTRACTOR's negligence.

CONTRACTOR hereby warrants and represents CONTRACTOR is owner of any products, solutions or deliverables provided and licensed under this Contract or otherwise has the right to grant to CITY the licensed rights under this Contract, without violating the rights of any third party worldwide. CONTRACTOR shall, at its expense, defend, indemnify and hold harmless CITY and its employees, officers, directors, contractors, agents and volunteers from any claim or action against CITY which is based on a claim against CITY for infringement of a patent, copyright, trademark, or other propriety right or appropriation of a trade secret.

## **25. Title 51 Waiver**

CONTRACTOR specifically assumes potential liability for actions brought by the CONTRACTOR'S own employees against the CITY and, solely for the purpose of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the state industrial insurance law, Title 51 RCW. THE CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.

## **26. Insurance**

During the course and performance of the services herein specified, CONTRACTOR will 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 and deliverables provided under this Contract. The City of Tacoma Insurance Requirements documents are fully incorporated herein by reference.

Failure by City to identify a deficiency in the insurance documentation provided by Contractor or failure of City to demand verification of coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

## **27. Nondiscrimination**

The CONTRACTOR agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the

presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

## **28. 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 Contract, either in fact or in appearance. The CONTRACTOR shall comply with all federal, state, and City conflict of interest laws, statutes, and regulations. The CONTRACTOR represents that the CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains which would conflict in any manner or degree with the performance of the CONTRACTOR'S services and obligations hereunder. The CONTRACTOR further covenants that, in performance of this Contract, no person having any such interest shall be employed. The CONTRACTOR 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 this Contract subjecting the Contract to termination.

## **29. City ownership of Work/Rights in Data and Publications**

To the extent CONTRACTOR creates any Work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Contract, CONTRACTOR agrees to the following: The Work has been specially ordered and commissioned by CITY. CONTRACTOR 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, CONTRACTOR hereby assigns to CITY, its successors and assigns, all right, title and interest in and to the Work, including but not limited to, all 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 CONTRACTOR'S creation of the Work. CONTRACTOR shall execute and deliver such instruments and take such other action as may be required and requested by CITY to carry out the assignment made pursuant to this section. Any documents, magnetically or optically encoded media, or other materials created by CONTRACTOR pursuant to this Contract shall be owned by CITY and subject to the terms of this subsection. To the maximum extent permitted by law, CONTRACTOR waives all moral rights in the Work. The rights granted hereby to CITY shall survive the expiration or termination of this Contract. CONTRACTOR shall be solely responsible for obtaining releases for the performance, display, recreation, or use of copyrighted materials.

## **30. Public Disclosure**

This Contract and documents provided to the CITY by CONTRACTOR hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the CITY may be required, upon request, to disclose this Contract and documents 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 CONTRACTOR has complied with the requirements herein to mark all content considered to be confidential or proprietary, CITY agrees to provide CONTRACTOR ten (10) days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, 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 CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the "Notices" provision herein.

### **31. Confidential or Proprietary Records Must be Marked**

If CONTRACTOR provides the CITY with records that CONTRACTOR considers confidential or proprietary, CONTRACTOR must mark all applicable pages of said record(s) as "Confidential" or "Proprietary." If CONTRACTOR fails to so mark record(s), then (1) the CITY, upon request, may release said record(s) without the need to satisfy the notice requirements above; and (2) the CONTRACTOR expressly waives its right to allege any kind of civil action or claim against the CITY pertaining to the release of said record(s).

### **32. Duty of Confidentiality**

CONTRACTOR 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 CONTRACTOR's employees, agents, or subcontractors who have a substantial need to know such information in connection with CONTRACTOR's performance of obligations under this Contract, the CONTRACTOR 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 this Contract.

CONTRACTOR shall inform its employees, agents, and subcontractors of the confidentiality obligations under this Contract and instruct them so as to ensure such obligations are met. If so requested by the CITY, the CONTRACTOR further agrees to require all such individuals and entities performing services pursuant to this Contract to execute a Confidentiality and Non-Disclosure Agreement in a form acceptable to CITY.

This Section shall survive for six (6) years after the termination or expiration of this Contract.

CITY is required to provide notice of the Red Flags Rules published by the Federal Trade Commission in Title 16 Code of Federal Regulations, Part 681 ("Rules") to all entities that receive confidential or otherwise protected personal information of CITY's customers. Terms in quotations in this Section refer to defined terms contained in the "Rules." CONTRACTOR is, as to "Covered Accounts" of CITY for which CONTRACTOR

performs activities under the Contract, a "Service Provider." "Service Provider" will perform in accordance with its reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft and will promptly report to CITY any specific "Red Flag" incidents detected as to "Covered Accounts" of CITY and upon request by CITY will respond to or reasonably assist CITY in responding reported "Red Flags." This Section shall survive for six (6) years after the termination or expiration of this Contract.

### **33. Approval for Release of Information Related to Contract**

If requested by CITY, CONTRACTOR shall not release any information or documentation concerning the work under this Contract or any part thereof for marketing, advertising, or other commercial activities or publication including, but not limited to, news releases or professional articles without CITY's prior written approval. CONTRACTOR may submit at any time for review and approval a generic abstract describing the component parts of the completed Scope of Services ("Project Abstract"). After receiving written approval of the Project Abstract from the CITY, the CONTRACTOR may make minor insignificant changes to the Project Abstract and use all or parts of the Project Abstract in proposals.

This Section shall survive for six (6) years after the termination or expiration of this Contract.

### **34. Dispute Resolution**

In the event of a dispute pertaining to this 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 authorized by this Contract.

### **35. Miscellaneous Provisions**

#### **Governing Law and Venue**

Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration, or litigation arising out of this Contract.

#### **Assignment**

The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.

#### **No Third Party Beneficiaries**

This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

**Waiver**

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

**Severability and Survival**

If any term, condition or provision of this Contract 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 this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.

**Entire Agreement**

This Contract and the attached Exhibits, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.

**Modification**

No modification or amendment of this Agreement shall be effective unless set forth in a written and executed Amendment to this Contract.

**Direct Solicitation and Negotiation**

For service contracts valued \$25,000 or less the City signature authorizes waiver of competitive solicitation by "Direct Solicitation and Negotiation" of professional and personal services in accordance with Tacoma Municipal Code 1.06.256 and the Purchasing Policy Manual.

IN WITNESS WHEREOF, the Parties hereto have accepted and executed this Contract, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable. The undersigned Contractor representative, by signature below, represents and warrants they are duly authorized to execute this legally binding Contract for and on behalf of Contractor.

CITY OF TACOMA:  
By:

CONTRACTOR:  
By:

**(City of Tacoma use only - blank lines are intentional)**

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Director of Finance: \_\_\_\_\_

City Attorney (approved as to form): \_\_\_\_\_

Approved By: \_\_\_\_\_