

SEATTLE COMMUNITY COLLEGES

REQUEST FOR PROPOSAL

RFP NO. 080108

PROJECT TITLE: Fundraising Campaign Consulting - Seattle Community Colleges

PROPOSAL DUE DATE: **August 15, 2008 4:00 p.m. Pacific Standard Time, in Seattle, Washington**

EXPECTED TIME PERIOD FOR CONTRACT: **September 15, 2008 through September 15, 2009. Seattle Community College reserves the right to extend the contract for up to one additional one-year period at the sole discretion of Seattle Community College.**

CONSULTANT ELIGIBILITY: This procurement is open to those consultants who satisfy the minimum qualifications stated herein and who are available for work in Washington State.

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1. INTRODUCTION

The State of Washington, SEATTLE COMMUNITY COLLEGE DISTRICT VI (SCCD), also referred to in this document as the “District”, is requesting proposals to provide Campaign Consulting to finalize a \$25 million fundraising campaign.

1.1. BACKGROUND

The Seattle Community College District includes campuses throughout the City of Seattle: North Seattle, Seattle Central, and South Seattle Community Colleges; the Seattle Vocational Institute; and Georgetown, Maritime, and Wood Construction Training Centers. The District is governed by a five-member Board of Trustees appointed by the Governor; presidents at the three community college campuses report to the Chancellor. The District is the second-largest institution of higher education in the State of Washington. The Seattle Community Colleges:

- Educate more than 50,000 students a year and send graduates to work in the top companies in the region.
- Are among the top 30 employers in the region with 2,400 employees
- Stimulate an additional \$100 million of economic activity due to annual spending by the college district, faculty, staff and students. This consumer, business, public sector and other spending supports more than 1,560 local jobs.
- Have a student diversity rate of 45%, higher than both the City of Seattle and the national percentage for higher education institutions.

Fundraising History:

From 1994 to 1999 the Seattle Community Colleges’ (North Seattle Community College, South Seattle Community College and Seattle Central Community College) three Foundations collaborated on a major fundraising drive, the “Building the Best Campaign”, to raise funds for student scholarships, endowment, instructional equipment, faculty development and childcare and tutoring services for community college students.

During this time period over \$21 million dollars (cash and in-kind gifts) was raised. At the time this was the largest and most successful fundraising campaign for community colleges in the United States.

Since 1999 each college foundation within the Seattle Community College system has continued to manage successful fundraising campaigns. Both South Seattle Community College (SSCC) and Seattle Central Community College (SCCC) have utilized the relatively new availability of state matching dollars to run successful capital campaigns at each of their campuses.

Seattle Central successfully completed a \$3 million capital campaign in 2003 to raise funds for a college theatre as well as to provide student scholarships and build their endowment.

South Seattle Community College successfully completed a \$2.5 million capital campaign in 2002 to build a new kitchen and dining room to support their outstanding culinary program.

North Seattle Community College Foundation has successfully built their scholarship endowment to over \$2 million dollars and supports a myriad of faculty and instructional programs with private dollars as well as a large scholarship, childcare and tutoring programs to benefit their students.

For the past two years, Seattle Community College District Chancellor, Dr. Charles Mitchell, the District Office of Advancement, the District Public Information Office, and all three campuses and their Foundations have been working together as a team on a \$25 million major gifts campaign, *Power & Promise*, to support each of the three campuses in raising funds for existing and future needs.

Having raised \$18 million, we are seeking an experienced campaign consultant to assist our advancement staff with strategic planning for reaching the final targeted goals of the campaign.

1.2. PURPOSE

The Fundraising Consultant will be selected and retained as a result of the State of Washington's competitive bidding process. Under the terms of the contract, the Seattle Community Colleges District (Office of Advancement) will contract with Fundraising Consultant to provide guidance to the advancement staff and strategic planning for closing out this multi-year \$25 million fundraising campaign in support of students at all three campuses within the district.

1.3. MINIMUM QUALIFICATIONS

The Consultant must be licensed to do business in the State of Washington or provide a commitment that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor and have had four (4) years experience in the area of fundraising consulting. Experience in successful campaigns, particularly in higher education, is a preferred qualification.

The consultants who do not meet these minimum qualifications shall be deemed non-responsive and will not receive further consideration.

1.4. FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding. In the event additional funding becomes available, any contract awarded may be negotiated to provide for additional related services.

Consultants are encouraged to submit proposals, which are consistent with state government efforts to conserve state resources.

1.5. PERIOD OF PERFORMANCE

The period of performance on any contract resulting from this RFP is tentatively scheduled for September 15, 2008 – September 15, 2009. Seattle Community College reserves the right to extend the contract for up to one additional one-year period at the sole discretion of the College. Amendments extending the period of performance, if any, shall be at the sole discretion of the District.

1.6. DEFINITIONS

Definitions for the purposes of this RFP include:

Agency – The Seattle Community Colleges is the agency of the state of Washington that is issuing this RFP.

Apparent Successful Contractor – The consultant selected as the entity to perform the anticipated services, subject to completion of contract negotiations and execution of a written contract.

District - Seattle Community College District VI

Consultant - Individual or firm submitting a proposal in order to attain a contract with District.

Contractor - Individual or firm whose proposal has been accepted by District and is awarded a formal written contract.

Proposal – A formal offer submitted in response to this solicitation.

Request for Proposals (RFP) - Formal procurement where a service or need is planned but no specific service or method has been chosen. The purpose of an RFP is to permit the consultant community to suggest various approaches to meet the need at a given price.

1.7. ADA

The District complies with the Americans with Disabilities Act (ADA). Consultants may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

2. GENERAL INFORMATION FOR CONSULTANTS

2.1. RFP COORDINATOR

The RFP Coordinator is the sole point of contact in the District for this procurement. All communication between the Consultant and the District upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	Lisa Gacer, Purchasing Coordinator
Address	1500 Harvard Ave.
City, State, Zip Code	Seattle, WA 98122
Phone Number	206-287-5534
Fax Number	206-287-5523
Internet Address	lgacer@sccd.ctc.edu

Any other communication will be considered unofficial and non-binding on the District. Consultants are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Consultant.

2.2. SUBMISSION OF PROPOSALS

Consultants are required to submit four (4) copies of their proposal. Two copies must have original signatures and two copies can have photocopied signatures. The proposal, whether mailed or hand delivered, **must be received by the District no later than 4:00 p.m, Pacific Standard Time in Seattle, Washington, on August 15, 2008.**

Proposals may not be submitted electronically or using facsimile transmission.

The proposal is to be sent to the RFP Coordinator at the address noted in Section 2.1 above. The envelope should be clearly marked to the attention of the RFP Coordinator.

Consultants mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Consultants hand delivering proposals should allow for traffic congestion. Consultants assume the risk for the method of delivery chosen. The District assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using electronic media such as facsimile transmission.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of the District and will not be returned.

2.3. PROPOSAL FORMAT

All proposals must be on eight and one-half by eleven (8 1/2 x 11) inch paper and placed in binders with tabs separating the major sections of the proposal. The four major sections shall include:

- Letter of Submittal, including signed Certifications and Assurances (Exhibit A of this RFP);
- Technical Proposal;
- Management Proposal;
- Cost Proposal

Within your proposal please highlight the following:

1. **Firm Capabilities:**

- Services provided by your firm relative to a capital campaign.
- What other resources does your firm have available (either through other staff or affiliations with others.
- Experience of firm with similar projects (size, educational institution, size of community, etc.)

2. **Seattle Community College Fundraising Campaign:**

- Describe your campaign process, including:
 - Comprehension of the Seattle community philanthropic marketplace
 - Identification and cultivation strategies
 - Engagement of internal and external leadership and team building
- What will you charge and how (project cost or hourly)? Please include estimates of consultant travel and expenses.

3. **Track Record and References:**

- Please list the campaigns you have completed in the last four years, the goal of each and the amount you raised for each. (If this information will extend your proposal beyond the six-page limit, simply lists as many projects as possible in the allotted space, focusing on those most similar to Seattle Community Colleges.
- For each campaign completed in the last four years, please list the name, title and phone number of the senior staff person with whom you worked.
- Are you presently doing any other fundraising campaigns or consulting work in the State of Washington? If so, where?

Proposals are due no later than 4:00 PM, Pacific Standard Time in Seattle, Washington August 15, 2008 to Lisa Gacer, 1500 Harvard Avenue, 1DO100, Seattle, WA 98122. (Phone: 206-287-5534 or email lgacer@sccd.ctc.edu). Faxed or electronic proposals will not be accepted.

Responses to each question or request for information in the proposal must appear in the order presented in this RFP with the same headings used herein. This will not only be helpful to the evaluators of the proposal, but should assist the proposer in preparing the response.

2.4. SIGNATURES

The Letter of Submittal and the Certifications and Assurances form must be signed and dated by a person authorized to legally bind the Consultant to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship.

2.5. PREPROPOSAL CONFERENCE

A preproposal conference will not be held for this solicitation. **Questions and/or concerns regarding this RFP shall be submitted to the RFP coordinator in writing (email is acceptable) no later than the end of business on August 8, 2008.** The District shall be bound only to written answers to questions. Any oral responses shall be considered unofficial.

2.6. ESTIMATED SCHEDULE OF ACTIVITIES

Issue Request for Proposals	August 1, 2008
Question & answer period	August 1 – 8, 2008
Preproposal conference (if applicable)	None scheduled
Last date for College response to vendor questions regarding RFP	August 8, 2008
Proposals due	By 4:00 PM Pacific Standard Time, August 15, 2008
Evaluate proposals and conduct oral interview	August 25 – 29, 2008
Announce “Apparent Successful Contractor” and send notification via e-mail to unsuccessful proposers	September 5, 2008
Hold debriefing conferences (if requested)	See section 6.8
File contract with OFM	10 days before final contract award
Begin contract work (tentative)	On or before September 15, 2008

The District reserves the right to revise the above schedule.

2.7. FAILURE TO COMPLY

The Consultant is specifically notified that failure to comply with any part of the Request for Proposals may result in rejection of the proposal as non-responsive.

2.8. REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all individuals, who have made the RFP Coordinator aware of their interest.

The District also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract. In the event it becomes necessary to revise any part of the RFP, addenda will be provided to all those who received the RFP.

2.9. ACCEPTANCE PERIOD

Proposals providing less than 60 days for acceptance by District from the due date set for receipt of proposals will be considered non-responsive and will be rejected. Proposals that do not address all areas requested by this RFP may be deemed non-responsive and may not be considered for a possible contract resulting from this RFP.

2.10. REJECTION OF PROPOSALS

The District reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP. The District also reserves the right at its sole discretion to waive minor administrative irregularities contained in any proposal.

2.11. MOST FAVORABLE TERMS

The District reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Consultant can propose. There will be no best and final offer process. The Consultant should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Consultant's proposal. It is understood that the proposal will become a part of the official file on this matter without obligation to the District.

2.12. OBLIGATION TO CONTRACT

This RFP does not obligate the State of Washington or the District to contract for service(s) specified herein.

2.13. COSTS TO PROPOSE

The District will not be liable for any costs incurred by the Consultant in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP

2.14. COMMITMENT OF FUNDS

The Vice-Chancellor for Business and Finance or his designee is the only individuals who may legally commit the District to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.15. INSURANCE COVERAGE

Each Consultant must indicate in the letter of submittal and as a condition of contract award, that they will provide proof of insurance from the Consultant's insurance carrier, outlining the extent of Consultant's liability coverage. The Contractor shall, at its own expense, obtain and keep in force liability insurance during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided which shall be provided to the District within fifteen (15) days of receipt of notice of award.

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The State will not be responsible in any way for claims filed by the Contractor or their employees for service(s) performed under the terms of this contract.

Liability Insurance

- 1) Commercial General Liability Insurance: Contractor shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence from CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insureds (cross liability) condition.

Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

- 2) Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Employers Liability ("Stop Gap") Insurance: In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability

insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Additional Provisions

Above insurance policy shall include the following provisions:

- 1) Additional Insured. The state of Washington, Seattle Community Colleges, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.
- 2) Cancellation. State of Washington, Seattle Community Colleges, shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the state 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The state shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation.
- 3) Identification. Policy must reference the state's contract number and the agency name.
- 4) Insurance Carrier Rating. All insurance and bonds should be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by AGENCY's Risk Manager, or the Risk Manager for the state of Washington, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC
- 5) Excess Coverage. By requiring insurance herein, the state does not represent that coverage and limits will be adequate to protect the Contractor, and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the state in this contract.

Worker's Compensation Coverage

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The state will not be held responsive in any

way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

3. TECHNICAL PROPOSAL AND WORK PLAN

3.1. PROJECT SCOPE OF WORK

Based on the fact that this campaign is 75% complete the following activities and deliverables are requested:

Capital Campaign:

- Describe processes used for evaluating a pre-existing campaign
- Describe strategies used to review current prospects and develop new prospects
- Explain your three best strategies for cultivation and solicitation

Donor Relations:

- Provide examples of strategies for building internal and external supports
- Provide examples of past experience with building a broad base of support for an organization, i.e. alumni, membership, etc.
- Describe your view, and give examples of how to build long-term relationships with donors

Consulting:

- Describe your approach to working with a diverse group of volunteers and professionals

Marketing:

- Identify ways to increase the visibility of a campaign in the community

3.2. WORK PLAN

The technical proposal must contain all work or project requirements necessary to accomplish the scope of work defined in this RFP. Include a complete description of the proposed approach and methodology for the project, all project requirements, and the tasks required to accomplish the project. The plan must be in sufficient detail to convey to members of the evaluation team the Consultant's knowledge of the subjects and skills necessary to the project. Include any required involvement of District staff.

The Consultant may present any creative approaches that might be appropriate. The Consultant may also provide supporting documentation that would be pertinent to this RFP.

3.3. SCHEDULE

Provide a separate schedule indicating when the elements of the work will be completed and when deliverables, if any, will be provided.

4. MANAGEMENT PROPOSAL

Provide all information requested in the exact order specified below:

4.1. IDENTIFYING INFORMATION

- 4.1.1. State the business name, address, principal place of business, telephone number, and fax number of legal entity or individual with whom contract would be written.
- 4.1.2 Provide the names, addresses, and telephone numbers of principal officers (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
- 4.1.3 Specify the legal status of the Consultant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- 4.1.4 Describe the proposing organization including size, areas of specialization and expertise, client base, and any other pertinent information in such a manner that the proposal evaluators may reasonably formulate a determination about the stability and financial strength of the proposing organization.
- 4.1.5 Include the Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the State of Washington Department of Revenue.
- 4.1.6 State the location of the facility from which the Consultant would operate.
- 4.1.7 If the Consultant or any party named previously contracted with the State of Washington during the past 24 months, indicate the name of the agency, the contract number and description and/or other information available to identify the contract.
- 4.1.8 If the Consultant or any party named previously was an employee of the State of Washington during the past 24 months, or is now an employee, identify the individual by name, the agency previously or currently employed by, job title or position held and separation date.
- 4.1.9 Consultants who employ or have on their governing board State employees or former State employees, as of the date of their proposal, shall identify such persons and their position and responsibilities within the Consultant's organization. If following a review of this information, it is determined by the District that a conflict of interest exists, the Consultant may be disqualified from further consideration for the award of a contract.

4.2. PROJECT MANAGEMENT

- 4.2.1 Provide a description of the proposed project staffing/organization and internal controls to be used during the course of the project, including any subcontractors.
- 4.2.2 State the name, the title or position, and telephone number of the individual who would have primary responsibility for the project resulting from this RFP. Disclose who within the firm will have prime responsibility and final authority for the work under the proposed contract. Name other individuals providing service on the project.
- 4.2.3 Identify responsibilities and qualifications of staff who will be assigned to the potential contract and the amount of time each will be assigned to the project. Provide resumes' for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Consultant must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of the District.
- 4.2.4 Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management.

4.3. EXPERIENCE OF THE CONSULTANT

3) **Firm Capabilities:**

- a. Services provided by your firm relative to a capital campaign.
- b. What other resources does your firm have available (either through other staff or affiliations with others).
- c. Experience of firm with similar projects (size, educational institution, size of community, etc.)

4) **Seattle Community College Fundraising Campaign:**

- Describe your campaign process, including:
 - Comprehension of the Seattle community philanthropic marketplace
 - Identification and cultivation strategies
 - Engagement of internal and external leadership and team building

- What will you charge and how (project cost or hourly)? Please include estimates of consultant travel and expenses.

5) **Track Record and References:**

- Please list the campaigns you have completed in the last four years, the goal of each and the amount you raised for each. (If this information will extend your proposal beyond the six-page limit, simply list as many projects as possible in the allotted space, focusing on those most similar to Seattle Community Colleges.
- For each campaign completed in the last four years, please list the name, title and phone number of the senior staff person with whom you worked.
- Are you presently doing any other fundraising campaigns or consulting work in the State of Washington? If so, where?

Proposals **must be received no later than 4:00 PM, Pacific Standard Time in Seattle, Washington, August 15, 2008** to Lisa Gacer, 1500 Harvard Avenue, 1DO100, Seattle, WA 98122. (Phone: 206-287-5534 or email lgacer@sccd.ctc.edu). Faxed or electronic proposals will not be accepted.

Responses to each question or request for information in the proposal must appear in the order presented in this RFP with the same headings used herein. This will not only be helpful to the evaluators of the proposal, but should assist the proposer in preparing the response.

- 4.3.2 Indicate any other experience that indicates the qualifications of the Consultant for the performance of the potential contract.
- 4.3.3 List contracts the Consultant may have had during the last three years that relate to the Consultant's ability to perform the service(s) called for under this RFP. List contract reference numbers, contract period of performance, contact persons, and telephone numbers.
- 4.3.4 List names, addresses and telephone numbers of three business references for the Consultant whom work has been accomplished and briefly describe the type of service provided. The Consultant must grant permission to the District to contact the references. Do not include current District staff as references. The Consultant must grant permission to the District to contact the references and others who may have pertinent information regarding the Consultant's qualifications and experience to perform the services required by this RFP. The District will contact references for the top-scoring proposal(s) only.
- 4.3.5 If the Consultant has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Consultant's non-performance or poor

performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.

4.3.5.1 Submit full details of the terms for default including the other party's name, address, and phone number. Present the Consultant's position on the matter. The District will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience.

4.3.5.2 If no such termination for default has been experienced by the Consultant in the past five years, so indicate.

4.4. SUBCONTRACTOR INFORMATION REQUIRED

In the event the Consultant intends to subcontract any of the proposed work stated in its technical proposal, the Consultant shall submit the information required in Sections 4.1 and 4.3 of this section for each proposed subcontractor.

4.5. MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION

In accordance with the legislative findings and policies set forth in chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by 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 or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals 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 established annual procurement participation goals for MBE is 10% and for WBE, 4%, for this type of project. These goals are voluntary. Bidders may contact OMWBE at 360/753-9693 to obtain information on certified firms.

5 COST PROPOSAL

5.1 IDENTIFICATION OF COSTS

In this section of the proposal, the Consultant is to identify all costs to be charged for performing the tasks necessary to accomplish the objectives of the contract. The Consultant is to submit a fully detailed budget including all staff costs and any non-labor expenses necessary to accomplish the tasks and to produce the deliverables under the contract.

5.2 AWARD NOT BASED ON PRICE ALONE

The evaluation process is designed to award this procurement not necessarily to the Consultant of least cost, but rather to the Consultant whose proposal best meets the requirements of this RFP. However, Consultants are encouraged to submit proposals which are consistent with state government efforts to conserve state resources.

5.3. STATE SALES TAX

Consultants are required to collect and pay Washington state sales tax, if applicable.

5.4. SUBCONTRACTORS

If one or more subcontractors certified by the Office of Minority and Women's Business Enterprises are proposed, the Consultant must set out in the Cost Proposal the portion to be paid to the certified MBE and/or the WBE firm. Costs for subcontractors which are not certified are also to be broken out separately.

5.5. COMPUTATION

The score for the cost proposal will be computed by dividing the lowest cost bid received by the Consultant's total cost. Then the resultant number will be multiplied by the maximum possible points for the cost section. The result is the number of points awarded to the Consultant for this section. See the example below:

Example: Total points for cost section equals 20
Lowest bid = \$15,000
Consultant's bid = \$20,000
\$15,000 divided by \$20,000 = 0.75
0.75 times 20 points possible = 15 points for the cost proposal

6 EVALUATION AND CONTRACT AWARD

6.1. EVALUATION TEAM

The evaluation of proposals shall be accomplished by an evaluation team, to be designated by the District Chancellor, which will determine the proposal most responsive to the requirements stated in this RFP. Proposals will be evaluated strictly in accordance with the requirements set forth in this RFP and any addenda which are issued.

6.2. RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in the RFP. Only

responsive proposals which meet the minimum requirements will be forwarded to the evaluation team for further review.

6.3. ORAL PRESENTATIONS MAY BE REQUIRED

Oral interviews will be utilized in selecting the winning proposal. DISTRICT, at its sole discretion, will elect to select the top scoring finalists from the written evaluation for an oral interview. Commitments made by a Vendor at the oral interview, if any, will be considered binding. If selected for an oral interview, the contractor for the project must participate in the oral interview in person. The oral interview will determine the Apparent Successful Vendor. DISTRICT will not reimburse the Vendors or candidates for any travel or other related expenses for oral interviews.

6.4. AWARD BASED ON MULTIPLE FACTORS

As stated previously, the evaluation process is designed to award the contract to the Consultant whose proposal best meets the requirements of this RFP and is in the best interest of the District and the State of Washington.

6.5. EVALUATION SCORING AND CRITERIA

Evaluation and scoring will be a two-tiered process. The following weights will be assigned to the proposal for evaluation purposes in determining those candidates who will be selected to deliver oral presentations.

• Technical Proposal - 40%	70
➤ Capital campaign	30 points (maximum)
➤ Donor Relations	20 points (maximum)
➤ Consulting	10 points (maximum)
➤ Marketing	10 points (maximum)
• Management Proposal - 30%	50
➤ Team Structure/Internal Control	10 points (maximum)
➤ Staff Qualifications/Experience	10 points (maximum)
➤ Experience of Consultant	30 points (maximum)
• Cost Proposal - 30%	30
Sub Total	
• <i>Total for Written Proposals - 100%</i>	
TOTAL POSSIBLE POINTS	150

Evaluation criteria will include such elements as:

- Understanding of project requirements
- Proposed project approach and methodology
- Quality of work plan
- Feasibility of proposed schedule
- Description of deliverables
- Project team structure/internal contracts
- Firm's relevant experience
- Staff qualifications and experience
- References

6.6. DISREGARD ORAL REPRESENTATIONS

The Consultant is instructed to disregard any oral representations it may have received. Proposal evaluation will be based on:

- The material contained in the RFP
- Addenda issued to the RFP

6.7. NOTIFICATION TO PROPOSERS

The District will notify the Apparent Successful Contractor of their selection by e-mail upon completion of the evaluation process. Individuals or firms whose proposals were not selected for further negotiation or award will be notified separately by e-mail.

6.8. DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Any Consultant who has submitted a proposal and been notified that they were not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Unsuccessful Consultant Notification is e-mailed or faxed to the Consultant. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Olympia, Washington on the third business day following the transmittal of the Unsuccessful Consultant Notification. The debriefing must be held within three (3) business days of the request.

Discussion at the debriefing conference will be limited to the following:

- Evaluation and scoring of the firm's proposal;
- Critique of the proposal based on the evaluation;
- Review of proposer's final score in comparison with other final scores without identifying the other firms.

Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

6.9 PROTEST PROCEDURE

Protests may be made only by Consultants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Consultant is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 4:30 PM, local time, in Seattle, Washington on the third business day following the debriefing. Protests may be submitted by e-mail or facsimile, but must then be followed by the document with an original signature.

Consultants protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Consultants under this procurement.

All protests must be in writing, addressed to the RFP Coordinator, and signed by the protesting party or an authorized Agent. The protest must state the RFP number, the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of an evaluator;
- Errors in computing the score;
- Non-compliance with procedures described in the procurement document or AGENCY policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) AGENCY'S assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by the AGENCY. The AGENCY Director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Consultant that also submitted a proposal, such Consultant will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the AGENCY's action; or
- Find only technical or harmless errors in the AGENCY's acquisition process and determine the AGENCY to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the AGENCY options which may include:
 - Correct the errors and re-evaluate all proposals, and/or
 - Reissue the solicitation document and begin a new process, or
 - Make other findings and determine other courses of action as appropriate.

If the AGENCY determines that the protest is without merit, the AGENCY will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

6.8. GENERAL TERMS AND CONDITIONS

The apparently successful contractor will be expected to enter into a contract with the District which is substantially the same as the contract attached as Exhibit A, including the District's General Terms and Conditions.

In no event is a consultant to submit its own standard contract terms and conditions as a response to this RFP. The Consultant may submit exceptions or modifications that their firm may have to the proposed terms and conditions.

6.10. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of the AGENCY. All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Director of the AGENCY, or his Designee, and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other

state or federal law that provides for the nondisclosure of your document, must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Consultant is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Consultant has marked as "Proprietary Information," the AGENCY will notify the Consultant of the request and of the date that the records will be released to the requester unless the Consultant obtains a court order enjoining that disclosure. If the Consultant fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified. If a Consultant obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to Chapter 42.56 RCW, or other state or federal law that provides for nondisclosure, the AGENCY shall maintain the confidentiality of the Consultant's information per the court order.

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

6.11 CONFLICT OF INTEREST:

No Trustee of the Seattle Community College Foundation or campus Foundations may have a beneficial interest in any consulting firm that contracts with the Foundation. Any such firm will be disqualified from bidding on a contract. A beneficial interest means either a position with the firm (e.g., officer, director, employee) or an ownership interest (direct ownership of a business, stocks, bonds, mutual funds, and the like) in the firm.

7 RFP APPENDICES

- | | |
|-----------|--|
| Exhibit A | Certification and Assurances |
| Exhibit B | Personal Service Contract Format including General Terms and Conditions (GT&C's) |

CERTIFICATIONS AND ASSURANCES

1. I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):
2. The prices and/or data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the District without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this proposal. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that the District will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the District, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
7. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
8. I/we grant the Agency the right to contact references and others, who may have pertinent information regarding the ability of the Consultant and the lead staff person to perform the services contemplated in the RFP.

Signature of Proposer _____

Title _____ Date _____

CONTRACT FOR PERSONAL SERVICES
BETWEEN
THE STATE OF WASHINGTON
<INSERT AGENCY NAME>
AND

This Contract is made and entered into by and between the state of Washington, <Insert Agency Name>, hereinafter referred to as the "AGENCY", and the below named firm, hereinafter referred to as "CONTRACTOR,"

(Contractor Name)

(Address)

(City, State Zip)

Phone:

Email:

Federal ID No.:

WA State UBI No.:

PURPOSE

The purpose of this contract is to

SCOPE OF WORK

The CONTRACTOR will provide services, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Option 1: Identify all tasks, work elements and objectives of the contract, and timetables by which major parts of the work are to be completed. The scope of work may be included within the text of the contract or attached as a separate exhibit as shown in Option 2 below.

Option 2: as included in the CONTRACTOR's Proposal dated _____ attached as Exhibit B, and the AGENCY'S Request for Proposals attached as Exhibit C.

Exhibit A contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.

The CONTRACTOR shall produce the following written reports or other written documents (deliverables) by the dates indicated below:

All written reports required under this contract must be delivered to _____, the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

Subject to other contract provisions, the period of performance under this contract will be from _____ or date of execution, whichever is later, through _____, unless sooner terminated or extended as provided herein.

NOTE: *If the contract is required to be filed with the Office of Financial Management, include one of the paragraphs below:*

OFM FILING REQUIREMENT (NOTE: Use either paragraph as applicable)

10-Day Filing - Under the provisions of Chapter 39.29 RCW, this personal service contract is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work shall be commenced nor payment made until ten (10) working days following the date of filing, and if required, until approved by OFM.

Effective Date of Filing – Under the provisions of Chapter 39.29 RCW, this personal service contract is subject to filing with the Office of Financial Management (OFM). The work may proceed the date of filing with OFM or the date of execution, whichever is later.

COMPENSATION AND PAYMENT

AGENCY shall pay an amount not to exceed _____ Dollars (\$_____) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

NOTE: *List detail of compensation to be paid, e.g., hourly rates, number of hours per task, unit prices, cost per task, cost per deliverable, etc. Or reference documents that specify Contractor's compensation and payment, e.g. Contractor's compensation for services rendered shall be based on the schedule set forth in Exhibit B, Fees and Expenses.*

NOTE: *Expenses are optional. Do not include Expenses paragraph below if expenses are not allowable. If allowable, include only expenses which are appropriate for the contract.*

Expenses: CONTRACTOR shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by the AGENCY as reimbursable. The maximum amount to be paid to the CONTRACTOR for authorized expenses shall not exceed \$_____, which amount is included in the contract total above. Such expenses may include: airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. CONTRACTOR shall receive compensation for travel expenses at current state travel reimbursement rates.

BILLING PROCEDURES AND PAYMENT

NOTE: *Payment can be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the contract, payment at conclusion of the contract, etc*

AGENCY will pay CONTRACTOR upon receipt of properly completed invoices, which shall be submitted to the Contract Manager not more often than monthly. The invoices shall describe and document to the AGENCY'S satisfaction a description of the work performed, the progress of the project, and fees. To receive reimbursement, CONTRACTOR must provide a detailed breakdown

of authorized expenses, identifying what was expended and when. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by the AGENCY within thirty (30) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The AGENCY may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AGENCY.

NOTE: *Optional Provision – The AGENCY shall withhold ten percent (10%) from each payment until acceptance by the AGENCY of the final report (or completion of the project, etc.)*

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

CONTRACTOR Contract Manager	AGENCY Contract Manager
Enter Contract Manager's Name	Enter Contract Manager's Name
Enter Name of CONTRACTOR	Enter Name of AGENCY
Enter CONTRACTOR Address	Enter AGENCY Address
Enter City, State & Zip Code	Enter City, State & Zip Code
Phone : ()	Phone: ()
Fax: ()	Fax: ()
Email address:	Email address:

INSURANCE (NOTE: *Include, if applicable*)

The CONTRACTOR shall provide insurance coverage as set out in this section (or as set forth in the Request for Proposals No. ____). The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontract, or agents of either, while performing under the terms of this contract.

The CONTRACTOR shall provide insurance coverage which shall be maintained in full force and effect during the term of this Contract, as follows:

1. **Commercial General Liability Insurance Policy** – Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

2. **Automobile Liability** – In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage

3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give AGENCY 30 days advance notice of any insurance cancellation.

CONTRACTOR shall submit to AGENCY within fifteen days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

ASSURANCES

AGENCY and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions as contained in this basic contract instrument
- Exhibit A – General Terms and Conditions
- Exhibit B - Request for Proposals No. _____
- Exhibit C – Contractor's Proposal dated _____
- Any other provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This contract including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of the AGENCY'S authorized representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of _____ pages and _____ attachment(s), is executed by the persons signing below who warrant that they have the authority to execute the contract.

[CONTRACTOR'S NAME]

[AGENCY NAME]

Signature

Signature

Title

Date

Title

Date

GENERAL TERMS AND CONDITIONS

DEFINITIONS - As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "Agency" shall mean the <Insert Agency Name>, of the state of Washington, any division, section, office, unit or other entity of the Agency, or any of the officers or other officials lawfully representing that Agency.
- B. "Agent" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "Contractor" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the Contractor.
- C. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" means Subcontractor(s) in any tier.
- D. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers. Personal Information includes "Protected Health Information" as set forth in 45 CFR § 164.50 as currently drafted and subsequently amended or revised and other information that may be exempt from disclosure to the public or other unauthorized persons under either Chapter 42.17 RCW or other state and federal statutes.

ACCESS TO DATA - In compliance with RCW 39.29.080, the Contractor shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the state auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

Contractor agrees to make personal information covered under this agreement available to Agency for inspection or to amend the personal information. Contractor shall, as directed by Agency, incorporate any amendments to the personal information into all copies of such personal information maintained by the Contractor or its subcontractors.

ADVANCE PAYMENTS PROHIBITED - No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the Agency.

AMENDMENTS - This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35 - The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

Contract No.

ASSIGNMENT – Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of the Agency.

ATTORNEYS' FEES - In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys fees and costs.

Contract No.

CONFIDENTIALITY / SAFEGUARDING OF INFORMATION - The Contractor shall not use or disclose any information concerning the Agency, or information which may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the Agency, or as may be required by law.

CONFLICT OF INTEREST - Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Agency may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by the Agent that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the Agency shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the Agency provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS - Unless otherwise provided, all Materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Agency. The Agency shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the Agency effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to the Agency a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the Agency.

The Contractor shall exert all reasonable effort to advise the Agency, at the time of delivery of Materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. The Agency shall receive prompt written notice of each notice or claim of infringement received by the Contractor with respect to any data delivered under this contract. The Agency shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

COVENANT AGAINST CONTINGENT FEES - The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. The Agency shall have the right, in the event of breach of this clause by the

Contract No.

Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISPUTES - Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with Agent.

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1. The request for a dispute hearing must:

- Be in writing;
 - State the disputed issue(s);
 - State the relative positions of the parties;
 - State the contractor's name, address, and contract number; and
 - Be mailed to the agent and the other party's (respondent's) contract manager within 3 working days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working days.
3. **The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.**
4. **The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.**

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

GOVERNING LAW - This contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION - To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the Contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the state for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the Contract. Contractor's obligation to indemnify, defend, and hold harmless the state shall not be eliminated or reduced by any actual or alleged concurrent negligence of state or its agents, agencies, employees and officials.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY OF THE CONTRACTOR - The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of the Agency. The Contractor will not hold himself/herself out as or claim to be an officer or employee of the Agency or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

INDUSTRIAL INSURANCE COVERAGE - The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Agency may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Agency may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Agency under this contract, and transmit the deducted amount to

Contract No.

the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

LICENSING, ACCREDITATION AND REGISTRATION - The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

Contract No.

LIMITATION OF AUTHORITY - Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Agent.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS - In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Agency. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION - During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

- 1.1.1. **OVERPAYMENTS AND ASSERTION OF LIEN** - In the event that the Agency establishes overpayments or erroneous payments made to the Contractor under this contract, the Agency may secure repayment, plus interest, if any, through the filing of a lien against the Contractor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the Agency or by doing both.

PRIVACY - Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The Agency reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the Agency. Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the Agency for any damages related to the Contractor's unauthorized use of personal information.

PUBLICITY - The Contractor agrees to submit to the Agency all advertising and publicity matters relating to this Contract wherein the Agency's name is mentioned or language used from which the connection of the Agency's name may, in the Agency's judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of the Agency.

RECORDS MAINTENANCE - The Contractor shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

Contract No.

Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by the Agency, personnel duly authorized by the Agency, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE - The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION - The Contractor shall provide right of access to its facilities to the Agency, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

The Contractor shall make available information necessary for Agency to comply with the client's right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor's internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this contract shall be made available to Agency and the U.S. Secretary of the Department of Health & Human Services, upon request.

SAFEGUARDING OF INFORMATION - The Contractor shall not use or disclose Personal Information in any manner that would constitute a violation of federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of all Personal Information.

The Contractor shall protect Personal Information collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification or loss. The Contractor shall ensure its directors, officers, employees, subcontractors or agents use it solely for the purposes of accomplishing the services set forth in this agreement. The Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make it known to unauthorized persons without the express written consent of AGENCY or as otherwise required by law. The Contractor agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of data in any form. The Contractor shall make the Personal Information available to amend as directed by Agency and incorporate any amendments into all the copies maintained by the Contractor or its Subcontractors.

The Contractor shall certify its return or destruction upon expiration or termination of this Contract and the Contractor shall retain no copies. If the Contractor and Agency mutually determine that return or destruction is not feasible, the Contractor shall not use the Personal Information in a manner other than those permitted or required by state and federal laws.

Agency reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing, or investigating may include, but is not limited to, "salting" by Agency. Salting is the act of

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introducing data containing unique but false information that can be used later to identify inappropriate disclosure of data.

The Contractor shall notify Agency in writing within 5 working days of becoming aware of any unauthorized access, use or disclosure. The contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access. The Contractor agrees to indemnify and hold harmless Agency for any damages related to unauthorized use or disclosure by the Contractor, its officers, directors, employees, Subcontractors or agents.

Any breach of this clause may result in termination of the contract and the demand for return of all Personal Information.

SAVINGS - In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the Agency may terminate the contract under the "Termination for Convenience" clause, without the ten day notice requirement, subject to renegotiation at the Agency's discretion under those new funding limitations and conditions.

SEVERABILITY - The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY - While on Agency premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING - Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Agency. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to the Agency for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

TAXES - All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

TERMINATION FOR CAUSE – In the event the Agency determines the Contractor has failed to comply with the conditions of this Contract in a timely manner, the Agency has the right to suspend or terminate this Contract. Before suspending or terminating the Contract, the Agency shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 days, the Contract may be terminated or suspended. In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement

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Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. The Agency reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the Agency to terminate the Contract. A termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (21) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the Agency provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

TERMINATION FOR CONVENIENCE - Except as otherwise provided in this contract, the Agency may, by 10 days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the Agency shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES - Upon termination of this contract, the Agency, in addition to any other rights provided in this contract, may require the Contractor to deliver to the Agency any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Agency shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the Agency, and the amount agreed upon by the Contractor and the Agency for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services which are accepted by the Agency, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Agent shall determine the extent of the liability of the Agency. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Agency may withhold from any amounts due the Contractor such sum as the Agent determines to be necessary to protect the Agency against potential loss or liability.

The rights and remedies of the Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

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After receipt of a notice of termination, and except as otherwise directed by the Agent, the Contractor shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the Agency, in the manner, at the times, and to the extent directed by the Agent, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Agency has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agent to the extent Agent may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the Agency and deliver in the manner, at the times, and to the extent directed by the Agent any property which, if the contract had been completed, would have been required to be furnished to the Agency;
6. Complete performance of such part of the work as shall not have been terminated by the Agent; and
7. Take such action as may be necessary, or as the Agent may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Agency has or may acquire an interest.

TREATMENT OF ASSETS -

- A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Agency upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Agency upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Agency in whole or in part, whichever first occurs.
- B. Any property of the Agency furnished to the Contractor shall, unless otherwise provided herein or approved by the Agency, be used only for the performance of this contract.
- C. The Contractor shall be responsible for any loss or damage to property of the Agency which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- D. If any Agency property is lost, destroyed or damaged, the Contractor shall immediately notify the Agency and shall take all reasonable steps to protect the property from further damage.
- E. The Contractor shall surrender to the Agency all property of the Agency prior to settlement upon completion, termination or cancellation of this contract.
- F. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

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WAIVER - Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by authorized representative of the Agency.

EXHIBIT A

GENERAL TERMS AND CONDITIONS

DEFINITIONS -- As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "Agency" shall mean the Seattle Community College District, of the state of Washington, any division, section, office, unit or other entity of the Agency, or any of the officers or other officials lawfully representing that Agency.
- B. "Agent" shall mean the Chancellor, Seattle Community College District, and/or the delegate authorized in writing to act on the Chancellor's behalf.
- C. "Contractor" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the Contractor.
- D. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" means Subcontractor(s) in any tier.

ACCESS TO DATA -- In compliance with chapter 39.29 RCW, the Contractor shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

ADVANCE PAYMENTS PROHIBITED -- No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the Agency.

AMENDMENTS -- This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35 -- The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT -- The work to be provided under this contract, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

ATTORNEYS' FEES -- In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys fees and costs.

CONFIDENTIALITY / SAFEGUARDING OF INFORMATION -- The Contractor shall not use or disclose any information concerning the Agency, or information which may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the Agency, or as may be required by law.

CONFLICT OF INTEREST -- Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Agency may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by the Agent that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or services under this contract.

In the event this contract is terminated as provided above, the Agency shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the Agency provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The

existence of facts upon which the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS -- Unless otherwise provided, all Materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Agency. The Agency shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the Agency effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to the Agency a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the Agency.

The Contractor shall exert all reasonable effort to advise the Agency, at the time of delivery of Materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. The Agency shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. The Agency shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

COVENANT AGAINST CONTINGENT FEES -- The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. The Agency shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISPUTES – Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved, either party may request a dispute hearing with xxx (Agent). Disputes shall be resolved as quickly as possible.

5. The request for a dispute hearing must:

- be in writing;
- state the disputed issue(s);
- state the relative positions of the parties;

- state the Contractor's name, address, and contract number; and
- be mailed to the Agent and the other party's (respondent's) Contract Manager within 3 working days after the parties agree that they cannot resolve the dispute.

6. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working days.

7. The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.

8. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Agency and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this contract which are not affected by the dispute. Both parties agree to

exercise good faith in the dispute resolution and to settle disputes prior to using the dispute resolution panel whenever possible.

GOVERNING LAW -- This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION – To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the State of Washington, the Agency, and all officials, agents and employees of the State, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY OF THE CONTRACTOR -- The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of the Agency. The Contractor will not hold himself/herself out as or claim to be an officer or employee of the Agency or of the State of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

INDUSTRIAL INSURANCE COVERAGE – The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. Prior to performing work under this contract, the Contractor shall provide or purchase industrial insurance coverage for the Contractor's employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51RCW during the course of this contract. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the Agency may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Agency may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Agency under this contract, and transmit the deducted amount to the Department of Labor and Industries, Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

Industrial insurance coverage through the Department of Labor & Industries is optional for sole proprietors, partners, corporate officers and others, per RCW 51.12.020.

LICENSING, ACCREDITATION AND REGISTRATION -- The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY – Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Agent.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS -- In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Agency. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION -- During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

PRIVACY -- Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The Agency reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the Agency. Contractor shall certify return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the Agency for any damages related to the Contractor's unauthorized use of personal information.

For purposes of this provision, personal information includes, but is not limited to, information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

PUBLICITY -- The Contractor agrees to submit to the Agency all advertising and publicity matters relating to this Contract which, in the Agency's judgment, Agency's name can be implied or is specifically mentioned. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of the Agency.

RECORDS MAINTENANCE -- The Contractor shall maintain complete financial records relating to this contract and the services rendered including all books, records, documents, magnetic media, receipts, invoices and other evidence relating to this contract and performance of the services described herein, including but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records including materials generated under the contract, shall be subject at all reasonable times to inspection, review, or audit by the Agency, the Office of the State Auditor, and federal and state officials so authorized by law, rule, regulation, or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE -- The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION -- The Contractor shall provide right of access to its facilities to the Agency, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAVINGS -- In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the Agency may terminate the contract under the "Termination for Convenience" clause, without the ten day notice requirement, subject to renegotiation at the Agency's discretion under those new funding limitations and conditions.

SEVERABILITY -- The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY – While on Agency premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security regulations.

SUBCONTRACTING -- Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Agency.

TAXES – All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

TERMINATION FOR CAUSE – In the event the Agency determines the Contractor has failed to comply with the conditions of this contract in a timely manner, the Agency has the right to suspend or terminate this Contract. This Agency shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 3 days, the contract may be terminated. The Agency reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the Agency to terminate the contract.

In the event of termination, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g. cost of the competitive bidding, mailing, advertising and staff time. The termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default, or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the Agency provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

TERMINATION FOR CONVENIENCE -- Except as otherwise provided in this contract, the Agency may, by 10 days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the Agency shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES -- Upon termination of this contract, the Agency, in addition to any other rights provided in this contract, may require the Contractor to deliver to the Agency any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Agency shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the Agency, and the amount agreed upon by the Contractor and the Agency for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services which are accepted by the Agency, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Agency shall determine the extent of the liability of the Agency. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Agency may withhold from any amounts due the Contractor such sum as the Agency determines to be necessary to protect the Agency against potential loss or liability.

The rights and remedies of the Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Agent, the Contractor shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the Agency, in the manner, at the times, and to the extent directed by the Agent, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Agency has the right,

at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agency to the extent Agency may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the Agency and deliver in the manner, at the times, and to the extent directed by the Agency any property which, if the contract had been completed, would have been required to be furnished to the Agency;
6. Complete performance of such part of the work as shall not have been terminated by the Agency; and
7. Take such action as may be necessary, or as the Agency may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Agency has or may acquire an interest.

TREATMENT OF ASSETS --

- B. Title to all property furnished by the Agency shall remain in the Agency. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Agency upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Agency upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Agency in whole or in part, whichever first occurs.
- B. Any property of the Agency furnished to the Contractor shall, unless otherwise provided herein or approved by the Agency, be used only for the performance of this contract.
- C. The Contractor shall be responsible for any loss or damage to property of the Agency which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- D. If any Agency property is lost, destroyed or damaged, the Contractor shall immediately notify the Agency and shall take all reasonable steps to protect the property from further damage.
- E. The Contractor shall surrender to the Agency all property of the Agency prior to settlement upon completion, termination or cancellation of this contract.
- F. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

WAIVER -- Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by the Agency.