

NORTHWEST SEAPORT ALLIANCE
REQUEST FOR PROPOSALS
ADMINISTRATION OF NWSA'S ZERO EMISSION
DRAYAGE INCENTIVE PROGRAM

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

RFP INFORMATION	
Contact:	Axa Turney, Contract and Procurement Analyst
Email Addresses:	procurement@portoftacoma.com
Phone:	253-888-4768
Questions Due	NOVEMBER 20, 2024 @ 2PM (PST)
Proposals Due	DECEMBER 6, 2024 @ 2PM (PST)

SUBMIT ALL QUESTIONS AND PROPOSALS VIA THE PROCUREMENT PORTAL. (LINK LOCATED ON THE LEFT SIDE OF THE PROCUREMENT WEB PAGE)

NWSA
Request for Proposals (RFP) PA000000028
Zero Emission Drayage Incentive Program Administration

A. PURPOSE

The NWSA is seeking proposals from a qualified Contractor/Team to provide technical and administrative support for the NWSA's Zero Emission Drayage Incentive Program, a grant-funded program that provides incentive funding to facilitate the deployment of zero-emission Class 8 drayage trucks and associated charging/fueling infrastructure in the NWSA gateway (Seattle-Tacoma region). The NWSA anticipates awarding one contract. The period of performance of the contract is four (4) years from the execution of the contract.

The NWSA has administered a diesel truck scrap-and-replace program for many years, providing incentive funds to truck owners to purchase newer, cleaner diesel trucks that comply with the engine requirements of the NWSA Clean Truck Program. Grant funding to support this new, much larger incentive program focused on zero-emission trucks will be provided through a variety of local, state, and federal funding sources, including the FHWA Congestion Mitigation/Air Quality (CMAQ) Program; FHWA Charging and Fueling Infrastructure (CFI) Program; FHWA's Reducing Truck Emissions at Port Facilities (RTEPF) Program; and state Climate Commitment Act (CCA) funds.

The Contractor will be required to administer a number of facets of the program, including: refining program design; developing and implementing a marketing and outreach program; providing technical assistance to program participants; reviewing and processing proposed zero-emission truck deployments to verify eligibility; selecting projects to receive incentive funding; managing the disbursement of funds; and tracking and reporting on results. The Contractor will also be required to monitor the program partners/incentive recipients for program compliance, using tele-metrics data and terminal gate RFID records to support program participation rules. Further, the Contractor will be required to conduct outreach and enforcement against non-compliant program partners/incentive recipients to recoup funds, and to procure financial audit services to review program finances prior to NWSA audits.

The Contractor must exhibit flexibility in coordinating different requirements for different funding sources, including developing and reporting metrics that support and document grant program deliverables. The Contractor will coordinate closely with NWSA staff and ensure alignment between this program and similar efforts, including the Washington State Zero-Emission Medium & Heavy-Duty Vehicle Incentive Program.

B. BACKGROUND

Formed in 2015, The Northwest Seaport Alliance is a marine cargo operating partnership of the ports of Tacoma and Seattle. The NWSA is one of the largest container cargo gateways in North America. To learn more about the NWSA, visit www.nwseaportalliance.com.

[The Northwest Ports Clean Air Strategy](#), unanimously adopted by the NWSA's Managing Members in April 2021, sets the goal of phasing out all emissions from all seaport activities by 2050 or sooner. This includes emissions from the approximately 5,000 on-road, Class 8 drayage trucks that provide cargo-hauling services at our terminals in Seattle and Tacoma. According to the recently updated Puget Sound Maritime Emissions Inventory (PSEI), these trucks account for approximately six percent of the Diesel Particulate Matter (DPM) emissions and 33 percent of the greenhouse gas (GHG) emissions that we are seeking to eliminate by 2050 or sooner.

The Zero Emission Drayage Incentive Program is an extension of the NWSA's long-standing and very successful Clean Truck Program. Through this program, the NWSA has disallowed pre-2007 diesel trucks at its international terminals since January 2019 and has incentivized the scrapping and replacing of over 500 pre-2007 diesel trucks. Through these and related efforts, the DPM emissions from drayage trucks have been reduced by about 90 percent since 2005, and by more than 40 percent since 2016.

The NWSA anticipates that the transition to zero-emission drayage trucks will be as challenging as it is necessary. Zero-emission trucks are significantly more expensive than diesel trucks – especially the second- or third-hand diesel trucks that most of the NWSA's drayage service providers currently use. There are no zero-emission drayage trucks in operation in our gateway, nor is there zero-emission charging and fueling infrastructure and a zero-emission truck maintenance/repair support system in place. In addition, a large percentage of NWSA's drayage service-providers are small companies – independent owner-operators or companies that own 10 or fewer trucks – that are highly sensitive to significant changes to the cost and convenience of doing business.

C. SCOPE OF WORK

The NWSA's goal is to facilitate a just and equitable transition to zero-emission drayage trucking in our gateway – a transition that reduces and ultimately eliminates the air emissions from drayage trucks without diminishing and undermining the economic/commercial viability and vitality of the drayage trucking industry on which the success of our cargo gateway depends.

The Zero Emission Drayage Incentive Program is a core element of the NWSA's strategy for advancing this goal. We anticipate that this will be a multi-year program supported by state and federal grants awarded to the NWSA, through which the NWSA and Contractor will identify, assess, select, and support projects that deploy zero-emission drayage trucks serving NWSA cargo terminals in Seattle and/or Tacoma.

The goal of the Incentive Program is to incentivize the deployment of zero-emission drayage trucks in the NWSA cargo gateway to: 1) increase familiarity with, and confidence in, zero-emission technologies among NWSA drayage service-providers; 2) stimulate the development of the zero-emission truck market and support system (i.e. maintenance and repair) in the Puget Sound region and Washington state; and 3) gather data and gain experience that will inform and guide future NWSA programs and the longer-term transition to zero-emission trucking in our region and state.

The goal of this RFP is to procure services from an experienced Contractor to manage the administrative and financial tracking elements of the Incentive Program, combining

different sources of grant funding, as well as outreach and technical assistance to program participants/incentive recipients.

D. DELIVERABLES

The main deliverables include, but will not necessarily be limited to, the following:

- Recommended incentive program design refinement
- Outreach and communication strategy to bolster program participation
- Technical assistance program to support program participants (applicants and incentive recipients)
- Recommended approach to evaluating and selecting incentive recipients
- Program implementation tracking and reporting system
- Continuous improvement program, updated annually

E. CONTRACTOR TEAM EXPECTATIONS

The NWSA seeks to issue one (1) contract to a Contractor/Team to administer the NWSA Zero Emission Truck Incentive Program. To undertake the required elements of this contract, a Contractor may respond to this solicitation proposing a team of one primary Contractor and specialized Sub-Contractors.

Expectations of the Contractor team include:

- The contractor must have at least three (3) years of successful experience developing and implementing large program management projects and/or grant administration and would have the ability to start this program immediately.
- The contractor must have demonstrated understanding of, and experience with, the drayage trucking industry that serves the NWSA gateway (Seattle-Tacoma region).
- The contractor must have sufficient staff and experience in conducting outreach, including through website development, in-person and online seminars and advertising, to expand the use of this program, and conducting site visits to installations of charging/fueling infrastructure to ensure compliance with grant funding requirements.
- The contractor must possess excellent communication skills required to assist applicants in pulling together various funding sources to maximize all available funds they are eligible for. The contractor will provide access to any necessary translation services needed by applicants.
- The contractor must propose an effective program for timely handling of applicant inquiries and process applications in an efficient manner.
- The contractor must propose effective procedures for minimizing difficulties in applying to the Incentive Program and addressing issues related to eligibility.
- The contractor must propose and implement an effective plan to ensure the continued use of vehicles and equipment purchased and installed through this program in order to sustain the environmental benefits associated with their use.
- The contractor must have working knowledge and experience of federal (FHWA, EPA) and Washington State (WSDOT, WA Depts of Ecology and Commerce) grant funding rules and regulations and would ensure program compliance with these rules, consistent with best practices in the industry.

- Contractor must have excellent computer skills and be expert in the use of MS Office programs (such as Excel, Access, Word, PowerPoint, PowerBI, and Teams), and any computer program needed to meet the requirements of this RFP, including the creation of application forms, data dashboards and visualizations to communicate project metrics, and provide project progress reports to all funding entities in the required formats.

F. TERMS & CONDITIONS

The work to be performed under this contract is to be funded by a number of different funding sources (NWSA funds, CFI grant funding and RTEPF grant funding). As such, the Contract will be phased to align with the expenditure of each round of funding. At the conclusion of each funding phase, the Contractor's performance will be evaluated prior to advancing to next phase of funding by issuance of notice to proceed.

The NWSA's Standard Terms and Conditions are included in Attachment B to this RFP, alongside FHWA funding Terms and Conditions (Attachment D). By submitting a proposal, the Proposer represents that it has carefully read and agrees to be bound by the NWSA and FHWA's Standard Terms and Conditions. Identify during the question submittal and response period, any sections you consider onerous, clarify why you consider these sections onerous, propose alternative language and describe why it is in the NWSA's best interests to adopt the alternative language.

Proposals submitted with altered or conditioned Terms and Conditions without prior written agreement from the NWSA will be considered non-responsive and not considered for evaluation.

Proposers submit proposals understanding all contract terms and conditions are mandatory. Response submittal is agreement to the Contract without exception. The NWSA reserves the right to negotiate changes to submitted proposals and to change the NWSA's otherwise mandatory Contract form during negotiations. If the Proposer is awarded a contract and refuses to sign the attached Contract form, the NWSA may reject the Proposer from this and future solicitations for the same work. Under no circumstances shall Proposer submit its own boilerplate of terms and conditions.

G. PROPOSAL ELEMENTS & EVALUATION CRITERIA:

Proposals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the proposing Vendor (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 of this RFP. The written proposals should be prepared in the same sequential order of proposal criteria as outlined below.

Proposals are limited to 10 numbered pages (8 ½ by 11 inch) **excluding** the cover letter, compensation information and all appendices. All pages shall be in portrait orientation with 1-inch (1") margins. Font size shall be 10 point or larger. Proposals that do not follow this format may be rejected. Submittals need to be limited to **9 MB** in total size.

The cover letter shall include the RFP Title and Number, Name, Title, Email Address, Phone Number and current Address of the submitting firm's main contact and include the following information:

- Describe any claim submitted by any client against the prime firm within the past two (2) years related to the professional services provided by the firm or its key personnel. For purposes of this request, **claim** means a sum of money in dispute in excess of 10% of the firm's fee for the services provided.
- Any real or perceived conflicts of interest for team members, inclusive of the prime, sub-consultants and key team members.

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

INITIAL EVALUATION PHASE

1. Team Qualifications & Experience25 PTS

- Identify the proposed project team (to include working titles, degrees, certificates, and licenses) and demonstrate the team's experience administering grant programs and ability to deliver a successful project
 - Resumes of the key individuals may be included as an appendix and are not included in the total page count. Resumes are to be limited to one single-sided, letter-size page. Resumes exceeding this limit will not be reviewed.
 - Provide an organizational chart demonstrating the relationships and hierarchy of the team described above and availability to support this project. Identify individuals by name, position, discipline and firm. Identify key back up personnel.
- The NWSA will evaluate the experience, technical competence, and qualifications of the Key Personnel identified in their project-specific roles and responsibilities, and the overall organization of the project team. Emphasis will be placed on experience and expertise in performing work of similar scope and complexity.
- Capacity to perform the work (including any specialized services) within the time constraints identified, considering the firm/team's current and planned workload.
- Include a list of three (3) recent contracts/projects in the last five (5) years, including a point of contact, contact information (phone and email), and brief description, for services relevant to the items listed in the Scope of Services as performed by the key personnel. Only projects completed by key members of the project team will be considered.

2. Project Approach60 PTS

Proposals should clearly outline the team's recommended approach for:

- Meeting the goals of this RFP*, as stated above.
- Project Management*: Describe the team's approach to project management, progress-tracking, and reporting.
- Coordination & Communication*: Provide a plan for communications and coordination between the project team, the NWSA's project manager, and the various stakeholders.
- Risk Management*: What risks that are beyond your control do you see in delivering this project and how would you mitigate them?

3. Budget/Financial Plan 15 PTS

Present detailed information on the team's proposed project budget.

All proposed expenses shall be:

- a) Quoted in US Dollars;
- b) Full cost inclusive of sales tax and other government fees, taxes and charges; and
- c) Valid throughout the contract period unless otherwise amended and agreed to by both parties in writing.

FINAL EVALUATION PHASE (if applicable)

1. Oral Presentations (if requested) 60 or 100 PTS

Oral Presentations will be conducted with the top-ranked project proponents. Failure to participate in the process will result in the team's disqualification from further consideration. Oral Presentations will be conducted by online video meeting.

2. References (if requested) Pass/Fail

Reference checks may be performed on the selected firm, if based directly on the proposals received, or on shortlisted firms if Oral Presentations are being requested. The NWSA may evaluate the reference checks to assess the proposed Vendor's overall performance and success of previous, similar work. Reference checks may also be utilized to validate information contained in the proposal.

LIST OF ATTACHMENTS:

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING (ATTACHED TO RFP)

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS (ATTACHED TO RFP)

ATTACHMENT C – COST BREAKDOWN-OFFER TEMPLATE (SEPARATE ATTACHMENT)

ATTACHMENT D - FHWA and CFI TERMS AND CONDITIONS

PROCUREMENT PROCESS

SOLICITATION TIMELINE:

This is the procurement schedule for this RFP. The dates shown below are estimated, are provided for information only, and are subject to change at the sole discretion of the NWSA.

Issuance of RFP	November 6, 2024
*Last Day To Submit Questions	November 20, 2024
*Proposal packets due	December 6, 2024
Review/Shortlist	December 13, 2024
Oral Presentations (if required)	December 17-20, 2024
*Final Selection	January 13, 2025
*Execute Contract	January 31, 2025

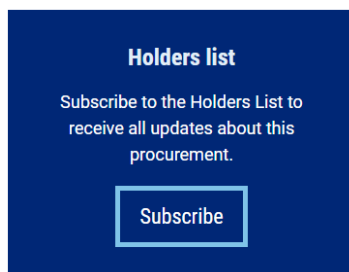
*Dates are tentative and may be subject to change.

All status updates on the above solicitation timeline will be announced on the NWSA's website for this solicitation.

VENDOR OBLIGATION

The Northwest Seaport Alliance (**NWSA**) and Port of Tacoma's (**POT**) Invitation to Bid, Request for Proposals and Request for Qualifications can be accessed on the POT's website, www.portoftacoma.com under 'Business -> Contracting -> Procurement.'

When viewing the details page for this procurement on the POT's Website firms have the option of subscribing to the Holder's List.



By subscribing to the Holder's List, firms will automatically be notified when new documents or changes relating to this procurement occur.

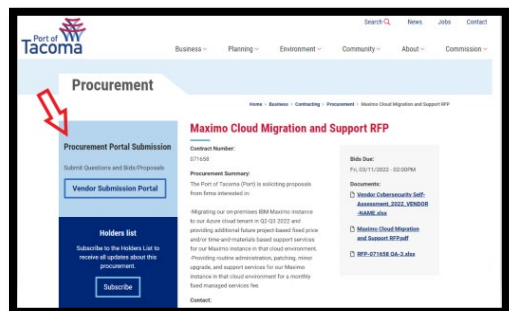
***Only those who have subscribed to the Holder's List will receive notifications throughout the procurement process, up until a firm is selected.**

COMMUNICATION / INQUIRES

All communications is to be sent through the RFP Coordinator.

Proposers who, relative to this scope of services, contact any individuals or Commission members representing the NWSA or the POT, other than the Procurement Representative listed on the solicitation may be disqualified from consideration.

Written questions about the meaning or intent of the Solicitation Documents shall only be submitted to the Procurement Department via the Procurement Portal (Portal link is accessible via this specific procurements website. See left side of page.).



Proposers who may have questions about provisions of these documents are to submit their questions by the date listed on the solicitation. The POT will respond to all written questions submitted by this deadline, and responses will be posted on the corresponding procurements website.

ADDENDA

The POT 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 POT changes, revises, deletes, increases, or otherwise modifies the Solicitation, the POT will issue a written Addendum to the Solicitation. Addenda will be posted to the POT's web site and conveyed to those potential submitters who have requested to be placed on the Holder's List.

SUBMITTAL PROCESS

Electronic Submittal:

Proposals must be received via the procurement portal on or before the date and time outlined on the front page of this proposal.

Procurement Submission Portal Instructions:

Navigate to this procurements web page (referencing the number and name) via the following link [Procurement | Port of Tacoma](#). While on the procurements page, click on the 'Procurement Submission Portal' link (located on the lefthand side of the page).

Full instructions on how to utilize the submission portal can be found on the POT's website, www.portoftacoma.com under 'Business -> Contracting -> Procurement'. See bold red heading above the bid search box "Bid and Question Submittal Instructions", to access the thorough instructions in PDF format.

Please submit proposal, including all separate attachments and compensation in separate Adobe Acrobat PDF format. Submittals need to be limited to **9 MB in total size**.

It is the Consultant's responsibility to verify the receipt of the submittal. Electronic verification will be provided.

***Late proposals will not be accepted by the POT. Proposals received after the stated date and time will not be reviewed and shall be deemed non-responsive.**

All proposals submitted shall be valid and binding on the submitting firm for a period of ninety (90) days following the submittal deadline and for any extension of time granted by the submitting firm.

EVALUATION AND AWARD PROCESS

An evaluation team, using the point method of award, will review each proposal and evaluate all responses received based upon the criteria listed herein. The POT may request clarifications or additional information, if needed. After the evaluation team individually scores each proposal, the scores are tallied, and the firms are ranked based on the scores.

A selection may be made based on the proposals and initial evaluation criteria alone. Alternatively, the evaluation team may create a short list of the top ranked firms and invite the short-listed firms in for interview and/or check references. Scores for reference checks and interviews will be tallied and added to the short-listed firm's initial evaluation scores. Final selection will be based on the accumulative score.

The POT intends to select the Proposer who represents the best value to the POT.

The POT 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 POT may require. The POT reserves the right to reject any or all Proposals submitted as non-responsive or non-responsible.

PROCEDURE WHEN ONLY ONE PROPOSAL IS RECEIVED

In the event that a single responsive proposal is received, the Proposer shall provide any additional data required by the POT to analyze the proposal. The POT reserves the right to reject such proposals for any reason.

GENERAL INFORMATION

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

COSTS BORNE BY PROPOSERS

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

PROTEST PROCESS

A Bidder protesting for any reason the Bidding Documents, a Bidding procedure, the POT's objection to a Bidder or a person or entity proposed by the Bidder, including but not limited to a finding of non-Responsibility, the Award of the Contract or any other aspect arising from or relating in any way to the Bidding shall cause a written protest to be filed with the POT within two (2) business days of the event giving rise to the protest. (Intermediate Saturdays, Sundays, and legal holidays are not counted as business days.) The written protest shall include the name of the protesting Bidder, the bid solicitation number and title under which the protest is submitted, a detailed description of the specific

factual and legal grounds for the protest, copies of all supporting documents, evidence that the apparent low bidder has been given notice of the protest, and the specific relief requested. The written protest shall be sent by email to procurement@portoftacoma.com.

Consideration. Upon receipt of the written protest, the POT will consider the protest. The POT may, within three (3) business days of the POT's receipt of the protest, provide any other affected Bidder(s) the opportunity to respond in writing to the protest. If the protest is not resolved by mutual agreement of the protesting Bidder and the POT, the Contracts Director of the POT or his or her designee will review the issues and promptly furnish a final and binding written decision to the protesting Bidder and any other affected Bidder(s) within six (6) business days of the POT's receipt of the protest. (If more than one (1) protest is filed, the POT's decision will be provided within three (3), but no more than six (6) business days of the POT's receipt of the last protest.) If no reply is received from the POT during the six (6) business-day period, the protest will be deemed rejected.

Waiver. Failure to comply with these protest procedures will render a protest waived. **Condition Precedent.** Timely and proper compliance with and exhaustion of these protest procedures shall be a condition precedent to any otherwise permissible judicial consideration of a protest.

SMALL BUSINESS AND DISADVANTAGED BUSINESS OPPORTUNITIES

The Port of Tacoma encourages participation in all its contracts by MWBE firms certified by the Office of Minority and Women's Business Enterprises (**OMWBE**). Participation may be either on a direct basis in response to this solicitation/invitation or as a subcontractor to a Bidder/Proposer. However, unless required by federal statutes, regulations, grants, or contract terms referenced in the contract documents, no preference will be included in the evaluation of bids/submittals, no minimum level of MWBE participation shall be required as a condition for receiving an award and bids/submittals will not be rejected or considered non-responsive on that basis. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply. The selected firm will be required to show evidence of outreach.

PUBLIC DISCLOSURE

Proposals submitted under this Solicitation will be considered public documents and, with limited exceptions, will become public information and may be reviewed by appointment by anyone requesting to do so following the conclusion of the evaluation, negotiation, and award process. This process is concluded when a signed contract is completed between the POT and the selected Consultant.

If a firm considers any portion of its response to be protected under the law, the vendor shall clearly identify each such portion with words such as **CONFIDENTIAL**, **PROPRIETARY** or **TRADE SECRET** on each page for which the protection is sought. If a request is made for disclosure of such portion, the POT will notify the vendor 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 POT by the stated deadline, the POT will release the requested portions of the proposal. By submitting a response, the vendor

assents to the procedure outlined in this paragraph and shall have no claim against the POT on account of actions taken under such procedure.

PERSONAL SERVICES AGREEMENT NO. [CONTRACTNO]

TITLE: [TITLE]

Consultant: [VENDOR], [VENDORADD]

CONTRACT OWNER: [PM] PROJECT NO./G/L NO.: [PROJECTNO]/[G/L]

THIS AGREEMENT is made and entered into by and between the [ENTITY] (*hereinafter referred to as the **NWSA***) and [VENDOR] (*hereinafter referred to as the **Consultant***) for the furnishing of [DESCRIPTION] (hereinafter referred to as the **Project**).

The Port and Consultant mutually agree as follows:

SCOPE OF WORK

[SOW]

DELIVERABLES

[DELIVERABLES]

COMPENSATION

[AMOUNT]

TERM

The term of the Agreement shall be from the date of execution through...

AGREED

This agreement is expressly conditioned upon the Terms and Conditions attached ...

[ENTITY]

[CONSULTANT]

By

By

[CM]

Date

[CMTITLE]

[VENDORSIGN]

Date

[VENDORTITLE]

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS

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

1. Key Personnel

The Consultant's 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.

2. Relationship of the Parties

Consultant and its subconsultants and their employees, are independent contractors. Nothing contained herein shall be deemed to create a relationship of employer and employee nor of principal and agent.

3. Conflicts of Interest

Consultant warrants that it has no direct nor 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 nor other consideration contingent upon the execution of this Agreement.

4. Compliance with Laws

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 is 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 Services.

5. Records and other Tangibles

The Port is a public entity and must maintain access to, and be able to

provide, records per RCW 40.14, RCW 42.56 and the Secretary of State's Local Government Common Records Retention Schedule (CORE) Version 4.2 (August 2021). Therefore, until the expiration of six (6) years after the term of this Agreement, Consultant agrees to maintain accurate records of all activities done in providing the Services and to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

6. Ownership of IP

The plans, specifications, models, programs, reports, and other products prepared by the Consultant in performing the Services are Instruments of Service for purposes of the copyright laws of the United States. The Port has ownership rights to the Instruments of Service. Consultant shall not be responsible for changes made in the Instruments of Service 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 the Instruments of Service for promotional purposes shall require the Port's prior consent. Notwithstanding anything to the contrary in this Agreement, Consultant and its personnel are free to use and employ their general skills, know how, and expertise, and use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of this Agreement so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information from the Port.

7. 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.

8. Compensation

As full compensation for the performance of its obligations of this Agreement and the Services, the Port shall pay Consultant as specified in the Agreement.

9. Payment Schedule

Consultant shall submit detailed numbered invoices monthly showing descriptions of the Services being invoiced, work order number, title of the Project, total authorized, total current invoice, balance of authorization, individual's names and titles, hours, hourly rate by the 10th of the following month to be paid by the end of the 30th, unless other terms are agreed to by the parties.

10. Costs and Disbursements

Consultant shall pay all costs and disbursements required for the performance of its the Services.

11. Insurance - Assumption of Risk

a) As a further consideration in determining compensation amounts, Consultant shall procure and maintain, during the term of this Agreement, such commercial general, IT Professional or Cyber Liability, and automobile liability insurance as shall protect Consultant and any subconsultants performing the Services from claims for damages from bodily injury, including death, resulting there from as well as from claims for property damage and cyber-related risks such as theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of IT systems control which may arise under this Agreement, whether arising from operations conducted by the Consultant, any subconsultants,

or anyone directly or indirectly employed by either of them.

b) The Consultant and its subconsultants shall indemnify, defend (the defense obligation shall not apply to professional liability claims), and hold harmless the Port of Tacoma and the Northwest Seaport Alliance and their respective appointed and elective officers and employees ("Indemnified Parties") 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 the Indemnified Parties arising from the negligent acts, errors, or omissions by the Consultant in the performance of the Services.

c) Not used

d) Consultant shall indemnify and hold the Port of Tacoma and Northwest Seaport Alliance harmless from and against any liability, expense, fines, penalties, cost, demand, or other obligation, resulting from or out of any cyber-related risk that include theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of IT systems control.

12. Standard of Care

Consultant shall perform the Services to conform to any applicable generally accepted professional standards. Consultant shall, without additional compensation, correct or revise any errors or omissions in such the Services.

13. Time

Time is of the essence in the performance of the Services.

14. 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.

15. 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. 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.

16. 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.

17. 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.

ATTACHMENT D FHWA and CFI TERMS AND CONDITIONS

FHWA T&Cs: [Contractors & Recipients General Terms and Conditions for Assistance Awards | Federal Highway Administration](#)

CFI T&Cs: [General Terms and Conditions Under The Fiscal Year 2022 And Fiscal Year 2023 Charging and Fueling Infrastructure \(CFI\) Grant Program](#)