



**PORT OF TACOMA
REQUEST FOR PROPOSALS
No. 83043**

Photo Management System

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

RFP INFORMATION	
Issue Date	7/23/2018
Contact:	Sharon Rothwell
Email Addresses:	procurement@portoftacoma.com
Phone:	(253) 592-6758
Deadline for Questions	7/30/2018
Submittal Date	8/7/2018 DATE @ 2:00 PM (PST)

**PLEASE SUBMIT ALL CORRESPONDENCE AND PROPOSALS
VIA E-MAIL DIRECTLY TO THE PROCUREMENT CONTACT LISTED ABOVE
AND INCLUDE 'RFP- 83043 PHOTO MANAGEMENT SYSTEM' IN THE
SUBJECT LINE**

PORT OF TACOMA
Request for Proposals (RFP) # 83043
Photo Management System

A. BACKGROUND

Created by Pierce County citizens in 1918, the Port of Tacoma (Port) is a major center for container cargo, bulk, break-bulk, autos and heavy-lift cargo. To learn more about the Port of Tacoma, visit www.portoftacoma.com. Formed in 2015, The Northwest Seaport Alliance (NWSA) is a marine cargo operating partnership of the ports of Tacoma and Seattle. The NWSA is the fourth-largest container gateway in North America. To learn more about the NWSA, visit www.nwseaportalliance.com.

The Port is looking to purchase and implement a Photo management solution that will allow us to have a metadata-searchable system for storing photos which supports secure onsite and remote access. The solution will support searching for photos and satisfy the Port's record retention rules. The Port at present does not have a photo management system.

The Port's proposer instructions are included in Attachment A, while Standard Terms and Conditions are included as Attachment B to this RFP. By submitting a Proposal, the Proposer represents that it has carefully read and agrees to be bound by the Port's Standard Terms and Conditions. The Port's Standard Software as a Service (SaaS) Agreement is included as Attachment F to this RFP. If the proposed solution is a SaaS solution, the Proposer represents that it has carefully read and agrees to be bound by the Port's Standard Software as a Service Agreement. Identify during the question submittal and response period, any sections of Attachment B or Attachment F that you consider onerous, clarify why you consider these sections onerous, propose alternative language and describe why it is in the Port's best interests to adopt the alternative language.

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

B. SCOPE OF SERVICES:

The goal of this RFP is to select a photo management solution.

The solution will include:

- A software or software-as-a-service (SaaS) solution that meets the requirements defined in Attachment D
- Technical support (break/fix and escalated) and maintenance
- Product training and other related services as required

C. DELIVERABLES:

All tasks, services, scope and deliverables will be agreed upon between the Port and the vendor before the commencement of work.

For solution

- A software solution or software as service (SaaS) solution meeting the requirements defined in Attachment D
- Documentation for solution installation and configuration
- Training documentation and training session(s) given on site or via web-based training

For Support Services

- Technical support services (break/fix and escalated) delivered within the terms of an agreed and documented service level agreement

D. RFP ELEMENTS & EVALUATION CRITERIA:

Proposals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the firm's abilities to meet the requirements of this RFP. Emphasis will be on completeness of content. The written proposals should be prepared in sequential order as outlined below:

Document format:

Proposals are limited to 15 numbered pages (8 ½ by 11 inch) including the cover letter and attachments. All pages shall be in portrait orientation with 1 inch margins. Font size shall be 11 point or larger. Proposals that do not follow this format will not be reviewed.

The cover letter shall include the RFP title and number as well as the name, title, email address, phone number and address of the proposing team's primary contact, and include the following information:

- Describe any claim submitted by any client against the firm within the past two years related to the 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 5% of the firm's fee for the services provided.
- Any real or perceived conflicts of interests for team members, inclusive of the prime, sub-consultants and key team members.

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

INITIAL EVALUATION PHASE

1. Solution 60 PTS

- Complete the requested information found in the Requirements Matrix (Attachment D) and include with the proposal.
- Share information on the number of customers and active users of the proposed solution. Specify how many years the proposed solution has been available.
- Describe in detail, the solution proposed.
- Describe in detail, the solution-provisioning model proposed. Include information on service type (SaaS, hosted, etc.), infrastructure utilized, security, and redundancy considerations, multi-tenancy environments, and data centers, including third party information, physical locations, etc.
- SaaS Solutions: If the solution being proposed is a SaaS solution, then review the Port of Tacoma SaaS Requirements (Attachment E) and specify the extent to which the proposed solution complies with these requirements. Requirements that cannot be met should be clearly indicated.
- Describe the process or procedure that the Port would use for installing/implementing the proposed solution.
- Technical Support: Describe your firm's technical support services offering, including phone or website support, documentation, and escalation procedures. Include hours of availability where applicable.
- Provide a brief roadmap summary of the enhancements/changes planned for the proposed solution over the next 3 to 5 years.

2. Compensation 40 PTS

Present detailed information on the firm's proposed recurring and non-recurring costs for the proposed solution.

Compensation information MUST be provided separately from the proposal, in an individual PDF document.

All rates and costs/fees quoted shall be:

- **Fixed, fully burdened, including, but not limited to, administrative overhead and all direct/indirect expenses.**
- Quoted in US Dollars,
- Full cost inclusive of sales tax and other government fees, taxes and charges, and
- Valid throughout the contract period unless otherwise amended and agreed to by both parties in writing.

NOTE: THE PORT OF TACOMA RESERVES THE RIGHT TO AWARDED A CONTRACT FROM THE INITIAL EVALUATION PHASE. IF THIS RIGHT IS NOT EXERCISED, THE PORT WILL REQUEST REFERENCES FROM AND CONDUCT INTERVIEWS/DEMOS WITH THE TOP RANKED FIRMS, AND SCORE THE REFERENCES AND

INTERVIEWS/DEMOS AS INDICATED BELOW IN THE FINAL EVALUATION PHASE. THE AWARD WILL THEN BE BASED ON THE FINAL EVALUATION PHASE.

FINAL EVALUATION PHASE

3. References 30 PTS
Upon request, ensure completion of 3 references submitted using the Reference Form (Attachment C). The Port will evaluate the reference checks to assess the proposed firm's overall performance and success of previous, similar work. Reference checks will also be used to validate information contained in the proposal. The Port may contact submitted reference sites directly to accomplish this.
4. Interviews and demonstrations.....70 PTS
If the Port does not award a contract from the Initial Evaluation phase, interviews and demonstrations will be conducted with the top-ranked proposers. Failure to participate in the interview/demo process will result in the proposer's disqualification from further consideration. If interviews/demos are held, they will be conducted either on site or via teleconference with a web presentation.

Attachments:

Attachment A – Instructions, Information & Communication
Attachment B – Services Terms & Conditions
Attachment C - Reference Questionnaire
Attachment D – Requirements Matrix
Attachment E – Port of Tacoma General SaaS Requirements
Attachment F – Port of Tacoma Software as a Service Agreement

ATTACHMENT A – INSTRUCTIONS, INFORMATION, AND COMMUNICATION

This section details Port procedures for directing the RFP process. The Port reserves the right in its sole discretion to reject the proposal of any Contractor that fails to comply with any procedure in this chapter.

Communications with the Port

Direct all Contractor communications concerning this solicitation to the Procurement Coordinator. The Procurement Coordinator for this solicitation is:

Sharon Rothwell
(253) 592-6758
procurement@portoftacoma.com

Unless authorized by the Procurement Coordinator, no other Port official or Port employee is empowered to speak for the Port with respect to this acquisition. Any Contractor seeking to obtain information, clarification, or interpretations from any other Port official or Port employee (other than the Contract Coordinator) is advised that such material be used at the Contractor's own risk. The Port will not be bound by any such information, clarification, or interpretation.

Following the Proposal submittal deadline, Contractors shall continue to direct communications to only the Port Procurement Coordinator. The Procurement Coordinator will send out information to responding companies as decisions are concluded.

Contact by a Contractor regarding this acquisition with a Port employee other than the Procurement Coordinator or an individual specifically approved by the Procurement Coordinator in writing, may be grounds for rejection of the Contractor's proposal.

Questions

Submit questions to the Procurement Coordinator no later than the date and time on page 1, in order to allow sufficient time for the Procurement Coordinator to consider the question before the bids or proposals are due. The Port prefers such questions to be through e-mail directed to the Procurement Coordinator e-mail address. Failure to request clarification of any inadequacy, omission, or conflict will not relieve the Contractor of any responsibilities under this solicitation or any subsequent contract. It is the responsibility of the interested Contractor to assure that they received responses to Questions if any are issued.

Changes to the RFP/Addenda

A change may be made by the Port if, in the sole judgment of the Port, the change will not compromise the Port's objectives in this solicitation. A change to this RFP will be made by issuing a formal written addendum. The Addendum shall become part of this RFP and included as part of the Contract. It is the responsibility of the interested Contractor to assure that they have received Addenda if any are issued.

Receiving Addenda and/or Question and Answers

The Procurement Coordinator will make efforts to provide you notice, either through the RSS Feed or direction e-mail courtesy announcements that changes or addendums have been posted on the Port website. Notwithstanding efforts by the Port to provide such notice to known Contractors, it remains the obligation and responsibility of the Contractor to learn of any addendums, responses, or notices issued by the Port. Such efforts by the Port to provide notice or to make it available on the website do not relieve the Contractor from the sole obligation for learning of such material.

Note, that some third-party services may independently post Port of Tacoma bids on their websites. The Port does not, however, guarantee that such services have accurately provided Contractors with all the information published by the Port, particularly Addendums or changes to bid date/time.

All Bids sent to the Port shall be considered compliant to all Addendums, with or without specific confirmation from the Bidder that the Addendum was received and incorporated. However, the Procurement Coordinator can reject the Bid if it does not reasonably appear to have incorporated the Addendum. The Procurement Coordinator could decide that the Bidder did incorporate the Addendum information, or could determine that the Bidder failed to incorporate the Addendum changes. If the changes are material, the Procurement Coordinator must reject the Offer, or the Procurement Coordinator may determine that the Bidder failed to incorporate the Addendum changes, but that the changes were not material and therefore the Bid may continue to be accepted by the Procurement Coordinator.

RFP Submittal Requirements

- Proposal
- Attachment D Requirements Matrix completed.

Port procedures for submittal

- a) Number all pages sequentially. The format should follow closely that requested in this RFP.
- b) The Port may designate page limits for certain sections of the response. Any pages that exceed the page limit will be excised from the document for purposes of evaluation.
- c) Bidders have full responsibility to ensure the response arrives at the Port within the deadline. A late submittal may be rejected, unless the lateness is waived as immaterial by the Port Purchasing and Contracting Services Director, given specific fact-based circumstances. Late responses may be returned unopened to the submitting firm; or the Port may accept the package and make a determination as to lateness.
- d) The response should be in an 8 1/2" by 11" format. Non-recyclable materials are strongly discouraged. Contractors are encouraged to "double side." If there are page limitations, one side of a printed page is considered one page.

Submittal of Proposal

E-mail electronic submittals to procurement@portoftacoma.com, on or before the deadline RFP Schedule, on the cover page or as otherwise amended). Any risks associated are borne by the Bidder. The Port e-mail system will generally allow documents up to, but no larger than, 10 Megabytes. Proposers are to ensure that the compensation portion of their proposal is a separate PDF file from the rest of their proposal. Electronic verification of receipt of proposal will be provided upon request.

EVALUATION PROCESS

Step #1: Initial Screening: Purchasing shall first review submittals to for initial decisions on responsiveness of the bid and bidder responsibility. Those found responsive and responsible based on this initial review shall proceed to Step 2

Step #2: Proposal Evaluation: The Port will evaluate proposals using the criteria specified below. Responses will be evaluated and ranked or scored.

Specifications: The Port will evaluate each Contractor's compliance with the specifications and other bid requirements set forth in the RFP.

Discounts for prompt payment shall be reviewed for acceptance and shall be calculated into the Contractor's response for purposes of evaluation.

Pricing: Items on price sheets shall then be calculated for purposes of award. Item pricing will be multiplied by the number of units required for an item total. Item totals will be totaled for all items for a tabulated total. In the event of an error in math, unit pricing will be considered the correct price and will be used. If any cost item is missing from a bidder Offer Form, the Port reserves the right to reject that Bid or to calculate and compare bids without that cost item considered.

Formula: Lowest total Bid evaluation price divided by a higher total Bid evaluation price (Bid that is being evaluated) multiplied by number of available points equals the cost factor evaluation points. Points will be rounded to two places to the right of the decimal point using standard rounding method.

The Contractor with the lowest Total Bid Evaluation Price will receive the maximum allotted points for pricing. All other Contractors pricing points will be proportionate to the most favorable pricing. The example calculation below shows that a Contractor whose bid price is twice as much as the lowest proposed price would receive only half of the maximum available points.

$$\begin{array}{ccccccc} \text{Lowest Bidder} & & & \text{Other Bidder's} & & & \text{Maximum} \\ \text{Total Bid Evaluation Price} & \div & & \text{Total Bid Evaluation Price} & \times & & \text{Available Points} \\ & & & & & = & \text{Awarded} \\ & & & & & & \text{Price Points} \\ \\ \$100 & \div & \$200 & \times & 70 \text{ points} & = & 35 \text{ points} \end{array}$$

Proposals 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 RFP. Emphasis will be on completeness of content.

Step #3: Interview: The Port may interview top ranked firms that are considered most competitive. If interviews are conducted, rankings of firms and award configurations shall be determined by the Port, using the combined results of interviews and proposal submittals.

The Contractor is to submit the list of names and company affiliations with the Procurement Coordinator before the interview. Contractors invited to interview are to bring the assigned Project Manager and/or Supervisor that has been named by the Contractor in the Proposal, and may bring other key personnel named in the Proposal not to exceed three (3) people total. The Contractor shall not, bring an individual who does not work for the Contractor or for the Contractor's Subcontractor on this project, without specific advance authorization by the Procurement Coordinator.

Step #4: Selection: The Port shall select the highest ranked Contractor for award.

Step #5: Contract Negotiations: The Port may negotiate elements of the proposal as required to best meet the needs of the Port, with the apparent successful Contractor. The Port may negotiate any aspect of the proposal or the solicitation.

Repeat of Evaluation Steps: If no Contractor is selected at the conclusion of all the steps, the Port may return to any step in the process to repeat the evaluation with those proposals that were active at that step in the process. In such event, the Port shall then sequentially step through all remaining steps as if conducting a new evaluation process. The Port reserves the right to terminate the process if it decides no proposals meet its requirements.

Points of Clarification: Throughout the evaluation process, the Port reserves the right to seek clarifications from any Contractor.

Tie Scores: In the event that the top two Contractors receive the same total score, the Procurement Coordinator will use a coin toss to determine the winner. Those on the evaluation team shall serve as witness to the event.

AWARD AND CONTRACT EXECUTION INSTRUCTIONS

The Procurement Coordinator intends to provide written notice of the intention to award in a timely manner and to all Contractors responding to the Solicitation.

Protests and Complaints

Protests and/or complaints are to be filed with the Director of Contracts and Purchasing. The Port has rules to govern the rights and obligations of interested parties that desire to submit a complaint or protest to this RFP process. They are:

- **For specification protests**, the protester must state exact location of the challenged portion or clause, unless the challenge concerns an omission, an explanation of why any provision should be struck, added, or altered, and contain suggested corrections. A specification protest must be filed within five (5) working days of solicitation release;

- **For non-responsive determinations**, the aggrieved Contractor must specifically state why the determination is in error, identify where its submittal where it believes it is responsive, and why it believes, the Port was in error when it made the non-responsive determination. A non-responsive protest must be filed within two (2) working days of notification (Intermediate Saturdays, Sundays and legal holidays are not counted as business days): and
- **For protests regarding award determinations**, the aggrieved Contractor(s) protest must set forth in specific terms the reasons why the Port's decision is thought to be erroneous. An award determination protest must be filed within two (2) working days of notification.

Interested parties have the obligation to be aware of and understand these rules, and to seek clarification as necessary from the Port. Note that there are time limits on protests and Contractors have final responsibility to learn of results in sufficient time for such protests to be filed in a timely manner. Written protests are to be sent by e-mail to procurement@portoftacoma.com. Failure to comply with the protest procedures will render a protest waived. Timely compliance and exhaustion of these protest procedures shall be a condition precedent to any otherwise permissible judicial consideration of a protest.

Instructions to the Apparently Successful Contractor(s)

The Apparently Successful Contractor will receive Intent to Award Letter from the Procurement Coordinator after the award decision is made by the Port. The Letter will include instructions for final submittals that are due prior to execution of the contract or Purchase Order.

Once the contract is issued for signature, the Contractor must execute the contract and provide all requested documents within ten (10) business days. If the Contractor fails to execute the contract with all documents within the ten (10) day period, the Port may cancel the award and proceed to the next ranked Contractor, or cancel or reissue this solicitation. Cancellation of an award for failure to execute the Contract as attached may result in Contractor disqualification for future solicitations for this product/service.

Checklist of Final Submittals Prior to Award

The Contractor(s) should anticipate that the Letter would require at least the following. Contractors are encouraged to prepare these documents as soon as possible, to eliminate risks of late compliance.

- State of Washington Business License
- Completion of New supplier package
- Completed NDA form
- Certificate of Insurance (if a hard-copy is required by the specifications)
- Special Licenses (if any)

Taxpayer Identification Number and W-9

Unless the Contractor has already submitted a Taxpayer Identification Number and Certification Request Form (W-9) to the Port, the Contractor must execute and submit this form prior to the contract execution date.

No RFP Opening – No Reading of Prices

The Port does not conduct a bid opening for RFP responses however; the Port will post a list of those submitting proposals.

Offer Form

Contractor shall specify response in the format and on any forms provided, indicating unit prices if appropriate, and attaching additional pages if needed. In the case of difference between the unit pricing and the extended price, the Port shall use the unit pricing. The Port may correct the extended price accordingly. All prices shall be in US Dollars.

Contractor Responsibility to Provide Full Response

It is the Contractor's responsibility to provide a full and complete written response, which does not require interpretation or clarification by the Procurement Coordinator. The Contractor is to provide all requested materials, forms, and information. The Contractor is responsible to ensure the proper submission of materials and that they accurately reflect the Contractor's specifications or proposal. During scoring and evaluation (prior to interviews if any), the Port will rely upon the submitted materials and shall not accept materials from the Contractor after the RFP deadline. This however this does not limit the right of the Port to consider additional information (such as references that are not provided by the Contractor but are known to the Port, or past experience by the Port in assessing responsibility), or to seek clarifications as needed by the Port.

Partial and Multiple Awards

Unless stated to the contrary in the Scope of Work, the Port reserves the right to name a partial and/or multiple awards, in the best interest of the Port. Contractors are to prepare proposals given the Port's right to a partial or multiple awards. For Proposals, the Port may negotiate with the successful Contractor, to finalize the work and specifications consistent with the objectives of the RFP.

Interlocal Purchasing Agreements

This is for information only and is not be used to evaluate candidates. [RCW 39.34](#) allows cooperative purchasing between public agencies, and other political subdivisions. The seller agrees to provide service(s) at the offer prices, terms, and conditions, to other eligible governmental agencies that have such agreements with the Port. The Port of Tacoma accepts no responsibility for the payment of the purchase price by other governmental agencies. Should the Contractor require additional pricing for such purchases, the Contractor is to name such additional pricing upon offer to the Port.

Contract Terms and Conditions

Contractors are to price and submit proposals with the understanding that they are required to comply with all specifications, requirements, Terms, and Conditions. Contractors are responsible to review all specifications, requirements, Terms and Conditions, insurance requirements, and other requirements herein. Submittal of a

proposal is agreement to comply without exception, unless modified by the Port. The Port has the right to negotiate changes to submitted proposals and to change the Port's otherwise mandatory terms and conditions during negotiations, or by providing notice to the Contractor during the contract.

Negotiations

Nothing herein prohibits the Port from opening discussions with the highest ranked apparent successful Contractor, to negotiate modifications to either the proposal or the contract terms and conditions, in order to align the proposal or the contract to best meet Port needs within the scope sought by the RFP.

Effective Dates of Offer

Offer prices and costs in Contractor's submittal must remain valid until Port completes award. Should any Contractor object to this condition, the Contractor must provide objection through a question and/or complaint to the Procurement Coordinator prior to the proposal due date.

Prompt Payment Discount

On the Offer form or in submittal, the Contractor may state a prompt payment discount term, if the Contractor offers one to the Port. A prompt payment discount term of ten or more days will be considered in evaluation.

Cost of Preparing Proposals

The Port will not be liable for any costs incurred by the Contractor in the preparation and presentation of proposals submitted in response to this RFP including, but not limited to, costs incurred in connection with the Contractor's participation in demonstrations and the pre-proposal conference.

Contractor Responsibility

It is the Contractor responsibility to examine all specifications and conditions thoroughly, and comply fully with specifications and all attached terms and conditions. Contractors must comply with all Federal, State, and City laws, ordinances and rules, and meet any and all registration requirements where required for Contractors as set forth in the Washington Revised Statutes.

Readability

Contractors are advised that the Port's ability to evaluate proposals is dependent in part on the Contractor's ability and willingness to submit proposals, which are well ordered, detailed, comprehensive, and readable. Clarity of language and adequate, accessible documentation is essential.

Changes or Corrections in Proposal Submittal

Prior to the submittal closing date and time, a Contractor may make changes to its proposal, if the change is initialed and dated by the Contractor. No change shall be allowed after the closing date and time. Note that you cannot change, mark-up, or cross-out any condition; format, provision, or term that appears on the Port has published Offer

Form. If you need to change any of your own prices or answers that you write on the Offer Form must be made in pen, initialed, and be clear in intent. Do not use whiteout.

Errors in Proposals

Contractors are responsible for errors and omissions in their proposals. No such error or omission shall diminish the Contractor's obligations to the Port.

Minority & Women's Business Enterprises (WMBE)

The Port of Tacoma encourages participation in all of its contracts by Minority & Women's Business Enterprises (MWBE) firms either self-identified or certified by the Office of Minority & Women's Business Enterprises (OMWBE). While the Port does not give preferential treatment, it does seek equitable representation from the minority and women's business community.

Participation may be either on a direct basis in response to this Solicitation or as a Subcontractor to a Contractor. However, unless required by Federal statutes, regulations, grants, or contract terms referenced in the original Solicitation, no preference will be included in the evaluation of Bids, no minimum level of MWBE participation shall be required as a condition for receiving an award, and Bids will not be evaluated, rejected, or considered Non-Responsive on that basis.

Any affirmative action requirements set forth in Federal regulations or statutes included or referenced in the original Solicitation will apply. Contractors may contact the Office of Minority & Women's Business Enterprises (OMWBE) at <http://www.omwbe.wa.gov/index.shtml> to obtain information on certified firms for potential sub-contracting arrangements. Nothing in this section is intended to prevent or discourage Contractors from inviting participation from non-MWBE firms, MWBE firms, as well as Small and Emerging Businesses.

Withdrawal of Proposal

A submittal may be withdrawn by written request of the submitter, prior to the closing date and time. After the closing date and time, the submittal may be withdrawn only with permission by the Port.

Rejection of Proposals and Rights of Award

The Port reserves the right to reject any or all proposals at any time with no penalty. The Port also has the right to waive immaterial defects and minor irregularities in any submitted proposal.

Incorporation of RFP and Proposal in Contract

This RFP and the Contractor's response, including all promises, warranties, commitments, and representations made in the successful proposal (as accepted by the Port), shall be binding and incorporated by reference in the Port's contract with the Contractor.

Insurance Requirements

1. The Contractor shall procure and maintain during the life of this contract such insurance. It as shall protect it from claims or damages for bodily injury, including

death resulting therefrom as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by itself, its agents, or by anyone directly or indirectly employed by either of them.

2. Certificates of all insurance shall be filed with the Port of Tacoma naming the Port of Tacoma as additional insured, and shall provide:
 - a. That the policies shall not be canceled or the amount thereof reduced, without thirty- days (30) prior written notice to the Port of Tacoma, and
 - b. That thirty-day (30) prior written notice shall also be given if the policy is not to be renewed at the scheduled expiration date.
3. The amount of such insurance shall not be less than:
 - a. Commercial General Liability Insurance, on an occurrence basis, including contractual liability and completed operations, in an amount of not less than One Million Dollars (\$1,000,000.00) for bodily injury, including sickness, disease, and death at any time resulting therefrom, sustained by any person and for property damage;
 - b. Business Auto Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) for damages because of bodily injury or property damage;
4. The Contractor shall procure and maintain insurance in accordance with the requirements of all applicable State and Federal Worker's Compensation Laws. Contractor shall furnish to the Port of Tacoma evidence of such insurance, including Employers Contingent Liability (Stop Gap) Insurance.

Proprietary or Confidential Information

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, Purchasing shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, Purchasing will notify the Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, Purchasing will release the requested information on the date specified.

The Port's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as Purchasing retains Contractor's information in the Purchasing records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

Requesting Disclosure of Public Records

The Port asks Contractors/Sub-Contractors and their companies to refrain from requesting public disclosure of proposal records until an intention to award is announced. This measure is intended to shelter the solicitation process, particularly during the evaluation and selection process or in the event of a cancellation or re-solicitation. With this preference stated, the Port will continue to be responsive to all requests for disclosure of public records as required by State Law.

Non-Endorsement and Publicity

Neither Purchasing nor the Purchasers are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to Purchasing, any Purchaser, or the Port of Tacoma in any literature, promotional material, brochures, sales presentation, or the like, regardless of method of distribution, without the prior review and express written consent of the Purchasing Manager.

PAYMENT**Prohibition on Advance Payments**

The Port does not accept requests for early payment, down payment or partial payment, unless the Bid or Proposal Submittal specifically allows such pre-payment proposals or alternates within the bid process.

Taxes on Invoice

Contractor shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [Chapter 458- 296-127-02620-247 WAC](#).

Identification

All invoices, correspondence, and other written materials associated with this Contract shall be identified by the Contract number or the applicable Purchaser's order number.

ATTACHMENT B –SERVICES TERMS AND CONDITIONS

The contract includes the following terms and conditions and includes the invitation to bid, request for quotations, specifications, plans, resolutions and policies of the Port of Tacoma and the laws of the state of Washington, incorporated herein by reference.

1. Definitions: "Buyer" means Port of Tacoma. "Seller" means the party with whom Buyer is contracting and any reference to "vendor", "subcontractor", "contractor" or "supplier" shall also mean "Seller". The term "purchase order" or "order" shall mean the name or title of the instrument of contracting, including all documents, exhibits, and attachments referenced therein.
2. Changes: No alteration in any of the terms, conditions, delivery, prices, quality, quantities, or specifications of this order will be effective without written order of the Purchasing Manager. Unauthorized substitutions will be made entirely at Seller's risk and, at Buyer's option, may be returned without prior authorization at Seller's expense.
3. Handling: No charges will be allowed for handling which includes, but is not limited to packing, wrapping, bags, containers or reels, unless otherwise stated herein.
4. Delivery: For any exception to the delivery date as specified on this order, Seller shall give prior notification and obtain written approval from the Buyer. With respect to delivery under this order, time is of the essence. The order is subject to termination for failure to deliver as specified. The acceptance of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Seller.
5. Payments, Cash Discount, Late Payment Charges: Separate numbered invoices are required for each order. Invoice only for goods delivered. Invoices will not be processed for payment nor will the period of computation for cash discount commence until receipt of a properly completed invoice or when invoiced items are received, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. Unless otherwise stated, standard payment terms shall be net thirty days following month of invoice date. If Buyer fails to make timely payment, Seller may invoice for one percent per month on the amount overdue, or a minimum of one dollar. Payment shall not be considered late if a check or warrant is available or mailed within the time specified, or if no terms are specified. Payments will normally be remitted by mail. Buyer will not honor drafts, nor accept goods on a sight draft basis.

6. Shipping Instructions: Unless otherwise specified, all goods are to be shipped prepaid, FOB destination. When shipping addresses specify room numbers, Seller shall make such delivery thereto without additional charge. When shipment is specified FOB origin, Seller agrees to prepay all shipping charges, route as instructed and, if instructions are not provided, route by most economical common carrier and to bill Buyer as a separate item on the invoice for said charges. If shipping charges are expected to exceed \$100.00, Buyer shall have the option of determining whether shipping shall be prepaid by Seller or billed directly to Buyer. Seller's invoice for shipping charges shall include a copy of the freight bill showing that payment for shipping charges has been made. It is agreed that Buyer reserves the right to refuse COD shipments.
7. Rejection: All goods or materials purchased herein are subject to approval by the Buyer. Any rejection of goods or material resulting because of nonconformity to the terms and specifications of this order, whether held by the Buyer or returned, will be at Seller's risk and expense.
8. Identification: All invoices, packing lists, packages, shipping notices, instruction manuals, and other written documents affecting this order shall contain the purchase order number. Packing lists shall be enclosed in each and every box or package shipped pursuant to this order and shall specify contents therein.
9. Infringements: Seller agrees to protect and save harmless the Buyer against all claims, suits or proceedings for patent, trademark, copyright or franchise infringement arising from the purchase, installation, or use of goods and materials ordered, and to assume all expenses and damages arising from such claims, suits or proceedings.
10. Nonwaiver By Acceptance Of Variation: No provision of this order, or the right to receive reasonable performance of any act called for by the Terms shall be deemed waived by a waiver by Buyer of a breach thereof as to any particular transaction or occurrence.
11. Warranties: Seller warrants that articles supplied under this order conform to specifications herein and are fit for the purpose for which such goods are ordinarily employed, except that if a particular purpose is stated, the material must also be fit for that particular purpose.
12. Assignments: The provisions or monies due under this contract shall only be assignable with prior written consent of the Purchasing Manager. Shipment and billings made under any name other than Seller's must indicate that shipment is being made through and is subject to all instructions, terms and conditions of this order.

13. Taxes: Unless otherwise specified, Buyer agrees to pay all state of Washington sales or use tax. No charge by Seller shall be made for federal excise taxes and Buyer agrees to provide exemption certificates when required.

14. Liens: Vendor warrants and represents that all the goods and materials furnished pursuant to this order are free and clear of all liens, claims or encumbrances of any kind.

15. Risk Of Loss: Regardless of FOB point, Seller agrees to bear all risks of loss, injury or destruction of goods and materials ordered herein which occur prior to delivery. Such loss, injury or destruction shall not release Seller from any obligation hereunder.

16. Save Harmless: Seller shall protect, indemnify, and save the Buyer harmless from and against any damage, cost or liability for any injuries to persons or property arising from acts or omissions of Seller, its employees, agents, or subcontractors.

Seller shall indemnify and defend Buyer from any third party loss, damage, expense or liability resulting from any third party claim that the Service, as provided by Seller, prospectively infringes any patent, copyright, trademark, service mark, trade secret or other intellectual property right ("IP Right"); provided however, that Seller's obligations under this section are contingent upon: (i) Buyer providing prompt notice of such claim to Seller in writing, (ii) Buyer providing Seller with sole control and authority over the defense and/or settlement of such claim, and (iii) Buyer cooperating with Seller (at Seller's expense) in the defense and/or settlement of such claim upon Seller's written request. The foregoing will not apply to any claim based on the combination of Service with other products, services or functionality. If a claim for which Seller may have an indemnification obligation hereunder is or may be made, Seller may, at its option and expense: (i) obtain for Buyer the right to continue to use the Service consistent with this Agreement; (ii) modify the Service so that it is non-infringing and in compliance with the Agreement; or (iii) replace the Service with an alternative, non-infringing Service with equivalent functionality. The foregoing states Seller's only obligations (and Buyer's sole and exclusive remedy) for any claims, actions, liabilities, damages or losses arising in connection with alleged or actual infringement, violation or misappropriation of an IP Right by the Services.

17. Prices: Seller agrees that goods shall be billed at the lowest price at which it offers to sell or sells goods of the same description at or before time fixed in this order for shipment, if price is not stated on this order.

18. Termination: In the event of breach by Seller of any of the provisions of this contract, the Buyer reserves the right to terminate this contract forthwith upon giving oral or written notice to Seller. Seller shall be liable for damages suffered by Buyer resulting from Seller's breach of contract.

19. **Nondiscrimination:** The Seller agrees not to discriminate against any client, employee or applicant for employment or services because of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap with regard to, but not limited to the employment upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, selection for training, or rendition of services. It is further understood and agreed that any Seller who is in violation of this clause or an applicable affirmative action program shall be barred forthwith from receiving awards of any purchase order from the Port of Tacoma unless a satisfactory showing is made that discriminatory practices or noncompliance has terminated and that a recurrence of such acts is unlikely.
20. **Anti-Trust:** Seller and Buyer recognize that in actual economic practice, overcharges resulting from anti-trust violations are in fact borne by the Buyer. Therefore, Seller hereby assigns to the Buyer any and all claims for such overcharges.
21. **Default:** The parties agree that in the event a suit is instituted for any default, the prevailing party shall recover its costs, expenses expended or incurred in connection therewith, and reasonable attorney's fees. The parties agree that the Superior Court of the State of Washington shall have jurisdiction over any such suit, with venue in Pierce County.
22. **Brands:** When a special brand is named it shall be construed solely for the purpose of indicating the standard of quality, performance, or use described. Brands of equal quality, performance and use shall be considered, provided Seller specifies the brand and model and submits descriptive literature, when available. Any bid containing a brand which is not equal quality, performance, or use specified must be represented as an alternate and not as an equal, and failure to do so shall be sufficient reason to disregard the bid.
23. **Blanket Purchase Order:** This order is subject to these terms and conditions. Purchases are made as required without minimum or maximum amounts. Purchases are subject to price list provided by Vendor. Order may be terminated by the Port at any time.
24. **Acceptance:** This order expressly limits acceptance to the terms and conditions stated herein. All additional or different terms proposed by Seller are objected to and hereby rejected, unless otherwise provided in writing by the Purchasing Manager.

ATTACHMENT C – REFERENCES QUESTIONNAIRE

INSTRUCTIONS TO THE PROPOSER:

Proposers are allowed three (3) completed reference questionnaires. The completed references questionnaires must be from individuals, companies, or agencies with knowledge of the proposer's experience that is similar in nature to the products or services being requested by this RFP, and are within the last (3) years from the date this RFP was issued.

References not received within three (3) business days after being requested by the Port's Procurement Coordinator will receive a score of "0" for that reference. References outside the (3 years) (see paragraph above), and references determined to be not of a similar nature to the products or services requested by this RFP will also receive a score of zero (0) points. **Determination of similar will be made by using the information provided by the reference in Section II of the Reference Questionnaire, General Information and any additional information provided by the reference.**

If more than three (3) qualifying references are received, the first three (3) fully completed references received will be used for evaluation purposes. References will be averaged.

1. Proposers must complete the following information on page 2 of the "Reference's Response To" document before sending it to the Reference for response.
 - a. Print the name of your reference (company/organization) on the "REFERENCE NAME" line.
 - b. Print the name of your company/organization on the "PROPOSER NAME" line.
 - c. Enter the RFP Closing date and time in Instruction 5 (see the INSTRUCTIONS block.)
2. Send the "Reference's Response To" document to your references to complete.

NOTE: It is the proposer's responsibility to follow up with their references to ensure timely submission of all questionnaires. Proposers may e-mail the Procurement Representative to verify receipt of references.

**REFERENCE QUESTIONNAIRE
REFERENCE'S RESPONSE TO:
RFP Number: 069939
RFP Title: Information Technology Contract Staffing Services**

REFERENCE NAME
(Company/Organization): _____

PROPOSER NAME (Company/Organization): _____ has submitted a proposal to the Port of Tacoma, provide the following services: **Photo Archiving System**. We've chosen you as one of our references.

INSTRUCTIONS

1. Complete **Section I. RATING** using the Rating Scale provided.
2. Complete **Section II. GENERAL INFORMATION** (*This section is for information only and will not be scored.*)
3. Complete **Section III. ACKNOWLEDGEMENT** by manually signing and dating the document.
(*Reference documents must include an actual signature.*)
4. E-mail **THIS PAGE** and your completed reference document, **SECTIONS I through III** to:

Procurement Representative: Sharon Rothwell

E-mail: procurement@portoftacoma.com
5. This completed document **MUST** be received no later than **?at 2:00 p.m. (PST)**. Reference documents received after this time will not be considered. **References received without an actual signature will not be accepted.**
6. DO **NOT** return this document to the Proposer.
7. In addition to this document, the Port may contact references by phone for further clarification if necessary.

Section I. RATING

Using the Rating Scale provided below, rate the following numbered items by circling the appropriate number for each item:

Rating Scale	
Category	Score
Poor or Inadequate Performance	0
Below Average	1 – 3
Average	4 – 6
Above Average	7 - 9
Excellent	10

Circle **ONE** number for each of the following numbered items:

1. Rate the overall quality of the firm's services:

10 9 8 7 6 5 4 3 2 1 0

2. Rate the response time of this firm:

10 9 8 7 6 5 4 3 2 1 0

3. Rate the overall customer service and timeliness in responding to customer service inquiries, issues and resolutions:

10 9 8 7 6 5 4 3 2 1 0

4. Rate the knowledge of the firm's assigned staff and their ability to accomplish duties as contracted:

10 9 8 7 6 5 4 3 2 1 0

5. Rate the accuracy and timeliness of the firm's billing and/or invoices:

10 9 8 7 6 5 4 3 2 1 0

6. Rate the firm's ability to quickly and thoroughly resolve a problem related to the services provided:

10 9 8 7 6 5 4 3 2 1 0

7. Rate the firm's flexibility in meeting business requirements:

10 9 8 7 6 5 4 3 2 1 0

8. Rate the likelihood of your company/organization recommending this firm to others in the future:

10 9 8 7 6 5 4 3 2 1 0

Section II. GENERAL INFORMATION

1. Please include a brief description of the services provided by this firm for your business:

2. During what time period did the firm provide these services for your business?

Month: _____ Year: _____ to Month: _____ Year: _____

Section III. ACKNOWLEDGEMENT

I affirm to the best of my knowledge that the information I have provided is true, correct, and factual:

Signature of Reference

Date

Print Name

Title

Phone Number

Email Address

ATTACHMENT D – Requirements Matrix

Each requirement in this section is preceded by a priority, and then followed by a description, coded response, and vendor comments. Please read the priority definitions below:

Priority	Description
Mandatory	The solution will fail if it cannot meet this requirement.
High	This feature is highly desirable and will be implemented as long as it is feasible to do so.
Medium	This feature is desired, but if the work required to implement the feature is too great, it will be sacrificed, at Port's discretion.
Beneficial	This feature is "nice to have." It will be implemented as long as it does not require significant additional costs or work.

Proposer must enter the most appropriate Code in the 'Coded Response' column for each requirement listed. Use only the Codes listed below. Provide a response for each row and only list one Coded Response per row. Include additional information or further description in the 'Proposer Comment' column as indicated.

Coded Response	Description
F	Fully provided out-of-the-box (no modification or customization required)
M	Can be provided with modifications (describe in Proposer Comments)
C	Requires customization at Port of Tacoma's cost (explain in Proposer Comments)
A	Port of Tacoma has the option to develop this functionality via use of a vendor-supplied API or SDK
R	Met by use of a reporting tool
TP	Met using a third-party solution (specify in Proposer Comments)
NV	Next version/release of software will have this functionality (specify in Proposer Comments)
NA	Not available

No.	Priority	Description	Coded Response	Proposer Comments
		Functional Requirements – Software/System		
1	Mandatory	System has a single, centralized data store.		
2	Mandatory	System captures EXIF and IPTC metadata.		
3	Mandatory	System is metadata searchable.		
4	High	Bulk uploading is possible.		
5	High	System has iOS and Android mobile apps.		
6	Mandatory	System can work with file types: jpeg, Png, Gif, Mobi, mp4, mp3, and wav.		
7	Medium	System can work with file types: TIF, TIFF, PSD, DNG, CR2, NEF, AL, PDF, EPS, SVG, DFont, OTF, TTF, MOV, M4V, MP4A, AIFF, AIF as image, and AAC HEIF as non-image.		
8	Medium	System supports folders.		
9	High	System works with Photo Mechanic, Photo Shop, and other common photo editing software.		
10	Beneficial	System works with Adobe Premier.		
		Functional Requirements – Reporting/Compliance		
11	Mandatory	System has secure remote access.		
12	High	System must have access control with ability to send links to specific files for access by external customers.		
		Other Requirements		

13	High	System can integrate with the Port's Active Directory for user login and passwords.		
14	Medium	Is a SaaS (Software as a Service) solution.		
15	High	System can produce thumbnails while searching in 5 seconds or less		

ATTACHMENT E – Port of Tacoma General SaaS Requirements

The following table describes the general requirements for Software as a Service (SaaS) solutions at the Port of Tacoma. **If the solution being proposed is a SaaS solution then it should comply with these requirements.**

Requirement	
	The system shall be capable of supporting 24/7 365 availability
	The system shall be protected by current virus and malware protection software
	The system shall be protected by firewalls that serve to prevent unauthorized access and attacks
	The system shall be capable of providing an audit log of:
	All users with general access
	All users with superuser access
	All users with system level access
	All users with database level access
	All users with server level access
	The system shall be capable of providing an audit log of access for all users
	The system shall be supported by data centers located in the continental United States
	The system shall have redundancy protocols in place that support
	Less than 15 minute downtime for users
	Less than 30 minute loss of data for users
	Do not require users or PoT staff to update configuration settings
	The system shall have backup protocols in place that support
	A restore/ image point for data taken once per hour
	A restore/ image point for system and data taken once per day
	A restore/ image point for system and data taken once per week
	A restore/ image point for system and data taken once per month in an additional format [such as tapes] in the event of a total loss of the system
	The system shall be physically protected by:
	On premise security personnel
	Controlled access
	Continuous video surveillance
	Seismically braced server racks
	Fire suppression systems
	Continuous monitoring of server operations
	The system shall be supported by a disaster recovery plan
	That is tested at minimum of 1x per year
	Testing shall be of minimum impact to PoT users
	The system shall be able to ensure that no data belonging to the PoT is shared with other customers
	The system shall be supported by a penetration testing plan
	That is tested at minimum of 1x per year
	Testing shall be of minimum impact to PoT users
	Testing shall not require PoT staff to support

	The system shall be able to ensure that no data belonging to the PoT leaves the continental United States
	The system shall be composed of components in accordance with NIST Special Publication 800-53r4 including but not limited to:
	Code base
	Application
	Servers
	Web servers
	Web Servers will additionally conform to most up-to-date SSL certificate standards
	Databases
	Database names shall be encrypted
	Stored data
	Data shall be encrypted using a minimum of
	256-bit encryption
	All client data elements shall be encrypted
	Transmitted data
	Data shall be encrypted using a minimum of
	256-bit encryption
	Transport Layer Security [TLS]
	Transparent Data Encryption [TDE]
	Network infrastructure
	The system shall be capable of supporting secure passwords by:
	Encrypting all user passwords
	Secured database for storage
	The system shall be supported by a documented Security Plan
	The system shall be able to keep confidential data related to:
	Port sensitive data
	Personally identifiable information
	The vendor shall be able to provide an annual audit to support the following items:
	Security Vulnerability
	SSAE16
	The system vendor shall have the following notification obligations to the PoT:
	Immediate notification in the event of a system failure
	Immediate notification upon the discovery of a virus attack
	Root cause analysis documentation within several hours of the virus attack effects being reduced
	Immediately in the event of a security breach
	Immediately if an acceptable use breach is detected
	2 hours in the event of a client data breach
	Within five (5) business days any remediation items needed as a result of the Security Vulnerability Audit
	Immediately by phone in the event of a Force Majeure resulting in a system outage
	In writing subsequent to phone call with details of the outage
	Notifications of upgrades/ patches etc. that may alter or change the user experience
	Notifications of upgrades/ patches etc. that may alter or change the security infrastructure

ATTACHMENT F – PORT OF TACOMA SOFTWARE AS A SERVICE AGREEMENT

PORT OF TACOMA SOFTWARE AS A SERVICE AGREEMENT (Software)

This Port of Tacoma Software as a Service Agreement (“Agreement”) is by and between the Port of Tacoma (“Port”) (on behalf of the Northwest Seaport Alliance (NWSA)) and _____ hereby known as the “Vendor.” This Agreement is effective when fully executed and approved in accordance with applicable laws, rules and regulations (“Effective Date”). This Agreement is in relation to the Software as a Service Licensing only. Any services or products necessary for Implementation will be performed or obtained in accordance with a separate Personal Services Agreement (“PSA”) XXXXXX.

THE SOFTWARE AS A SERVICE AGREEMENT IS MADE IN CONJUNCTION WITH THE TERMS AND CONDITIONS SET FORTH IN THE PSA RESULTING FROM REQUEST FOR PROPOSAL (“RFP”) XXXXX. IN THE EVENT OF A CONFLICT BETWEEN THIS AGREEMENT AND THE PSA, AND/OR THE RFP, THE TERMS AND CONDITIONS OF THE FOLLOWING SHALL BE CONTROLLING IN THE PRIORITY SET FORTH BELOW, WITH NUMBER 1 BEING THE MOST CONTROLLING AND NUMBER 4 BEING THE LEAST CONTROLLING:

1. SOFTWARE AS A SERVICE AGREEMENT
2. PSA
3. RFP
4. Vendor’s Proposal

RECITALS

- A. The Port desires to enter into this Software as a Service Agreement with Vendor to provide Hosted Software Services as described in RFP XXXXX.
- B. Vendor desires and agrees to perform the Services as outlined in RFP XXXXX.

TERMS OF SERVICE

EACH PARTY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS, AND THAT THE PERSON SIGNING ON ITS BEHALF HAS BEEN AUTHORIZED TO DO SO. THE PERSON EXECUTING THIS AGREEMENT ON VENDOR’S BEHALF REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO BIND THE VENDOR TO THESE TERMS AND CONDITIONS.

1. DEFINITIONS. The following capitalized terms shall have the following meanings whenever used in this Agreement.

- 1.1. "AUP" means Vendor's Acceptable Use Policy dated_____currently posted at _____.
- 1.2. "Acceptance" means written confirmation by the Port that the Vendor's software has met the requirements stated in RFP XXXXX and in its RFP Proposal.
- 1.3. "Anniversary Date" means the date that is 365 days after the Effective Date, and each anniversary thereafter of the date that is 365 days after the Effective Date, during this Agreement's Term.
- 1.4. "Client Data" means the data that Designated Users transmit and/or enter into the database provided as part of the Vendor's system in connection with their use of the SaaS Software pursuant to this Agreement.
- 1.5. "Deliverables" means the Services and all software that Vendor is required to deliver to the Port under this Agreement.
- 1.6. "Designated User" means Port authorized personnel who have access the Vendor's SaaS Software for business purposes.
- 1.7. "Documentation" means all documents, including documents that are Deliverables described in this Agreement and includes, but is not limited to, any and all operator's or user's manuals, training materials, guides, commentary, listings, requirements traceability matrices and other materials for use in conjunction with and for the operation of services that are to be delivered by the Vendor under this Agreement.
- 1.8. "Effective Date" means the date of the last party signature on this Agreement.
- 1.9. "Force Majeure Event" means neither party shall be liable or deemed to be in default for any delay in performance occasioned by unforeseeable causes beyond the contract and without the fault or negligence of the parties, including but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantines, restrictions, strikes or labor disputes, embargoes, sabotage, cable cut not caused by Vendor, or usually severe weather; provided that in all cases of delay in performance, the Vendor shall immediately notify the Port by telephone, of such delay, and follow up such oral notice with prompt written notice detailing the cause for delay. The Vendor shall make every reasonable effort to complete performance as soon as possible. This clause does not apply to Service issues involving network outages cause by or related to a network that is not owned or controlled by the Vendor.
- 1.10. "Party" and "Parties" means the Port and Vendor.

- 1.11. “SaaS Software Application”, “SaaS Solution” and “SaaS Software” mean the computer software listed on a SaaS subscription schedule to which Vendor has granted the Port access and use as part of the subscription. This includes any customization, other derivative works, upgrades, releases, fixes, patches, etc., related to the software that Vendor develops or deploys during the term of this Agreement, together with all documentation provided by or otherwise required of Vendor for any of the software, customization, other derivative works, upgrade, releases, fixes, patches, etc.
- 1.12. “SLA” means Port’s standard service level agreement, as set forth in Exhibit B, Port of Tacoma Service Level Agreement (SLA).
- 1.13. “System” means the Port’s access to and use of and Vendor’s SaaS Software Applications and other services listed in this Agreement (Exhibit A, Licensed Software and Fee Schedule), in accordance with the terms and conditions set forth in this Agreement.
- 1.14. “Term” is defined in Section below.

2. THE SYSTEM.

The System is defined as the Port’s access to and use of and Vendor’s provision of the SaaS Software Applications and other services listed in this Agreement, in accordance with the terms and conditions set forth in this Agreement. (See Definitions, 1.13., “System”)

- 2.1. Use of the System. During the Term, the Port may access and use the System pursuant to the terms the Vendor’s AUP.
- 2.2. Service Levels. Vendor shall provide the remedies listed in Exhibit B, Port of Tacoma SLA, attached hereto and incorporated herein, for any failure of the System listed in the SLA. Such remedies are Port’s remedies for any failure of the System. Credits issued pursuant to the SLA apply to outstanding or future invoices and may be deducted from any final payment upon termination of this Agreement. Vendor is not required to issue refunds or to make payments against such credits under any circumstances, including without limitation after termination of this Agreement.
- 2.3. Application Support Hours. The Vendor’s application core support hours must be from 07:00 to 18:00 PST/PDT, Monday through Friday (excluding Port holidays). The Port’s holidays are New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Day after Thanksgiving, Christmas Eve Day, and Christmas Day. For Severity Levels 1 and 2 (as documented in Exhibit B, Service Level Agreement), the Vendor must be available during non-core support hours.

- 2.4. Virus Protection. The Vendor will use the most robust up-to-date virus and malware protection software and/or technology solutions available. The Vendor agrees to prevent viruses from being loaded into the SAAS Solution and into the Port's own standard IT environment through its software. If a virus is inadvertently introduced, the Vendor will take immediate and appropriate steps to reduce the effects of the virus and will notify the Port immediately upon discovery of the virus. The Port expects the Vendor to take immediate steps to respond to the virus, and for root cause analysis to be performed at a later reasonable time, i.e., within hours after the effects of the virus are reduced. Upon completion of the analysis, the results of the Vendor's root cause analysis will be shared with the Port, in writing.
- 2.5. Software and Hardware Updates / Patches. The Vendor is responsible for ensuring that systems, applications, database, operating systems and firewalls receive regular updates and/or patches for SaaS system high availability and protection.
- 2.6. Data Centers / Disaster Recovery. Any and all data centers utilized must be located within the continental United States. Data centers, server, storage and network infrastructure utilized must provide high levels of redundancy and availability. The Vendor will provide system restore/image, snapshots and backups on an hourly, daily, weekly and monthly schedule for recovery. In addition, the Vendor will ensure that network, server and storage infrastructure is actively monitored and managed for availability and performance which includes site security including but not limited to: on-premises security personnel, continuous video surveillance, screening of all people entering or exiting the premises, seismically braced server racks, high-tech fire suppression systems and round-the-clock monitoring of server operations. Disaster Recovery and penetration testing exercises must be documented along with a plan to fix any deficiencies. The outcome of these exercises must be available to the Port upon request. All client data must be stored and remain in the continental United States.
- 2.7. Documentation: The Port may reproduce and use the documentation solely as necessary to support Designated Users' use of the System.
- 2.8. Designated System Revisions. The Port recognizes the Vendor may revise System features and functions at any time. If any such revision to the System materially reduces features or functionality mutually agreed upon by the Parties, the Port may within 30 days of notice of the revision terminate this Agreement without cause. If any such revision to the SLA materially reduces service levels mutually agreed upon by the Parties, the Port may within 30 days of notice of revision terminate this Agreement without cause.

3. SYSTEM FEES. The Port shall pay Vendor the fee set forth in Exhibit A, Licensed Software and Fee Schedule, attached hereto and incorporated herein.

- 3.1. Implementation Schedule. For purposes of a first time set-up and/or implementation for the Port, Vendor will provide a schedule for the implementation, including the milestones that must be met and hard dates by which the milestones must be met.
- 3.2. Milestone Payments. Payment for first time implementation for the Port will be tied to successful completion of milestones associated with hard dates or deadlines. A payment schedule is provided in Exhibit A, Licensed Software and Fee Schedule.

4. CYBERSECURITY AND CLIENT DATA PRIVACY.

- 4.1. Cybersecurity. All solution components, including code base, application, servers, web servers, databases, data at rest and in motion, and network infrastructure including firewalls, are developed, configured and maintained using industry standard cybersecurity best practices in accordance with NIST Special Publication 800-53r4 (or successor publications). For the web servers, the Vendor will use SSL certificate to secure connectivity for users. The Vendor will maintain a documented Security Plan that it will supply to the Port upon request. The Vendor will undergo Security Vulnerability Audits annually, and supply audit reports to the Port upon request. Once the Security Vulnerability Audit is completed, the Vendor will create a remediation plan and implement the plan to address any failed areas. Within five (5) business days, the Port will receive a copy of the Vendor's remediation plan. The Vendor will notify the Port immediately of any security breach of the Vendor's SaaS infrastructure or unauthorized access to the Port's data; will work immediately and without interruption to resolve the breach and the vulnerability; and will provide the Port with a copy of an incident review.
- 4.2. Use of Client Data. Unless it receives the Port's prior written consent, Vendor: (a) shall not access, process, or otherwise use Client Data other than as necessary to facilitate the System; and (b) shall not grant any third party access to Client Data, including without limitation Vendor's other customers. Notwithstanding the foregoing, Vendor may disclose Client Data as required by applicable law or by proper legal or governmental authority. Vendor shall give the Port prompt notice of any such legal or governmental demand and reasonably cooperate with the Port in any effort to seek a protective order or otherwise to contest such required disclosure.
- 4.3. Protection of Client Data Stored Within the SaaS Solution. The Port's confidential information, sensitive data and/or personally identifiable information may be stored within the SaaS Software. The Port requires that the Vendor understand that (1) the Port owns its own data, (2) the Vendor will provide protection against the release or transfer of that data, (3) the Vendor is required to notify the Port within two (2) hours of any breach and will provide the Port with the specific steps that will be taken if a security breach occurs or is suspected.
- 4.4. Data Encryption. Vendor shall ensure that all data transfers, i.e., data moving or

data at rest, will be encrypted. For data in transit, the Vendor will ensure encryption with 256-bit encryption and Transport Layer Security (TLS) and file-level encryption will be performed via Transparent Data Encryption (TDE). In order to ensure client anonymity, the Vendor will encrypt the database names. Data at rest will have a robust encryption method in place to encrypt all Client data elements. In addition, the Vendor will encrypt all user passwords with a form-based system login and store all encrypted user passwords in a secure database.

- 4.5. Records Retention. Until the expiration of six years after the term of this Agreement, Vendor agrees to maintain accurate records of all work done in providing services specified by this Agreement, including the Port's client data hosted, stored, or maintained by Vendor, and to deliver such records to the Port upon termination of this Agreement or otherwise as requested by the Port.
- 4.6. Risk of Exposure. The Port recognizes and agrees that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using the System, the Port assumes such risks. Vendor warrants that it will make all commercially available efforts to ensure that Client Data will not be exposed or disclosed through errors or the actions of third parties. The Vendor must ensure that it has performed all commercially available efforts to protect the Port's client data in accordance with Section 2. The System, and Section 2.5 Cybersecurity.
- 4.7. Data Accuracy. Vendor shall have no responsibility or liability for the accuracy of data uploaded to the System by the Port, including without limitation Client Data and any other data uploaded by Designated Users.
- 4.8. SSAE16 Audits. During the term of this Agreement, and so long as SSAE16 remains a current and industry standard auditing standard, Vendor agrees to annually undertake an audit in accord with the American Institute of Certified Public Accountants' Statement on Standards for Attestation Engagements No. 16 or a successor standard ("SSAE16") with respect to the services offered in Exhibit A. Upon the Port's request, and no more than annually, Vendor agrees to provide a copy of its then-current SSAE16 audit report for the Port's review. Additionally, the Port requires the Vendor to perform an annual Cybersecurity Vulnerability assessment performed at the same intervals as the audit and the findings relating to Port's SaaS system will be shared with the Port.

5. THE PORT'S RESPONSIBILITIES & RESTRICTIONS.

- 5.1. Acceptable Use. The Port shall comply with the AUP identified in Section 1.1. The Port shall not: (a) use the System for service bureau or time-sharing purposes or in any other way allow third parties to exploit the System; (b) provide System passwords or other log-in information to any third party; (c) share non-public System features or content with any third party, subject to the Port's obligations set forth in Section 11.10; or (d) access the System in order to build a competitive

product or service, to build a product using similar ideas, features, functions or graphics of the System, or to copy any ideas, features, functions or graphics of the System. In the event that it suspects any breach of the requirements of this Section 5.1, including without limitation by Designated Users, Vendor will immediately notify the Port of any breach for unauthorized use.

- 5.2. Unauthorized Access. The Port shall take reasonable steps to prevent unauthorized access to the System, including without limitation by protecting its passwords and other log-in information. The Port shall notify Vendor immediately of any known or suspected unauthorized use of the System or breach of its security and shall use best efforts to stop said breach.
- 5.3. Designated Users & System Access. The Port is responsible and liable for: (a) Designated Users' use of the System, including without limitation unauthorized Designated User conduct and any User conduct that would violate the AUP or the requirements of this Agreement applicable to the Port; and (b) any use of the System through Port's account, whether authorized or unauthorized, except to the extent said use is performed by persons or entities not employed by or affiliated with the Port.

6. INTELLECTUAL PROPERTY (IP).

- 6.1. IP Rights to the System. Vendor retains all right, title, and interest in and to the System, including without limitation all software used to provide the System and all graphics, user interfaces, logos, and trademarks reproduced through the System. This Agreement does not grant the Port any intellectual property license or rights in or to the System or any of its components, except to the extent this Agreement provides the Port with the right to use the System as expressly provided herein. The Port recognizes that the System and its components are protected by copyright and other laws.

7. CONFIDENTIAL INFORMATION. "Confidential Information": Pursuant to this Agreement, Vendor may collect, or the Port may disclose to Vendor, financial, personnel or other information that the Port regards as proprietary or confidential ("Confidential Information"). Confidential Information shall belong solely to the Port. Vendor shall use such Confidential Information only in the performance of its services under this Agreement and shall not disclose Confidential Information or any advice given by it to the Port to any third party, except with the Port's prior written consent or under a valid order of a court or governmental agency of competent jurisdiction and then only upon timely notice to the Port. The Port may require that Vendor's officers, employees, agents or sub-vendors agree in writing to the obligations contained in this section. Confidential Information shall be returned to the Port upon termination of this Agreement. The confidentiality obligation contained in this section shall survive termination of this Agreement. Confidential Information shall not include data or information that: (a) is or was in the possession of Vendor before being furnished by the Port, provided that such information or other data is not known by Vendor to be subject to another confidentiality agreement with or other obligation of secrecy to the

Port; (b) becomes generally available to the public other than as a result of disclosure by Vendor, or; (c) becomes available to Vendor on a non-confidential basis from a source other than the Port, provided that such source is not known by Vendor to be subject to a confidentiality agreement with or other obligation of secrecy to the Port.

- 7.1. Non-disclosure. The Port may require a Non-Disclosure Agreement to be signed by the Vendor and its employees.
- 7.2. Termination & Return. Upon termination of this Agreement, the Vendor shall return all copies of the Port's data within 5 business days or certify, in writing, the destruction thereof.
- 7.3. Retention of Rights. This Agreement does not transfer ownership of Confidential Information or grant a license thereto. The Parties will retain all right, title, and interest in and to all their Confidential Information.

8. REPRESENTATIONS & WARRANTIES.

- 8.1. From Vendor. Vendor represents and warrants that it is the owner of the System and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the rights granted in this Agreement without the further consent of any third party. In the event of a breach of the warranty in this Section, Vendor, at its own expense, will promptly take the following actions: (a) secure for the Port the right to continue using the System; (b) replace or modify the System to make it noninfringing; or (c) terminate the infringing features of the Service and refund to the Port any prepaid fees for such features, in proportion to the portion of the Term left after such termination. In conjunction with Port's right to terminate for breach where applicable, the preceding sentence states Vendor's sole obligation and liability, and Port's sole remedy, for breach of the warranty in this Section and for potential or actual intellectual property infringement by the System.
- 8.2. Warranty Period. For the period of one (1) year (Warranty Period), the SaaS Software supplied to the Port shall conform to the Acceptance criteria set forth in the RFP XXXXX and the Vendor's RFP Response and shall be free from error or defect that materially impairs their use.
- 8.3. Warranty Use. All services and SaaS Software supplied by the Vendor to the Port shall be provided to the Port free and clear of any and all restrictions on or conditions all liens, claims, mortgages, security interests, liabilities and encumbrances of any kind.

9. INDEMNIFICATION.

- 9.1. Save Harmless. The Vendor shall defend, indemnify and hold the Port harmless from any and all liability, claims, damages, costs, expenses, and actions, including reasonable attorney's fees, to the extent caused by or arising from the negligent or wrongful acts or omissions under this Agreement of the Vendor, its employees,

agents, or subcontractors, that cause death or bodily injury, or damage to property, or arising out of a failure to comply with any state or federal statute, law, regulations or act.

10. Term & Termination.

- 10.1. Term. The term of this Agreement (the "Term") shall commence on the Effective Date and continue for a period of _____. By mutual agreement, this Agreement may be renewed, under the existing terms and conditions, for a period of successive one (1) year periods, not to exceed X years.
- 10.2. Termination for Convenience. The Port may terminate this Agreement at any time for government convenience upon 30 days' advance written notice. On the date of termination, the Port shall pay the Vendor any outstanding undisputed fees for Services not yet performed.
- 10.3. Effects of Termination. Upon termination of this Agreement, the Port shall cease all use of the System and delete, destroy, or return all copies of the documentation in its possession or control, subject to the Port's obligations to retain and/or disclose records pursuant to applicable law. The Vendor will return all client data within 5 business days via the last back-up copy of the system database. The following provisions will survive termination or expiration of this Agreement: (a) any obligation of the Port to pay fees incurred before termination; (b) Articles and Sections *IP*, *Confidential Information*, and *Limitation of Liability*.

11. MISCELLANEOUS.

- 11.1. Independent Contractors. The parties are independent contractors and will so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf. The parties agree that no Vendor employee or contractor will be an employee of The Port.
- 11.2. Notices. Vendor may send notices pursuant to this Agreement to the following Port representative _____, at the following e-mail address: _____, and such notices will be deemed received 24 hours after they are sent. The Port may send notices pursuant to this Agreement to _____, and such notices will be deemed received 24 hours after they are sent.
- 11.3. Assignment & Successors. Vendor may not assign this Agreement or any of its rights or obligations hereunder without Port's express written consent. Any attempt to assign this Agreement, without prior written approval, shall result in the termination of this Agreement, at the sole discretion of the Port. All rights of action for any breach of this Agreement by the Vendor are reserved by the Port.
- 11.4. Subcontracting. The Vendor may enter into any subcontract(s) relation to the performance of this Agreement if mutually agreed upon in writing by both parties. The Vendor's use of subcontracts shall not in any way relieve the Vendor

of its responsibility for the professional and technical accuracy, adequacy, and timeliness of the work to be performed under this Agreement. The Vendor shall be and remain liable for the performance of the work in accordance with this Agreement, as well as any damages to the Port caused by the negligent performance or non-performance of the Vendor's subcontractor(s).

- 11.5. Severability. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 11.6. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.
- 11.7. Choice of Law & Jurisdiction: This Agreement will be governed solely by the internal laws of the State of Washington. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of Pierce County, Tacoma, Washington.
- 11.8. Time is of the Essence. Vendor agrees that time is of the essence in its performance under this Agreement.
- 11.9. Technology Export. The Port shall not: (a) permit any third party to access or use the System in violation of any U.S. law or regulation; or (b) export any software provided by Vendor or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, The Port shall not permit any third party to access or use the System in, or export such software to, a country subject to a United States embargo (as of the Effective Date, Cuba, Iran, North Korea, Sudan, and Syria).
- 11.10. Public Records. The Port has to avail its records to a public inspection. Any and all records, i.e., proposals and pricing provided by the Vendor, this Agreement, client data, and other documentation are considered non-confidential and non-proprietary in nature and will be subject to public records requests, public disclosure, and audit.
- 11.11. Amendments. Any amendment or modification to this Agreement must be mutually agreed upon by both parties via a written amendment to be effective.