



Northwest Seaport Alliance
INVITATION TO BID
No. 070931

CLEAN TRUCK FUND PROGRAM SUPPORT

Issued by
The NWSA
P.O. Box 2985
Tacoma, WA 98401-2985

RFP INFORMATION	
Contact:	Heather Shadko, Procurement
Email Addresses:	nwsaprocurement@nwseaportalliance.com
Phone:	(253) 482-8697
Submittal Date	JUNE 20, 2018 @ 2:00 PM (PST)

PLEASE SUBMIT ALL CORRESPONDENCE AND BIDS
VIA E-MAIL DIRECTLY TO THE PROCUREMENT CONTACT LISTED ABOVE
AND INCLUDE 'ITB 070931, CLEAN TRUCK FUND PROGRAM SUPPORT' IN
THE SUBJECT LINE

Northwest Seaport Alliance (NWSA)
Invitation to Bid (ITB) 070931
CLEAN TRUCK FUND PROGRAM SUPPORT

The NWSA is soliciting bids from interested, qualified non-profit organizations to submit bids to provide support to the NWSA and its Clean Truck Fund Program. The selected firms will be working with a large population of truck drivers, some of whose primary language is not English, providing financial counseling and assisting in the completion of truck loan applications. Teaming with others is strongly encouraged.

A. BACKGROUND

The NWSA is an operating partnership of the ports of Seattle and Tacoma. Combined, the ports are the fourth-largest container gateway in North America. Regional marine cargo facilities also are a major center for bulk, breakbulk, project/heavy-lift cargoes, automobiles and trucks.

The NWSA is governed by the two ports as equal Managing Members, with each Managing Member consisting of the five commissioners in each port. Each port's commissioners are elected at large by the citizens of their respective counties.

To learn more about The Northwest Seaport Alliance, visit www.nwseaportalliance.com.

For additional information about The Northwest Seaport Alliance organization, departments, and personnel headcounts, refer to Port of Tacoma's 2016 Budget, Addendum 1: The Northwest Seaport Alliance Budget, and the 2017 Draft Budget at the following link: <http://www.portoftacoma.com/about/financial-information>.

The 10-year-old Northwest Ports Clean Air Strategy established a goal that 100 percent of the drayage trucks serving container terminals would have cleaner diesel technology – a 2007 engine with diesel particulate filter or equivalent. In 2010, we achieved the first goal in the Northwest Ports Clean Air Strategy that all trucks be at least a model year 1994 or newer. Since that goal was set, we have invested more than \$15 million in matching grant funds to spur truck conversion and invest in gate infrastructure. More than 410 trucks were scrapped and replaced with new trucks through partnership with the Puget Sound Clean Air Agency and funding through DERA, CMAQ and Department of Ecology grants.

The NWSA Managing Members voted in early 2018, to make changes to the NWSA Clean Truck Program.

These changes were adopted after careful consideration of many factors. The NWSA Managing Members heard impassioned testimony from truckers, environmental interests and members of the public. These decisions attempt to balance environmental goals, the concerns of the port trucking community and the efficiency of the gateway.

The Managing Members took the following actions:

- **Effective April 1, 2018**, all trucks entering NWSA international container terminals must have a 2007 engine or newer or equivalent emissions control retrofits to be considered compliant. To continue to access the terminals after April 1, 2018, a driver with a non-compliant truck may apply for a Temporary Access Pass. This pass will require a commitment from the trucker to become compliant by the end of 2018. The application will be available by March 1 on the NWSA website and must be completed by April 1, 2018.
- **Effective Jan. 1, 2019**, all non-compliant trucks will be turned away from NWSA international container terminals.
- Trucks meeting the 2007 emission standard will be able to serve the gateway until at least 2025. This provides certainty to drivers in the process of upgrading that the standard will not change in the immediate future.
- Authorization to spend \$1 million to develop a Clean Truck Fund Program and to partner with a not-for-profit lender to ensure all drivers have access to fair and affordable financing.

Over 2000 trucks are registered for a Temporary Access Pass. Of those, 1250 truck drivers are local residents and serve the NWSA frequently. The majority of the drivers are independent owner operators. There is a large immigrant population of drivers whose primary languages are Amharic, Tigrinya, Russian, Ukrainian, Spanish, and Punjabi. The Clean Truck Fund Program is designed to provide equal access to market rate loans to as many of those drivers as possible before the end of 2018. The Clean Truck Fund must be established no later than July 9, 2018 and will:

1. Provide at least 500 qualified truck drivers equal access to market rate truck loans by providing a loan loss reserve for Community Development Financial Institutions (CDFIs) who meet NWSA criteria. Loans issued through the program will be pegged to market rate interest and loan terms.
2. Provide priority for loans to drivers who have frequently called the gateway over the past two years and have the largest limitations for access to fair lending.
3. Provide financial counseling free of charge to drivers and to assist them in reviewing suitability for the program.
4. Less than 10 percent of the total fund will be used toward administration, loan vetting, and financial counseling.
5. The balance of funds will be held in an NWSA account as loan guarantees through the life of the loans. Once the loan is fully repaid, the guarantee is released and the NWSA will be free to invest funds in other emission reduction strategies.

The Clean Truck Fund is currently \$2.4 million, including grants from the State of Washington, the Puget Sound Clean Air Agency and contributions from the Northwest Seaport Alliance.

This ITB is to garner the support of interested, qualified non-profit agencies in implementing this Clean Truck Fund Program.

The NWSA's Standard Terms and Conditions are included with the Personal Services Contract Template which is Attachment B to this ITB. By submitting a Bid, the Bidder represents that it has carefully read and agrees to be bound by the NWSA'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.

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

B. SCOPE OF SERVICES

Nonprofit Financial Counseling Agency Responsibilities

Financial counseling

- A financial counselor will meet with drivers who opt-in individually to help determine whether the driver should be directed to a mainstream lender, whether they need their finances vetted further as part of this initiative (see below for details), or whether their business is not viable and they should be referred for vocational support.
- Counselors will be expected to obtain translation services, as required in the course of services being provided.
- Counselors will be required to review and assess:
 - Completed net worth and cash flow statement,
 - Completed budget,
 - Reviewed credit report and coach on credit usage and debt repayment,
 - Verified vehicle insurance is current and driver's license is valid,
 - Conducted financial health assessment,
 - Duty cycle of driver, frequency of calls to the NWSA,
 - Collect as much information as possible on viability of business
- Documents to be reviewed by counselors:
 - Copies of two most recent paystubs or two-years' worth of tax returns,
 - Brief written summary of action plan and explanation of derogatory credit report marks,
 - Completed referral form indicating desired term/monthly payment.

- Provide monthly reports to the NWSA on the number of drivers reviewed and the outcome of those meetings. For drivers who successfully complete a loan, the counselor must document the noncompliant truck make, model and model year and the average number of miles traveled per year.
- Follow up with drivers who expressed interest but did not follow through up to 3 times.
- Drivers who are good candidates must agree in writing to continue to serve the NWSA for four years or the term of their lease, whichever is shorter, and maintain at least 200 trips per year. The counselor will be responsible for issuing these agreements.
- Counselors must be available during business hours and able to host additional counseling sessions in the evenings and on weekends at three locations (South Seattle Community College in Georgetown, SeaTac, and Tacoma).
- Counselors must process at least 500 drivers by September 14, 2018.
- The selected firm(s) will be required to invoice monthly on a time and material basis in accordance with the rates established in Attachment C. Accompanying the invoice will be a report outlining number of truck drivers counseled, loan applications processed and CDFIs that truck drivers are referred to.

Relationship with CDFIs

- Establish relationships with multiple CDFIs, who meet NWSA criteria, and determine what information the CDFI would require to advance a truck loan.
- After pulling credit scores and engaging in in-depth conversations about credit, debt, cash flow, income, expenses (drivers bring proper documentation) etc., financial counselors will determine a monthly payment that each individual driver can reasonably afford.
- The counselor then shares their recommendation, with a background summary, to the recommended CDFIs.
- CDFIs can present options for loan amounts, terms, and interest rates that will meet or beat the counselor's recommended monthly payment. The CDFIs can also state how much of the default must be covered by the Clean Truck Fund to achieve this monthly payment, up to 10% of the loan value.
- Requirement for Ecology loans: Retrofits are not eligible for these loans. Before loan is issued, counselor will verify the noncompliant truck has been scrapped. The counselor shall confirm through photographs and a certificate signed and dated by an authorized scrap yard that the noncompliant truck along with the engine has been destroyed or rendered useless by:
 - Cutting a three-inch by three-inch hole in the engine block (the part that of the engine containing the cylinder; and
 - Disabling the chassis by cutting through the frame/frame rails on each side at a point located between the front and the rear axles.

- There must always be 10% of total loans made held in reserve. It will be up to the financial counseling agency, in partnership with the NWSA, to monitor the "burn rate" of the fund and the counselor will report on this monthly.
- These loans are secured by the value of the vehicle. The Clean Truck Fund will cover a percentage of the difference of loan loss after collateral is liquidated (truck is repossessed and sold).

Optional Tasks:

- Counselors will provide ongoing support for drivers beyond the 12/31/2018 deadline, to ensure drivers are staying current on their loan payments.
- If additional funding is available, counselors will support any drivers who missed the deadline but still wishes to upgrade to a clean engine up to 3/31/2019.

Additional Optional Grant Reporting Tasks

Contingent upon grant awards.

WA Clean Diesel Grant

- Financial counselor will determine the trade in value for the noncompliant truck. If the value of the trade in is less than \$10,000, the truck is eligible for a scrapping incentive.
- The counselor will calculate the difference between the trade in value and the value of the scrap metal from the scrapped truck and issue a check to the driver up confirmation through photographs and a certificate signed and dated by an authorized scrap yard that the noncompliant truck along with the engine has been destroyed or rendered useless by:
 - Cutting a three-inch by three-inch hole in the engine block (the part that of the engine containing the cylinder; and
 - Disabling the chassis by cutting through the frame/frame rails on each side at a point located between the front and the rear axles.
- The agency will retain all records and complete a final report of all trucks scrapped and amount issued by March 2019 for submission to the Dept of Ecology.

South Coast Air Quality Management District DERA Grant

- Financial counselor, along with NWSA, shall identify at least 10 drivers operating in the State of Washington and planning to replace MY 1995-2006 trucks with used MY 2012 and newer trucks eligible for purchasing trucks from Southern California for up to \$30,000 each.
- Once the drivers are identified, the counselor will confirm through photographs and a certificate signed and dated by an authorized scrap yard that the noncompliant truck along with the engine has been destroyed or rendered useless by:
 - Cutting a three-inch by three-inch hole in the engine block (the part that of the engine containing the cylinder; and

- Disabling the chassis by cutting through the frame/frame rails on each side at a point located between the front and the rear axles.
- The conselor shall inspect each noncompliant truck to be replaced for drivability and operability and send the result of the inspection to the NWSA. A non-drivable or inoperable truck is ineligible for this project.
- The agency will retain all records and complete a final report of all trucks scrapped and amount issued by March 2019 for submission to the California South Coast Air Quality Management District.

C. DELIVERABLES

To be determined with the successful firms

D. QUALIFICATIONS

Bidders must be a qualified non-profit entity skilled in financial counseling and coordinating programs similar to the one described in the Scope of Services above and have:

- At least two (2) years of experience providing and administering alternate and affordable forms of financing.
- Experience working with immigrant and minority communities.
- Qualified to assist in completing CDFI or other types of loan agreements/applications.

Teaming with organizations who can assist in providing the services contemplated in this ITB is strongly encouraged.

E. BID ELEMENTS & EVALUATION CRITERIA:

Selection Criteria

The NWSA will select up to three (3) non-profit firms based on their capability, capacity, and rates. The NWSA reserves the right to negotiate with those firms that, in its sole opinion, offer the best value to the NWSA. The NWSA also reserves the right to waive any irregularity in any response. The term of the contract will be from issuance until March 31, 2019.

Bid Requirements

In responding to this ITB, bidders should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the firm's/team's abilities to meet the requirement of this ITB.

Bids are limited to ten (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. Bids that do not follow this format may not be reviewed.

The cover letter shall include the ITB 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 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 interests for team members, inclusive of the prime, sub-contractors, and key team members.

Bidders must describe how they can meet the needs of the ITB, staff capability and capacity to accomplish the Scope of Services. Describe any risks you see in accomplishing the Scope of Services that are beyond your control and how you would mitigate them.

Compensation

The selected firm(s) will be paid on a time and material basis based on the rates provided in Attachment C.

ATTACHMENT A – INSTRUCTIONS FOR BIDDING

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS

ATTACHMENT C – RATE SHEET

ITB PROCESS

SOLICITATION TIMELINE:

Issuance of Bld	JUNE 7, 2018
Last Day To Submit Questions	JUNE 13, 2018
Bid packets due	JUNE 20, 2018 @2:00 PM (PST)
Execute Contract*	JULY 2, 2018*

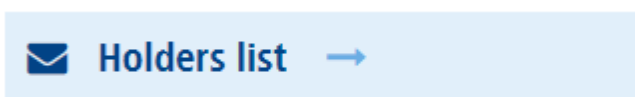
*Dependent on Managing Member approval if necessary.

All status updates on the above solicitation timeline will be announced on the [Port's website for this solicitation](#).

VENDOR OBLIGATION

Northwest Seaport Alliance (NWSA) Invitation to Bid can be accessed on the Port's website, www.portoftacoma.com under 'Contracts'; 'Procurements'.

When viewing the details page for this procurement on the Port'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

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

Written questions about the meaning or intent of the Solicitation Documents shall only be submitted to the Procurement Department, NWSAprocurement@nwseaportalliance.com (**Solicitation Name** in the subject line).

Proposers who may have questions about provisions of these documents are to email their questions by the date listed above. The NWSA will respond to all written questions submitted by this deadline.

ADDENDA

The NWSA 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 NWSA changes, revises, deletes, increases, or otherwise modifies the Solicitation, the NWSA 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 Holder's List. Acknowledgement of addenda is required in cover letter.

SUBMITTAL PROCESS

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

NWSAprocurement@nwseaportalliance.com
Name of Firm, ITB Title (Subject Line)

Please submit bid, including all appendices and compensation in separate Adobe Acrobat PDF format. Submittals need to be limited to **9 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 Bids will not be accepted by the NWSA. Bids 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 NWSA 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 NWSA intends to select the Proposer who represents the best value to the NWSA.

The NWSA 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 NWSA may require. The NWSA 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 bid is received, the Proposer shall provide any additional data required by the NWSA to analyze the bid. The NWSA reserves the right to reject such bids for any reason.

GENERAL INFORMATION

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

COSTS BORNE BY PROPOSERS

All costs incurred in the preparation of a Bid and participation in this ITB 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 NWSA'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 NWSA 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 NWSAprocurement@nwseaportalliance.com.

Consideration. Upon receipt of the written protest, the NWSA will consider the protest. The NWSA may, within three (3) business days of the NWSA'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 NWSA, the Contracts Director of the Port 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 NWSA's receipt of the protest. (If more than one (1) protest is filed, the NWSA's decision will be provided within six (6) business days of the NWSA's receipt of the last protest.) If no reply is received from the NWSA 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 Northwest Seaport Alliance encourages participation in all of 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 NWSA 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 NWSA 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 NWSA by the stated deadline, the NWSA 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 NWSA on account of actions taken under such procedure.



PERSONAL SERVICES AGREEMENT NO. 070931

PROJECT: Clean Truck Fund Program Support

CONSULTANT: Company, Address, City, State, Zip

PROJECT MANAGER: PM PROJECT NO. 201020.02/ GL NO. 20691245

THIS AGREEMENT is made and entered into by and between the **Northwest Seaport Alliance** (hereinafter referred to as the "NWSA") and **xxCOMPANYxx** (hereinafter referred to as the "Consultant") for the furnishing of **Clean Truck Fund Program Support** (hereinafter referred to as the "Project").

The NWSA and Consultant mutually agree as follows:

SCOPE OF WORK

The Consultant will

DELIVERABLES

ASSUMPTIONS

COMPENSATION

This will be accomplished on **time and material** basis, per the rates attached to this Agreement, and will not exceed **\$00,000.00** without prior written approval from the NWSA.

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 invoices shall be emailed: NWSAinvoices@nwseaportalliance.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 March 31, 2019**.

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

CONSULTANT (LEGAL NAME)

Name	Date
Title	

Northwest Seaport Alliance Terms and Conditions Personal Services Agreement

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

ATTACHMENT A - Lobbying Certificate

ATTACHMENT B - Certification Regarding
Debarment, Suspension, Proposed Debarment
And Other Responsibility Matters

1. 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 NWSA.

2. 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.

3. 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.

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 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.

5. 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 NWSA upon termination of the

Agreement or otherwise as requested by the NWSA.

6. 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 NWSA has ownership rights to the plans, specifications, and other products prepared by the Consultant. Consultant shall not be responsible for changes made in the models, programs, reports 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 models, programs, reports or other products prepared under this Agreement for promotional purposes shall require the NWSA's prior consent.

7. Disclosure

All information developed by the Consultant and all information made available to the Consultant by the NWSA, 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 NWSA.

8. Compensation

As full compensation for the performance of its obligations of this Agreement and the services to be provided, the NWSA 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.

9. Payment Schedule

Consultant shall submit detailed numbered invoices showing description of work items being invoiced, work order number, Contract number, title of project, total authorized, total current invoice, balance of authorization, individual's names and titles, hours, and hourly rate by the 10th of the month to be paid by the end of the current month, 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 services under this Agreement.

11. 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 and automobile 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) With respect to claims other than professional liability claims, Consultant and its subconsultants agree to defend, indemnify and hold harmless the NWSA, 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.
- c) With respect to professional liability claims only, Consultant and its subconsultants agree to indemnify and hold harmless the NWSA, 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. Additionally, Consultant shall indemnify and hold the NWSA harmless from and against any liability, expense, fines, penalties, cost, demand, or other obligation, resulting from or out of any cyber-related incidences that include theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of control of its Information Technology systems of which NWSA data or information is stored or has access to.

12. Standard of Care

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

13. Time

Time is of the essence in the performance by the Consultant of the services required by this Agreement

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 NWSA.

15. Term of this Agreement

The effective dates of this Agreement are as specified. This Agreement may be terminated by the NWSA for cause when the NWSA deems continuation to be detrimental to its interests or for failure of the consultant to perform the services specified in the Agreement. The NWSA 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 NWSA 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.

17. Extent of Agreement

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

18. Federal Requirements

Services provided under this scope of work are funded by the Transportation Security Administration and are subject to the following provisions. By submitting a proposal Consultants shall agree to comply with these provisions and shall include the cost of compliance in the cost proposal. The NWSA and the Consultant agree that such federal laws, regulations and other requirements supersede any conflicting provisions of this Agreement. Consultant shall at all times comply with all applicable regulations, policies, procedures and directives.

Consultant's failure to so comply shall constitute a material breach of this Agreement.

19. Written Approval of Federal Government

The Consultant acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Consultant or

any other party pertaining to any matter resulting from this Agreement. The Consultant agrees to include the above clause in each subcontract.

20. Sole Source Methods

The Consultant shall not, in the performance of the work under this Agreement, produce a design or specification which would require the use of structures, machines, products, materials, construction methods, equipment, or processes which the Consultant knows to be available only from a sole source, unless the Consultant has provided a written justification the use of a sole source in writing and the NWSA concurs.

21. Open and Fair Participation

The Consultant shall not, in the performance of the work under this Agreement, produce a design or specification which would be restrictive or written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing, or to provide for necessary interchangeability of parts and equipment. When one or more brand names or trade names of comparable quality or utility are listed, they must be followed by the words "or approved equal." With regard to materials, if a single material is specified, the Consultant must substantiate in writing, and to the NWSA's satisfaction, the basis for the selection of the material.

22. Open and Fair Opportunities

During the term of this Agreement, the Consultant shall not create barriers to open and fair opportunities to participate in NWSA contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. During the performance of this Agreement, neither the Consultant nor any party subcontracting under the authority of this Agreement shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the

administration or delivery of services or any other benefits under this Agreement.

The selected Consultant shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination including RCW Chapter 49.60. The Consultant further agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to the following:

23. Nondiscrimination in Federal Programs.

The selected Consultant agrees to comply with the provision of 49 U.S.C. § 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

24. Nondiscrimination -- Title VI of the Civil Rights Act.

The selected Consultant agrees to comply with, and assure compliance by each subconsultant under this Agreement, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, and any implementing requirements.

25. Equal Employment Opportunity.

The selected Consultant agrees to comply with, and assures the compliance of each subconsultant under this Agreement with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements.

26. Nondiscrimination on the Basis of Sex.

To the extent applicable, the selected Consultant agrees to comply with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681, 1683, and 1685 through 1687, which prohibit discrimination on the basis of sex, and any Federal requirements that may be promulgated.

27. Nondiscrimination on the Basis of Age.

The selected Consultant agrees to comply with the applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 through 6107, and implementing regulations, which prohibits discrimination on the basis of age.

28. Nondiscrimination on the Basis of Disability.

The Consultant agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires the provision of accessible facilities and services, and with the following federal regulations, including any amendments thereto:

U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37; U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27; Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles." 36 C.F.R. Part 1192 and 49 C.F.R. Part 38.

U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35; U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36; U.S. GSA regulations, "Accommodations for the Physically Handicapped,"

41 C.F.R. Subpart 101-19; U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630; and U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F.

29. Conflicts of Interest Contingent Fees

The Consultant warrants and covenants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach of violation of this warranty the NWSA shall have the right to terminate this Agreement and/or in its discretion to deduct from the Consultant's compensation or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

30. Gratuities

The Consultant warrants and covenants that no gratuities, in the form of entertainment, gifts or otherwise, have been or will be offered or given by the Consultant or any of its agents, employees or representatives to any official member or employee of the NWSA in an attempt to secure a contract or favorable treatment in awarding, amending or making any determination related to the performance of this Agreement.

31. Conflict of Interest

The Consultant warrants and covenants it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, which conflicts in any manner or degree with the performance of the work and services required to be performed under this Agreement and that it shall not employ any person or agent having any such interest. In event that the Consultant or its agents, employees or representatives hereafter acquires such a conflict of interest, the Consultant shall immediately disclose such interest to the NWSA and take action immediately to eliminate the conflict or to withdraw from the Agreement as the NWSA may require.

32. Breach of Covenants

If the NWSA has reason to believe that the covenants set forth in subparagraphs A., B, or C of this section have been breached, it shall so notify the Consultant in writing. The Consultant shall respond to said notice within ten days of receipt with a detailed written explanation or answer to any facts, allegations or questions contained or

referenced in said notice. The Consultant may request a hearing on the matter by the NWSA which shall be conducted by the Executive Director or designee. The decision of the Executive Director shall be a prerequisite to appeal thereof to the Superior Court of Pierce County, state of Washington. If, after consideration of the Consultant's response and any hearing, the Executive Director determines that the covenants have been breached, the Executive Director shall have the discretion to exercise those remedies provided by any applicable federal or state laws or regulations or by this Agreement in the event of said breach and/or prohibited conflicts of interest.

33. Program Fraud and False or Fraudulent Statements or Related Acts.

The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the DOT assisted project for which this work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.

The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consultant, to

the extent the Federal Government deems appropriate.

The Consultant agrees to include the above two clauses in each of its subconsulting contracts.

34. Lobbying Certification And Disclosure

The Consultant shall execute and return to the NWSA the certification required by 49 CFR part 20, "New Restrictions on Lobbying." found in Attachment A and shall require its sub-consultants and subcontractors (if any) to also execute the certificate. Such disclosures are forwarded from tier to tier up to the NWSA. Each tier shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. Section 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. Section 1352.

35. Consultant's Certification Regarding Debarment, Suspension And Other Responsibility Matters

The Consultant agrees to comply, and assures the compliance by each of its sub-consultants and subcontractors at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. Section 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29. The Consultant shall submit its certificate on the form found in Attachment B.

This certification is a material representation of fact. If at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, it shall immediately provide written notice to the NWSA. If it is later determined that the Consultant knowingly rendered an erroneous certification, the

NWSA may terminate the Agreement for cause of default, in addition to other remedies available including federal suspension and/or debarment.

36. Subconsultant's Certification Regarding Debarment, Suspension Or Ineligibility

The Consultant shall not knowingly enter into any subcontract exceeding \$100,000 with an entity or person who is debarred, suspended or has been declared ineligible by the federal government from obtaining federal assistance funds. The Consultant's knowledge and information regarding any sub-consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business. The Consultant shall include in each subcontract, regardless of tier, a clause requiring each lower tiered sub-consultant to provide the certification set forth in Attachment B. Each subcontract, regardless of tier, shall contain a provision that the sub-consultant shall not knowingly enter into any lower tier subcontract with a person or entity who is debarred, suspended or declared ineligible from obtaining federal assistant funds. The Consultant shall require each sub-consultant, regardless of tier, to immediately provide written notice to the Consultant if at any time the sub-consultant learns that its, or a lower tier, certification was erroneous when submitted or has become erroneous by reason of changed circumstances, which the Consultant shall immediately forward on to the NWSA. The Consultant may rely upon the certifications of the sub-consultant unless it knows that the certification is erroneous.

37. Audit.

The Puget Sound shall allow the SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD), the Comptroller General of the United States, their designated representatives and/or the cognizant Federal Audit Agency, access during normal business hours to all records and reports related to the work performed under this Agreement. Audits will be conducted in accordance with OMB Circular A-133.

38. Small Business And Small Disadvantaged Business Opportunities.

It is a national policy to place a fair share of purchases with small, minority, and woman-owned business firms. The funding agency and NWSA are strongly committed to the objectives of this policy and encourage all Recipients of its grants to take affirmative steps to ensure such fairness. In particular, Recipients should:

Place small, minority, and woman-owned business firms on bidders mailing lists:

- Solicit these firms whenever they are potential sources of supplies, equipment, construction, or services;
- Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms;
- Use the assistance of the Small Business Administration and the Office of Small and Disadvantaged Business Utilization, Department of Transportation, and similar state and local offices, where they exist.

39. Trafficking Victims Protection Act of 2000

The Puget Sound and any of its subcontractor(s) shall comply with the provisions of the Trafficking Victims Protection Act of 2000, as amended, and shall include the requirements of the Prohibition Statement, below, in any subaward you make to a private entity. SCAQMD shall reserve the right to terminate the Contract, without penalty, if The Puget Sound and/or any of its subcontractor(s) engages in activities provided in the Prohibition Statement as follows:

- a. Prohibition Statement - You as the recipient, your employees, subcontractors under this Agreement, and subcontractor's employees may not engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect; procure a commercial sex act during the period of time that this Agreement is in effect; or use forced labor in the performance of this Agreement or subcontracts under this Agreement.

40. Clean Air Act and Clean Water Act

The Puget Sound shall comply with all applicable standards, orders or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532, Subpart J). shall be entitled to recover its costs and reasonable attorney's fees.

**Northwest Seaport Alliance Terms And Conditions
Personal Services Agreement
Contract No. 070931 Clean Truck Fund Program Support**

ATTACHMENT A - LOBBYING CERTIFICATE

The undersigned certifies to the best of its knowledge or belief that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. Section 1352 (c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to amend a required certification or disclosure form shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Consultant certifies or affirms that truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

(Type or Print Company Name)

By: _____
(Signature) (Title)

Print Name: _____

NOTE: CONSULTANTS ARE REQUIRED, PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000, AND TO OBTAIN THIS CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

END OF FORM

ATTACHMENT B

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT AND OTHER RESPONSIBILITY MATTERS

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; Are ☐ are not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(B) Are ☐ not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a) (1)(i)(B) of this provision.

(ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by a Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the NWSA if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the NWSA may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the NWSA may terminate the contract resulting from this solicitation for default.

I certify under penalty of perjury that the above statements are true.

Signature

Print Name

Date

Attachment C

HOURLY RATES

Consultant

Clean Truck Fund Program Support

PSA No. 070931 / Project No. 201050.02/GL Account No. 20691245

Personnel

Hourly Rates

Counselor 1	\$
Counselor 2	\$
Counselor 3	\$
Counselor 4	\$
	\$
Rates for Optional Tasks and Optional Grant Reporting Requirements	
Counselor 1	
Counselor 2	
Counselor 3	
Counselor 4	

**Note All Rates Must Be Fully Burdened To Include, But Not Limited To Travel,
Lodging, Per Diem, And Administrative Overhead.**

The NWSA will reimburse for mileage and meals for NWSA directed sessions as indicated in the Scope of Services.