



**PORT OF TACOMA  
REQUEST FOR QUALIFICATIONS  
No. 069737**

**098124 – SALTCHUK AQUATIC MITIGATION  
SITE**

Issued by  
Port of Tacoma  
One Sitcum Plaza  
P.O. Box 1837  
Tacoma, WA 98401-1837

RFQ INFORMATION	
Contact:	Georgette Reidburn, Procurement
Email Addresses:	<a href="mailto:procurement@portoftacoma.com">procurement@portoftacoma.com</a>
Phone:	(253) 383-9415
Submittal Date	<b>OCTOBER 22, 2013 @ 3:00 PM (PST)</b>

PLEASE SUBMIT ALL CORRESPONDENCE AND STATEMENT OF QUALIFICATIONS VIA E-MAIL DIRECTLY TO THE PROCUREMENT CONTACT LISTED ABOVE AND INCLUDE 'SALTCHUK AQUATIC MITIGATION SITE' IN THE SUBJECT LINE

**PORT OF TACOMA**  
**Request for Qualifications (RFQ) #069737**  
**098124 – Saltchuk Aquatic Mitigation Site**

The [Port of Tacoma](#) (Port) is soliciting Statements of Qualifications (SOQ) from teams interested in providing project management, preliminary (basis of design) and final engineering design, cost estimating, scheduling, bidding and construction support and environmental permitting support for a capital improvement project to construct a mitigation site over aquatics lands.

**A. BACKGROUND**

An area of aquatic lands owned by the State of Washington (State) adjacent to Marine View Drive near the north-northeast shoreline of Commencement Bay has been identified as a potential mitigation site referred to as the Saltchuk Aquatic Mitigation Site (Saltchuk). The Port currently leases the aquatic lands from the Washington State Department of Natural Resources (DNR) for log rafting and the lease contemplates creation of a future mitigation site. The Port is currently negotiating a lease amendment to specifically allow the creation of Saltchuk. The name Saltchuk means saltwater, or any body of saltwater.

Saltchuk would be constructed in phases over time from beneficial use of suitable dredged materials obtained from various future dredging or shoreline cutback projects. Full build-out of Saltchuk would create approximately 40 acres of aquatic habitat (from approximately 2,000,000 cubic yards of dredge material) for advance compensatory mitigation and/or mitigation banking (both referred to herein as advance mitigation).

The purpose of Saltchuk is to provide a location for beneficial use of suitable dredge materials from future dredging or shoreline cutback projects and to enhance nearshore habitat for salmonids and other marine life. The dredge material may come from future Port projects or the existing obligation to dispose of dredge material from the Blair Waterway cutback proposed in the Puyallup Tribal Terminal Project. The Port may be able to accept suitable dredge material from non-Port projects for the Port's beneficial use at Saltchuk. In addition, upland and intertidal lands owned by the Port adjacent to the DNR lease area may be incorporated into the design of the Saltchuk Mitigation Site as land becomes available for use.

The dredge material would be beneficially used to create aquatic habitat to obtain advance mitigation credits instead of disposing of the dredge material at the Commencement Bay Open-Water Disposal Site. The advance mitigation credits earned from Saltchuk would be used to compensate for unavoidable impacts to aquatic resources as a result of future development projects. Future projects with potentially suitable dredge material may include the Pier 4 Reconfiguration project (450,000 CY), the Puyallup Tribal Terminal Project cutback and dredge on the Blair Waterway (1.5M to 1.7M CY) and future maintenance dredge projects in the Hylebos, Blair or Sitcum Waterways, or other currently unidentified Port or non-Port dredge projects offering suitable dredge material.

The creation of Saltchuk supports the Port's 2012 Strategic Plan. More detailed information related to this project can be found in the following documents that are available online at <https://webftp.portoftacoma.com/WebInterface/login.html> (select 'continue' at the error screen; User Name: rfq069737, Password: RFQ069737!!):

- Saltchuck Mitigation Action Conservation Plan (Grette Associates, Dec. 3, 2009), and Replacement Sections 4.2-4.4.1 and Attachment A (Grette Associates, December 16, 2010);
- Constructability Assessment (Anchor QEA, Dec. 2009) included as Attachment C to the Conservation Plan;
- Saltchuck and Earley Mitigation Sites Coastal Engineering Analysis (Coast & Harbor Engineering, Oct. 27, 2008);
- DNR Lease No. 20-012630 Tacoma Log Storage Facility Wood Debris Data Summary (Anchor Environmental, Feb. 2008)
- Port-Wide Habitat Mitigation Report (Port of Tacoma, July 2012); and
- Port-Wide Habitat Mitigation Strategy (Port of Tacoma, October 2012).

The Port intends to phase the project such that local, state and federal regulatory permits can be submitted and secured as soon as possible. Final design and construction may be postponed pending progress of the future Pier 4 Reconfiguration Project, Puyallup Tribal Terminal Project, or availability of future suitable dredge material.

Attachment A to this RFQ contains the Instructions for Proposing to this solicitation.

The Port's Standard Professional Services Contract, including Port Standard Terms and Conditions and Reimbursable Guidelines, is included as Attachment B. By submitting an SOQ, the Proposer represents that it has carefully read the Port's Standard Terms and Conditions, Supplementary Conditions, and Reimbursable Guidelines. Proposers shall identify all concerns and propose alternate wording to these documents at the time of submittal, no exception will be allowed if not documented in the proposing team's SOQ.

## **B. SCOPE OF SERVICES**

The Port will select and contract with a Consultant Team including subconsultants and/or subcontractors ("Team") for Engineering and Environmental Services for the Saltchuk Aquatic Mitigation Site. The scope of services for each of the two disciplines are as outlined below. The selected Consultant will be expected to coordinate the entire Team to complete the overall scope for the project.

### **ENGINEERING and ENVIRONMENTAL SERVICES:**

The overall Engineering and Environmental Consultant scope of services will be to assist the Port in: developing a preliminary and final design including survey and geotechnical, marine wave modeling and civil site design; cost estimating, scheduling, obtaining local, state and federal environmental permits; advance mitigation/mitigation banking establishment, and bidding and construction support. The selected Consultant will be expected to include civil, survey, marine wave modeling, geotechnical, and environmental capabilities including permitting and cultural resources in their team's qualifications. Environmental analysis and testing may also be required, as necessary.

The initial project scope will include the full-build out of the site in phases over an extended time period, determining what the approximate minimum economically feasible size (cubic yards) of a construction phase should be, and will include an assumption that the first phase will include approximately ~ 450,000 CY of suitable dredge material from the Pier 4 Reconfiguration Project.

#### Preliminary Design Stage (for the initial project and each subsequent phase)

During the preliminary design stage, the Consultant will assist the Port in refining the project scope, schedule, and budget; in sufficient detail to assist the Port in completing the environmental permitting applications. Geotechnical investigations including possible marine wave modeling to evaluate long term stability are anticipated during this stage. The Consultant will develop preliminary design drawings and a Basis of Design Report outlining the design parameters and features included in the specified project, including any necessary off-shore armoring or stabilization requirements associated with any phase or full-build out of the site.

In addition, the Consultant will prepare a strategy for permitting a project that may be built in numerous phases over many years (up to thirty years), potentially permitting the full build out concept, as well as, the individual phased construction projects. The permitting strategy should also include how to document and obtain advance mitigation credits for the entire build-out of the site and/or each phase of the site using Department of Ecology and City of Tacoma mitigation ratios, acreage calculations, the Habitat Equivalency Analysis (HEA)/Discounted Service Acre Years (DSAYs), and other mitigation calculation methods. The strategy shall also consider how the Saltchuk project permitting will incorporate or correlate with the permitting of each future dredge project or construction phase(s) and shall consider permit length or expiration considerations. The Consultant may also consider different options in the permitting strategy. The Consultant will prepare the environmental permitting application documents and supporting information for the permitting strategy (for the full build-out, the assumed initial ~ 450,000 CY project (Phase 1), and/or each subsequent phase of the project). For each phase, the environmental and permitting services may include, but is not limited to, sampling, testing/analysis, data interpretation/evaluation, agency negotiation support, project design drawings, quantities, narratives, Joint Aquatic Resource Permit Application (JARPA) form(s), Coastal Zone Management (CZM) form(s), Biological Evaluation(s), SEPA(s), Advance Mitigation Plan(s), Conservation Plan(s), Critical Areas review, Documentation of existing conditions, Cultural Resources consultation, or other services or deliverables as deemed necessary by the Port.

#### Design Stage (for the initial project and each subsequent phase)

The Consultant's scope of services during the design stage will generally include: completing field investigations as necessary; project coordination, refining the project schedule and cost estimates; and preparing draft and final bid documents; including construction drawings and CSI Masterformat, latest edition, technical specifications and support with Division 00 and 01 specifications utilizing BSD Speclink-e software. The Consultant will also continue to provide the environmental and permitting services and coordination necessary to obtain the permits.

#### Bidding Stage (for the initial project and each subsequent phase)

The Consultant will be expected to provide engineering and environmental support services during bidding including review and responses to questions, preparation of addendums, attending the prebid meeting, bid opening and assisting with bid evaluations.

#### Construction Stage (for the initial project and each subsequent phase)

During construction the Consultant will provide engineering and environmental support services including but not limited to RFI, submittal and change order proposal reviews and responses, cost estimating, issue resolutions, site observations, inspection services, administrative support and preparation of record drawings.

#### Monitoring Stage (for the initial project and each subsequent phase)

Post construction, the Consultant will provide engineering and environmental support services for any habitat mitigation monitoring required by the applicable environmental permits and/or the DNR lease. Habitat mitigation monitoring may include, but not be limited to, as-built reports, bathymetric and/or topographic surveys, and physical, habitat, hydraulic, or biological monitoring.

### **C. SOQ ELEMENTS & EVALUATION CRITERIA:**

Submittals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the proposing team (to include the prime, key team members and major sub-consultants) and the team's ability to meet the requirements and provide the requested services listed in this RFQ. Attention will be paid to technical competence and completeness of content. The written SOQ shall be prepared in the same sequential order of SOQ criteria outlined below.

SOQs must not exceed **10 numbered pages** (8 ½ by 11 inch) **excluding** the cover letter and appendices. All pages shall be in portrait orientation with 1 inch margins. Font size shall be 11 point or larger. SOQs that do not follow this format will not be reviewed. Use of color is not prohibited but note that SOQs are often reproduced for review in black and white.

The cover letter shall include the RFQ Title and Number; Name, Title, Email Address, Phone Number and Addresses of the Proposing's team main contact and include the following information:

- Descriptions of all claims submitted by any client against the prime within the past two years related to the professional services provided by the prime (inclusive of the prime and sub-consultants) or their key personnel. For this purpose, "claim" means a sum of money in dispute in excess of 10% of the prime's fee for the services provided;
- Any real or perceived conflicts of interests for team members, inclusive of the prime, sub-consultants and key team members.

**SOQs are to address, and will be evaluated upon, the following criteria:**

**INITIAL EVALUATION PHASE**

**1. Qualifications and experience of the key team members who will be responsible for overseeing and performing the services .....35 PTS**

- a. Describe key personnel of the proposed team and overall organization of the project team. Provide a summary of background, experience, technical competence and qualifications of key personnel (include working titles, degrees, certificates and licenses, etc.) and their project specific roles and responsibilities. Emphasize experience and expertise in performing services of similar scope and complexity.
- b. Provide a summary of proposing team's services, experience and expertise related to the elements described in the scope of services and more specifically with the following scope elements:
  - 1) Experience in successfully identifying and implementing a permitting strategy for a long duration project (ideally a habitat mitigation project) built in phases.
  - 2) Experience in successfully calculating mitigation credits, using the advance mitigation credits for an impact project, capturing agency agreement on mitigation credits upfront, and securing the credits upon completion of each phase of the site.
  - 3) Experience in designing, bidding, and constructing marine habitat/mitigation sites in deep water and/or a high energy environment.
  - 4) Experience with dredge projects and/or dredge material placement in marine waters.
  - 5) Experience in assessing and addressing slope stability prior to, during and upon completion of construction to ensure interim and long term stability of the habitat mitigation site or a similar feature.
- c. Provide a list of references for recent contracts/projects, to include a client point of contact name and title, contact information (phone and email), period of performance, key personnel involved, and brief description of services relevant to the services being requested. Only projects completed by proposed key team members will be considered.

**2. Project Approach Narrative .....35 PTS**

SOQs should clearly outline the team's recommended approach and methodology for:

- Accomplishing the Scope of Services: Clearly describe the approaches and methods that will be used to accomplish the scope of services. Include a summary of innovative ideas and suggestions for implementing or enhancing the scope of services.
- Coordination & Communication: Provide a plan for communications and coordination between the project team, the Port's project manager and the various stakeholders.

**3. Project Schedule.....20 PTS**

Describe the team's availability, capacity and ability to undertake the work immediately and dedicate the necessary personnel and resources to meet the anticipated schedule.

- Schedule: Provide a basic schedule identifying timeframes for completing the Preliminary Design Stage discussed in Section B Scope of Services. Also provide a timeframe for completing the Design Stage for the anticipated initial Pier 4 Reconfiguration project.
- Discuss how the team anticipates adhering to their schedule and experience or approach in addressing scheduling constraints.

**4. Accuracy and Completeness of the SOQ.....10 PTS**

SOQs will be evaluated on the following criteria:

- Formatting and layout.
- Spelling and grammatical accuracy.
- Legibility of figures and chart information.
- Coherent and logical flow of written responses.

**FINAL EVALUATION PHASE (if applicable)**

**5. References.....50 PTS**

Reference checks may be performed on the apparent selected Consultant, if based directly on the SOQs received or on shortlisted firms if interviews are being requested. The Port will evaluate the reference checks to assess the project team's overall performance and success of previous, similar work. Reference checks will also be utilized to validate information contained in the SOQ.

**6. Interviews (as requested by the Port).....100 PTS**

If an award is not made based on the written evaluations and references alone, interviews may be conducted with the top-ranked firms. Failure to participate in the interview process will result in the firm's disqualification from further consideration.

**ATTACHMENT A – INSTRUCTIONS FOR PROPOSING**

**ATTACHMENT B – PORT PROFESSIONAL SERVICES STANDARD CONTRACT  
TEMPLATE**

## **PROCUREMENT PROCESS**

### **SOLICITATION TIMELINE:**

Issuance of RFQ	OCTOBER 1 <sup>ST</sup> , 2013
Last Day To Submit Questions	OCTOBER 17 <sup>TH</sup> , 2013
<b>SOQs due</b>	<b>OCTOBER 22<sup>ND</sup>, 2013 @ 3:00 PM (PST)</b>
Short List Consultants*	OCTOBER 30 <sup>TH</sup> , 2013
Interviews (if required)*	NOVEMBER 7 <sup>TH</sup> /8 <sup>TH</sup> , 2013
Final Selection*	NOVEMBER 12 <sup>TH</sup> , 2013
Negotiation (Proposal Development) Kick-off Meeting	WITHIN 3 BUSINESS DAYS FOLLOWING FINAL SELECTION NOTIFICATION
Execute Contract*	DECEMBER 6 <sup>TH</sup> , 2013

Dates with an asterisk are estimated dates and are for information purposes only.

Based on the solicitation timeline above, Proposers may view the solicitation status by viewing the [Submittal List](#) on the Port's website.

### **VENDOR OBLIGATION**

Port of Tacoma Requests for Bids, Requests for Proposals and Requests for Qualifications can be accessed on the Port's website, [www.portoftacoma.com](http://www.portoftacoma.com) under 'Contract Opportunities'; Procurements.

### **SUBSCRIBING TO THE HOLDERS LIST**

When viewing the details page for this procurement on the Port's Website ([click here](#)) firms have the option of subscribing to the Holders List. By subscribing to the Holders List, firms will automatically be notified when new documents or changes relating to this procurement occurs.

**\*Only those who have subscribed to the Holders List will receive notifications throughout the procurement process, up until a firm is selected.**

### **COMMUNICATION / INQUIRES**

Written questions about the meaning or intent of the Solicitation Documents shall only be submitted to Georgette Reidburn, [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com) (**Solicitation Name** in subject line). Proposers who, relative to this scope of services, contact any individuals or Commission members representing the Port, other than [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com), may be disqualified from consideration.

Proposers who may have questions about provisions of these documents are to email their questions at least **seven (7) business days** prior to the deadline for submittals. The Port will respond to all written questions submitted by this deadline.



## **PRE-PROPOSAL CONFERENCE**

The Port will not conduct a pre-proposal conference for this procurement. To obtain answers to any questions or for further clarifications, submit all questions as noted above.

## **ADDENDA**

The Port may make changes to this Solicitation. Oral or other interpretations, clarifications or submittal instructions will be without legal effect. Any information modifying a solicitation will be furnished in a formal, written addendum. If at any time, the Port changes, revises, deletes, increases, or otherwise modifies the Solicitation, the Port will issue a written Addendum to the Solicitation. Addenda will be posted to the Port's web site and conveyed to those potential submitters who have requested to be placed on the Holders List.

## **SUBMITTAL PROCESS**

SOQs must be received via email on or before the date and time outlined on the front page of this RFQ. Send your electronic submittal to:

[procurement@portoftacoma.com](mailto:procurement@portoftacoma.com).  
Name of Firm, RFQ Title (Subject Line)

Please submit one electronic copy in Adobe Acrobat PDF format, including all appendices. Submittals need to be limited to **8 MB in total email size**. It is the Consultant's responsibility to verify the receipt of the submittal. Electronic verification will be provided upon request.

**\*Late SOQs will not be accepted by the Port. SOQs received after the stated date and time will not be reviewed and shall be deemed non-responsive.**

## **EVALUATION AND AWARD PROCESS**

An evaluation team will review the SOQs and evaluate all responses received based upon the criteria listed herein. The Port may request clarifications or additional information, if needed. A selection may be made based on the SOQ's and initial evaluation criteria alone or the firms determined to be most qualified through the initial evaluation phase will be invited in for interviews and the final determination for short listed firms will be based on reference checks and interviews.

The Port intends to select the Proposer who represents the most qualified team to the Port and begin the negotiation and award process based on the evaluated scores.

The selected Consultant will be invited to enter into contract negotiations with the Port. Should the Port and the selected firm(s) not reach a mutual agreement, the Port will terminate negotiations and move to the next highest ranked firm and proceed with negotiations.

The Port reserves the right to accept or reject any or all information in its entirety or in part and to waive informalities and minor irregularities and to contract as the best interest of the Port may require. The Port reserves the right to reject any or all SOQs submitted as non-responsive or non-responsible.

## **GENERAL INFORMATION**

News releases pertaining to this RFQ, the services, or the project to which it relates, shall not be made without prior approval by, and then only in coordination with, the Port.

## **COSTS BORNE BY PROPOSERS**

All costs incurred in the preparation of a SOQ and participation in this RFQ and negotiation process shall be borne by the proposing firms.

## **TRAVEL**

The Port does not anticipate traveling to support this contract. Should travel become necessary, the following guidelines will apply:

Lodging, meal and mileage reimbursement is in accordance with per diem rates (<http://www.ofm.wa.gov/resources/travel.asp>). Amounts reimbursed will be computed at the rate for the physical location to which travel is authorized by the Port. Lodging and travel, other than local mileage, must be approved in writing by the Port's Project Manager prior to performing travel. Requests for travel should include a breakout of costs associated with the requested travel.

## **SPECIFICATION DEVELOPMENT SOFTWARE**

The Port has selected BSD Speclink-E as its specification development software and will expect its principal designers to become proficient in its use and to use Speclink-E to develop the specifications for Port projects. The Port has moved to the 2012 Masterformat specification organization.

## **PORT CADD STANDARDS**

The Port CADD Standards, to be used by all Contractors and Consultants working on Port projects, are available at: <http://www.portoftacoma.com/Page.aspx?nid=422>

## **PUBLIC DISCLOSURE**

SOQs submitted under this Solicitation will be considered public documents and, with limited exceptions, will become public information and may be reviewed by anyone requesting the document under a Public Records Request following the conclusion of the evaluation, negotiation, and award process. This process is concluded when a signed contract is executed between the Port and the selected Consultant.

If a firm considers any portion of its response to be protected under the law, the firm shall clearly identify each such portion with words such as "CONFIDENTIAL", "PROPRIETARY" or "BUSINESS SECRET" on each page for which the protection is sought. If a request is made for disclosure of such portion, the Port will notify the firm of the request and allow the vendor not less than ten (10) days to seek a protective order from the Courts or other appropriate remedy and/or waive the claimed confidentiality. Unless such protective order is obtained and provided to the Port by the stated deadline, the Port will release the requested portions of the response. By submitting a response, the vendor assents to the procedure outlined in this paragraph and shall have no claim against the Port on account of actions taken under such procedure.

## **END OF ATTACHMENT A**



People. Partnership. Performance.

P.O. Box 1837  
Tacoma, WA 98401-1837  
www.portoftacoma.com

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## PROFESSIONAL SERVICES AGREEMENT NO. 000000

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PROJECT: Project Title

CONSULTANT: Company, Address, City, State, Zip

PROJECT MANAGER: Project Manager PROJECT NO./GL ACCOUNT NO. 09XXXX

THIS AGREEMENT is made and entered into by and between the **Port of Tacoma** (*hereinafter referred to as the "Port"*) and **xxCOMPANYxx** (*hereinafter referred to as the "Consultant"*) for the furnishing of **xxTitlexx** Professional Services (*hereinafter referred to as the "Project"*).

The Port and Consultant mutually agree as follows:

### **SCOPE OF WORK**

The Consultant will

The Consultant is acting on behalf of the Port's Project Manager, and is not responsible for Contractor means and methods.

### **DELIVERABLES**

### **ASSUMPTIONS**

### **COMPENSATION**

This will be accomplished on a **time and materials** basis and will not exceed **\$00,000.00** without prior written approval from the Port.

Consultant is responsible for working within the budget as agreed. Should the Consultant incur costs beyond the not-to-exceed contract budget amount without an executed amendment to this contract, the consultant is solely responsible for the additional costs.

All third party costs will be paid per paragraph 10 of the attached Terms and Conditions, at cost plus   % markup. The hourly rates are as stated in Attachment "A".

All invoices shall be sent "Attention: Contracts Department". Invoices shall be emailed to [cpinvoices@portoftacoma.com](mailto:cpinvoices@portoftacoma.com). The email must include the required supporting documentation.

Incomplete or improperly prepared invoices will be returned for correction without processing or payment.

Consultant agrees to submit timely invoices as the work progresses. Invoices that are submitted for payment 90 days or more after the work was completed are subject to non-payment.

The length of this agreement is from the date of execution to xxDATExx.

This agreement is expressly conditioned upon the Terms and Conditions and Guidelines for Consultant Fees and Reimbursable Items attached and by reference incorporated herein. Consultant acknowledges reading this Agreement, understands it and agrees to be bound by its Terms and Conditions.

**AGREED**

**PORT OF TACOMA**

**CONSULTANT (LEGAL NAME)**

By \_\_\_\_\_  
Name  
Title Date

By \_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name Title

## **Port of Tacoma Terms And Conditions Professional Services Agreement**

In consideration of the mutual covenants, obligations, and compensation to be paid by the Port to Consultant, it is agreed that:

### **1. Representatives**

The Port's Project Manager and Consultant's Representative for this Agreement are as specified. Alternate representatives may be appointed by either party with written notice to the other party.

### **2. Key Personnel**

The Consultant and/or its subconsultants' key personnel, as described in its Consultant selection submittals, shall remain assigned for the duration of the Project unless otherwise agreed to by the Port.

### **3. Relationship of the Parties**

Consultant, its subconsultants and employees, is an independent Contractor. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

### **4. Conflicts of Interest**

Consultant warrants that it has no direct or indirect economic interest which conflicts in any manner with its performance of the services required under this Agreement. Consultant warrants that it has not retained any person to solicit this Agreement and has not agreed to pay such person any compensation or other consideration contingent upon the execution of this Agreement.

### **5. Compliance with Laws**

a) Consultant agrees to comply with all local, state, tribal and federal laws and regulations applicable to the project, including building codes and permitting regulations existing at the time this Agreement was executed and those regarding employee safety, the work place environment, and employment eligibility verifications as required by the Immigration and Naturalization Service. Consultant shall obtain all professional licenses and permits required to complete the scope of work as defined.

b) The Port shall furnish Consultant with the information required by the Hazard Communication standard for materials preexisting on the project site. Consultant will ensure that this information is made available to the Consultant's personnel and subconsultants, and incorporated into the contract documents as appropriate.

### **6. Records and other Tangibles**

Until the expiration of six years after the term of this Agreement, Consultant agrees to maintain accurate records of all work done in providing services specified by the Agreement and to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

### **7. Ownership of Work**

The services to be performed by Consultant shall be deemed instruments of service for purposes of the copyright laws of the United States. The Port has ownership rights to the plans, specifications, and other products prepared by the Consultant. Consultant shall not be responsible for changes made in the plans, specifications or other products

by anyone other than the Consultant. Consultant shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent.

## **8. Disclosure**

All information developed by the Consultant and all information made available to the Consultant by the Port, and all analyses or opinions reached by the Consultant shall be confidential and shall not be disclosed by the Consultant without the written consent of the Port.

## **9. Deliverables**

All tangible materials produced as a result of this Agreement shall be prepared as specified by the Port's Project Manager. Delivery of materials produced shall consist both of the tangible materials and one copy of any computer files used in the creation of the tangible product on CD-Rom in a PDF format or other format specified by the Port. Deliverable drawings shall be prepared in accordance with the Port's CADD standards and layer/block protocols available at <http://www.portoftacoma.com/Page.aspx?nid=422> and from the Port Project Manager. The Port may offset from the Consultant's fee expenses incurred by the Port in correcting drawings or specifications not prepared in accordance with the Port's procedure.

## **10. Compensation**

As full compensation for the performance of its obligations of this Agreement and the services to be provided, the Port shall pay Consultant as specified in the Agreement. Compensation for vehicle usage will be paid at the current Internal Revenue Service

allowable mileage reimbursement rate. Consultant's expenses will be reimbursed at cost, with the exception of all third party costs which will be reimbursed at cost plus the negotiated percentage markup.

## **11. Payment Schedule**

Consultant shall submit detailed numbered invoices, prominently showing the Port contract number, Port project number and title, a description of the services provided and deliverables submitted during the invoiced period, total authorized amount by task, total current invoice by task and balance of authorization by task and in total, individual's names and titles, hours, hourly rates and all authorized expenses itemized with backup in accordance with the Port's "Guidelines for Consultant Fees and Reimbursable Items", by the 10<sup>th</sup> of the month to be paid by the end of the current month, unless other terms are agreed to by the parties.

## **12. Costs and Disbursements**

Consultant shall pay all costs and disbursements required for the performance of its services under this Agreement.

## **13. Insurance - Assumption of Risk**

a) As a further consideration in determining compensation amounts, the Consultant shall procure and maintain, during the life of this Agreement, such commercial general liability insurance as shall protect Consultant and any subconsultant performing work under this Agreement from claims for damages from bodily injury, including death, resulting therefrom as well as from claims for property damage which may arise under this Agreement, whether arising from operations conducted by the Consultant, any subconsultant, or anyone directly or indirectly employed by either of them.

b) Consultant shall indemnify, defend, and hold harmless the Port, its officials, officers, agents, and employees, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Agreement; provided that this provision shall not apply to the extent that damage or injury results from the fault of the Port, or its officers, agents, or employees. The term "fault" as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.

c) Consultant specifically assumes potential liability for actions brought by Consultant's own employees against the Port and, solely for the purpose of this indemnification and defense, Consultant specifically waives any immunity under the state industrial insurance law, Title 51 RCW. Consultant recognized that this waiver was the subject of mutual negotiation.

d) This indemnification shall extend to and include attorney's fees and the cost of establishing the right of indemnification hereunder in favor of the Port. This indemnification shall survive the termination of this Agreement.

e) With respect to professional liability claims only, and not commercial general liability claims, Consultant and its subconsultants agree to indemnify and hold harmless the Port of Tacoma, its appointed and elective officers and its employees from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind and nature, including attorney fees and costs by reason of any and all claims and demands on it, its officers and employees, arising from the negligent acts, errors or omissions by the Consultant in the performance of the Consultant's professional services.

f) Consultant shall submit to the Port of Tacoma, prior to the commencement of services, certificates of insurance evidencing:

i) Commercial General Liability coverage on occurrence form CG0001 or equivalent with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate;

ii) Automobile Liability covering owned, non-owned and hired vehicles of \$1,000,000 combined single limit per accident; and

iii) Professional Liability not less than \$1,000,000 per claim and in the aggregate. Coverage shall remain in effect for the term of this Agreement plus three years.

g) All policies shall be issued by a company having an A. M. Best rating of A:VI or better. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or limits except after 45 days prior written notice has been given to the Port. Except for professional liability, the Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B.

h. Consultant is responsible for complying with the Washington State laws that pertain to industrial insurance (RCW 51) for Consultant, its employees, and subconsultants. Consultant shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of Consultant's worker compensation account prior to contract execution, including those Consultants who are qualified self-insurers with the state. Consultant bears the responsibility to ensure that any out-of-state (non-Washington) employees and subconsultants have appropriate workers compensation



coverage while working for the Port in Washington State. Consultant may be exempt from state worker compensation insurance requirements (RCW 51.12.020) such as if Consultant is a sole proprietor.

i. Certain work or services under this Agreement may require Longshore and Harbor Worker's Compensation Act (33 U.S.C. §§901 et seq.) insurance coverage, coverage to comply with the Federal Employers Liability Act, or Jones Act coverage. Consultant is fully responsible for ascertaining whether or not such insurance is required. If these or any other federally required insurance coverages apply to this Agreement, the Consultant is responsible for obtaining the coverage, and/or meeting any self-insurance requirements to qualify as a selfinsurer.

#### **14. Standard of Care**

a) Consultant shall perform its work to conform to generally accepted professional standards. Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all plans, designs, drawings and specifications prepared under this Agreement. Consultant shall, without additional compensation, correct or revise any errors or omissions in such work.

b) The Port's approval of plans, drawings and specifications shall not relieve Consultant of responsibility for the adequacy or accuracy thereof. The Consultant shall remain liable for damages and costs incurred by the Port arising from the Consultant's errors, omissions or negligent performance of services furnished under this Agreement.

#### **15. Competitive Specification**

If the scope of work includes development of specifications:

a) Consultant shall provide for the maximum use of materials, equipment, construction methods and products that are readily available through competitive procurement, or through standard or proven production techniques.

b) Consultant shall not produce a design or specification which would be restrictive or written in a manner as to contain proprietary requirements other than those based on performance, unless such requirements are necessary to demonstrate a specific outcome or to provide for necessary interchangeability of parts and equipment. Consultant shall justify in writing the use of any sole source. Where brand names are identified, they shall be followed by the salient product performance characteristics and the words "or approved equal" so that comparable quality or utility may be determined.

c) Consultant shall prepare specifications using BSD SpecLink-E, 2012 Masterformat specification organization unless notified of an update by the Port.

d) All site plans, derivative drawings and bid plans shall be completed using Port CADD standards and layer/block protocols available at <http://www.portoftacoma.com/Page.aspx?nid=422> and from the Port Project Manager.

#### **16. Time**

Time is of the essence in the performance by the Consultant of the services required by this Agreement. The Consultant shall complete its services within the milestones set forth in the project schedule. At the end of each month the Consultant shall submit a



copy of the current schedule and a written narrative description of the work accomplished, identifying scheduled milestones and the status thereof. The Consultant shall also address issues which may result in completion beyond the established schedule or budget.

### **17. Assignability**

Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

### **18. Term of this Agreement**

The effective dates of this Agreement are as specified. This Agreement may be terminated by the Port for cause when the Port deems continuation to be detrimental to its interests or for failure of the consultant to perform the services specified in the Agreement. The Port may terminate this Agreement at any time for government convenience in which case it shall provide notice to the Consultant and reimburse the Consultant for its costs and fees incurred prior to the notice of termination.

### **19. Disputes**

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Consultant agrees to such joinder, so that all disputes related to the project

may be consolidated and resolved in one forum. Venue for any litigation shall be the Pierce County Superior Court of the state of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorneys fees.

### **20. Extent of Agreement**

This Agreement represents the entire and integrated understanding between the Port and Consultant and may be amended only by written instrument signed by both the Port and Consultant.

### **21. Prevailing Wages**

The Consultant is responsible for ensuring that all personnel performing work on the contract are paid wages in accordance with federal, state and local laws when applicable.

## Port of Tacoma Guidelines for Consultant Fees and Reimbursable Items

### General Considerations

These guidelines are intended to assist consultants in developing fee proposals; exceptions may be appropriate for the particular scope of work and should be specifically negotiated.

Rates and multipliers will remain in effect for the contract term unless renegotiated and agreed to by both parties in a written change order.

No overtime rates of pay will be paid.

### Hourly Rates And Expenses

The Port expects that the proposed hourly rates or multiplier of hourly rates include all routine overhead and internal expenses of the firm. Inclusion of expenses in the hourly rate or multiplier reduces the amount of backup documentation required to support each invoice and expedites payment.

The Port expects that the proposed hourly rate includes the equipment, tools, software and supplies required to perform the work.

Hourly rates should be identified for all classifications anticipated to be itemized on the consultant's invoice.

### Reimbursables

The Port will reimburse the following expenses at cost (when appropriate backup is provided):

1. Printing of review and final sets of deliverables; all deliverables shall also

be provided on formatted disk at no additional charge.

2. Postage/shipping cost for deliverables
3. Film development
4. Mileage at current [Internal Revenue Service](#) allowable mileage reimbursement rate.
5. Long distance telephone charges
6. Computer disks
7. Meals and lodging at current Internal Revenue Service allowable reimbursement rate (except for consultants in the local area)

Project field supplies consumed in the work will be reimbursed at cost plus negotiated markup.

Unless specifically negotiated, the Port will not separately reimburse the firm for routine overhead and internal expenses, including:

1. Computer software or hardware usage
2. Graphics supplies or plotter use
3. Digital camera or batteries usage
4. Communications (except long distance) including:  
Cell phone rental  
Fax transmissions  
Routine postage or courier
5. Routine reproduction or copying, except for deliverables (see reimbursables)

### **Lab Samples and Analysis**

The unit price should include analytical costs. Sampling should be scheduled to ensure that results are received when required at normal turnaround rates. 24-hour or rush turnaround rates will be paid only when specifically requested by the Port. Lab services provided by a third party will be reimbursed at cost plus negotiated markup.

### **Subcontracted Services**

When specifically negotiated, subcontracted services will be reimbursed at cost plus negotiated markup.

### **Invoice Format Guidelines**

Invoices must be numbered in a format that shows the firm's unique sequential numbering system for invoicing.

Invoices should show description of work items being invoiced, work order number, title of project, total authorized, total current invoice, balance of contract, individual's names and titles, hours at hourly rate, authorized expenses itemized with backup.

When applicable, the invoice must show the percentage completion of each task within the scope of work. Payment will not exceed the percentage of work completed.

**Attachment "A"**

**HOURLY RATES**

**Consultant**  
**Project Name**  
**PSA No. XXXXXX; Project No./GL Account No. XXXXXX**

<b><u>Personnel</u></b>	<b><u>Hourly Rates</u></b>
Sr. Consultant 2	\$
Sr. Consultant 1	\$
Consultant 2	\$
Consultant 1	\$
Project 2	\$
Project 1	\$
Staff 2	\$
Staff 1	\$

**Reimbursable**

Outside Lab services	Cost + Negotiated Markup
Subconsultants	Cost + Negotiated Markup
Mileage (all Vehicles)	Paid at the current IRS allowable mileage reimbursement rate

**All other fees will be paid per the Port of Tacoma Terms & Conditions and Guidelines for Consultant Fees and Reimbursable Items.**

Additional personnel/equipment are not authorized without prior written approval from the Port's Project Manager and Contract Representative.