



Whatcom Transportation Authority

**REQUEST FOR PROPOSALS
FOR MARKETING SERVICES**

RFP #2009-100

**PROPOSAL RELEASE DATE:
April 27, 2009**

**PROPOSAL DUE DATE:
Monday, May 18, 2009
2:00 p.m. PDT**

**Whatcom Transportation Authority
4111 Bakerview Spur Road
Bellingham, WA 98226**

**Phone (360) 676-6843
Fax (360) 527-4868**

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INTRODUCTION
REQUEST FOR PROPOSALS
RFP #2009-100

Whatcom Transportation Authority is seeking qualified proposals in connection with the following project:

Marketing Services

Whatcom Transportation Authority (WTA) is a municipal corporation located at 4111 Bakerview Spur Road, Bellingham, Washington 98226. WTA intends to purchase services in accordance with the scope of work described herein. Proposals may be inspected and obtained by prospective proposers by contacting Lynda Colwell (360) 527-4691 or e-mail: procurement@ridewta.com.

Prospective Proposers are required to abide by WTA's general instructions to proposers. Failure of proposers to comply with the general instructions may result in disqualification of their proposal. Sealed proposals will be accepted by WTA until **2:00 p.m. PDT, Monday, May 18, 2009**.

The WTA intends to contract this project for three (3) years, with one (1) two-year option, solely at the discretion of the WTA.

ABOUT WHATCOM TRANSPORTATION AUTHORITY

The Whatcom Transportation Authority's mission is to enhance our community by:

- Delivering safe, reliable, efficient and friendly service
- Offering environmentally sound transportation choices
- Providing leadership in creating innovative transportation solutions
- Partnering with our community to improve transportation systems

The Public Transportation Benefit Area (PTBA) includes the cities of Bellingham, Ferndale, and Lynden, as well as incorporated regions surrounding these communities. In 1993 the Lummi/Marietta area was annexed and incorporated into the WTA PTBA, and in 1994 the Western Whatcom County area (Blaine/Birch Bay/Semiahmoo/Cherry Point) was also annexed and incorporated.

The service area encompasses approximately 840 square miles, with a population of 180,000. It should be noted that more than one third of the total Whatcom County area is National Park or National Forest area.

The WTA has 230+ employees, consisting of a General Manager, over 130 operators, and 68 administrative and support services personnel, of which 150 are represented, and 26 are non-represented. WTA is governed by a nine-member Board of Directors comprised of the Mayors of Bellingham, Lynden, Ferndale and Nooksack (shared with Everson and Sumas) as well as two City Council members representing Bellingham and one City Council member from Blaine. The remaining positions are filled by the Whatcom County Executive and a member of the County Council.

WTA recorded over 4.8 million boardings in 2008 and travels two million miles per year.

Paratransit services include 40+ accessible fifteen-passenger (12 ambulatory and 3 wheelchair stations) vehicles. The Americans with Disabilities (ADA) corridor Paratransit service extends 3/4 of a mile from the fixed route corridor. Paratransit is a curb-to-curb and door-to-door wheelchair accessible service to the elderly and handicapped, provided in compliance with the ADA. Currently, Paratransit services include ADA, Safety Net, and Flex services. Taxi service is used as an "overflow" service for any of these three types of services. Approximately 700 to 1,000 Paratransit service trips are made per day.

Additional services include a vanpool and rideshare program.

Fixed route transportation services include 35 routes, with the first route beginning at 6:50am and the last ending at 10:30 pm weekdays, 8:30 am. to 11:30 pm. Saturdays and Sundays from 9:00 am to 8:40 pm.

Fixed Route transportation amenities include the Downtown Bellingham Station, along with transfer stations (hubs) at Cordata, Ferndale and Lynden. Park n Ride facilities are also offered at these three stations. In addition, there are 15 pass sales outlets, 978 bus stops, 84 bus shelters/schedule display, schedule information number throughout service hours, and UHF radio net with security system.

For more information about the WTA, please refer to our website: www.ridewta.com.

REQUEST FOR PROPOSALS

Submit to: Neil Koshlay,
Manager Procurement & Materials
Whatcom Transportation Authority
4111 Bakerview Spur
Bellingham, WA 98226
Telephone: (360) 738-4586

Request for Proposals

RFP No: 2009-100

Release Date: April 27, 2009

Proposals are requested for:

Marketing Services

PROPOSER'S STATEMENT:

OUR PROPOSAL IS ATTACHED HERETO We specifically agree to keep this offer open for 60 calendar days from date of proposal closing.

THE FOLLOWING REQUIREMENTS AND CONDITIONS SHALL BE CONSIDERED AN ESSENTIAL PART OF THE PROPOSAL. THIS PROPOSAL MUST BE DELIVERED BEFORE THE FOLLOWING CLOSING DATE AND TIME: 2:00 p.m., PDT, on Monday, May 18, 2009

FIRM: _____

BY: _____
(Type or print your name)

The Whatcom Transportation Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informality in proposals.

ADDRESS

ALL VERBAL MODIFICATIONS OF THESE CONDITIONS ARE VOID AND INEFFECTIVE FOR PROPOSAL EVALUATION PURPOSES. ONLY WRITTEN CHANGES ISSUED BY THE WHATCOM TRANSPORTATION AUTHORITY PROCUREMENT MANAGER IN THE FORM OF ADDENDUM ARE AUTHORIZED AND BINDING.

SIGNED BY: _____
(Authorized Signature)

TITLE _____

PHONE NO. (____) _____

FAX NO. (____) _____

READ CAREFULLY ALL PARAGRAPHS

SIGN AND RETURN THIS REQUEST FOR PROPOSAL PAGE AS YOUR OFFER

RECOMMENDED PROPOSAL CALENDAR OF EVENTS

ACTIVITY	DATE
Request for Proposals	April 27, 2009
Proposal Clarification/Approved Equal Deadline	May 11, 2009
Request for Proposal Due	May 18, 2009
Interviews with most qualified proposers if required*	TBA (if required)
WTA Award	May 29, 2009
Post Award Protest Deadline	June 5, 2009 by 2:00 p.m., PDT

**If required the most qualified firms must be prepared to make themselves available for an interview at the WTA administrative offices at 4111 Bakerview Spur Road, Bellingham, Washington 98226. Proposers who cannot meet this requirement may be considered non-responsive.*

SCOPE OF WORK

Marketing Services RFP #2009-100

The WTA is seeking a Marketing Services Company (MSC) to serve as a collaborative partner in producing WTA's promotional materials. Materials include print advertising, broadcast advertising, print collateral, website graphics, vehicle graphics, street furniture, etc. WTA's primary marketing objectives are:

- To increase ridership
- To enhance WTA's visibility and positive image throughout the community
- To educate the public regarding the value of public transportation
- To promote alternative transportation; primarily through Whatcom Smart Trips

The selected MSC will work with the Community Relations and Marketing Manager (project manager) to develop marketing strategies and methods to achieve WTA primary objectives. The MSC will build on the existing strength of WTA's brand image and positive standing in the community.

The MSC will also work as a member of the Whatcom Smart Trips program team which includes the Whatcom Council of Governments staff.

Selection Criteria

While evaluating MSCs for this project, WTA will use the following desirable criteria (listed in order of priority):

1. Ability to provide continuity of brand image/identity.
2. Quality and relevance of professional samples.
3. Panel interview with Project Manager and others.
4. Hourly rate (broken into categories, if applicable, for design, photography, etc).
5. Quality of references
6. Previous Experience working with the WTA and other Public Transportation Agencies is preferred.
7. The successful company should be centrally located to accommodate ease of availability of agency staff by the WTA offices in Bellingham, WA.

WTA is seeking a five-year agreement to allow for consistency and continuity of our brand image and graphic identity.

Submission of Materials

Please submit a disc containing no more than twenty images depicting recent, relevant samples created by your agency. Samples may include logos, print advertising, website graphics, and/or print collateral such as posters, direct mail pieces, etc. A cover letter, in which you describe how your agency would benefit the WTA and Smart Trips marketing teams, may accompany the disc. Please do not submit additional materials.

GENERAL PROVISIONS

G.P. 1.0 INSTRUCTIONS TO PROPOSERS

- 1.1 **Successful proposer**, herein after referred to as "Contractor" shall furnish the goods or services, as described in these provisions, to Whatcom Transportation Authority, hereinafter referred to as "WTA."
- 1.2 **License & Insurance Requirements.** Proposer must be licensed to do business in their state of residence, and must be fully insured to do business in the State of Washington (see page 20, C.D. 11.00 *Liabilities Insurance*).
- 1.3 **Right to Contract by Other Government Agencies or Municipalities with Interlocal Agreements with WTA.** The Proposer agrees that if the proposer is selected for award of this project, all other government agencies or municipalities with interlocal agreements with WTA will have the right to contract with the Proposer for goods or services in this contract at the same price as contracted with the WTA, and for the same time period as contracted with the WTA.
- 1.4 **Proposal Transmittal, Receipt, Number of Copies, Layout.**
 - A. Proposals will be received at the above address until the time indicated. The WTA reserves the right to accept or reject any and all proposals, or any item or part thereof; or to waive any informality in proposals. To award in whole or in part, which ever is in its best interest, to the most responsive and responsible proposer.
 - B. The name and address of proposer is to appear in the upper left hand corner of the envelope. Each envelope shall be plainly **marked "Sealed Proposal RFP #2009-100."** No responsibility will attach to WTA for premature opening of proposals not properly addressed or identified.
 - C. One clearly marked "Original" and 2 copies of the proposal must be furnished to WTA. The proposal is to be submitted to Neil Koshlay, WTA Manager Procurement & Materials, sent with a letter of transmittal.
 - D. All proposals and submissions become the property of the WTA.
 - E. Pages of the proposal should be numbered, and if possible, sections divided with tabs.
- 1.5 **Addenda.** Any and all interpretations and any supplemental instructions will be in the form of written addenda to the request for proposal which, if issued, will be mailed to all prospective proposers identified as holders of the proposal. Receipt of each Addendum shall be acknowledged by proposers in their proposals (see Exhibits) and each Addendum shall be considered a part of the proposal and thereby incorporated into a contract. Failure to acknowledge receipt of any addenda issued may invalidate a proposal as non-responsive.

- 1.6 **Withdrawal of Proposal.** Any proposal may be withdrawn, upon either the personal or written request of the proposer, at any time prior to the time set for the proposal closing. No proposal may be withdrawn after the time set for the receipt of proposals unless the award is delayed for a period exceeding 90 days.
- 1.7 **Clarification of Proposals.** The WTA reserves the right to obtain clarification of any point in submitted proposals or to obtain additional information, if necessary, to properly evaluate a particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification may result in rejection of that proposal.
- 1.8 **Incomplete Proposals.** Except as otherwise provided for herein, proposals which are incomplete or which are conditioned in any way or which contain erasures, alterations, or items not called for in the proposal or which are not in conformance with the law, may be rejected as non-responsive.
- 1.9 **Extension of Closing Date.** The WTA reserves the right to extend the proposal closing date at any time prior to the announced proposal opening date.
- 1.10 **Award of Proposal.** The WTA reserves the right to make award within sixty calendar days from the date proposals are opened. Should award in whole or part be delayed beyond the period of sixty days, such award shall be conditioned upon proposer's acceptance.
- 1.11 **Your written proposal should encompass the following sections:**
- A. Your proposal to provide the services as defined. How you or your firm would approach the subject.
 - B. Resumes on all employees and consultants that may be involved with the WTA.
 - C. Proposed hourly rates.
 - D. Any additional information you feel important.
- 1.12 **Refusal to Execute Contract.** If the Contractor to whom a contract shall have been awarded refuses to execute the contract and to furnish the specified performance bond within fifteen (15) days after the award of the contract, the WTA Board of Directors may withdraw the award upon further consideration and the amount of the proposal deposit shall be forfeited to and retained by the WTA as liquidated damages of such neglect or refusal.
- 1.13 **Contact with WTA**
- A. The work of the prime Contractor will be under the direction of the WTA General Manager, or designee. Throughout the course of the contract, however, the Contractor may be working with other staff. The proposer may

put together a "team" of consultants who will act as sub-consultants under the proposer.

- B. Communications by or on behalf of any person or firm with WTA officials, Board members, consultants and/or employees other than those listed below during the proposal preparation and evaluation phases under this RFP are prohibited and may be cause for the person or firm involved to be subject to disqualification by the WTA.
- C. Inquiries concerning the scope of work shall be sent within the prescribed time frame on the Request for Clarification/Approved Equal form to:

Whatcom Transportation Authority
Procurement Department
4111 Bakerview Spur Road
Bellingham, WA 98226
or to: procurement@ridewta.com

1.14 Consultant's Warranties

- A. Warranty of Title: The Consultant warrants and guarantees that, upon the WTA's acceptance of the Work from the Consultant, the WTA shall acquire good title to the Work, and the Work shall be free from any and all claims, liens, and charges by any person or entity, including, but not limited to, any employee or supplier.
- B. Non-Infringement: The Consultant represents and warrants that the Work does not infringe or violate any copyright, trade secret, trademark, patent, or other proprietary or personal right held by any third party. If the Work is in any action held to constitute an infringement of any third part's rights and its use is enjoined, the Consultant shall immediately and at his/her expense (1) procure for the WTA the right to continue its use of the Work in accordance with this Agreement, (2) alter the Work to eliminate infringing portions, subject to the WTA's approval, or (3) replace the Work with a version acceptable to the WTA that is non-infringing.

1.15 Title and Copy Write of Assignment

- A. The Consultant and the WTA intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder (the "Work") to be a work made for hire. Consultant acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the WTA.
- B. If for any reason the Work would not be considered a work made for hire under applicable law, Consultant does hereby sell, assign, and transfer to the WTA, its successors and assigns, the entire right, title and interest in and to the copyright in the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all

causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing throughout the world.

- C. The WTA grants to the Consultant a non-exclusive, revocable, limited, royalty-free license for the purpose of the Consultant's self-promotion only. The license is limited to a three (3) minute Clip of the Work as chosen by the Consultant. The Consultant may use the Clip only in the Consultant's portfolio or as a posting on the Consultant's website. The Consultant shall retain the WTA logo Copyright on the Clip. The Consultant may not receive any monetary compensation for use of the Clip. From time to time the WTA, by written permission, may allow the Consultant to use the Work or part thereof for a specific purpose and limited term.
- D. Consultant agrees to execute all papers and to perform such other proper acts as the WTA may deem necessary to secure for WTA or its designee the rights herein assigned.

1.16 **Proposals as Public Records**

- A. Except to the extent permitted by Washington State and federal law, proposals shall be considered public documents and available for review and copying by the public following award.
- B. If a Proposer considers portions of its proposal to be protectable under Washington State or federal law, the Proposer shall identify and mark such portions as CONFIDENTIAL, PROPRIETARY, BUSINESS SECRET or similar words. Such portions of the proposal shall be submitted in a separate sealed envelope from the technical proposal.
- C. The WTA shall make proposals available to the public after award except those portions of proposals marked according to the above requirement. If a member of the public demands to review such portions of proposals, the WTA will notify the affected Proposer prior to releasing such portions. The Proposer shall take such legal actions as it may determine to be necessary to protect its interest. If the Proposer has not commenced such actions within five calendar days after receipt of the notice from the WTA of a demand to review such portions of its proposal, the WTA will make such portions of its proposal; the WTA will make such portions available for review and copying by the public.
- D. The Proposer asserting that portions of its proposal are legally protectable shall bear all costs of defending such assertion, including reimbursing the WTA for its administrative, expert and legal costs involved in defending itself in actions arising from such assertions by the Proposer. By submitting a proposal, the Proposer has thereby agreed to the provision of this section.

1.17 **Price Extension** In case of error in the extension of prices in the proposal, the unit prices will govern.

- 1.18 **Responsiveness.** WTA will consider all the material submitted by the proposer to determine whether its offering is in compliance with the contract documents. Determination of responsiveness will then be made. WTA reserves the right to reject nonresponsive proposals.

G.P. 2.0 METHOD OF PROCUREMENT

- 2.01 **Award.** The contract will be awarded to the proposer whose proposal will be the most advantageous to Whatcom Transportation Authority in terms of all evaluation criteria stated elsewhere in this request for proposals.
- 2.02 **Opening of Proposals.** Proposals will not be publicly opened and are strictly confidential. Detailed procedures for proposal evaluations and the steps leading to an award are provided in G.P. 3.00.
- 2.03 **Competitive Process.** The basic steps in the competitive process are as follows:
- A. WTA determines the relative importance of all of the evaluating factors pertinent to the Request for Proposals and lists them in order of priority. This has been done and is reflected as the criteria provided in G.P. 3.00.
 - B. WTA issues a Request for Proposal (RFP) containing the specifications which describes the actual minimum needs and which also advises the prospective offerors of the criteria upon which the proposals will be evaluated.
 - C. By the date specified previously, qualified offerors submit sealed proposals.
 - D. WTA evaluates all compliant Proposals in accordance with the criteria listed in G.P. 2.0
 - E. This evaluation process will result in a rank ordering of firms from which a small number of top rated proposers may be selected for interviews.
 - F. The WTA reserves the right to further negotiate a contract after the successful respondent is selected.

***WHATCOM TRANSPORTATION AUTHORITY MAY ELECT TO AWARD A CONTRACT
WITHOUT ANY NEGOTIATIONS.***

G.P. 3.0 EVALUATION OF PROPOSALS

3.01 **Best Interest.** Proposals will be evaluated by the WTA to determine which proposal, if any, should be accepted in the best interest of the WTA. WTA in its sole discretion reserves the right to accept or reject proposals submitted and to waive informalities and minor irregularities and to request additional information required to fully evaluate a proposal.

3.02 Procedures

- A. All aspects of the evaluations and any negotiations, including documentation, correspondence and meetings, will be kept confidential by the Evaluation Committee. No information regarding any proposal or its evaluation will be discussed with other competitors.
- B. The Proposals will be opened by the Evaluation Committee in private.
- C. The Proposals will be examined first to determine if they are responsive to the requirements of this RFP. Any non-responsive Proposal will not be evaluated.
- D. Proposers may be invited for an interview with the Evaluation Committee to discuss the Proposal and answer specific questions.
- E. The interview, if required, will be limited to approximately 50 minutes and will consist of an oral presentation of approximately 20 minutes by the proposer, plus a question and answer period of 30 minutes.
- F. All proposals of firms interviewed will be re-evaluated in all criteria, based on information received. The firm that has the highest evaluation on this second round will be the recommended vendor presented to the WTA Board.
- G. Upon written request, unsuccessful proposers will be informed in general terms only of the reasons for non-acceptance of their proposals.
- H. The RFP shall control if there is any conflict between the scope of work and the submitted Proposal, or any brochures, manuals or other submissions by the Proposer; provided, however, that the WTA (in its sole option and discretion and only by written confirmation before the contract is executed) may require the Proposer to meet requirements, guarantees, warranties, and standards of quality or performance incorporated in the Proposer's Proposal (or any brochures, manuals or other submissions) if they differ from the scope of work. The proposal shall become a part of any contract awarded.

3.03 **Price Proposal**

Each proposer shall enter onto a Price Proposal sheet the unit prices including options.

3.04 **Unit Price Contract**

The WTA intends to execute a unit price contract. Price proposals shall include all items necessary for equipment, services and assorted other materials and information required in the specifications and for compliance with all other requirements in the contract. Prices shall be quoted in United States dollars and shall include all royalties, license fees, taxes and governmental charges as applicable except as noted specifically below.

3.05 **Washington State Sales Tax and Federal Excise Tax**

Prices shall not include any allowance for Washington State sales tax or Federal excise tax. Any other taxes which the Proposer maybe required to pay related to the contract, including but not limited to, retail sales/use taxes on equipment and supplies used or consumed within the state of Washington, in performing work under the contract, business and occupation taxes, income taxes, etc. shall be included in the Proposer's proposed prices. No adjustments will be made in the amount to be paid by the WTA under the contract because of any misunderstanding or any lack of knowledge of the Proposer as to liability for, or the amount of, any taxes or assessments which the Proposer may be liable or responsible for by law.

G.P. 4.0 RESPONSIBILITY

4.01 **Proposer's History.** WTA will consider all the material submitted by the Proposer and other evidence it may obtain otherwise, to determine whether the Proposer is capable of and has a history of successfully completing contracts of this type, including but not limited to:

- A. That it is skilled and regularly engaged in the general class or type of work called for under the contract.
- B. That it has the requisite experience and ability, sufficient capital, facilities, personnel and plant to enable it to prosecute the work properly and successfully, and to complete it within the time stated in its proposal.
- C. That is has performed satisfactorily other contracts of like nature, magnitude and comparable difficulty and at comparable rates of progress.

4.02 **Evidence.** A proposer, if requested, must be prepared to present evidence of experience, ability, service facilities and financial standing necessary to meet satisfactorily the requirements set forth or implied in the proposal.

G.P. 5.0 NON-RESTRICTIVE CLAUSES

- 5.01 **Compliance.** All proposals shall be in strict compliance with the requirements and Technical Provisions of this Request for Proposals, including the provisions herein regarding "approvals", "approved equals" and "deviation". Where a feature, component or item is specified by brand name in these provisions, the words "or approved equal" will apply.

G.P. 6.0 PROTEST PROCEDURES

The procurement standards and requirements of the WTA procurement policy (WTA Policy #4.01, Resolution 181-99), are consistent with the requirements of Federal Transit Administration (FTA), "Third Party Contracting Guidelines", FTA Circular 4220.1E. The Manager is hereby authorized to follow and implement as part of this procurement policy the "Third Party Contracting Guidelines", FTA Circular 4220.1E, or any amendments or changes thereto as shall be deemed necessary and appropriate by the Manager.

Proposers are advised that to be considered a valid protest, subject matter can only address issues associated with the Procurement Action, as defined below. Accordingly, the protest cannot be associated with or challenge the recommendations of WTA staff or any WTA Evaluation Committee. In other words, a protest can be put forth that WTA staff did not follow their own policies or procedures that govern a Procurement Action, and accordingly a proposer was unfairly treated. The protest cannot challenge WTA staff or Evaluation Committee's recommendation of a potentially successful proposer.

Excerpt from FTA Circular 4220.1E: Reviews of protests by FTA will be limited to a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation.

Procurement Action: meaning specific procurement steps, such as setting the calendar of events, producing the proposal/bid document, advertising the proposal or bid in legal paper of record, maintaining a list of proposal/bid holders, conducting a pre-proposal meeting, responding to all approved equals/clarifications received by the appropriate time and date, addendums issued straightforwardly to all proposal/bid holders, enforcing closing time and date, providing proctoring services to the project manager and evaluation committee, setting criteria weights, conducting interview process with top-scoring proposers and evaluation committee, creating notes to file regarding the proposal/bid process, issuing award/non-award letters, and maintaining a written record of the procurement.)

Procedures:

- A. Bidders/proposers have the right to protest the legitimacy of any formal procurement action of \$100,000 or more and public works procurements of \$25,000 or more taken in accordance with this Resolution. For purposes of this protest procedure, bidder/proposer shall mean an actual or prospective bidder/proposer or offeror whose direct economical interest would be affected by the award or failure to award a contract. Bidders/proposers include Disadvantaged Business Enterprise (DBE) subcontractors. It also includes prime contractors that have been refused a recommendation of award of a contract by WTA staff where the bid required DBE involvement, and WTA staff determined a "lack of good faith effort" on the part of the prime contractor to secure DBEs.
- B. Bidders/proposers protesting the legitimacy of any procurement action as described above shall submit a written Notice of Protest to the WTA at their administrative office, but no less than eight (8) calendar days before bid/proposal opening date for pre-award protests and no less than seven (7) calendar days after the award of contract. Submit shall refer to the date of receipt by the WTA. The Notice of Protest shall state protestor's name, solicitation/contract number, statement of grounds of protest, and all issues and facts applicable to the protest and issues or facts not stated will not be considered.
- C. Protesting parties should call the Procurement Office to obtain the exact date of the WTA Board award.
- D. Upon timely submittal of a Notice of Protest, the protest shall be handled as follows:
 - 1. A meeting(s) will be called within five (5) working days from receipt of the protest that will include representatives from the WTA and the protester to discuss the issue(s) related to the protest. The meeting may be conducted by telephone conference;
 - 2. A decision of the protest will be made by the Manager within three (3) working days of the final meeting and at the time the protester shall be notified of the decision in writing by the Manager by regular mail;
 - 3. The Manager may, at his sole discretion, extend the limits of time outlined above;
 - 4. The decision of the Manager shall be final, unless appealed as provided herein.
 - 5. A request for reconsideration may be allowed if data becomes available that was not previously known, or there has been an error of law or regulation.
- E. A protester may appeal the Manager's decision to the WTA Board of Directors by submitting a written Notice of Appeal to the WTA Board Chairperson within five (5) calendar days of receipt of the Manager's decision. The Manager's decision shall be deemed received within three (3) days, exclusive of Sundays and holidays, of the date of posting of the

decision or sooner in the event of actual receipt of personal service. The appeal shall be based solely upon the record before the Manager, and the following procedures shall apply:

1. A three (3) member committee of the WTA Board as appointed by the Board Chairperson shall decide the appeal. Written argument must be submitted to the committee.
 2. The committee may affirm or reverse the decision of the Manager, or affirm or reverse the decision in part. The decision of the committee shall be final.
- F. Failure of the bidder to submit a written Notice of Protest in accordance with the specified timelines contained herein shall constitute a waiver of all right to protest. Failure of the protester to submit a written Notice of Appeal in accordance with the timelines specified herein shall preclude all further appeal of the decision of the Manager.
- G. This protest and appeal procedure shall be made known to all prospective bidders or offerors by being included or referenced in the requirements section of all solicitation documents.
- H. All communications with the parties involved, including the WTA staff or Board members concerning a protest shall be in writing as provided herein, and will be open for public inspection. The WTA shall be responsible for compiling and maintaining the written protest record.
- I. FTA may entertain a protest which alleges that the WTA failed to have or follow written protest procedures. Such protest must be filed with the FTA cognizant Regional Office within five (5) days of the protester knew or should have known of the violation. Such protest to FTA must be filed in accordance with FTA Circular 4220.1E, as periodically updated.
- J. When a protest has been timely filed with the WTA before award, the WTA shall not make an award prior to five (5) days after the Resolution of the protest and any appeal thereto or if a protest has been filed with FTA, during the pendency of that protest, unless the WTA determines that:
1. The items to be procured are urgently required;
 2. Delivery or performance will be unduly delayed by failure to make the award promptly; or
 3. Failure to make prompt award will otherwise cause undue harm to the WTA or the Federal Government.

In the event the WTA determines that the award is to be made during the five (5) day period following the Board decision or the pendency of a protest or appeal thereto, the WTA shall notify FTA prior to making such award. FTA will not review the sufficiency of the WTA's determination to award during the pendency of a protest or appeal prior to FTA's bid protest decision. FTA reserves the right not to participate in the funding of any contract awarded during the pendency of a protest.

Failure to comply with these protest procedures will render a protest untimely and/or inadequate and result in rejection thereof by the WTA.

CONTRACT DOCUMENTS

C.D. 1.00 CONTRACT DOCUMENTS

1.01 **Oral Changes and Oral Amendments.** Oral changes and oral amendments are not permitted. All amendments must be prepared in writing by the WTA's Manager of Procurement & Materials prior to becoming a contract modification. Amendments will be approved per WTA policy.

1.02 **Change Order Procedure:** Under some conditions it may be advantageous to modify CONTRACT DOCUMENTS. When this condition arises, WTA or the contractor may initiate a written change order request, however, such change orders shall be subject to the approval of the WTA and in writing, as an addition to the contract.

Within ten (10) calendar days after receipt of any written change order to modify the contract, the Contractor shall submit to WTA a detailed price schedule proposal for the work to be performed, if required, and notification of modifications of other provisions of the contract which may be required as a result of the change.

1.03 **Default or Breach of Contract.** The Contractor agrees that upon default or breach of the contract or any terms or conditions therein and whether or not suit is commenced by the WTA, that the Contractor shall pay the WTA all costs and expenses together with and including reasonable attorney's fees incurred by the WTA as a result of the Contractor's default or breach of contract.

1.04 **Indemnification/Hold Harmless.**

A. **Indemnification.** The Contractor shall defend, indemnify and hold WTA, its agents, officers and employees harmless from any and every claim and risk and all losses, damages, demands, suits, judgments, and attorney fees, and other expenses of any kind, on account of injury to or death of any and all persons(s) and/or on account of all property damages of any kind, whether tangible or intangible, including loss of use resulting therefrom in connection with the work performed under this contract, or caused or occasioned in whole or in part by reason of the presence of the Contractor or its subcontractors or their property, employees, or agents, upon or in proximity to the property of the WTA, or any other property upon which the Contractor is performing any work called for or in connection with this contract, except only for those losses resulting solely from the negligence of the WTA, its officers, employees, and agents.

The duty to defend, indemnify and hold WTA, its agents, officers and employees harmless as set out herein and in paragraphs B and C shall apply to every claim and risk and all losses, damages, demands, suits, judgments, and attorneys' fees, and other expenses of any kind, for injury, death or incapacity of an employee of Contractor. In this limited context, Contractor specifically waives any limitations and protection afforded by the Washington State Industrial Insurance Act, RCW Title 51.

- B. **Notice.** WTA will give the Contractor prompt notice in writing of the institution of any suit or proceeding and permit the Contractor, through counsel to defend same and will give all needed information, assistance and authority to enable the Contractor to do so.
- C. **Lawsuit.** If a lawsuit in respect to this hold harmless provision ensues, the Contractor shall appear and defend that lawsuit at its own cost and expense, and if judgement is rendered or settlement made requiring payment of damages by the WTA, its officers, agents, employees, and volunteers, the Contractor shall pay the same.

If a lawsuit in respect to this hold harmless provision ensues, the Contractor shall appear and defend that lawsuit at its own cost and expense, and if judgement is rendered or settlement made requiring payment of damages by the WTA, its officers, agents, employees, and volunteers, the Contractor shall pay the same.

- 1.05 **Suit or Action.** The Contractor shall give WTA immediate notice of any suit or action filed or prompt notice of any claim made against WTA arising out of the performance of this contract. The Contractor shall furnish immediately to WTA copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of insurance coverage, the Contractor shall authorize representatives of WTA to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim.
- 1.06 **Subcontractor Indemnification/Hold Harmless.** Further, the Consultant agrees that it will require its subconsultants retained to perform services under this agreement will likewise hold harmless and indemnify the WTA against the subconsultants' negligent acts, errors or omissions and the subconsultants will name the WTA as an additional insured on their general liability insurance policy and a copy will be provided to the WTA. All terms and conditions contained in this Contract shall be binding upon the Contractor's subcontractors. The Contractor shall enter into contracts with its subcontractors and these contracts shall contain these terms and conditions.

C.D. 2.00 LAWS AND REGULATIONS

Contractor's attention is directed to the fact that all applicable Federal and State Laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the project shall apply to the Agreement throughout, and they will be deemed to be included in the agreement the same as though herein written out in full. This includes without limitation WISHA and OSHA regulations currently in effect at time of Proposal closing. Any contract financed with FTA assistance is under Federal requirements, which may change, and the changed requirements will apply to the project as required. All limits or standards set forth in this agreement to be observed in the performance of the project are minimum requirements.

C.D. 3.00 JURISDICTION

- 3.01 **State of Washington.** This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.
- 3.02 **Action of Law.** Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained and venue shall be only in the courts of competent jurisdiction in Whatcom County, Washington.

C.D. 4.00 ASSIGNMENT

No assignment or transfer of any interest in a contract with WTA is permitted without the prior written consent of the WTA.

C.D. 5.00 TERMINATION

- 5.01 **Breach.** In the event the Contractor breaches the terms or violates the conditions of the contract, and does not within ten (10) days after written notice by WTA to the Contractor of the breach thereafter, cure such breach or violation or if the Contractor becomes bankrupt or insolvent or suffers an assignment for benefit of creditors, the WTA may immediately terminate the contract for default. Contractor shall be liable for any and all costs and damages incurred by the WTA as a result of such default.
- 5.02 **Delays.** Any delays in the contract or any failure to timely performance by the Contractor with the time specified shall be deemed to be a violation of the terms of this contract.
- 5.03 **Non-performance.** If it is later determined by the WTA that the Contractor had an excusable reason for not performing, by way of an unavoidable delay as provided herein, the WTA after setting up a new delivery of performance schedule agreeable with the WTA, may allow the Contractor to continue work or treat the termination as a termination for convenience.
- 5.04 **Substitute Services & Damage Recovery.** In the event the WTA shall terminate this contract as a result of the Contractor's breach or violation of the terms and conditions of this agreement, or if the Contractor is otherwise in default of any terms or conditions hereof, the WTA may in such events and in addition to all other remedies in law or equity available to the WTA and not by way of a limitation thereto procure substitute services elsewhere and recover damages and costs thereof.

- 5.05 **Notice.** WTA may terminate this contract, in whole or in part, at any time by giving the Contractor thirty (30) days notice. The Contractor shall be paid its fees, including contract close-out fees, on work performed up to the time of termination. The Contractor shall promptly submit to the WTA its termination claim to be paid the Contractor. If the Contractor has any property in its possession belonging to the WTA, the Contractor will account of the same, and dispose of it in the manner WTA directs.

C.D. 6.00 WORKERS' COMPENSATION

If eligible, the Contractor and its subcontractors shall take out and maintain during the life of this contract, Worker's Compensation Insurance in the amount and type required by law for all of its employees engaged in work under or pursuant to the contract who are required to be so covered by the laws of the State of Washington. If the Contractor is not eligible for Worker's Compensation Insurance it shall indemnify and hold the WTA harmless for any claims presented to it solely as a result of the Contractor's actions.

C.D. 7.00 GENERAL REQUIREMENTS

All provisions contained herein are in addition to, and in no respect waive or release complete compliance with all requirements found in contract documents.

C.D. 8.00 INDEPENDENT CONTRACTOR

The Contractor shall be deemed an independent Contractor for all purposes, and the employees of the Contractor, any of its Contractors, subcontractors, and the employees thereof, shall not in any manner be deemed to be the employees of the WTA. As such, the employees of the Contractor, its Contractors and subcontractors, shall not be subject to any withholding for tax, social security, or other purposes by WTA, no shall such Contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation or the like from WTA.

C.D. 9.00 SEVERABILITY

In the event that any provision, portion, or application of this contract is held to be unenforceable or invalid by any court of competent jurisdiction, WTA and the Contractor shall negotiate an equitable adjustment in the provision of this contract with a view toward effecting the purpose of this contract and the validity and enforceability of the remaining provisions, or portions of applications thereof, shall not be affected thereby.

C.D. 10.00 PAYMENT

- 10.01 **Payment of Invoices** Payment will be made within 30 days after acceptance and approval of invoices by project manager.
- 10.02 **Reimbursement for Services** All payments under this Contract are considered reimbursement for services and items rendered. Each request for payment herein is to be submitted in the usual form of a claim for services rendered which claim shall be supported by detailed documentation of the services actually performed so as to comply with auditing requirements. Payment shall be upon approved claim and in accordance with customary procedures.
- 10.03 **Unit Price** Payment shall be based upon the unit price proposal as adjusted, except as may be modified by written change order.

So as to conform to auditing requirements, invoices must show a date, invoice number, date of work, breakdown of costs, and if applicable, hourly rate/position, number of hours worked, subcontract work, and overhead. The invoices must include the WTA purchase order number. This list is not necessarily all-inclusive. Invoices must match a pre-determined/approved scope of work authorized by the WTA project manager, and completion of that work.

The WTA will pay invoices as closely as possible to the 10th and 25th of each month. Invoices must be received by the project manager ten working days prior to the above pay periods to receive proper review and referral for payment to accounts payable.

C.D. 11.00 LIABILITIES INSURANCE

Coverage. The Contractor as the primary insured, shall obtain, and keep in force during the entire term of the contract, personal injury (bodily injury) affording limits of \$1,000,000 each person and \$1,000,000 for each occurrence, and property damage affording limits of \$1,000,000 each occurrence. The insurance shall protect the WTA against any and all claims for damages to person or property which may arise out of operations under the contract, whether occurring by reason of acts or omissions of the contractor, any sub-contractor, or anyone directly or indirectly employed by either the contractor or subcontractor and hold WTA harmless for any claims presented to it as a result of actions that are the responsibility of the contractor.

Certificate. A certificate of insurance naming WTA as additional insured by endorsement will be secured for the above. Such insurance may not be canceled, reduced in coverage or limits, or non-renewed except after thirty (30) days written notice has been given to the WTA.

Authorized in State of Washington. Insurance coverage shall be with reliable companies authorized to do business in the State of Washington.

Certificate Submittal. The certificate of insurance shall be submitted with the completed contract documents and approved by the WTA prior to commencement of any work under the contract.

C.D. 12.00 SERVICE OF NOTICES

Any notice, order, direction, request or other written communication given by the WTA to the Contractor under the Contract shall be deemed to be well and sufficiently given the Contractor if delivered to the Contractor's appointed representative, or if hand carried, sent by mail, or sent by telegraph or by facsimile to the Contractor at the address or facsimile number designated as that of the Contractor's appointed representative with receipt thereof acknowledged. Notice shall also be deemed to be well and sufficiently given ten (10) days after mailing said notice by registered mail to the Contractor's last know place of business.

C.D. 13.00 DEVIATION FROM CONTRACT

The Contractor shall not make any alterations or variation in or addition to or deviation or omission from the terms of this Contract without consent of the WTA.

C.D. 14.00 SUGGESTIONS TO CONTRACTOR

Any plan or method of work suggested by the WTA to the Contractor, but not specified or required in writing under the Contract, of adopted or followed by the Contractor in whole or part shall be used at the risk and responsibility of the Contractor and the WTA shall assume no responsibility therefor.

C.D. 15.00 JOINT VENTURE & PARTNERING

In the event the Contractor is a joint venture of two or more contractors, all grants, covenants, provisos and claims, rights, powers, privileges, and liabilities of the Contract shall be construed and held to be several as well as joint. Any notice, order direction, request or other communications required to be or that may be given by the WTA to the Contractor under this agreement shall be well and sufficiently given to all persons being the Contractor if given to any one or more of such persons. The WTA encourages partnering, especially as it might pertain to partnering with a local firm.

C.D. 16.00 WAIVER OF RIGHTS BY WTA

No action or want of action on the part of the WTA at any time to exercise any rights or remedies conferred upon it under this Contract shall be deemed to be a waiver on the part of the WTA of any of its rights or remedies. The WTA shall be deemed to have waived a right or remedy only if issued or confirmed in writing as a

waiver by the WTA. No waiver of one right or remedy shall act as a waiver of any other right or remedy or as a subsequent waiver of the same right and remedy.

C.D. 17.00 ERRORS AND OMISSION

If the Contractor in the course of the Work becomes aware of any errors or omissions in the Contract Documents or in the data as given in the instructions or if he becomes aware of any discrepancies in the Contract Documents, he shall immediately inform the WTA. Any work done after such discovery until the Contractor has delivered written notification thereof to the WTA and one work day has elapsed, will be done at the Contractor's risk.

C.D. 18.00 CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY ACTS

The Proposer assures that they are complying with the applicable portion of the Federal Civil Rights Act of 1964, and the Equal Employment Opportunity Act and the regulations issued thereunder by the State and Federal Government. If any proposer fails to comply with the act or the regulations issued thereunder, the WTA reserves the right to terminate the contract.

C.D. 19.00 DBE OBLIGATION

In connection with the performance of a contract the successful proposer will cooperate with the WTA in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises and will use its best efforts to insure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under the contract.

C.D. 20.00 PROHIBITED INTEREST

No officer, employee, Board member of the WTA or other official of the WTA or its designees or agents who exercise any function or responsibility with respect to this contract during his/her tenure of one (1) year thereafter, may have any interest, direct or indirect, in any contract or subcontract, with this contract. The Contractor will incorporate a provision prohibiting such an interest in all subcontracts.

C.D. 21.00 CONFLICT OF INTEREST

21.01 **Real or Apparent.** No employee, officer, Board member, or agent of WTA shall participate in selection or in award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- A. The employee, officer, Board member or agent;
- B. Any member of his/her immediate family;

- C. His or her partner; or
- D. An organization which employs, or is about to employ, has a financial or other interest in the firm selected for award.

21.02 **No Gratuities, Favors, etc.** WTA's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, potential Contractors or parties of subagreements.

C.D. 22.00 AUDIT, INSPECTION, AND RETENTION OF RECORDS

The Contractor agrees that the WTA, or any of its duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three years after WTA makes final payments and all other pending matters are closed.

C.D. 23.00 FEDERAL REQUIREMENTS

The Contractor understands that there is no federal obligation or liability in connection with this contract.

C.D. 24.00 DISPUTES

24.01 **Question of Fact.** Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of by agreement shall be decided by the WTA General Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the General Manager shall be final and conclusive. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the agreement.

24.02 **Questions.** This "dispute" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph above; provided that nothing in this agreement shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

C.D. 25.00 REPRESENTATIVES

25.01 **Contract & Project Managers.** The Contract Manager is the WTA's designated representative for contract compliance. The Project Manager is the designated representative for project compliance.

25.02 **Contractor Representative.** At the time of contract award, the Contractor shall appoint a representative as a point of contact for the WTA. This representative shall be the contract liaison agent through whom the WTA will communicate with

the Contractor. The Contractor shall respond to all written communications from the WTA's representative within seven (7) days from receipt.

C.D. 26.00 AMERICANS WITH DISABILITIES ACT

During the performance of this contract, the Contractor agrees to comply with the Americans With Disabilities Act of 1990 (P.L. 101-336) and all requirements and regulations imposed by the U.S. Equal Employment Opportunity Commission, U.S. Department of Justice, and other applicable Federal agencies, and all guidelines and interpretations issued pursuant thereto.

OVERVIEW OF EXHIBITS

MARKETING SERVICES RFP #2009-100

Exhibit	Description
A	Agreement Attachments Documents Form
B	Sample Agreement Form
C	Receipt of Addenda Form
D	Non-Collusion Affidavit Form
E	Certification of Non-Segregated Facilities
F	Affidavit
G	Conflicts of Interest
H	Client Reference List
I	Request for Clarification Form
J	Certification - Debarment, Suspension & Other Exclusions
K	Certification Regarding Lobbying

AGREEMENT ATTACHMENTS

**MARKETING SERVICES
RFP #2009-100**

The following documents make up the Agreement:

1. Agreement dated _____, 2009
2. Request of Proposals and Scope of Work for an Agreement to provide Marketing Services for Whatcom Transportation Authority Project #2009-100 dated _____, 2009.
3. Addenda numbers: _____
4. Proposal documents submitted by _____ dated _____, 2009.

THIS FORM TO BE COMPLETED UPON AWARD OF PROPOSAL

SAMPLE AGREEMENT

**MARKETING SERVICES
RFP #2009-100**

This AGREEMENT is made and entered into this ____ day of _____, 2009, by and between WHATCOM TRANSPORTATION AUTHORITY, a Washington municipal corporation, hereinafter referred to as "WTA", and _____, hereinafter referred to as "Contractor".

The Project:

In consideration of the terms, conditions, covenants, and performance contained herein, WTA and Contractor agree as follows:

1. The Agreement documents consist of this Agreement, Request for Proposal, the Scope of Work for an Agreement for WTA Project number _____, and all addenda issued prior to and all modifications issued after execution of this Agreement. These form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated herein. An enumeration of the Agreement documents appears in Exhibit "A".

2. The Contractor shall perform all the Work required by the agreement documents for *Marketing Services* for WTA Project Number RFP 2009-100.

3. WTA shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Agreement Documents.

4. The parties agree that this Agreement is the complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded. Further, any modification of the Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Agreement to be executed the day and year first above written.

WTA:

CONTRACTOR:

Richard G. Walsh, General Manager
Whatcom Transportation Authority

TO BE COMPLETED ONLY UPON AWARD OF PROPOSAL

RECEIPT OF ADDENDA

**MARKETING SERVICES
RFP #2009-100**

Addendum No.	Date of Receipt	Signed Acknowledgment

Note: Failure to acknowledge receipt of addenda may be considered as non-responsive to the proposal.

THIS FORM MUST ACCOMPANY PROPOSAL

WHATCOM TRANSPORTATION AUTHORITY

MARKETING SERVICES
RFP #2009-100

NON-COLLUSION AFFIDAVIT

STATE OF WASHINGTON }
 } ss.
COUNTY OF }

_____, being first duly sworn, on oath states that the proposal herewith submitted is a genuine and not a sham or collusive proposal, or made in the interest or on behalf of any person not therein named; and further says that the said proposer has not directly or indirectly induced or solicited any proposer on the above work or supplies to put a sham proposal, or any other person or corporation to refrain from proposing; and that said proposer has not in any manner sought by collusion to secure to himself an advantage over any other proposer or proposers.

(Proposer)

Subscribed and sworn to me before this _____ day of _____, 2009.

Notary Public in and for the State of Washington,

residing at _____

my commission expires _____

THIS FORM MUST ACCOMPANY PROPOSAL

CERTIFICATION OF NON-SEGREGATED FACILITIES

**MARKETING SERVICES
RFP #2009-100**

The proposer certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The proposer certifies further that he will not maintain establishments, and that he will not permit his employees to perform their services at any location under his control where segregated facilities are; maintained. The proposer agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of this proposal. As used in this certification the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom, or otherwise. The proposer agrees that except where he has obtained identical certification from proposed subcontracts which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain each certification in his files.

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Date: _____

Signature: _____

Title: _____

THIS FORM MUST ACCOMPANY PROPOSAL

AFFIDAVIT**MARKETING SERVICES
RFP #2009-100**

The undersigned swears that all foregoing statements are true and correct and include all material information necessary to identify and explain the operation of _____ (Name of Firm), as well as, the ownership thereof. Further, the undersigned agrees to provide the Whatcom Transportation Authority complete and accurate information regarding actual work performed on WTA projects, the payment therefore and proposed changes, if any, of the foregoing arrangements, and to permit the audit and examination of books, records, and files of the named Firm by an independent auditor representing the Whatcom Transportation Authority. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal and State laws concerning false statements. The Firm further agrees to abide by the conditions and terms set forth in the Bid documents and to the requirements imposed by FTA for performance of this project.

Note: If, after filing this form and before the work of this Firm is completed on the contract covered by this regulation, there is any significant change through the Prime Contractor, or if no Prime Contractor, inform the WTA directly.

Signature

Title

Name

Date

ACKNOWLEDGMENT:

STATE OF: _____

COUNTY OF: _____

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, on this _____ day of _____, 2009 and said person acknowledged that he/she signed this affidavit, on oath stated that he/she was authorized to execute the affidavit and acknowledged it as the _____ (title) of _____ (name of firm) to be the free and voluntary act for the uses and purposes mentioned in the affidavit.

SEAL:

Notary Public
My commission expires: _____

FORM MUST ACCOMPANY PROPOSAL

**AFFIDAVIT CONCERNING CONFLICTS OF INTEREST
AND NONCOMPETITIVE PRACTICES**

**MARKETING SERVICES
RFP #2009-100**

The undersigned, being first duly sworn, on oath, states on behalf of the Provider:

1. Conflict of Interest

That the Provider by entering into this Contract with the Whatcom Transportation Authority to perform or provide work, services or materials to the WTA has thereby covenanted, and by this affidavit does again covenant and assure, that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, which conflicts in any manner or degree with the services required to be performed under this Contract and that it shall not employ any person or agent having such interest. In the event that the Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to the WTA and take action immediately to eliminate the conflict or to withdraw from this contract, as the WTA may require.

2. Contingent Fees and Gratuities

That the Provider, by entering into this contract with the WTA to perform or provide services or materials for the WTA has thereby covenanted, and by this affidavit does again covenant and assure:

- a. That no person or selling agency except bona fide employees or designated agents or representatives of the Contractor has been employed or retained to solicit or secure this contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
- b. That no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Provider or any of its agents, employees or representatives, to any official, member or employee of the WTA or other governmental agency with a view toward securing this contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this contract.

Date: _____ Signature: _____

STATE OF: _____

COUNTY OF: _____

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, on this _____ day of _____, 2009 and said person acknowledged that he/she signed this affidavit, on oath stated that he/she was authorized to execute the affidavit and acknowledged it as the _____ (title) of _____ (name of firm) to be the free and voluntary act for the uses and purposes mentioned in the affidavit.

SEAL:

Notary Public
My commission expires: _____

THIS FORM MUST ACCOMPANY PROPOSAL

CLIENT REFERENCE LIST

**MARKETING SERVICES
RFP #2009-100**

Proposer is to provide name of business, contact and phone number of similar contracts.

Business	Contact	Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____

REQUEST FOR CLARIFICATIONS

MARKETING SERVICES
RFP #2009-100

Project Title: _____ Project #: _____

Company Name: _____ Date: _____

Document Reference (Check one)

- General Requirements _____
- Specifications _____
- Contract _____

Section Title: _____

Section Page # _____ Section #: _____

Proposer's Request:

Authorized Signature Date

WTA Response: Approved: _____ Denied: _____

WTA Comments:

WTA Authorized Signature Date

CERTIFICATION - DEBARMENT, SUSPENSION & OTHER EXCLUSIONS
(CONTRACTS BETWEEN \$25,000 - \$100,000)

MARKETING SERVICES
RFP #2009-100

The Proposer certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of USC 3801 et seq. are applicable thereto.

Date: _____

Name of Proposer: _____

Signature: _____

Name (typed or printed): _____

Title: _____

THIS FORM MUST ACCOMPANY PROPOSAL

**CERTIFICATION - DEBARMENT, SUSPENSION & OTHER EXCLUSIONS
(CONTRACTS OVER \$100,000)**

**MARKETING SERVICES
RFP #2009-100**

The Proposer certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civil charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding the application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

If the Proposer is unable to certify to any of the statements in this certification, the Proposer shall attach an explanation to this certification.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 USC Section 3801 et seq. are applicable thereto.

Date: _____

Name of Proposer: _____

Signature: _____

Name (typed): _____

Title: _____

THIS FORM MUST ACCOMPANY PROPOSAL

CERTIFICATION REGARDING LOBBYING

**MARKETING SERVICES
RFP #2009-100**

Pursuant to 40 CFR Part 34, the undersigned certifies, to the best of their knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Date: _____

Name of Proposer: _____

Signature: _____

Name (typed): _____

Title: _____

THIS FORM MUST ACCOMPANY TECHNICAL PROPOSAL