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**City of Seattle**

**Request for Proposal**

**RFP TRN #3599**

**Bike Share Equipment and Operations Program**

**Closing Date & Time: Friday, July 15, 2016 at 3:00 p.m. PST**

**Schedule**

|  |  |
| --- | --- |
| Events | Date |
| RFP Issued | May 19, 2016 |
| Optional Pre-Proposal Conference | Wednesday, June 1, 2016 at 10:00 a.m. PST |
| Question and Answer Call | Friday, June 10, 2016 at 10:00 a.m. PST |
| Deadline for Written Questions | Friday, July 1, 2016 by 5:00 p.m. PST |
| Sealed Proposals Due to the City | **Friday, July 15, 2016 by 3:00 p.m. PST** |
| Interviews | August 1-12, 2016 |
| Intent to Award | August 15, 2016 |

*The City reserves the right to modify this schedule at the City’s discretion. Notification of changes in the response due date would be posted on the City website or as otherwise stated.*

***PROPOSALS MUST BE RECEIVED ON OR BEFORE THE DUE DATE AND TIME***

***AND MUST BE AT THIS LOCATION STATED IN SECTION 9***

**Mark the outside of your mailing envelope indicating RFP TRN #3599**

By responding to this Request for Proposal (RFP), Proposer agrees that s/he has read and understands all documents within this RFP package.

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# CONTACT AND COMMUNICATIONS

Communications with the City: All communications regarding this RFP and this acquisition shall be directed only to the RFP Coordinator, unless specifically authorized in writing by the RFP Coordinator. Contact or communications with any other official or City employee may be grounds for rejection of the proposal. Any firm, individual or representative that makes such contact on behalf of a Proposer, may also create the appearance of a potential conflict and could result in rejection of the Proposer.

The RFP Coordinator is: Liz Alzeer, Deputy Purchasing Manager, City Purchasing and Contracting Services, Department of Finance and Administrative Services

Phone: (206) 684-4535

E-mail: liz.alzeer@seatte.gov

Following Proposal submittal, Proposers shall continue to direct communications only to the City RFP Coordinator until the contract has been executed, except as authorized by the RFP coordinator in writing. The RFP Coordinator will send out information to responding companies as decisions are concluded.

To eliminate any appearance of conflicts of interest, the Department of Finance and Administrative Services, through the City Purchasing and Contracting Services Director, is the sole administrator of this RFP process. Further, the review, evaluation and selection, shall be under the authority of FAS, with participation from city officials and administrators under the direction of FAS. Questions regarding the process shall be directed to the RFP Coordinator.

# INTRODUCTION

## OVERVIEW

This solicitation seeks proposals from qualified vendors (which may include non-profit organizations) to supply equipment, launch and operate an expanded, financially capable bike share system. Subject to appropriations, the City is prepared to invest up to $5 million in capital costs in establishing this new system. The City hopes to complete this RFP solicitation process, and have the Contracted Vendor launch the proposed new system in summer of 2017.

Seattle’s current system includes 54 stations, 960 docks, 54 helmet dispensing units and 473 bicycles and launched in October, 2014 by the non-profit Pronto. As of April, 2016, the system is owned by the City of Seattle and operated by Motivate. With the new system, the City seeks to increase the size of the system two-fold or more.

Although Proposers will discuss options for the existing equipment, the City will not require the existing Pronto equipment to be retained or integrated into the new approach. The City seeks maximum competition with this RFP and this means that this RFP does not restrict itself to a particular equipment brand.

Proposals offering station-based or station-less systems (also known as free-floating, smart-bike or point-to-point systems) are welcome without preference. Pedal-assist bicycles (also known as electric bikes or e-bikes) are preferred but not required.

The Contracted Vendor will be responsible for ensuring a smooth transition of service and equipment including removal and disposition of existing equipment, consistent with grant requirements.

It is the City’s intent that the new system is financially stable, relying on minimal or no ongoing City funds for operations. A variety of financial models are welcome without preference. Additionally, Proposers may submit up to two financial proposals.

The Scope of Work includes Required Services and Premium Services. The Successful Respondent will be required to perform the Required Services; the City reserves the right to contract with the Successful Respondent to perform Premium Services.

The City’s intent is to enter into a single binding contract for both Operations and Equipment with the Successful Respondent for a 10-year term with an optional 10-year extension (“Term”).

This RFP allows additional municipalities to contract directly with the Successful Respondent. Additional municipalities that have expressed varying levels of interest in bike share to date include Bellevue, Redmond, Kirkland, Issaquah and Tacoma.

## GOAL

In this new system, the City seeks to dramatically increase number of bicycles in the system, and expand beyond the existing service area. Long term, the City of Seattle envisions expanding bike share into all neighborhoods with upwards of 2500 or more bicycles. Funds for long-term expansion may come from grants, sponsorships, advertising, investment from the Contracted Vendor, and/or surplus from the system.

## VISION

Seattle’s bike share vision is part of the overall vision of the Seattle Department of Transportation (“SDOT”). SDOT seeks to deliver a high-quality transportation system for Seattle. SDOT envisions a vibrant Seattle with connected people, places and products. SDOT is organized around 5 core values:

* A safe City
* An interconnected City
* A vibrant City
* An affordable City
* An innovative City

Specific to bike share, the City envisions that bike share will become a new personal mobility option that increases access to affordable transportation, promotes active and healthy living, is environmentally friendly and equitable, supports the local economy and is financially sustainable. It is intended the bike share program will:

* Become an integral part of Seattle’s public transportation system, particularly enhancing first/last mile access to transit
* Support City of Seattle and Move Seattle initiatives related to public transportation, innovation, equity
* Transform Pronto into a financially sustainable system

## PROJECTIONS

The City created a preliminary model to predict trips, membership and revenue for a 1000 bike system (100 stations), in order to understand whether an expanded bike share system could be financially viable and support the City’s public policy goals. The model is based on data from peer cities including Minneapolis, Washington DC, Boston, Denver, Chicago, Toronto and Columbus. Assumptions underlying the model were conservative. Preliminary projections for a 1000 bike system (100 stations) were:

* Annual Members: 8,000
* Casual Members: 85,000
* Casual trips to Member trips: 28
* Total Revenue (User Fees and Members): $1.4M
* Total trips: Up to 870,000

# BACKGROUND

## HISTORY

In October, 2014, Puget Sound Bike Share (“PSBS”), a non-profit 501c3 doing business as Pronto, launched the Pronto bike share system, providing third-generation automated bicycle rentals in Seattle. Motivate operated the system, on a flat fee-for-service payment model. In satisfying the county’s all-ages helmet law, Pronto became the first bike share system in the country to provide helmet dispensing units (“HDU’s”) at every station.

PSBS was not financially sustainable and in April 2016, the City purchased the bike share system from PSBS. This allowed continued operations, until the City could separately solicit and make a decision as to a long-term, viable, expanded and permanent system. As of May 1 2016, the City owns or has title to a total of 54 stations, 960 docks, 54 helmet dispensing units and 473 bicycles. Of those assets the Federal Transit Administration has an interest in 28 stations and 516 docks and the Washington State Department of Transportation has an interest in 12 stations, 243 docks, and 12 helmet dispensing units. The City continues to contract with Motivate, and intends to do so until a new vendor is selected under this proposal process. Motivate provides turnkey operations services, with the City paying Motivate $125 per dock month for operations in the peak season and $117 per dock month in the off-season.

## EQUIPMENT

Equipment used in the Pronto system is as follows:

* *Stations and Software* - 8D Technologies Inc. (“8D”) provided stations and the software platform. All stations were purchased in 2014. The Pronto system did not purchase map frames due to Seattle’s restrictive outdoor advertising rules.
* *Bicycles -* Arcade Cycles provided the bicycles. Current bicycles are not pedal-assist, but have three gears. The locking mechanism to lock the bicycle to the dock is known as the “claw”.
* *Helmet Dispensing Units* - Motivate provides helmet dispensing units at every station in compliance with King County’s all ages helmet law. Originally not equipped with any technology, users withdrew helmets from one bin, and returned to the adjacent bin. The simple system was more than adequate to provide helmets and theft did not appear to be a problem. Motivate has since added a basic keypad providing a locking mechanism and integrated payments.

All equipment, including spare parts, helmets, tools, vehicles, etc. is purchased through Motivate as part of their operations contract.



*Top Left – Pronto bike share station with bikes, helmet machine and kiosk. Bottom Left – Pronto bicycle, produced by Arcade, Middle Right – Original helmet dispensing unit provided by Motivate, Bottom Right – Keypad added to helmet dispensing unit*.

## SYSTEM STATISTICS

As of January, 2016, the system had hosted 163,026 trips with annual members generating just under two-thirds of the trips. Active annual membership totaled 2,106. The number of annual members peaked in September 2015 with 3,186 members. There have been more than 4,000 annual memberships and 30,000 casual memberships purchased since inception.

The average station contains between 14 and 20 docks. The system has roughly 2 docks operational per bicycle, 8.7 bicycles per station and 17.6 docks per station.

For more complete statistics, please download the February 2016 monthly report: <https://www.dropbox.com/sh/rz5e1t9sc26niur/AACEoQmdVs9b5ZW2il1R3rhpa/RFP%20-%20Pronto%20Statistics%2C%20February%20Operations%202016.xlsx?dl=0>

## SERVICE AREA

The existing service area covers primarily Downtown, South Lake Union, Capitol Hill and the University District. Station map can be seen at: <https://secure.prontocycleshare.com/map/>.

## PRICING

Current Pronto pricing is on a member-based system and is as follows:

* Annual membership - $85
* 24 hour membership - $8
* 3-day membership - $16
* Corporate annual membership - $75.
* Subsidized annual membership- Coming soon

## SPONSORS

Although the City of Seattle seeks to retain existing sponsors as part of the transition, no commitments have been made between the City and sponsors for the new system. The City’s foremost focus is that significant additional sponsorship money is raised to ensure financial sustainability of the expanded system. Existing sponsors will be asked to continue in so far as their commitment is consistent with sponsorship needs for the new system.

Existing sponsors are as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Company | Level | Amount | Term | Contract Start |
| Alaska Airlines | Presenting | $2,500,000 | 5 years | 10/2014 |
| Seattle Children’s Hospital | Supporting | $500,000 | 3 years | 10/2014 |
| Group Health | Supporting | $450,000 | 3 years | 10/2014 |
| Other | Station/Other | Varies | Varies |  |

# 

# OBJECTIVES

Below is a summary of the intentions, objectives and goals sought by the City, which guide Proposers, the contract form, and system structure that is sought. Proposers should consider the following in preparing their proposal.

## EQUIPMENT

* *Single system solution* - Contracted Vendor will provide a single, interoperable bike share system in Seattle. Given Seattle has an existing system, multiple options could be proposed, such as:
  + Propose compatible equipment
  + Retrofit existing equipment to create compatibility
  + Replace existing equipment with entirely new equipment
* *Equipment type -* The City seeks maximum competition with this RFP and this means it has no pre-determined decision as to the range or type of equipment Proposers could suggest. All options such as station-based systems, station-less systems (also known as free-floating, point-to-point or smart-bike systems) and/or systems with or without pedal-assist technology, will be received and considered. Pedal-assist technology, with 100% of the bicycles pedal-assist, is preferred but not required. Station-less systems will need to provide at least basic stations at high-volume locations such as transit centers, major tourist destinations and or commuter destinations.

## TRANSITION

* *Transition –* Contracted Vendor will provide an efficient transition for equipment and operations. That could include an option to shut the system down, as needed, for up to roughly six months during the transition, with some way to accommodate members who pre-paid in full for the year. If equipment proposed is not interoperable with the existing equipment, the Contracted Vendor will be required to remove and dispose of existing equipment consistent with grant requirements. Grant funding from the Federal Transit Administration paid for 28 stations; grant funding from Washington State Department of Transportation paid for 12 stations. See Section 9for information regarding Asset Management Requirements for Grant Funded Stations.

## RFP STRUCTURE

* *Required and Premium Services* - The “Scope of Work” is divided into Required Services and Premium Services. Proposers are required to respond to all questions related for both sections. The Contracted Vendor will be required to provide all of the Required Services. The City has the option to require the Contracted Vendor to provide the Premium Services. Similarly, proposers will have the ability to specify any Premium Services that they require performing, consistent with their level of financial responsibility.
* *Single Award:* With this solicitation, the City intends to award one contract and does not anticipate award to multiple companies. Regardless, the City reserves the right to make multiple or partial awards.

## FINANCIAL

* *Financial models* - The new system must prove financially stable, relying on minimal or no ongoing City funds for operations. Financial stability can be achieved in a variety of ways and the City has no pre-determined decision as to the type of financial model Proposers could suggest. Proposers may submit up to two alternate financial proposals with different models, including some or all of the following elements:
  + City pays a flat fee for operations but keeps all revenue
  + Contracted Vendor assumes full or partial responsibility for all operating costs and keeps some or all revenue
  + Contracted Vendor invests money in capital costs
* *Pricing -* The City believes that bike share in Seattle should be affordable to all. The City likewise seeks to maximize the number of trips and users through effective pricing. The City is open to alternative pricing models, including but not limited to the existing member model or pay-by-trip. Additionally, the City believes the 30 minute time limit may need to be reconsidered due to the more expansive service area. The City will want to see pricing that supports the above mentioned goals in the context of a financially stable system. The City will control decisions relative to pricing consistent with the level of financial responsibility assumed by the City.

## OPERATIONS

* *Equity and inclusion -* The City of Seattle believes the bike share program should be affordable to all residents. The City is interested in seeing racially equitable solutions, which means a program that will attract and retain people of color with similar success as they do with white riders. The City seeks to have people of color interested and participating given their share of the local population, as would any other riders (i.e. white ridership), and will establish that as a performance metric. Successful interventions may include station placement, low-cost memberships, translation services, localized outreach partners, disadvantaged business enterprises, and/or systems to accommodate the unbanked.
* *Service areas -* The City’s priorities relative to the service area are as follows:
  + Increase access to transit by incorporating high volume transit stations and RapidRide corridors in the service area.
  + Support low-income residents by placing optimally a minimum 20% of stations in low-income neighborhoods and/or having low-income neighborhoods represent 20% of the service area. Eligible neighborhoods will be defined by the City with some or all based on the use of its distressed Zip Code Map included in the Appendix. A significant portion of the stations are anticipated to be placed in southeast Seattle. See map of defined zones in the Appendix[[1]](#footnote-1).
  + Promote a financially sustainable system incorporating revenue generating areas in the service area while still achieving the equity requirements noted above.
  + Maximize ridership and membership incorporating trip generating areas in the service area.
  + Create a highly functional network with a minimum density throughout the system of 50 bikes (or 5 stations) per square mile, and for station-based systems, no station more than 1 mile from another station[[2]](#footnote-2).

The City will control decisions relative to the service area and/or station placement consistent with the level of financial responsibility assumed by the City. For instance, if the City assumes full financial responsibility (i.e. pays flat fee for operations or time and management, etc.) the City will fully determine the service area. If the Contracted Vendor assumes financial responsibility for Operations, the Contracted Vendor may require shared decision making authority. Seattle’s initial thoughts on a service area for this proposal are shown in the Appendix.

* *Service levels –* The City will require service levels that ensure accountability on behalf of the Operator relative to, but not limited to the items below. Suggested service levels for select items are provided in the Scope and Specifications sections.
  + Rebalancing (bike and helmet)
  + Bike and station maintenance, cleaning and repair and functioning
  + Customer service
  + Website maintenance
  + Station reconfiguration and relocation
* *Branding -* The City is open to rebranding the system, including changing the name and color. The City will control decisions relative to branding consistent with the level of financial responsibility assumed by the City. All branding is subject to approval by the City of Seattle but will not be unreasonably withheld for systems in which the Contracted Vendor assumes full financial responsibility for the ongoing Operations. If a decision is made to re-brand the system, any existing bikes or stations in operation would need to be updated to be consistent with the new look and feel.
* *Sponsorship* - Sponsorship is essential to achieve financially stability. Current levels of sponsorship cannot support a financially sustainable *expanded* system. During the course of this RFP process, between April and August, the City will jumpstart the sponsor process by beginning sponsor outreach. The City does not anticipate signing a sponsor contract prior to making an award from this RFP in order to allow the Successful Respondent to provide input into the sponsor selection. Sponsorship is a Premium Service in this RFP and some Proposers may require sponsorship to be part of their Scope of Services in order to make their financial model work. The City intends to discuss a continued relationship with all existing sponsors, so long as that relationship does not interfere with raising sufficient funds from new sponsors.

It is desired that the Contracted Vendors perform sponsorship work on a commission only basis. A reduced commission is expected if the City or Mayor provides the introduction to the contracted sponsor and/or actively participates in negotiations.

* *Advertising* - The City of Seattle’s sign code currently has restrictive rules regarding outdoor advertising. Outdoor advertising is not currently allowed in Seattle on street furniture, including bike share stations. The rules impact the degree to which sponsors can be recognized. While SDOT hopes to change outdoor advertising regulations, Proposers must assume rules will not change and that advertising is not possible. Should advertisements be allowed in the future, 100% of advertising revenue will go towards system expansion or operations, at the City’s discretion. Seattle’s existing sign code can be viewed at: <http://www.seattle.gov/dpd/codesrules/codes/signs/default.htm>

## REGIONAL

* *Regional opportunity* - Consistent with Section 11.4, Interlocal Purchasing Agreements, the contract resulting from this solicitation may be accessed by governmental or other approved entities, regardless of where they’re located in the United States. The arrangement achieved through an Interlocal Agreement would allow these entities, to contract directly with the Successful Respondent. Several other cities and entities in this region are exploring the potential for bike share systems. The level of interest and readiness varies by city. While there is no current structure or obligation for them to implement bike share together, they share the desire for users to have regional access.

These cities are not contiguous with Seattle or with each other in some cases. Four suburbs in King County’s Eastside are exploring bike share together with King County Metro using a state grant that emphasizes access to transit. Those cities are Bellevue, Kirkland, Redmond, and Issaquah. Additionally, Tacoma is conducting a bike share feasibility study.

The cities share broad community objectives to which bike share can contribute, including transit connections; mobility options that reduce traffic and pollution; health benefits; equity in access to jobs, housing, education, community services; safety; community vitality and economic development. The cities also require an understanding of the level of revenue necessary to maintain ongoing operations, options for funding, and a plan for a system that can sustain this level of revenue.

It is not problematic for Seattle to have a different Operator or Equipment Provider than the other cities. However, Seattle and other municipalities envision enough integration that users may at least access multiple systems in the region with a single or reciprocal membership or common means of access (e.g. key fob, card, mobile app).

## PERFORMANCE GOALS AND METRICS

The City will measure the success of its bike share against following goals and metrics which are subject to change by the City.

|  |  |  |
| --- | --- | --- |
| Theme | Goal | City Performance Metric |
| Mobility | Increase personal mobility in Seattle by providing an affordable transportation option that increases first mile and last mile access to transit and local destinations and becomes an integral part of Seattle’s transportation infrastructure | * Percent of population within 10 minute catchment area of high-frequency transit * Percent of trips linked to transit * Total members * Total miles per year * Total trips per year |
| Equity and Inclusion | Ensure that bike share fairly and equitably serves residents of all incomes and ethnicities | * Percent of stations in low-income neighborhoods (by zip code) * Total low-income memberships * Member demographic by income, race and gender relative to city population (metrics tracked and reported upon by the contractor, as approved by the City) * Women and minority business participation or Disadvantaged Business Enterprise participation |
| Financial Viability | Create a system that is financially viable | * Total cost recovery rate * Percent of cost covered by user revenue * Cost per trip * Total operating profit/loss |
| Health | Encourage active and healthy living | * Average calories burned per member (calculated) * Average trips per member * Improved health and physical activity outcomes via self-assessment |
| Environment | Provide a green transportation system that reduces greenhouse gas emissions and congestion | * VMT eliminated * GHG emissions reduced (calculated) |
| Local Economy | Support the local economy through increased local spending, talent attraction and retention and increased access to jobs | * Percent of jobs within 10 minute bike/walk catchment area of high-frequency transit * Total local spending * Number of corporate members |

# SCOPE AND SPECIFICATIONS - INTRODUCTION

The scope encompassed by this RFP includes the following and is described in detail in the following sections. These sections will be attached and incorporated into the contract, including any changes made as a result of the proposal and/or negotiations with the awarded Respondent:

* Equipment - Design, fabrication and installation of bike share equipment
* Operations - Organization development, system oversight, bike distribution, customer service, equipment operations, station siting, helmet operations, equity services sponsorship, marketing, and miscellaneous.

The City anticipates the ongoing use of Federal grant funds for the contract resulting from this solicitation. The City’s use of Federal grant funds requires that all Parties to an Award comply with Federal regulations, Executive Orders, and all such applicable Federal provisions in execution of this Contract. This provision is incorporated herein whatsoever funding may be applied to the project. The City has been awarded, but has not yet used, a Low Income Bike Share grant funded through FTA funds. The grant allows for work leading up to stakeholder outreach and concluding with bike station installation and service access for the low income. However, the City is not obligated to use the grant award on this project.

# SCOPE AND SPECIFICATIONS - EQUIPMENT

## GENERAL EQUIPMENT REQUIREMENTS

The Contracted Vendor will acquire and supply all the equipment required to operate the automated bike share system including bike share stations, bicycles, helmet dispensing units and software, and it may be purchased with funding from the City, sponsors, advertising or users. All such equipment will be owned by the City.

In the event the Contracted Vendor identifies a need for equipment and wants the option of purchasing said equipment outside the terms of the contract, i.e., the Contracted Vendor will pay for the equipment using its own funds, separate from any City fund source specified and authorized under the contract, than the equipment shall remain the property of the Contracted Vendor. The City retains the option to purchase such equipment from the Contracted Vendor for the original purchase price, less depreciation based on the useful life, at the close of the contract. The Contracted Vendor is to explicitly notify the City in advance of such acquisitions, so that the equipment is clearly differentiated from that which is purchased for ownership by the City.

The Contracted Vendor shall (directly or through subcontractors approved by the City):

* Manufacture, produce, deliver, provide training, support and upgrades on and improvements to all hardware and software, including all parts thereof
* Host, train, support, upgrade and continually improve as needed, the operating software
* Ensure all equipment is compatible (operates seamlessly) with Pronto’s system if any components of the Pronto system are retained, or else assumes all responsibility for removal and disposition and liabilities, consistent with grant requirements (see Section 9 for more information on Asset Management Requirements for Grant Funded Stations).)[[3]](#footnote-3)
* Embed sponsor and advertising opportunities into all aspects of bicycle station equipment and customer facing applications[[4]](#footnote-4)

The following element, while not required, is preferred:

* Reliable fully integrated pedal-assist technology solution that includes bicycles with pedal-assist technology and effective mechanism for maintaining and restoring charge of bicycles

## BICYCLE SHARE STATIONS

[The following section applies to both station-based and station-less systems, unless otherwise noted. Station-less systems will need to provide bike parking solutions, i.e. stations at select high demand locations]

Bicycle share stations will be reliable, secure, robust, modular and configurable in a variety of shapes allowing for maximum flexibility for placement. Bicycle share stations shall use state-of-the-art technology, are attractive, space-efficient, robust and able to withstand rugged outdoor, four-season use and are easy to maintain.

The Contracted Vendor shall provide all or substantially all of the following features:

* Smallest feasible footprint to enable installation in a space currently used as a parking space or on a sidewalk
* Modular design to maximize flexibility to meet trip demand and space constraints
* Aesthetically pleasing design that ensures a unified system look and feel, while being compatible with a streetscape and neighborhood context including historic districts
* Rust, salt, sand and weather resistant design to accommodate high-impact outdoor, four season use
* Theft, tamper, scratch and graffiti resistant potentially through use of components not compatible with other bicycles and/or requiring tools not commonly available
* Ability to lock bikes securely and reliably
* Ability to provide a two-sided map/ad panel. Space must be available on the frame for logos and a station name
* [Station-based systems without pedal-assist only] Solar powered and easily movable, requiring minimal time to install and/or remove and leave behind few or no vertical or sharp objects or holes with no damage to the underlying surface. Stations serving pedal-assist systems may be hardwired

The following elements, while not required, are preferred in station-based systems:

* Option for reduced-cost stations in locations without casual user demand. Example: stations without terminals and/or mini stations with fewer docks
* Option to “hardwire” stations in sunlight deprived locations
* Multiple footprint configurations and options for placing stations in challenging locations including:
  + Single-sided, back-to-back, L-shaped and/or curved stations
  + Raised platform or curb ramp to allow riders to easily back up bicycles onto sidewalk from street-level stations
  + Ability to place stations safely on grass
  + Conduit to allow single station to straddle fixed object such as a tree, light-post or pole
  + Option for one and two dock plates to increase the ability to place stations in tight spots.
* Ability to accept gift cards, transit passes, smart cards, near field communication and/or phone payments and transactions at terminal and dock
* Map/ Ad panel with option for nighttime illumination
* Key dispenser at terminal to enable real-time activation of new memberships, if keys used for members
* Option to purchase mobile terminal to allow for pop up stations at events

## BICYCLE

[The following section applies to bicycles in both station-based and station-less systems]

Bicycles shall be attractive and durable, likewise robust and able to withstand rugged outdoor, four-season use and are designed to accommodate novice users, provide maximum safety for the user and protect the user from road and weather conditions.

The Contracted Vendor shall provide all or substantially all of the following features:

* Rust, salt, sand and weather resistant design to accommodate high-impact outdoor, four season use
* Theft, tamper, scratch and graffiti resistant (potentially through use of components not compatible with other bicycles and/or requiring tools not commonly available) with theft-proof locking mechanism
* Reliable, theft-proof locking mechanism
* One size fits all frame with step-through design to fit all adult riders in upright riding position
* Front and rear lighting that stays on after cyclist stops and reflectors
* Front and rear fenders to protect cyclist from spray and dirt
* Capacity for sponsorship, public service announcements or advertising on fenders, baskets or other locations
* Brakes that are suitable for the topography and real conditions of Seattle
* Multiple gears (3, 5, or 7 more)
* Puncture resistant, durable tires
* Chainless bicycle or bicycle with a chain-guard to protect cyclist from grease, dirt and spray
* Reliable kickstand, such as a double kickstand, to provide stable parking on a variety of surface types and slants
* Baskets that cannot hold litter and can carry up to 20 pounds

The following elements, while not required, are preferred:

* Pedal-assist technology with multiple assist levels, rapid battery recharge, sufficient range for high volume usage, and secure but easy to access battery and motor
* Ability to lock bicycle immediately adjacent to a station, or anywhere within a defined service area, and have trip automatically ended. This is helpful to accommodate riders trying to return a bicycle to a full station or riders terminating trips in locations without stations
* Option to have bicycle-equipped with secondary lock, secured to frame, to enable users to secure bicycle to any rack or post while making a quick stop
* Option to have GPS to allow tracking of stolen or lost bicycles
* Maximum number of off-the-shelf parts and minimal number of proprietary parts
* Easy access and quick repair time for most common repairs including changing tubes, tires and fenders and replacing saddle, grips, pedals and brake levers. Example includes ability to replace fender without removing rear wheel

## SOFTWARE SERVICES

[The following section applies to station-based and station-less systems as applicable, unless otherwise noted]

Software system shall provide a comprehensive solution that facilitates all aspects of bicycle share operations, including managing fleet and equipment, customer service, finances, rebalancing, reporting, account management and pricing. Customer interface such as website, mobile application and/or on-site system is user-friendly, efficient and reliable. System provides data security, including for financial data, user names, and addresses and is fully Payment Card Industry (PCI) compliant consistent with the requirements of the City as outlined in the City’s contract included in the Appendix.

The Contracted Vendor shall provide all or substantially all of the following features:

*System Backend*

* Communicate in real-time with each station or bicycle including information on bicycles location, bicycle or dock availability, battery levels and maintenance needs in order to facilitate re-distribution and monitor battery levels
* Publicly available data feed is available for station or bicycle location
* Ability for Operator to temporarily disable and/or re-start one, multiple or all docks, bicycles or stations from a central location
* A method to automatically track repairs and maintenance of bicycles or stations including frequency, time to complete service, and next scheduled maintenance
* Support all aspects of corporate memberships and/or corporate sponsorships including registration, billing, and tracking of aggregate data such that corporate liaison may login and review aggregate trip metrics
* Interface to support customer service agents including access to an account management module to review customer information
* Multiple log-in levels for the Operator; for example, an administrator, call center agent and bicycle mechanic would have different views
* Be able to produce reports on all aspects of bicycle share including financial, rental, subscription, technical action and member reports, including the ability to create reports on usage on a system wide and individual station or bicycle-basis
* Software that is easily customizable and configurable by the Operator allow for various subscription types, reports, prices or other features
* Software that is easily upgradeable

*On-Site*

* Accept walk-up rentals, at some or all locations, with agreement that includes a liability waiver and efficient and simple screen flow
* Wireless connectivity (cellular, Ethernet, code division multiple access or other), ideally with two or more methods to provide redundancy to reduce outages and costs
* Efficient power management including backup battery
* Capacity to maintain security of the system, including secure encryption of financial data, during a power failure event or loss of internet connection
* Capacity to report mechanical problems
* [Station-based systems only] A process for situations in which a user wants to return a bicycle to a terminal that is full or rent a bicycle from a terminal that is empty
* [Non-pedal assist only] Grid-free renewable energy power source that can operate 24/7 and year-round
* Indicator showing whether the bicycle is available for use or out-of-service (such as when the system is shut down during a snow emergency or an individual bicycle has been identified as needing repair)
* Automatic confirmation that subscriber’s credit cards is valid and has sufficient funds to cover charges if bicycle is not returned, preferably before each bicycle is removed
* Multiple language options

*Website and Mobile Application*

* Be accessible from desktop computers and hand-held wireless devices such as personal digital assistants (“PDA’s”), smartphones, and web-enabled cell phones using browsers.
* Communicate constantly with the system backend
* Allow for easy content updates by the system Operator
* Be able to be branded specific to the Seattle bicycle share system
* Capacity for public to view map of stations with station names, location, sponsor logo, number of bicycles and number of open docking points
* Allow users to search for station locations through a variety of inputs (e.g. user- entered address, intersection or major place names, selecting from an interactive map etc.)
* Capacity to purchase a subscription and sign a liability waiver
* Allow members to access and update their subscription information, including ability to suspend, renew, or otherwise modify their subscriptions and track their use through a personalized log-in that displays trip information

The following elements, while not required, are preferred:

* Technical ability to integrate with most transit cards and smart cards from businesses or universities
* Near-field communications (NFC) for renting bicycles
* Ability to use phone for basic user functions:
  + Ability for casual users or members to rent a bicycle
  + Ability to sign up for a casual or annual membership
  + Text messaging of receipt and/or casual rider code
  + Text message option to extend ride over 30 minutes
* Support for system reciprocity with other cities, allowing members from one city to rent bicycles in other cities running similar software
* Simple system for casual users making a second trip
* Ability to reserve a bicycle at a station
* A method to automatically alert the Operator when a bicycle has not been timely returned
* Ability to retrieve location of bicycles requiring maintenance and/or disabled bicycles
* Maximum flexibility on pricing options including support for pay-by-trip members and monthly billing for annual members
* Simple, cost-effective system to integrate and support basic helmet operations
* System which allows approved members to subscribe without a credit card but accepts alternative form of identification

## HELMET DISPENSING UNIT

*[The following section applies to station-based systems only. Respondents proposing station-less systems may provide an equally effective and robust solution to offering helmets with every rental in lieu of helmet dispensing units][[5]](#footnote-5)*

*Helmet dispensing units, located at every bike share station, provide users clean helmets and accept used helmets, and carry sufficient inventory to satisfy the demands of the bike share users.*

The Contracted Vendor shall provide all or substantially all of the following features:

* Ability to rent and return helmets, either for free or a fee
* Space efficient design. Minimal if any additional footprint required beyond what is required by bicycle share station
* Rust, salt, sand, tamper, scratch, graffiti and weather resistant design to accommodate high-impact outdoor, four season use
* Single-sided rent and return to accommodate majority of station locations, such as those backing up against wall or curb
* Multiple size options to maximize flexibility and meet demand and space constraints
* Aesthetically pleasing design that ensures a unified system look and feel, while being compatible with a streetscape and neighborhood context including historic districts
* Respondent may be required to purchase helmets as requested by the City and be reimbursed for the helmets “at cost”

## ADDITIONAL CONDITIONS

*[The following section applies to bicycles in both station-based and station-less systems]*

The Contracted Vendor shall agree to all or substantially all of the following conditions:

* Contracted Vendor will agree to service level agreements (SLA) and address and respond to issues that arise. Liquidated damages will be established and included in the contract resulting from this solicitation once service levels are finalized.
* Contractor shall ensure efficient delivery of equipment and spare parts, regardless of order size, including maintaining an inventory of proprietary and/or hard-to-find parts Desired guaranteed delivery times are:
  + New complete bicycle share stations and helmet dispensing units in 16 weeks or less after order is placed
  + Bicycle is 12 weeks or less after order is placed
  + Spare parts and wearable parts delivered within 10 business days of order
* Agreement to escrow software to the City or to Operator, at City’s discretion, and City will be a third-party beneficiary to provide security in the event of future industry turbulence.
* The Operator and/or the City will have the right to purchase compatible parts from other vendors.
* The Equipment Provider will ensure subs have appropriate training and technical support for the City and/or Operator; both the Operator and City may use all elements of the software, subject to Washington State Public Records Law. If a separate agreement between the Equipment Provider and the Operator is required, the Contracted Vendor will obtain and maintain such agreement(s)
* All data and information produced by or for the bicycle share system, including, without limitation, website content and all bicycle share user data and information, is owned by the City and will be accessible to the Operator, unless the City requests otherwise.
* Login to entire backend system, with ability to create and download reports, is made available to Operator and the City
* The Equipment Provider will provide a warranty covering all standard use of equipment and parts. Desired minimum warranty on stations, bicycles, helmet dispensing units and non-wearable parts is five years
* The Equipment Provider will provide clearly defined approach to fixing defects and/or design flaws, including, without limitation, replacing any stolen, vandalized or damaged equipment/parts resulting from defects and/or design flaws
* The Equipment Provider will deliver all manuals relative to assembly, maintenance, warranties, to the Operator and the City
* The apparent successful Respondent will submit a test or sample of the product, as requested by the City, prior to award. If the product is custom-designed, the cost of the custom production may be charged to the City at a mutually agreed upon cost related to the actual direct costs of delivering the test or sample[[6]](#footnote-6)

# SCOPE AND SPECIFICATIONS – OPERATIONS

*The Contracted Vendor will perform all operations including organization development, system oversight, transition services, equipment maintenance, bike distribution, customer service, equity and helmet services. Please note that this scope includes mandatory, Required Services the Operator must perform. Separately, the City has identified some Premium Services that the City, at its discretion may request the Contracted Vendor to perform.*

## ORGANIZATION DEVELOPMENT

* Identify, set up and maintain local warehouse, office space and vehicles
* Hire and manage local employees and subcontractors as needed:
  + City reserves the right to approve hiring/appointment of the local operations and marketing manager(s). City will have seven business days to approve said hires/appointments, and said approval shall not be unreasonably withheld
* Train staff relative to:
  + Contracted Vendor responsibilities, client expectations, and contract requirements
  + Equipment manufacturer’s requirements, warranties, and recommendations for assembly, maintenance, storage, repair and replacement of all equipment
* Ensure compliance with all contract terms and all applicable federal, state, and local laws, ordinances and regulations including those concerning the privacy of member information

## TRANSITION

* Facilitate equipment order for new launch
* Oversee all aspects of removal and disposition of existing equipment, as needed, including costs, consistent with FTA and WSDOT grant requirements (see Section 9 ) and assembly and installation of new equipment, as needed, including costs, consistent with grant requirements
* Transition warehouse, vehicles, tools, parts, IP, permits and licenses and customer service to new Operator
* Support member relations, including implementing system to reimburse, accommodate or compensate pre-paid annual members in event of closure
* Oversee all other elements to effect a smooth transition

## SYSTEM OVERSIGHT

* Coordinate with and oversee relationship with City, users, community and as requested by the City, media
* Oversee system backend including by way of example, making all backend changes such as inputting prices and membership types
* Oversee payment gateway and finance system, including bank account, revenue collection, reporting and revenue distribution
* Implement ongoing technical improvements, particularly related to software, as offered by Equipment Provider
* Support accounting and legal issues associated with system
* Comply with applicable obligations and provide information to City to help fulfill obligations of any grants, sponsorships, advertisers and/or donors supplying funds to finance the system[[7]](#footnote-7)
* Conduct member and user surveys no less than one time per year. Survey to be approved by City
* Provide regular reports to City, including monthly financial and operations reports, consistent with current level of reporting. Please see link to existing operations report at: <https://www.dropbox.com/s/raik4enzy7s2u05/RFP%20-%20Pronto%20Statistics%2C%20February%20Operations%202016.xlsx?dl=0>.
* Maintain website and ensure at minimum the following information is available, translatable into multiple languages, and up to date. All basic changes requested by the City will be made within one weekday
  + Contact information for customer service, sponsorship, corporate memberships, PR and other key positions
  + Pricing and payment information and subscription processing
  + Method for members to update required information
  + User Agreement and acceptance of terms
  + Corporate member information
  + A map with station or bike locations and real-time availability of bicycles both for a standard computer screen and mobile phone
  + Links to area based bike programs and events as requested
  + Safety requirements and information including safety video addressing safe use of bicycles, helmets, and rules of the road
  + Sponsor logos and representation
  + Ability to purchase helmets online
  + Subsidized membership information and promotion

## EQUIPMENT MAINTENANCE

* Facilitate ongoing relations with Equipment Provider, including but not limited to ordering equipment, warranty repairs, upgrades, software licensing
* Maintain a sufficient supply of spare parts for stations and bicycles
* Receive, inventory, inspect and assemble all equipment per manufacturers Technical Specifications
* Install, remove, reconfigure and move stations as needed including securing all permits and licenses required. Vendor will be required to provide for the City up to 10 moves or reconfigurations, as requested, per year free of charge
* Provide ongoing equipment inspection, maintenance and cleaning including annual overhaul of all equipment. Work must be in compliance with manufacturer’s requirements, warranties, and recommendations for assembly, maintenance, storage, repair and replacement of all equipment. Use most environmentally friendly cleaning solutions when cleaning required. Maintain accurate and up to date inventory of all equipment including serial numbers
* Maintain, replace and produce sponsor and information stickers for equipment, if applicable. Vendor may be required to replace all stickers on equipment up to 2 times per year by request of the City due to changes in prices, sponsors, safety needs, etc. Vendor will be responsible for cost of stickers
* Track lost /stolen equipment and assess Loss/replacement fees, as needed

Maintenance should meet the following service levels, unless otherwise specified in the Proposal by the Proposer.

|  |  |  |
| --- | --- | --- |
| Service | Description | Service Level |
| Regular bike check | Work includes not limited to inspecting drive train, tires, brakes, shifters, stickers and lights | Every 4 weeks unless required more frequently by manufacturer |
| Deep clean and bicycle overhaul | Work includes but is not limited to cleaning entire drive train, adjusting and truing wheels, inspecting hubs and shifters | 1 time per year and on an as-needed basis unless required more frequently by manufacturer |
| Graffiti, sticker, poster removal | Cover any graffiti and/or remove any graffiti, stickers, or posters on equipment | Within 24 hours from discovery |
| Snow removal | Clean any accumulation of snow and ice within the immediate area | Within 24 hours of end of snowfall |
| Site-specific concerns | Undertake cleaning or maintenance in response to site-specific concerns when notified by the City or the public, in which case the successful Vendor will carry out such cleaning | Within 24 hours |
| Station and helmet dispensing unit check | Inspect each component of the Bicycle Share Station or HDU for any damaged or broken components, and repair or replace any damaged or malfunctioning components | Check at least once a week. Make functioning within 24 hours of discovery, or contact Project Manager if repair is expected to require more time |
| Station cleaning | Clean and wash each station site area from garbage, litter, weeds, and grasses inside, outside, and on top of each element and the immediate area to keep each of the elements free of any noticeable accumulation of dirt, dust, marks, litter, weeds, or debris | At least 1 time per week, or more frequently if required by the City |

## CUSTOMER SERVICES

* Fulfill member subscriptions
* Create, produce and distribute registration packets and collateral to fulfill memberships
* Facilitate Seattle’s subsidized member program. Vendor will need to set up corporate membership or other mechanism to track subsidized members
* Provide phone and email customer service 24 hours per day, 365 days per year. Additional live online support preferred but not required
  + Customer service agents should be trained to answer questions, assist with and/or provide information concerning, among other things, subscription process, subscription prices, billing, refunds, crashes, comments, complaints, malfunction problems, location of station sites, directions to nearest station site that has bicycles available for rental and/or available docks for returns, instructions on how to fit a helmet, and subsidized memberships
  + The customer service manager shall be knowledgeable about Seattle.
  + Phone operators will be fluent in English. Customer service team must be able to respond by phone or email to languages other than English, e.g., Spanish
  + If outsourcing customer service, there must be a solid plan to gain a deep understanding of customer needs and issues

Customer service should meet the following service levels, unless otherwise specified in the Proposal by the Proposer.

|  |  |  |
| --- | --- | --- |
| Service | Description | Service Level |
| Telephone answering | Telephone answering by live person | Not exceed 30 seconds, more than 5% of the time |
| Member registration | Ship new member packets and/or provide new member information | Within 2 business days at least 99% of the time |
| Email response time | N/A | Not to exceed 2 hours more than 25% of the time and not to exceed 24 hours in more than 3 incidents per month |
| 1st Contact Resolution Rate | Percentage of customer issues resolved during customers first call and in response to first email. Call and email tracked separately | Tbd later |
| Member Renewal Rate[[8]](#footnote-8) | Percentage of annual or corporate annual members renewing their memberships | Tbd later |
| Overall Customer Satisfaction Rate[[9]](#footnote-9) | Average score in response to online customer survey question asking overall satisfaction with bike share system | Greater than 4.5 out of 5 |
| Customer Service Frequency | Percentage of customer service questions, issues or complaints per month, relative to monthly trips | Tbd later |

## BICYCLE DISTRIBUTION

* Move bicycles between stations or within service area to minimize the percent of time stations and/or segments of the service area are full or empty. It is the Contracted Vendor’s responsibility to maximize the efficiency of rebalancing to achieve the highest level of service for the user for the bike share system
* As needed for special events and extremely high-volume locations (major commute hub), Contracted Vendor should provide additional light rebalancing services and/or regular valet service
* Distribute bicycles among within the service area. Desired minimum amount of rebalancing is as follows:
  + Equivalent of one full size rebalancing vehicle capable of holding up to 30-50 bicycles, 4100 weekday hours per year for each 30 stations or 300 bicycles. (Example: 1 vehicle for 0-300 bikes, 2 vehicles for 301 – 600 bikes; 3 vehicles for 601-900 bikes.)
  + Equivalent of one full size rebalancing vehicle capable of holding up to 30-50 bicycles, operating 1700 weekend hours per year, for each 60 stations or 600 bicycles

Bicycle distribution, for station-based systems, should meet the following service levels, unless otherwise specified in the Proposal by the Proposer. Station-less systems should provide alternate service levels based on an appropriate metric.

|  |  |  |  |
| --- | --- | --- | --- |
| Station Type | Description | Premium Service Level[[10]](#footnote-10) | Proposed Service Level |
| Tier one stations | Stations ranked in top 33% based on total combined trip origins and destinations, or as designated by the City | Not to be full/empty more than fifteen (15) minutes per day, based on monthly average, with no more than ten (10) full/empty occurrences per month lasting more than 1 hour | Not to be full/empty more than thirty (30) minutes per day, based on monthly average, with no more than ten (10) full/empty occurrences per month lasting more than two (1) hour |
| Tier two stations | Stations ranked in middle 33% based on total combined trip origins and destinations, or as designated by the City | Not to be full/empty more than thirty (30) minutes per day, based on monthly average, with no more than ten (10) full/empty occurrences per month lasting more than two (2) hours | Not to be full/empty more than sixty (60) minutes per day, based on monthly average, with no more than ten (10) full/empty occurrences per month lasting more than three (3) hours |
| Tier three stations | Stations ranked in bottom 33% based on total combined trip origins and destinations, or as designated by the City | Not to be full/empty more than sixty(60) minutes per day, based on monthly average, with no more than ten (10) full/empty occurrences per month lasting more than three (3) hours | Not to be full/empty more than ninety (90) minutes per day, based on monthly average, with no more than ten (10) full/empty occurrences per month lasting more than three (3) hours |

## HELMETS

* Ensure helmets are available for rent and return for free or a fee at bikes or stations.
* Clean, sanitize and inspect helmets before putting back in service
  + Remove helmet pads and inspect helmet for cracks to confirm re-usability
  + Sanitize helmet using a biodegradable all natural cleanser. Put new helmet pads in helmet
  + Method to clean, sanitize and inspect helmets must be approved by City
  + Create mechanism for customer to understand that helmet has been cleaned
* Purchase new helmets as required to maintain inventory
* Provide low-cost helmets, that meet standard safety requirements (such as ANSI, SNELL, or equivalent) , for purchase at bike share website and/or on-site and oversee order fulfillment
* Commit to a pre-determined service level for helmet availability as proposed by the Proposer

## EQUITY

Implement basic equity program as follows:

* Placement of 20% of stations in low-income neighborhoods, or an alternative percentage of stations as designated by the Proposer.
* Provision for reduced-cost memberships, modelled after programs in Chicago, Philadelphia, Washington D.C. and Boston. The City seeks to offer $5 for residents earning up to 200% of the poverty line and possible $30 for residents between 201% and 400% of the poverty line. Details subject to change
* Participation of disadvantaged business enterprises
* Develop and implement basic outreach program targeting low-income, minority and immigrant populations

# SCOPE AND SPECIFICATIONS – OPERATIONS, PREMIUM

Proposers are required to respond to all questions in the following section. The City has the option to contract with the Successful Respondent to perform these services, either at the time of contract execution or at any time throughout the contract term. Proposers may require the City to contract with them for some or all of the Premium Services, but must specify this in their Proposal.

## EQUITY

Contracted Vendor may be asked to implement premium, comprehensive equity program. Proposals may include, but are not limited to addressing the following interventions:

* Methods to ensure equitable distribution, such as translation of materials and/or targeted advertising such as Spanish-language radio or Spanish-materials
* Systems to accommodate the unbanked and/or digitally challenged individuals to purchase memberships
* Job-training program for low-income or minority youth or adults
  + Intensive outreach targeted to low-income, minority and immigrant populations including by way of example:
* Immigrant and learning-English population outreach, including translation of materials, targeted advertising such as Spanish-language radio or Spanish-materials
* Partnerships for outreach from local community associations, such as otherwise proposed or negotiated) Casa Latina, El Centro de La Raza, Got Green, Rainier Beach Community Council, and others

## MARKETING, PUBLIC RELATIONS (“PR”) AND CORPORATE SALES

Proposer shall propose, and the City may select and include in the contract, some or all branding, marketing, social media, public relations and corporate sales efforts.

* Develop branding including system name, as needed for new system, subject to approval by the City
* Develop a comprehensive marketing, PR and sales strategy to reach ridership and revenue goals, as approved by the City. Strategies can include online outreach and/or offline programs such as search engine optimization, email, marketing, social media, location based optimization and offline strategies such as corporate outreach and sales, public relations, public service announcement programs, events, inbound and outbound calls etc.
* Create a corporate sales strategy including hiring one full or part-time staff to oversee the initiative
* Implement all aspects of the marketing plan including design and development of marketing collateral necessary to implement plan, event attendance including seasonal launch events, writing and distribution of emails or press releases, social media postings, etc. All design work must be consistent with branding

## STATION SITING AND PERMITTING

Proposer shall propose, and the City may select and include in the contract at any time during the term of the contract, to conduct some or all site planning, permitting and/or licensing. It will be the Contracted Vendor’s right and responsibility to work with the City, institutions, and private landowners to get public and private space commitments and secure all required permits or permissions according to the processes identified by the City, institution, and/or private landowner. All permits or permissions required to perform work are to be supplied by the Contracted Vendor at no additional cost to the City.

* Work with City to identify general locations for stations
* Determine ownership of or title of underlying real estate
* Verify whether placement is permissible under zoning or other ordinances and regulations
* Obtain all permits and permission necessary to place a station at such location

## SPONSORSHIP SOLICITATION

Contracted Vendor may be asked to provide sponsorship services. Contracted Vendor will seek to fundraise at minimum the per-bike market rate for bike share sponsorship for comparable cities. Work may include but is not limited to the following:

* Research, develop and/or provide a list of potential sponsors
* Determine sponsor levels including costs and benefits associated with each opportunity
* Prepare sponsor deck, to share with potential sponsors to advertise opportunity
* Develop and maintain relationships with potential sponsors
* Oversee outreach to potential sponsors
* Draft and negotiate contractual agreement with sponsors
* Meet regularly with the City to ensure sponsor program is consistent with City’s vision

## ADDITIONAL SERVICES AND REQUESTS

Proposer shall propose, and the City may select and include in the contract or include at any time during the contract term, to provide additional bike share or bike share supportive services, not otherwise included in this RFP. Such services will be paid at an hourly rate based on additional actual direct costs for goods and third party services and local labor costs plus 10% or other method to be agreed upon with the City and set forth in its contract. Overhead is not to be included in actual direct costs for goods and third party services and local labor costs. Work may include but is not limited to the following activities:

* Development of an integrated transit/bike share card
* Implementation of Premium bicycle distribution SLA’s (see Section 7.6)
* Other bicycle distribution changes to increase the service level. Costs could include adding a rebalancing vehicle and staff
* Conduct station changes, not otherwise included, such as:
  + Station move, removal or installation– Remove individual station from one location and install in another location; Remove station and place in warehouse Install station stored in warehouse or other location
  + Station launch – Assemble, inspect, add sponsor logos and install new station into the system
  + Station reconfiguration – Increase or decrease the size of a station or otherwise alter the station layout in a way that requires use of a crane
* Participation in some or all other bike share supportive activities

# RFP INSTRUCTIONS, REQUIREMENTS AND CONDITIONS

## CONTRACT COMPONENTS

This solicitation and resultant contract may require additional licensing. The successful Respondent must meet all licensing requirements that apply to their business immediately after contract award or the City may reject the successful Respondent.

Companies must license, report and pay revenue taxes for the Washington State business License (UBI#) and Seattle Business License, if they are required to hold such a license by the laws of those jurisdictions. The Proposer should carefully consider those costs prior to submitting their offer, as the City will not separately pay or reimburse those costs to the Vendor.

**Seattle Business Licensing and associated taxes**

1. If you have a “physical nexus” in the city, you must obtain a Seattle Business license and pay all taxes due before the Contract can be signed.
2. A “physical nexus” means you have physical presence, such as: a building/facility located in Seattle, you make sales trips into Seattle, your own company drives into Seattle for product deliveries, and/or you conduct service work in Seattle (repair, installation, service, maintenance work, on-site consulting, etc.).
3. We provide a Vendor Questionnaire Form in our submittal package items later in this RFP, and it will ask you to specify if you have “physical nexus”.
4. All costs for any licenses, permits and Seattle Business License taxes owed shall be borne by the Vendor and not charged separately to the City.
5. The apparent successful Respondent must immediately obtain the license and ensure all City taxes are current, unless exempted by City Code due to reasons such as no physical nexus. Failure to do so will result in rejection of the bid/proposal.
6. Self-Filing You can pay your license and taxes on-line using a credit card <https://dea.seattle.gov/self/>
7. For Questions and Assistance, call the Revenue and Consumer Protection (RCP) office which issues business licenses and enforces licensing requirements. The general e-mail is [rca@seattle.gov](mailto:rca@seattle.gov). The main phone is 206-684-8484.
8. The licensing website is <http://www.seattle.gov/rca/taxes/taxmain.htm>.
9. The City of Seattle website allows you to apply and pay on-line with a Credit Card if you choose.
10. If a business has extraordinary balances due on their account that would cause undue hardship to the business, the business can contact our office to request additional assistance. A cover-sheet providing further explanation, along with the application and instructions for a Seattle Business License is provided below.
11. Those holding a City of Seattle Business license may be required to report and pay revenue taxes to the City. Such costs should be carefully considered by the Vendor prior to submitting your offer. When allowed by City ordinance, the City will have the right to retain amounts due at the conclusion of a contract by withholding from final invoice payments.

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**State Business Licensing and associated taxes:** Before the contract is signed, you must have a State of Washington business license (a State “Unified Business Identifier” known as a UBI number#). If the State of Washington has exempted your business from State licensing (for example, some foreign companies are exempt and in some cases, the State waives licensing because the company does not have a physical presence in the State), then submit proof of that exemption to the City. All costs for any licenses, permits and associated tax payments due to the State as a result of licensing shall be borne by the Vendor and not charged separately to the City. Instructions and applications are at <http://bls.dor.wa.gov/file.aspx>

**Contract Term**: This contract shall be for ten (10) years, with one (10) year extension allowed at the option of the City.

**No Guaranteed Utilization**: The City does not guarantee utilization through any resultant contract The City reserves the right to multiple or partial awards. The City reserves the right to use other appropriate contract sources to obtain these products or services, such as State of Washington Contracts. The City may also periodically re-solicit for new additions to the Vendor pool, to invite additional Vendors to submit proposals or proposals for award. Use of such supplemental contracts does not limit the right of the City to terminate existing contracts for convenience or cause.

**Contact Expansion**: Any resultant contract or Purchase Order may be expanded as allowed below. A modification may be considered per the criteria and procedures below, for any ongoing Contract that has not yet expired. Likewise, a one-time Purchase Order may be modified if the proposal reserved the right for additional orders to be placed within a specified period of time, or if the project or body of work associated with a Purchase Order is still active. Such modifications must be mutually agreed. The only person authorized to make such agreements the City is the RFP Coordinator from the City Purchasing Division (Department of Finance and Administrative Services). No other City employee is authorized to make such written notices. Expansions must be issued in writing from the City RFP Coordinator in a formal notice. The RFP Coordinator will ensure the expansion meets the following criteria collectively: (a) it could not be separately propose, (b) the change is for a reasonable purpose, (c) the change was not reasonably known to either the City or vendors at time of proposal or else was mentioned as a possibility in the proposal (such as a change in environmental regulation or other law); (d) the change is not significant enough to be reasonably regarded as an independent body of work; (e) the change could not have attracted a different field of competition; and (f) the change does not vary the essential identity or main purpose of the contract. The RFP Coordinator shall make this determination, and may make exceptions for immaterial changes, emergency or sole source conditions, or for other situations as required in the opinion of the RFP Coordinator.

Note that certain changes are not considered an expansion of scope, including an increase in quantities ordered, the exercise of options and alternates in the proposal, or ordering of work originally identified within the originating solicitation. If such changes are approved, changes are conducted as a written order issued by the City Purchasing RFP Coordinator in writing to the Vendor.

**Trial Period and Right to Award to Next Low Vendor:** A ninety (90) day trial period shall apply to contract(s) awarded as a result of this solicitation. During the trial period, the vendor(s) must perform in accordance with all terms and conditions of the contract. Failure to perform during this trial period may cause the immediate cancellation of the contract. If dispute or discrepancy as to the acceptability of product or service occurs, the City’s decision shall prevail. The City agrees to pay only for authorized orders received up to the date of termination. If the contract is terminated within the trial period, the City reserves the option to award the contract to the next low responsive Vendor by mutual agreement with such Vendor. Any new award will be for the remainder of the contract and will also be subject to this trial period.

**Background Checks and Immigrant Status:** Background checks will not be required for workers that will be performing the work under this contract. The City has strict policies regarding the use of Background checks, criminal checks and immigrant status for contract workers. The policies are incorporated into the contract and available for viewing on-line at <http://www.seattle.gov/city-purchasing-and-contracting/social-equity/background-checks>

**Prohibition on Advance Payments:**The City does not accept requests for early payment, down payment or partial payment, unless Proposal Submittal specifically allows such pre-payment proposals or alternates within the RFP process. Maintenance subscriptions may be paid up to one year in advance provided that should the City terminate early, the amount paid shall be reimbursed to the City on a prorated basis; all other expenses are payable net 30 days after receipt and acceptance of satisfactory compliance.

**Independent Contractor:** The Vendor shall work as an independent contractor. Although the City provides responsible contract and project management, such as managing deliverables, schedules, tasks and contract compliance, this is distinguished from a traditional employer-employee function. This contract prohibits vendor workers from supervising City employees, and prohibits vendor workers from supervision by a City employee. Prohibited supervision tasks include conducting a City of Seattle Employee Performance Evaluation, preparing and/or approving a City of Seattle timesheet, administering employee discipline, and similar supervisory actions. Contract workers shall not be given City office space unless expressly provided for below, and in no case shall such space be provided for over 36 months without specific authorization from the City Project Manager. The City will not provide space in City offices for performance of this work. Vendors must perform work from their own office space or in the field, as appropriate to the work.

**Paid Sick Time and Safe Time Ordinance**: Be aware that the City has a Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside Seattle, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance. Please see <http://www.seattle.gov/laborstandards>, or may call the Office of Labor Standards at 206.684.4500 with questions.

**Federal Funding Requirements**: The Pronto system was originally partially funded by an FTA grant in 2014. Certain Federal Transit Administration (FTA) grant obligations may apply for useful life of existing equipment, defined as 10 years.. The City also intends to apply for future federal grants during the term of the contract. As a result of the existing grant(s)and potential future grant(s), the solicitation and resultant contract are subject to the federal grant requirements, including but not limited to the provisions outlined below or as may be specified in the contract.

Construction, as defined within FTA Circular 4220.1F, shall not be performed under this contract and shall be separately bid by the City, in compliance with City of Seattle and Federal procurement regulations, including but not limited to requirements for competitive bidding, contract bond requirements, DBE requirements, and state and federal prevailing wage requirements.

**Asset Management Requirements for Grant Funded Stations:**

All of the state and federal grant funded docks and helmet bins must have identifying markings, be recorded by station address, be inspected, repaired, monitored for condition, and decommissioned and be disposed of in compliance with the Asset Management Requirements for the grant. If a dock or helmet bin is destroyed, lost or stolen, while in route to another location for example, a non-grant funded station may replace a destroyed, lost, or stolen station. A modification for the identifying inventory markings would require an update. The vendor is required to have a reasonable system by which to track all of this information and provide reports to SDOT or grantors upon request. SDOT is required to collect such reports from time-to-time for compliance with grantor oversight standards expected of grantees with vendors and sub-grantees. This is not unique to bikeshare.

The stations are treated as a Facility for asset depreciation and the assigned useful life is ten (10) years. The bikes are designated to have a useful life of five (5) years. Washington State Asset Management regulations are similar to the federal requirements and can be found in the Washington State Local Agency Agreement for State and Local Programs, OMB 2 CFR 200, The FTA Master Agreement (an FTA Publication), and FTA Circular 5010 1D. The Seattle Department of Transportation’s Grant Oversight Manager will provide expertise to support the Contracted Vendor including during any asset disposition or asset sale that may occur during a system change.

**Environmental Requirements for Grant Funded Stations**

The Contracted Vendor is required to adhere to state and federal environmental regulations and processes for the installation/relocation of helmet bins and docks funded by the existing grant funded stations, for which the installation work was classified by grantors as construction. The original station locations are compliant with environmental provisions. The Contracted Vendor must be able to continue the environmental regulation requirements when grantor funded helmet bins or docks are moved to any other locations to sites other than those listed in Appendix 13.4. Any future grant funded work classified as construction must also comply with all federal and/or state environmental requirements as determined by the grantor source. The prevailing regulation at this time is: [National Environmental Policy Act of 1969](http://www.ceq.doe.gov/nepa/regs/nepa/nepaeqia.htm) (42 U.S.C. 4321 et seq.), as amended.

**Government-wide Debarment and Suspension (Nonprocurement):**  This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Proposer is required to verify that none of the Proposer, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.   
  
The Successful Proposer is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.  
  
By signing and submitting its Proposal, the Proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City and the City of Seattle. If it is later determined Proposer knowingly rendered an erroneous certification, in addition to remedies available to City and the City of Seattle, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Successful Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions

**BUY AMERICA**: Proposer agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

Proposer must submit to City with its proposal, the Buy America certification located in Section 9.5. Proposals that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subvendors.

**FLY AMERICA:** The Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by US flag air carriers to the extent service by these carriers is available, as required by the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 USC § 40118, in accordance with US GAO regulations, "Uniform Standards and Procedures for Transportation Transactions." 4 CFR Part 52, and US GAO Guidelines for Implementation of the "Fly America Act," B-138942, 1981 US Comp. Gen. LEXIS 2116, March 31, 1981.

**SEISMIC SAFETY:** The Vendor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Vendor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

**ENERGY CONSERVATION:** The Vendor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**CLEAN WATER:**

1. The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et. The Vendor agrees to report each violation to City of Seattle and understands and agrees that City of Seattle will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Vendor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by the FTA.

**LOBBYING**

1. This Agreement is subject to Section 319, Public Law 101-121 (31 U.S.C. §1352) and U.S. DOT regulations "New Restrictions on Lobbying," 49 CFR Part 20, (which is by this reference incorporated herein) which prohibits Federal funds from being expended to influence or to attempt to influence an officer or employee of any agency, members of Congress, an office or employee of Congress or an employee of any Member of Congress in connection with the awarding of any federally funded contract, the making of any Federal grant or loan, or entering into any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. Vendors and Subvendors at any time who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or any employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The Vendor shall submit the "Certification Regarding Lobbying" included in the RFQ for this project. The Vendor's signature on this certification shall certify that: a) it has not engaged in the prohibited activity and b) the language of the certification shall be included in all lower tier subcontracts which exceed $100,000, and that all such Subvendors shall certify and disclose accordingly. The City is responsible for keeping the certification form of the Vendor, who is in turn responsible for keeping the certification forms of Subvendors. Further, by executing the Agreement, the Vendor agrees to comply with these laws and regulations.

B. If the Vendor has engaged in any lobbying activities to influence or attempt to influence the awarding of this Agreement, the Vendor must disclose these activities. In such a case, the Vendor shall complete Standard Form SF-LLL, "Disclosure of Lobbying Activities" and must send all disclosure forms to the City to be forwarded to the FTA. This form can be found in Section 9.5 of this RFP.

C. The Vendor and any Subvendors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of a previously filed disclosure form. An event that materially affects the accuracy of the information reported includes:

1. A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence this federally funded Agreement; or

2. A change in the person(s) influencing or attempting to influence this federally funded Agreement; or

3. A change in the officer(s), employee(s) or member contracted to influence or attempt to influence this federally funded Agreement.

**ACCESS TO RECORDS AND REPORTS**

1. The Vendor shall comply with reporting requirements of the U.S. Department of Transportation grant management rules, and any other reports required by the Federal Government.

B. Vendor agrees to maintain intact and readily accessible all work, materials, payrolls, books, documents, papers, data, records and accounts pertaining to the Agreement. Vendor agrees to permit the Secretary of Transportation, the Comptroller General of the United States and the City, or their authorized representatives, access to any work, materials, payrolls, books, documents, papers, data, records and accounts involving the Agreement for the purpose of making audit, examination, excerpts, and transcriptions pertaining to the Agreement as it affects the Project. Vendor shall retain all required records for six (6) years after the City has made final payments. The period of access and examination for records that relate to (1) litigation or the settlement of claims arising out of the performance of this Agreement, or (2) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General of the United States or the U.S. Department of Transportation, or any of their duly authorized representatives, shall continue until such litigation, claims, or exceptions have been disposed of. Vendor shall require its Subvendors to also comply with the provisions of this Paragraph B, and shall include the provisions of this Paragraph B in each of its subcontracts.

**FEDERAL CHANGES:** Vendor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between City of Seattle and FTA, as they may be amended or promulgated from time to time during the term of this contract. Vendor’s failure to so comply shall constitute a material breach of this contract.

**CLEAN AIR:** The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 422 U.S.C. §§ 7401 et seq. The Vendor agrees to report each violation to City of Seattle and understands and agrees that City of Seattle will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Vendor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

**RECYCLED PRODUCTS:** The Vendor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES:** The City of Seattle and Vendor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City of Seattle, Vendor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Vendor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed the clause shall not be modified, except to identify the Subvendor who will be subject to its provisions.

**PROGRAM FRAUD AND FALSE OR FRADULENT STATEMENTS AND RELATED ACTS**

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

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

The Vendor agrees to include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subvendor who will be subject to the provisions.

**PRIVACY:** Should the Vendor, or any of its Subvendors, or their employees administer any system of records on behalf of the federal government, the Privacy Act of 1974, 5 USC § 552a, imposes information restrictions on the party administering the system of records.

1. For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a government function, Sound Transit and any Vendors, third-party contractors, subcontractors, and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this Agreement will make this Agreement subject to termination.
2. The Vendor agrees to include this clause in all subcontracts awarded under this Agreement that require the design, development, or operation of a system of records on individuals subject to the Act.

**CIVIL RIGHTS REQUIREMENTS: T**he following requirements apply to the underlying contract:

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees that it will not discriminate against any person on the basis of race, color, creed, national origin, sex, age, or disability under any program or activity receiving Federal financial assistance. In addition, the Vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. Specific requirements to implement Title VI and the American with Disabilities Act of 1990 are included in Sections 45, respectively, of this agreement.

B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Vendor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Vendor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

(2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

(3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Vendor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

C. The Vendor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

A. While no DBE goal will be established for the contract resulting from this solicitation, this contract remains subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

B. The Vendor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Vendor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Vendor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Seattle deems appropriate. Each subcontract the Vendor signs with a Subvendor must include the assurance in this paragraph (see 49CFR 26.13(b)).

C. The Vendor is required to document sufficient DBE participation to meet any goal outlined in subsection A above, or, alternatively document adequate good faith efforts to do so, as provided for in 49CFR 26.53. Award of this contract is conditioned on submission of the following as a matter of responsiveness concurrent with and accompanying an initial proposal and at the time of any substitution during contract administration:

1. The names and addresses of DBE firms that will participate in this contract;

2. A description of the work each DBE will perform;

3. The dollar amount of the participation of each DBE firm participating;

4. Written documentation of the Vendor’s commitment to use a DBE Subvendor whose participation it submits to meet the contract goal;

5. Written confirmation from the DBE that it is participating in the contract as provided in the prime Vendor’s commitment; and

6. If the contract goal is not met, evidence of good faith efforts to do so.

Vendors must present the required forms as a matter of responsiveness with initial proposals (see 49CFR 26.53(3)).

D. The Vendor must promptly notify City of Seattle whenever a DBE Subvendor performing work related to this contract is terminated or fails to complete its work, and if this contract includes DBE goals, the Vendor must make good faith efforts to engage another DBE Subvendor to perform at least the same amount of work. The Vendor may not terminate any DBE Subvendor and perform that work through its own forces or those of an affiliate without prior written consent of City Seattle.

E. In the event the Vendor and/or its Subvendors fail(s) to comply with any substantive requirement of the Agreement related to non-discrimination, participation by Disadvantaged Business Enterprises or other Small Businesses, or equal employment opportunity, the City may impose sanctions as it may determine to be appropriate, including but not limited to:

1. Requiring the Vendor to take remedial action to bring the Vendor or its Subvendor into compliance;

2. Withholding payments to the Vendor until the Vendor or its Subvendor is in compliance;

3. Suspend this Agreement;

4. Terminate this Agreement;

5. Debar the Vendor or its Subvendor from future contracts with City of Seattle; and/or

6. File civil and/or criminal action(s) against the Vendor and, if applicable, its Subvendors, suppliers, employees, agents, and representatives.

The City may consider any such failure by the Vendor in determining whether to award any future contracts to the Vendor.

F. The Vendor will be required to report its DBE participation obtained, including through race-neutral means, throughout the period of performance. On a quarterly basis, the Vendor shall prepare and submit the City’s Quarterly DBE Report with information that includes payments made to all Subvendors, including the identification of any certified DBEs completing a Commercially Useful Function on the project.

G. The Vendor shall complete and certify DBEs under this contract using the Disadvantaged Business Enterprise (DBE) Utilization Certification for the work outlined under the Scope of Work any subsequent change orders or amendments to this contract for additional scope of work.

H. The following Notice to Proposer provides more information regarding the DBE requirements.



**NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS**

The Vendor agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and with FTA Notice, "Federal Transit Administration National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other subsequent Federal directives that may be issued.

**ADA, SECTION 504 AND OTHER FEDERAL REQUIREMENTS:** The Vendor is also required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

A. U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;

B. U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;

C. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local federal government Services," 28 CFR Part 35;

D. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;

E. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19;

F. U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;

G. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and

H. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.

I. Activities Not Involving Construction. Federal laws and regulations providing wage and hour protections for nonconstruction employees, including:

(1). Section 102 of the Contract Work Hours and Safety Standards Act, as amendment, 40 U.S.C. § 3702, and other relevant parts of the Act, 40 U.S.C. § 3701 et seq., and

(2). U.S. Department of Labor (DOL) regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

J. Any implementing requirements that the FTA may issue.

**ANTI-KICKBACK:** The City and contractors are required to comply with the Anti-Kickback Act of 1986, 41 USC §§ 51 et seq. Under state and federal law, it is a violation for City employees, bidders, contractors or subcontractors to accept or offer any money or benefit, as defined below, as a reward for favorable treatment in connection with the award of a contract or the purchase of goods or services.

"Kickback" as defined by Federal Acquisition Regulation (FAR) 52.203-7, and 41 USC § 52(2), means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided directly or indirectly to any prime Contractor, prime Contractor employee, subcontractor or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contractor or in connection with a subcontract relating to a prime contract.

**INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any City of Seattle requests which would cause City of Seattle to be in violation of the FTA terms and conditions.

## CONTRACT FORM

Proposals must be priced and submitted with the understanding that all specifications, requirements, terms and conditions are mandatory. Proposers are responsible to review all specifications, requirements, terms and conditions, insurance requirements, and other requirements.

Submittal of a proposal is agreement to comply with the contract terms without exception, unless modified by the City. If the Proposer seeks the City consideration of any element in the contract for revision, the Proposer must identify that within their RFP response, with the understanding that the City may reject consideration and the Proposer is still bound to the terms of the contract.

Failure to execute a contract due to a refusal to accept a term or condition that is within the sample attached contract, may result in rejection of the Proposer and a prohibition of the Proposer to resubmit should the city for any reason resolicit this scope.

Nothing herein prohibits the City from opening discussions with the highest ranked apparent successful Proposer, to negotiate modifications to either the proposal or the contract terms and conditions, to align the proposal or the contract to best meet City needs within the scope sought by the RFP. The City has the right to negotiate changes to submitted proposals and to change the City's otherwise mandatory terms and conditions during negotiations, or by providing notice during the contract.

## INSTRUCTIONS AND INFORMATION

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

**Registration into City On-line Business Directory:** If you have not previously completed a one-time registration into the City of Seattle On-line Business Directory, we request you register at: <http://www2.seattle.gov/VendorRegistration/>. The City’s On-line Business Directory is used by City staff to locate your contract(s) and identify companies for bid lists on future purchases. Responses will be not rejected for failure to register, however, if you win a contract and have not registered, you will be required to place yourself, or you will be added into the system. Women and minority owned firms are asked to self-identify. If you need assistance, please call 206-684-0444.

**Pre-Proposal Conference:** The City shall conduct optional pre-proposal conferences and/or conference calls, on the time and date in page 1, at the Seattle City Purchasing Office, 700 5th Avenue, Suite 4112, Seattle. Proposers are highly encouraged to attend but not required to attend to be eligible to submit a proposal. The first meeting answers questions potential Proposers may have regarding the solicitation document and to discuss and clarify any issues. This is an opportunity for Proposers to raise concerns regarding specifications, terms, conditions, and any requirements of this solicitation and ask any other questions. Failure to raise concerns over any issues at this opportunity will be a consideration in any protest filed regarding such items known as of this pre-proposal conference. The second question and answer call will be dedicated solely to responding to questions by Proposers.

Those unable to attend in person may participate via telephone. The RFP Coordinator will set up a conference bridge for Vendors interested in participating via conference call. Contact the RFP Coordinator at least two days in advance of the conference when requesting access by phone.

**Questions:** Questions are to be submitted tothe RFP Coordinator no later than the date and time on page 1, to allow sufficient time for the City RFP Coordinator to consider the question before the proposals are due. The City prefers such questions to be through e-mail directed to the City RFP coordinator e-mail address. Failure to request clarification of any inadequacy, omission, or conflict will not relieve the vendor of any responsibilities under this solicitation or any subsequent contract. It is the responsibility of the interested Vendor to assure they receive responses to Questions if any are issued.

**Changes to the RFP/Addenda:** A change may be made by the City if, in the sole judgment of the City, the change will not compromise the City’s objectives in this acquisition. A change to this RFP will be made by formal written addendum issued by the City’s RFP coordinator Addenda and shall become part of this RFP and included as part of the Contract. It is the responsibility of the interested Vendor to assure they have received Addenda if any are issued.

**Bid Blog:** Our website has an option for those companies familiar with RSS Technology. You may opt to subscribe to an “RSS Feed” on our new Blog (titled “The Buy Line”). This is optional; it is for your convenience and recommended for those companies familiar with RSS technology. The RSS Feed technology provides alerts for updates, including addenda, or information posted on our blog for the solicitation you are interested in. <http://www.seattle.gov/city-purchasing-and-contracting/city-purchasing>

**Receiving Addenda and/or Question and Answers:** The City RFP Coordinator will try to provide you notices, either through the RSS Feed or direction e-mail courtesy announcements, which changes or addendums have been posted on our website.

Notwithstanding efforts by the City to provide such notice to known vendors, it remains the obligation and responsibility of the Proposer to learn of any addendums, responses, or notices issued by the City. Such efforts by the City to provide notice or to provide it on the website do not relieve the Proposer from the sole obligation for learning of such material.

Note that some third-party services decide to independently post City of Seattle proposals on their websites as well. The City does not, however, guarantee that such services have accurately provided Proposers with all the information published by the City, particularly Addendums or changes to bid date/time.

All proposals sent to the City shall be compliant to all Addendums, with or without specific confirmation from the Proposer that the Addendum was received and incorporated. However, the RFP Coordinator can reject the Proposal if it does not reasonably appear to have incorporated the Addendum. The RFP Coordinator could decide that the Proposer did incorporate the Addendum information, or could determine that the Proposer failed to incorporate the Addendum changes and that the changes were material so the RFP Coordinator must reject the Offer, or the RFP Coordinator may determine that the Proposer failed to incorporate the Addendum changes but that the changes were not material and therefore the Proposal may continue to be accepted by the RFP coordinator.

## SUBMITTAL REQUIREMENTS & INSTRUCTIONS

This section details City procedures for submittal.

1. Number all pages sequentially. To facilitate evaluation, the proposal should address and be organized in the order of the outline requested in this RFP.
2. The response should be in an 8 1/2” by 11” format. Non-recyclable materials are strongly discouraged. Proposers are encouraged to “double side”. While no page limits are specified, proposal responses should be concisely written.

**Late Submittals:** Proposers have full responsibility to ensure the response arrives at the City within the deadline. A late submittal may be rejected, unless the lateness is waived as immaterial by the City Purchasing and Contracting Services Director, given specific fact-based circumstances. Late responses may be returned unopened to the submitting firm; or CPCS may accept the package and make a determination as to lateness.

**Hard Copy Submittal:** Submittal Requirements. One original (1) unbound, 10 copies, and one (1) electronic thumb drive copy of the response must be received no later than the date and time specified on the Solicitation Schedule or as otherwise amended. Fax, e-mail and CD copies **will not** be an alternative to the hard copy. If a CD, fax or e-mail version is delivered to the City, the hard copy will be the only official version accepted by the City.

Hard Copy Submittal Addresses

|  |  |
| --- | --- |
| **Physical Address (courier)** | **Mailing Address (For US Post Office mail)** |
| City Purchasing and Contracting Services  Department of Finance & Administrative Services  Seattle Municipal Tower  Suite 4112  700 Fifth Avenue  Seattle, Washington, 98104 | City Purchasing and Contracting Services  Department of Finance & Administrative Services  Seattle Municipal Tower  P.O. Box 94687  Seattle, Washington, 98124-4687 |

1. Hard-copy responses should be in a sealed box or envelope clearly marked and addressed with the CPCS RFP Coordinator Name, RFP title and number. If packages are not clearly marked, the Proposer has all risks of the package being misplaced and not properly delivered.
2. The Submittal may be hand-delivered or must otherwise be received by the RFP Coordinator at the address provided, by the submittal deadline*.* Delivery errors will result without careful attention to the proper address.
3. Submittals and their packaging (boxes or envelopes) should be clearly marked with the name and address of the Proposer.
4. Please do not use any plastic or vinyl binders or folders. The City prefers simple, stapled paper copies. If a binder or folder is essential due to the size of your submission, they are to be fully 100% recycled stock. For your information only, such binders are available from Keeney’s Office Supply at 425-285-0541 or Complete Office Solutions at 206-650-9195, two of the City’s Office Supply Vendors).
5. Please double-side your submittal.

**No RFP Opening – No Reading of Prices**: The City does not conduct a bid opening for RFP responses.

Proposer shall respond in the format and on any forms provided, indicating unit prices if appropriate, and attaching additional pages if needed. In the case of difference between the unit pricing and the extended price, the City shall use the unit pricing. The City may correct the extended price accordingly. Proposer shall quote prices with freight prepaid and allowed. Proposer shall quote prices FOB Destination. All prices shall be in US Dollars.

**Proposer Responsibility to Provide Full Response:** It is the Proposer’s responsibility to respond, which does not require interpretation or clarification by the RFP Coordinator. The Proposer is to provide all requested materials, forms and information. The Proposer is responsible to ensure the materials submitted will properly and accurately reflects the Proposer specifications and offering. During scoring and evaluation (prior to interviews if any), the City will rely upon the submitted materials and shall not accept materials from the Proposer after the RFP deadline; however this does not limit the right of the City to consider additional information (such as references that are not provided by the Proposer but are known to the City, or past experience by the City in assessing responsibility), or to seek clarifications by the City.

**Partial and Multiple Awards:** Unless stated to the contrary in the Scope of Work, the City reserves the right to name a partial and/or multiple awards, in the best interest of the City

**Taxes:** The City is exempt from Federal Excise Tax (Certificate of Registry #9173 0099K exempts the City). Washington state tax, use tax if any, and local sales tax will be added onto the resultant Contract cost, although will not be used in evaluation of costs.

**Interlocal Purchasing Agreements:** This is for information only and is not be used to evaluate candidates. RCW 39.34 allows cooperative purchasing between public agencies, and other political subdivisions. **SMC 20.60.100 also allows nonprofits to use these agreements.** The seller agrees to sell additional items at the offer prices, terms and conditions, to other eligible governmental agencies that have such agreements with the City. The City of Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies. Should the Proposer require additional pricing for such purchases, the Proposer is to name such additional pricing upon Offer to the City.

**Effective Dates of Offer:** Offer prices and costs in Proposer submittal must remain valid until City completes award. Should any Proposer object to this condition, the Proposer must provide objection through a question and/or complaint to the Buyer prior to the proposal due date.

**Cost of Preparing Proposals**: The City will not be liable for any costs incurred by the Proposer in the preparation and presentation of proposals submitted in response to this RFP including, but not limited to, costs incurred in connection with the Proposer’s participation in demonstrations and the pre-proposal conference.

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

**Prohibited Contacts:** Proposers shall not interfere in any way to discourage other potential and/or prospective Proposers from proposing or considering a proposal process. Prohibited contacts includes but is not limited to any contact, whether direct or indirect (i.e. in writing, by phone, email or other, and by the Proposer or another person acting on behalf of the Proposer) to a likely firm or individual that may discourage or limit competition. If such activity is evidenced to the satisfaction and in sole discretion of the City Purchasing Manager, the Proposer that initiates such contacts may be rejected from the process.

**Readability:** Proposers are advised that the City’s ability to evaluate proposals is dependent in part on the Proposer’s ability and willingness to submit proposals which are well ordered, detailed, comprehensive, and readable. Clarity of language and adequate, accessible documentation is essential.

**Changes or Corrections in Proposal Submittal**: Prior to the submittal closing date and time, a Proposer may change its proposal, if the change is initialed and dated by the Vendor. No change shall be allowed after the closing date and time. Note you cannot change, mark-up or cross-out any condition, format, provision or term that appears on the City’s published Offer Form. If you need to change any of your own prices or answers that you write on the Offer Form, it must be made in pen, initialed, and be clear in intent. Do not use white-out.

**Errors in Proposals:** Proposers are responsible for errors and omissions in their proposals. No such error or omission shall diminish the Proposer’s obligations to the City.

**Withdrawal of Proposal:** A submittal may be withdrawn by written request of the submitter, prior to the quotation closing date and time. After the closing date and time, the submittal may be withdrawn only with permission by the City.

**Rejection of Proposals and Rights of Award**: The City reserves the right to reject any or all proposals with no penalty. The City also has the right to waive immaterial defects and minor irregularities in any submitted proposal.

**Incorporation of RFP and Proposal in Contract**: This RFP and the Proposer’s response, including all promises, warranties, commitments, and representations made in the successful proposal as accepted by the City, shall be binding and incorporated by reference in the City’s contract with the Proposer.

**Equal Benefits:** Seattle Municipal Code Chapter 20.45 (SMC 20.45) requires consideration of whether Proposers provide health and benefits that are the same or equivalent to the domestic partners of employees as to spouses of employees, and of their dependents and family members. The bid package includes a “Vendor Questionnaire” which is the mandatory form on which you make a designation about the status of such benefits. Instructions are provided at the back of the Questionnaire.

**Insurance Requirements:*****Insurance requirements specified in the Appendix are mandatory. The apparent successful Proposer must promptly provide such proof of insurance to the City in reply to the Intent to Award Letter. Contracts will not be executed until all required proof of insurance has been received and approved by the City.***

Proposers are encouraged to immediately contact their Broker to begin preparation of the required insurance documents, if the Proposer is selected as a finalist. Proposers may elect to provide the requested insurance documents within their Proposal.

**Proprietary Materials: *The State of Washington’s Public Records Act (Release/Disclosure of Public Records) Under Washington State Law (reference RCW Chapter 42.56, the Public Records Act) all materials received or created by the City of Seattle are considered public records. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material.***

The State of Washington’s Public Records Act requires that public records must be promptly disclosed by the City upon request unless that RCW or another Washington State statute specifically exempts records from disclosure. Exemptions are narrow and explicit and are listed in Washington State Law (Reference RCW 42.56 and RCW 19.108).

Proposers must be familiar with the Washington State Public Records Act and the limits of record disclosure exemptions. For more information, visit the Washington State Legislature’s website at <http://www1.leg.wa.gov/LawsAndAgencyRules>).

If you have any questions about disclosure of the records you submit with your bid, please contact City Purchasing at (206) 684-0444.

*Marking Your Records Exempt from Disclosure (Protected, Confidential, or Proprietary)*

As mentioned above, all City of Seattle offices (“the City”) are required to promptly make public records available upon request. However, under Washington State Law some records or portions of records are considered legally *exempt from disclosure* and can be withheld. A list and description of records identified as exempt by the Public Records Act can be found in RCW 42.56 and RCW 19.108.

If you believe any of the records you are submitting to the City as part of your bid/proposal or contract work products, are exempt from disclosure you can request that they not be released before you receive notification. To do so you must complete the City Non-Disclosure Request Form (“the Form”) provided by City Purchasing (see attached) and very clearly and specifically identify each record and the exemption(s) that may apply. (If you are awarded a City contract, the same exemption designation will carry forward to the contract records.)

The City will not withhold materials from disclosure simply because you mark them with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. Do not identify an entire page as exempt unless each sentence is within the exemption scope; instead, identify paragraphs or sentences that meet the specific exemption criteria you cite on the Form. Only the specific records or portions of records properly listed on the Form will be protected and withheld for notice. All other records will be considered fully disclosable upon request.

If the City receives a public disclosure request for any records you have properly and specifically listed on the Form, the City will notify you in writing of the request and will postpone disclosure. While it is not a legal obligation, the City, as a courtesy, will allow you up to ten business days to file a court injunction to prevent the City from releasing the records (reference RCW 42.56.540). If you fail to obtain a Court order within the ten days, the City may release the documents.

The City will not assert an exemption from disclosure on your behalf. If you believe a record(s) is exempt from disclosure you are obligated to clearly identify it as such on the Form and submit it with your solicitation. Should a public record request be submitted to City Purchasing for that record(s), you can then seek an injunction under RCW 42.56 to prevent release. By submitting a bid document, the bidder acknowledges this obligation; the Proposer also acknowledges that the City will have no obligation or liability to the Proposer if the records are disclosed.

**Requesting Disclosure of Public Records**: The City asks bidders and their companies to refrain from requesting public disclosure of bids until an intention to award is announced. This measure is intended to protect the integrity of the solicitation process particularly during the evaluation and selection process or in the event of a cancellation or re-solicitation. With this preference stated, the City will continue to be responsive to all requests for disclosure of public records as required by State Law. If you do wish to make a request for records, please address your request in writing to: Julie Salinas at [Julie.salinas@seattle.gov](mailto:Julie.salinas@seattle.gov).

**Ethics Code:** Please familiarize yourself with the new code: <http://www.seattle.gov/ethics/etpub/et_home.htm>. Attached is a pamphlet for Vendors, Customers and Clients. Specific question should be addressed to the staff of the Seattle Ethics and Elections Commission at 206-684-8500.

**No Gifts and Gratuities:** Vendors shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work, or meals) to any City employee, volunteer or official, if it is intended or may appear to a reasonable person to be intended to obtain or give special consideration to the Vendor. An example is giving a City employee sporting event tickets to a City employee on the evaluation team of a bid you plan to submit. The definition of what a “benefit” would be is broad and could include not only awarding a contract but also the administration of the contract or the evaluation of contract performance. The rule works both ways, as it also prohibits City employees from soliciting items from vendors. Promotional items worth less than $25 may be distributed by the vendor to City employees if the Vendor uses the items as routine and standard promotions for the business.

**Involvement of Current and Former City Employees:** If a Vendor has any current or former City employees, official or volunteer, working or assisting on solicitation of City business or on completion of an awarded contract, you **must** provide written notice to City Purchasing of the current or former City official, employee or volunteer’s name. The Vendor Questionnaire within your bid documents prompts you to answer that question. You must continue to update that information to City Purchasing during the full course of the contract. The Vendor is aware and familiar with the Ethics Code, and educates vendor workers accordingly.

**Contract Workers with more than 1,000 Hours:** The Ethics Code has been amended to apply to vendor company workers that perform over 1,000 cumulative hours on any City contract during any 12-month period. Any such vendor company employee covered by the Ethics Code must abide by the City Ethics Code. The Vendor is to be aware and familiar with the Ethics Code, and educate vendor workers accordingly.

**No Conflict of Interest:** Vendor (including officer, director, trustee, partner or employee) must not have a business interest or a close family or domestic relationship with any City official, officer or employee who was, is, or will be involved in selection, negotiation, drafting, signing, administration or evaluating Vendor performance. The City shall make sole determination as to compliance.

## OFFER SHEET AND MANDATORY SUBMITTALS

Submit proposal with the following format and attachments. Failure to clearly and completely provide all information below, on forms provided and in order requested, may result in rejection as non-responsive. A checklist is provided for your convenience only and does not need to be submitted with your proposal. This checklist summarizes each form or other information required to complete and submit your proposal package to the City.

|  |  |
| --- | --- |
| Submittal Checklist |  |
| Cover Sheet | Optional |
| Legal Name | Desirable |
| Vendor Questionnaire | Mandatory |
| Buy America Certificate | Mandatory |
| SF-LLL Disclosure of Lobbying Activities | Mandatory |
| Disadvantaged Business Enterprise (DBE) Plan, Written Confirmation | Mandatory |
| Proposal Response | Mandatory |
|  |  |

* + 1. **Cover letter (optional)**
    2. **Legal Name:** Submit a certificate, copy of web-page, or other documentation from the Secretary of State in which you incorporated that shows your legal name as a company. Many companies use a “Doing Business As” Name, or a Nickname in their daily business. However, the City requires the legal name of your company, as it is legally registered. When preparing all forms below, use the proper company legal name. Your company’s legal name can be verified through the State Corporation Commission in the state in which you were established, which is often located within the Secretary of State’s Office for each state. <http://www.coordinatedlegal.com/SecretaryOfState.html> If you are submitting as a joint venture, identify the intended name of the joint venture.

**3. Vendor Questionnaire: This form is mandatory.** Submit this questionnaire, even if you have submitted one to the City on previous solicitations or contracts.

4. **Buy America Certificate: This form is mandatory.**



5. **SF-LLL Disclosure of Lobbying Activities: This form is mandatory.**



**6. Disadvantaged Business Enterprise (DBE) Plan: These forms are mandatory.**



**7. Proposal Response**: **This is a mandatory submittal**.

Elements of this response will be scored or ranked by the Evaluation Committee. Questions that must be answered are provided in the following sections titled, “Proposal Response – Required Questions”. Links to the Financial Proposal templates are provided following the first paragraph in Sections 10.4 and 10.5.

# PROPOSAL RESPONSE – REQUIRED QUESTIONS

Proposers are responsible for answering all questions in this section, including all questions pertaining to Required and Premium services. If your answer to two questions is the same, please reference the previous response.

## TECHNICAL QUESTIONS - ORGANIZATION AND EXPERIENCE

1. Please identify what organization is the primary respondent to this RFP.
2. Attach an organizational chart that displays the relationship between the various major components, including the Equipment Provider, the Operator, and any other key elements or subcontract arrangements.
3. Propose the individual that will have total management responsibility, attach a resume.
4. Identify other individuals that will have a significant role and attach resumes, including as appropriate to your proposal response, those responsible for financial management, marketing, outreach and equity, and similar.
5. For any significant portions performed by subcontract (i.e. equipment, operations, both and/or other), describe how long and for what projects or work you have worked in partnership with each other, and identify whether any of the existing named personnel have worked together previously.
6. Provide a general overview of your company, including where and when the company was incorporated and where the company is headquartered, as well as past experience and expertise, including any special qualifications or experiences.
7. For your primary subcontractor(s) (i.e. equipment, operations, both and/or other)
   1. Describe the structure of the company or organization including where and when the organization was incorporated and where the organization or company is headquartered.
   2. Describe the specific experience and qualifications of the organization as it pertains to the work to be performed.

## TECHNICAL QUESTIONS - EQUIPMENT

1. What is your organization’s approach and vision to providing the bike share equipment (bicycle share stations, software, bicycles, helmet dispensing units and spare parts) outlined in this RFP?
2. Describe in detail the features of the standard equipment and software proposed.
   1. Directly address all features described in Section 6 and confirm if the feature will be included in the equipment provided at launch. If not provided a launch, specify whether the feature is development for the future. Chart form is recommended.
   2. Describe *in detail* the features of and status of your pedal-assist technology
   3. Include sketches showing dimensions including all footprint configurations as well as the weight of complete products, as applicable.
   4. Please include graphics, screen shots and sample reports, as desired.
   5. Please include detailed specifications such as hours of direct and/or indirect solar required to power stations, time required to recharge pedal-assist bicycles, etc.
3. Please describe your approach to providing a pedal-assist bike share solution in Seattle.
   1. Will the system roll out in 2017 with pedal-assist technology or will pedal-assist be phased in later?
   2. What are the history, status and findings relative to any testing, pilots or early implementations of this technology?
   3. As a relatively early adopter of pedal-assist bike share technology, what guarantees will you provide to the City that the equipment will be highly reliable and/or that the City will be able to take advantage of upgrades and improvements?
4. Are there any optional features or models you offer that are not included as part of your standard equipment or software? Please describe the features of these alternatives and how and when they can be purchased.
5. Identify all space available to place sponsor/donor logos, advertisements or other information. Include dimensions and any special requirements to add logos or information, as applicable.
6. Describe your development, improvement and upgrade process.
7. How do you identify and prioritize improvements?
8. How will you solicit and incorporate client input and otherwise communicate with the City?
9. What is your development timeline or cycle?
10. Are you planning to implement any major improvements in the next three years that you can describe in this document, which is a public document? As possible, please include description, anticipated release year, and whether upgrade can be retrofitted onto the system being offered as part of this RFP.
11. Please describe your quality control process. How does your company ensure that only the highest quality products are delivered?
12. Describe in detail the a) technical support, b) training c) service levels, d) maintenance, e) upgrade/ general improvements f) hosting (for software only) and g) additional services provided related to the hardware and software.
13. Please provide an inventory list, in chart form, of the major components of a station, bike and helmet dispensing unit and replacement parts you sell. For each part shown in your inventory list include:
14. Part Name and Description.
15. SKU number.
16. Quantity required per bicycle, station or helmet dispensing unit
17. Useful life
18. Warranty life
19. Average time to ship/delivery time (specify which)
20. Guaranteed time to ship/delivery time (specify which)
21. Minimum quantity maintained in inventory
22. Minimum quantity required for order
23. Is this part proprietary (Y/N)
24. Describe your warranty policy and process.
25. What is the process to return and replace equipment under the warranty?
26. What responsibility does your organization take for direct costs and/or labor costs to replace equipment/parts due to equipment or software failure, defect or design flaw while products are under warranty?
27. What responsibility does your organization take for direct costs and/or labor costs to replace any stolen, vandalized or damaged equipment/parts resulting from equipment or software failures, defects or design flaws?
28. Please include the warranty life on your major parts and components (respond in chart, Question 18)
29. What is the time to ship or delivery time on new stations, helmet dispensing units, complete bicycles, or component parts, as applicable? Do you guarantee this time to ship/delivery time? If your response is based on time to ship, what shipping methods do you use and average ship time? (Respond in chart, Question 18)
30. Describe the security protocols used to protect bicycle share user information and to be Payment Card Industry (PCI) compliant per the City’s contract.
31. Please confirm whether you agree to the all of the remaining terms and conditions described in the Scope of Work section 6. You will be required to accept all terms and conditions and contract terms in this document unless you respond otherwise here. Topics include:
    1. Agreement to escrow software provided
    2. City and/or Operator have right to purchase compatible parts from other vendors
    3. Data owned by the City and accessible to the Operator
    4. Login to entire backend provided to City and Operator
    5. All manuals delivered to Operator and City
    6. Ability to provide test or sample of product prior to award
32. Are there any terms from the contract in the Appendix that you would like to negotiate? It will be assumed that you will accept all contract terms unless you respond here. See Section 9.2 for more information.
33. Is there anything else you would like to add relative to equipment that we have not asked anywhere else in this Technical Proposal?

## TECHNICAL QUESTIONS – OPERATIONS

In this Section, the Respondent must provide answers to all of the following questions. If you are proposing two financial models and your response to any of these questions depends on the financial model, please provide two responses to the question, with associated financial model clearly labelled.

1. Describe your organization’s overall vision and approach to meet the goals and measurable objectives for *operating* Seattle’s bike share system.
2. What is your approach to growing the system after launch?
3. Please list or include an organization chart with all proposed full time, part time, contracted and sub-contracted positions that will be involved in Seattle bike share system. Please include:
   1. Total number of local FTE number of local full-time and part-time staff
   2. Total number of non-local FTE and non-local number of full-time and part-time staff that will contribute to Seattle system.
   3. Which positions receive full benefits and what do your benefits consist of?
   4. Detailed description of the tasks associated with each position;
   5. What work will be done in-house locally versus subcontracted or performed by your corporate team?
   6. Name of any known individuals, contractors or subcontractors to be working on this project. If identified, please describe their experience.
4. What is your overall approach to ensuring a smooth operator and/or equipment transition?
   1. What major tasks need to be completed as part of the transition?
   2. Will service remain open throughout the transition?
   3. How will you address members that have pre-paid for annual memberships?
   4. What will you do with existing equipment? Please address compliance with grant requirements on the equipment
   5. What is your schedule for the transition?
5. What is your proposed system service area?
6. Please include a map
7. [Station-based systems only] What is the station density by neighborhood?
8. What is the overall station and/or bike density?
9. What methodology did you use to determine this service area?
10. The City intends to retain decision-making authority over the service area designation commensurate with the financial risk for the system borne by the City. If you require any decision-making authority, please describe how you envision resolving disputes or differences in opinion
11. Describe in detail your bike distribution strategy and plan.
12. What strategy will you employ to optimize level of service resulting from bike distribution?
13. Include hours of distribution, number of vehicles and staff.
14. Section 7.1 provides a suggested service level. Will you commit to this level? If not, please provide your edits or alternative service levels that you will commit to. Desired format is based on tiered system by trip volume or one that emphasizes reducing full/empty occurrences of adjacent stations
15. Describe in detail your approach to customer service. Please include:
16. For what hours will you provide service? Do you have a different service type for specific hours, like overnight or weekend?
17. What services are provided locally versus non-locally?
18. How will you maintain service levels on high call volume days?
19. Section 7.5 provides a suggested service level. Will you commit to these levels? If not, please provide your edits or an alternative service level that you will commit to.

e. What additional languages besides English are you able to provide in responding to inquiries by phone or e-mail?

1. Describe in detail your equipment maintenance strategy. Include frequency of repairs.
2. Section 7.4 provides a suggested service level. Will you commit to these levels? If not, please provide your edits.
3. Describe in detail your organization’s recommended approach relative to helmets operations, including distribution, inspection and cleaning of helmets and any other regular maintenance activities.
4. Specifically, how will your team ensure returned helmets are clean, safe and in compliance with safety standards?
5. Will you make helmets available for rental, return and/or purchase?
6. What service levels do you propose?
7. Describe what you will implement as part of your required equity program.
8. Include a firm commitment to the percentage of stations that will be placed in low-income neighborhoods, as defined by the City.
9. How will you facilitate reduced-cost memberships
10. Describe participation of disadvantaged business enterprises.
11. Describe the basic outreach program targeting low-income, minority and immigrant populations that you will implement.
12. Please show timeline with milestones from contract signing, anticipated December 31, 2016, to two or more years after launch.
13. What environmentally friendly business practices will your organization incorporate into operations? Will you use environmentally friendly vehicles, such as electric or biodiesel?
14. Is there anything else you would like to add that we have not asked anywhere else in this Technical Proposal relative to operations?

Please note that the tasks outlined in this section represent premium services. Vendor is required to respond to the following questions, regardless of City’s intent to hire.

1. Describe your overall approach to site planning and permitting. Please include outreach strategy.
2. Describe your overall approach to sponsorship?
3. What level sponsorships do you propose selling and what benefits will you assign to each level
4. What is the total amount you believe can be fundraised for the Seattle bike share system you propose? How much would you anticipate fundraising from each level? How many total sponsors would you seek?
5. What role would you require the City to play in fundraising? Describe the role the City played in previous major sponsorships secured for systems you operate.
6. If you require performing sponsorship, do you commit to launching regardless of your success in securing a sponsor?
7. What is your timeline for securing sponsors?
8. Describe your overall approach to marketing, PR and corporate sales. Please include:
9. What percent of your time will be spent on each strategy in the marketing/PR and corporate sales plan?
10. What metrics will you use to determine the success of your efforts?
11. What do you propose as marketing, PR and sales goals?
12. Corporate membership sales have proven highly successful in numerous cities. What steps will you take to promote corporate membership sales?
13. How will you respond to an emergency situation such as a fatality or serious injury?
14. What strategies will you employ to generate free PR?
15. Describe how your overall approach to implementing a comprehensive equity and inclusion plan, as described in Premium Services section of the Scope of Work. Please include some or all of the following if they are part of your plan.
16. Your understanding and vision for racially equitable solutions that will attract and retain people of color with similar success as they do with white riders.
17. Describe any experiences, expertise or program approaches that will achieve the racial equity for program memberships.
18. Your approach to selling and promoting reduced-cost memberships, if you plan to use that element or another approach.
19. Identify how you will approach immigrant and learning-English population outreach, including translation of materials, targeted advertising such as Spanish-language radio or Spanish-materials.
20. Identify partnerships for outreach from local community associations, including (as otherwise proposed or negotiated) Casa Latina, El Centro de La Raza, Got Green, Rainier Beach Community Council, and others.
21. Describe the approach you will use for the unbanked and/or digitally challenged individuals to purchase memberships
22. Should the City want to develop an integrated transit/bike share card, please explain your process and estimated time to develop. Has your organization developed integrated cards in the past and if so, with whom?
23. Does your organization require performing any of tasks in the Premium Service section as part of any of your financial models? Pease explain.

## FINANCIAL QUESTIONS - EQUIPMENT

In this Section, the Respondent must provide answers to the following required financial questions. A template is provided for submission of pricing information. Please use the template as a guide for your response, as possible. If you are proposing two financial models, please submit two clearly labelled financial proposals.

Financial template for equipment can be found at: [*https://www.dropbox.com/s/kcvcnsuukeogs11/Financial%20Template%20-%20Equipment.xlsx?dl=0*](https://www.dropbox.com/s/kcvcnsuukeogs11/Financial%20Template%20-%20Equipment.xlsx?dl=0)

1. Please provide a copy of the audited financial statements for the three previous fiscal years and the last quarterly report if one exists for the Equipment Provider. Statements must include auditor’s letter of opinion, auditor’s notes, balance sheet, and statement of income/loss. Each prime or joint venture partner must submit this information. The City reserves the right to accept alternative information and/or documentation submitted by the Vendor.
2. Please show the total number of bicycles, stations and helmet dispensing units, including software, the City will receive for $5 million.
   1. Total must include any installation and/or launch costs attributed to the City
   2. Does this total include any cash or in-kind contributions from your organization to cover capital and/or launch costs? If yes, how many additional units of equipment will be provided?
3. Please provide a unit price for the following items that may be purchased additionally throughout the term of the contract.
   1. All models of bicycle share stations, bicycles and helmet dispensing units described in the Technical Proposal. Please add to the template provided.
   2. Major station components such as terminal, dock, map frame, platform, etc. Please add to the template provided.
4. Using a copy of the inventory list created in your response to Technical Proposal Question 18, please provide a price for each part listed.
5. Please provide a price for software services on a per station or per bike per month basis. Please add to the template provided.
6. If there are any additional fees to be charged, not previously mentioned, please describe each in detail, including, without limitation, the anticipated frequency and reasons for incurring such fees, with the amount. Please add the total of these fees to the template provided.
7. Describe any discounts you offer for large or bulk orders? Is the discount cumulative of per order only?
8. Please describe your requested payment terms? Please confirm that the payment terms as part of this financial proposal the best terms offered by your organization to any purchaser, anywhere.
9. Please confirm that you accept the following terms and conditions as follows:
   1. Are the prices provided as part of this financial proposal the best prices offered by your organization to any purchaser, anywhere? Are the prices consistent with most-favored nation?
   2. Do the prices set forth in your response include cost to manufacture, produce, deliver, provide training, support, upgrades on and general improvements to bicycle share stations, bicycles and/or helmet dispensing units, including all parts thereof?
   3. Does the software service fee include hosting, training, support, upgrades and continual improvements?
   4. In the event of any late delivery due to subcontractor and/or supplier late delivery to the Successful Respondent, will any benefit (such as decreased costs) received by the Successful Respondent for such late delivery be paid over and/or fully passed through to the City?
10. Is there any additional information we have not asked or you would like to add?

## FINANCIAL QUESTIONS - OPERATIONS

In this Section, the Respondent must provide answers to the following required financial questions. Please use the template provided as possible and make modifications as needed. If you are proposing two financial models, please submit two clearly labelled financial proposals. Your response to these questions must account for all Required and Premium Services described in the operations section of the Scope of Services. Financial template for the cash flow for operations can be found at:

<https://www.dropbox.com/s/ftx6pep0v3tmb3g/Financial%20Template%20-%20Operations.xlsx?dl=0>

1. Please provide a copy of the audited financial statements for the three previous fiscal years and the last quarterly report if one exists for the Operator. Statements must include auditor’s letter of opinion, auditor’s notes, balance sheet, and statement of income/loss. Each prime or joint venture partner must submit this information. The City reserves the right to accept alternative information and/or documentation submitted by the Vendor.
2. Please describe your proposed financial model and include a pro-forma. Please include:
   1. What financial responsibility is assumed by the Contracted Respondent? What is assumed by the City?
   2. How does your model attribute system and sponsor revenue?
   3. What prices will you charge to users to consumers?
   4. What decision making authority does your organization require relative to service area, pricing and/or other elements in the scope of work?
3. Please provide detailed projections of trips, memberships and revenue for the term of this contract? Please explain your methodology and why your model is reliable.
4. Submit a detailed cash flow analysis itemizing the revenues and expenses anticipated over the term of the Contract. Analysis should include income and cash flow statements, by month for the first two (2) years, then by year.
5. Please describe your contingency plan to in case the trip, member, revenue or cost projections are not realized. Do you guarantee a minimum amount of trips, members or system revenue?
6. How will you charge for sponsorship services? How does your rate differ for contracted sponsors for which the City provided the initial introduction and/or was actively involved in negotiations?
7. If the City terminates early for convenience, what costs will be required to be paid by the City?
8. Are there any operations elements of a turnkey system not included in your fees that would require additional payments? Please describe each,including, without limitation, the anticipated frequency and reasons for incurring such fees,with the amount.
9. Please describe your requested payment terms for operations?

10. Is there any additional information we have not asked or you would like to add?

# EVALUATION, SELECTION AND AWARD PROCESS

The evaluation shall be conducted in a tiered approach. Proposals must pass through each step to proceed to the next round. Those found to be outside the competitive range in the opinion of the evaluation team will not advance to the next evaluation tier. Only Proposers advancing to Round 2 will be offered the opportunity to participate in an interview.

**ROUND 1: RESPONSIVENESS, RESPONSIBILITY**

City Purchasing shall first review submittals for responsiveness and responsibility. Mandatory submittal requirements will be screened in this round to determine responsiveness. Those proposals found responsive and responsible based on this initial review shall proceed to Round 2.

**ROUND 2: PROPOSAL EVALUATION**

The evaluation team will score the remaining proposals based on the criteria below. Those proposals that cluster within a competitive range in the opinion of the evaluation team shall continue to Round 3. The evaluation team may also identify any combination of scored results that would make a competitive proposal for further consideration (i.e. when combining the Equipment proposal from one plan, with the operations, equity and financial proposal from another when considering those scored elements independently). If such combinations are considered and found within the competitive range, the City evaluation team may consider that combination to go forward for further consideration as well, given the city right for partial and/or multiple awards reserved elsewhere herein this RFP, although this is not the City’s preferred option.

|  |  |
| --- | --- |
| **Evaluation Criteria** | **% Points** |
| Organization and Experience | 100 |
| Technical Proposal – Equipment | 100 |
| Technical Proposal – Operations | 100 |
| Financial Proposal - Equipment[[11]](#footnote-11) | 100 |
| Financial Proposal - Operations[[12]](#footnote-12) | 100 |
| **Total** | **500** |

**ROUND 3: CITY COUNCIL REVIEW**

The evaluation team will submit the most competitive proposals in ranked order that the scored total of written proposals points designate. This ranking shall also include any combinations of partial/multiple awards that the team considered and found to be competitive when combined, in terms of scores.

City Council representatives may, at their discretion, evaluate the proposals and/or summaries of the proposals, for those candidates submitted for consideration from Round 2. City Council representatives shall evaluate to determine the most competitive of that short-list, which may include a rank ordering, or an accept/decline decision of each of the candidates that would shorten the list. The evaluation by City Council review shall be based upon the representative findings as to how closely the proposals meet the City Council policy priorities, financial stability, and other factors established by the representatives.

**ROUND 4: INTERVIEWS**

The City reserves the right to interview one or more top scoring Proposers. They will be selected to interview in ranked order, such that the top-ranked proposal team may be interviewed, and other teams may be invited to interview but only in the order in which they were ranked. City Council members or representatives may attend as a panelist or observer, the Round 4 Interviews, at their option.

Upon an invitation to interview, the Proposer is to submit the list of names and company affiliations of interview attendees to the RFP Coordinator before the interview. Vendors invited to interview are to bring the assigned Project Manager named in the proposal, a representative of each sub-tier prime (the equipment provider and/or the service operator), and may bring other key personnel named in the proposal. Vendors shall not bring an individual who does not work for the Vendor or a subcontractor on this project, without advance authorization by the City RFP Coordinator. Individuals serving as legal counsel to the parties are not permitted.

The interview will be worth 100 points. The City team will consider the aggregate of the interview results and the scores from Round 2(Proposal Evaluation), to determine the highest ranked candidate among those that were short-listed for interviews.

Interviews may include questions that relate to use of the equipment provider partner, or the service provider partner, either combined or separately. If the evaluation team has also identified competitive combinations of partial/multiple awards, the evaluation team may pose questions through the interview process about the potential for such combinations, although the evaluation team is not required to do so and may reserve those questions for further in the contract award and negotiation process.

**ROUND 5: SELECTION**

The City may choose to conduct reference checks on the personnel and/or firm(s), either before City Council review or after a top-ranked candidate is selected. The reference checks may eliminate the finalist, if the reference checks suggest the proposal is unsatisfactory. Alternatively, City staff may use the results of the reference checks to inform the City as it enters into contract negotiations with the highest ranked Vendor and/or partial or multiple award considerations.

**ROUND 6: CONTRACT NEGOTIATIONS**

The City may negotiate any aspect of the proposal, the team, or the solicitation elements and scope, as needed to best meet the City’s business needs. The apparent successful Respondent shall not be entitled to introduce areas of the contract or their solicitation response for negotiation, unless and for those provisions explicitly allowed for within this RFP and attached contract form.

Should the apparent successful Respondent require a change of personnel before the contract is executed, the apparent successful Respondent shall request approval from the City. If the change of team is such that the City cannot find a negotiated alternative team, the apparent successful Respondent shall have the option to withdraw from further consideration or maintain the team as originally approved.

**REPEAT OF EVALUATION STEPS**

If no Proposer is selected at the conclusion of all the steps, the City may return to any step in the process to repeat the evaluation with those proposals that were active at that step in the process. The City shall then sequentially move through all remaining steps as if conducting a new evaluation process. The City reserves the right to terminate the process if no proposals meet its requirements.

**POINTS OF CLARIFICATION**

Throughout the evaluation process, the City reserves the right to seek clarifications from any Proposer.

**SUBSTANTIALLY EQUIVALENT SCORES**

If the top Vendors receive substantially equivalent scores, the City reserves the right to negotiate with more than one Vendor. Following negotiations, the contract will be awarded to that Vendor who, in the opinion of the City, best meets the City’s needs.

# AWARD AND CONTRACT EXECUTION INSTRUCTIONS PROCESS

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

**Protests and Complaints:** The City has rules to govern the rights and obligations of interested parties that desire to submit a complaint or protest to this RFP process. Please see the City website at <http://www.seattle.gov/city-purchasing-and-contracting/solicitation-and-selection-protest-protocols> for these rules. Interested parties have the obligation to be aware of and understand these rules, and to seek clarification from the City. Note there are time limits on protests and Proposers have final responsibility to learn of results in sufficient time for such protests to be filed in a timely manner.

**Debriefs:** The City issues results and award decisions to all Proposers. The City may choose to decline debrief requests or may delay a debrief request until after execution of a contract.

**Instructions to the Apparently Successful Respondent(s):** The apparently Successful Respondent(s) will receive Intent to Award Letter from the RFP Coordinator after award decisions are made by the City. The Letter will include instructions for final submittals that are due prior to execution of the contract or Purchase Order.

If the Vendor was allowed to request exceptions in the instructions and chose to do so, the City will review and select those the City is willing to accept. There will be no discussion on exceptions. Once the Contract is formulated, the City may identify proposal elements that require further discussion to align the proposal and contract fully with City business needs before finalizing the agreement. If so, the City will initiate the discussion and the Vendor is to be prepared to respond quickly in City discussions. The City has provided only 15 calendar days to finalize such discussions. If mutual agreement requires more than 15 calendar days, the City may terminate negotiations, reject the Proposer and may disqualify the Proposer from future submittals for these same products/services, and continue to the next highest ranked Proposal, at the sole discretion of the City. The City will send a final agreement package to the Vendor for signature.

Once the City has finalized and issued the contract for signature, the Vendor must execute the contract and provide all requested documents within ten (10) business days. This includes attaining a Seattle Business License, payment of associated taxes due, and providing proof of insurance. If the Vendor fails to execute the contract with all documents within the ten (10) day time frame, the City may cancel the award and proceed to the next ranked Vendor, or cancel or reissue this solicitation. Cancellation of an award for failure to execute the Contract as attached may cause Proposer disqualification for future solicitations for this product/service.

**Checklist of Final Submittals Prior to Award**: The Vendor(s) should anticipate that the Letter will require at least the following. Vendors are encouraged to prepare these documents as soon as possible, to eliminate risks of late compliance.

* Seattle Business License is current and all taxes due have been paid.
* State of Washington Business License.
* Certificate of Insurance (if a hard-copy is required by the specifications)
* Special Licenses (if any)

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

****

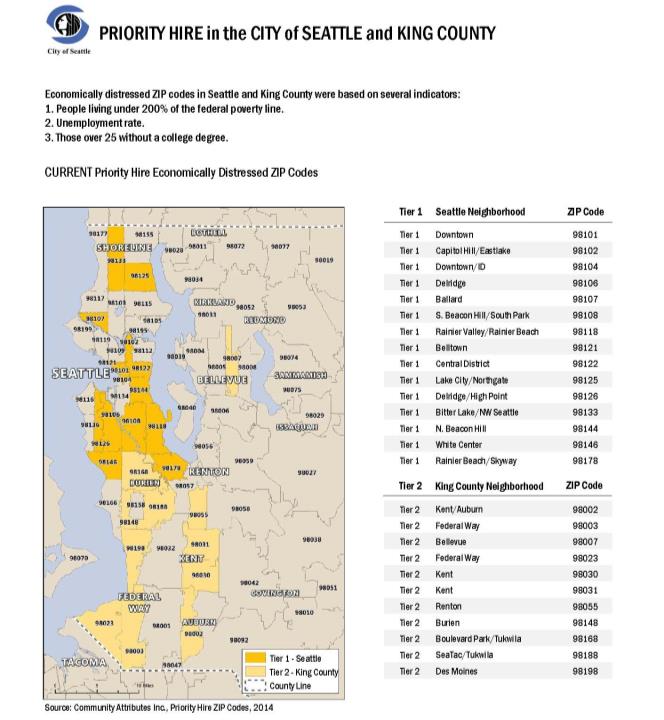
# APPENDIX

## APPENDIX – DEFINITIONS

The following terms are used in this Request for Proposals.

|  |  |
| --- | --- |
| Term | Definition |
| Bicycle Share Station | Platform, terminal, kiosk, docking point, power management system and/or other hardware and software at locations where bicycles are rented and returned. Does not include helmet dispensing unit or bicycle. |
| Equipment | All equipment required to operate a bike share system in Seattle including bicycle share stations, bicycles, software and helmet dispensing units. |
| Contract | The contract(s) resulting from this RFP. |
| Contracted Vendor | The Successful Respondent with whom the City enters into a contract with as a result of this RFP. Use in the singular includes the plural. |
| Days | Calendar days, unless otherwise specified. |
| Operator | The provider of bicycle sharing operation services for the Seattle bicycle share system. |
| Equipment Provider | The provider of bicycle sharing equipment for the Seattle bicycle share system. |
| Proposer | Any offeror who submits a proposal in response to this solicitation. Use in the singular includes the plural. Use in the singular includes the plural. The terms “Proposer” and “Respondent” are synonymous and may be used interchangeably. |
| Respondent | Any offeror who submits a proposal in response to this solicitation. Use in the singular includes the plural. Use in the singular includes the plural. The terms “Proposer” and “Respondent” are synonymous and may be used interchangeably. |
| RFP | This request for proposals. |
| Successful Respondent | The responsive and responsible Respondent(s) selected as offering the most advantageous proposal and having the opportunity to contract with the City. Use in the singular includes the plural. |

## 13.2 APPENDIX – ZIP CODE MAP OF LOW-INCOME NEIGHBORHOODS

**

## 13.3 APPENDIX – DRAFT BIKE SHARE SERVICE AREA

*13.4 APPENDIX Stations Purchased with Grant Funds*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SDOT Stations Purchased with FTA Grant Funds** | | | | |
|  |  |  |  |  |
|  | Station ID | Location |  |  |
| 1 | CH-15 | 12th Ave & E Mercer St |  |  |
| 2 | CBD-05 | 1st Ave & Marion St |  |  |
| 3 | BT-05 | 2nd Ave & Blanchard St |  |  |
| 4 | CBD-13 | 2nd Ave & Pine St |  |  |
| 5 | CBD-06 | 2nd Ave & Spring St |  |  |
| 6 | BT-03 | 2nd Ave & Vine St |  |  |
| 7 | BT-01 | 3rd Ave & Broad St |  |  |
| 8 | BT-04 | 6th Ave & Blanchard St |  |  |
| 9 | CBD-03 | 7th Ave & Union St |  |  |
| 10 | DPD-01 | 9th Ave N & Mercer St |  |  |
| 11 | CH-12 | Bellevue Ave & E Pine St |  |  |
| 12 | CH-16 | Broadway and E Denny Way |  |  |
| 13 | CH-08 | Cal Anderson Park / 11th Ave & Pine St |  |  |
| 14 | CBD-07 | City Hall / 4th Ave & James St |  |  |
| 15 | SLU-18 | Dexter Ave & Denny Way |  |  |
| 16 | SLU-02 | Dexter Ave N & Aloha St |  |  |
| 17 | EL-03 | E Blaine St & Fairview Ave E |  |  |
| 18 | CH-02 | E Harrison St & Broadway Ave E |  |  |
| 19 | CH-07 | E Pine St & 16th Ave |  |  |
| 20 | CH-09 | Harvard Ave & E Pine St |  |  |
| 21 | SLU-17 | Lake Union Park / Valley St & Boren Ave N |  |  |
| 22 | SLU-07 | PATH / 9th Ave & Westlake Ave |  |  |
| 23 | WF-01 | Pier 69 / Alaskan Way & Clay St |  |  |
| 24 | SLU-16 | Pine St & 9th Ave |  |  |
| 25 | SLU-01 | REI / Yale Ave N & John St |  |  |
| 26 | SLU-04 | Republican St & Westlake Ave N |  |  |
| 27 | FH-04 | Seattle University / E Columbia St & 12th Ave |  |  |
| 28 | CH-01 | Summit Ave & E Denny Way |  |  |
|  |  | Total Grant Funded Station Docks |  | 516 |
|  |  |  |  |  |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SDOT Stations Purchased with Washington Department of Transportation State and Local Program Grant Funds** | | | | |
|  |  |  |  |  |
|  | Station ID | Location |  |  |
| 1 | UD-04 | 12th Ave & NE Campus Pkwy |  |  |
| 2 | UW-04 | 15th Ave NE & NE 40th St |  |  |
| 3 | UW-02 | Burke Museum / E Stevens Way NE & Memorial Way NE |  |  |
| 4 | UD-01 | Burke-Gilman Trail / NE Blakeley St & 24th Ave NE |  |  |
| 5 | DPD-03 | Children's Hospital / Sandpoint Way NE & 40th Ave NE |  |  |
| 6 | EL-05 | Eastlake Ave E & E Allison St |  |  |
| 7 | UD-02 | NE 42nd St & University Way NE |  |  |
| 8 | UD-07 | NE 47th St & 12th Ave NE |  |  |
| 9 | UW-11 | NE Pacific St/UW Medical Center |  |  |
| 10 | UW-06 | UW Engineering Library / E Stevens Way NE & Jefferson Rd |  |  |
| 11 | UW-07 | UW Intramural Activities Building |  |  |
| 12 | UW-10 | UW Magnuson Health Sciences Center Rotunda / Columbia Rd & San Juan Rd | |  |
|  |  | Total Grant Funded Station Docks |  | 243 |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |

*13.5 APPENDIX GRANT STATION ASSET COSTS*



*13.6 APPENDIX SEA-191 LOW-INCOME ACCESS TO BIKE SHARE GRANT*

******

***13.7 APPENDIX INSURANCE REQUIREMENTS***

**INSURANCE REQUIREMENTS AND TRANSMITTAL FORM**

**PURCHASING SERVICES REF:** 3599

**City of Seattle**

This Insurance Requirements and Transmittal Form shall serve as an attachment and/or exhibit form to the       (“Contract”), and shall be interpreted and applied together as a single contractual instrument between the City of Seattle (“City”) and       (“Vendor”).

**VENDOR: SEND THIS FORM TO YOUR INSURANCE PROFESSIONAL TO COMPLETE THE GREEN BOX AND TO ENSURE COMPLIANCE WITH ALL THE COVERAGE REQUIREMENTS, TERMS AND CONDITIONS REQUIRED BY THE CITY OF SEATTLE.**

**INSURANCE AGENT/BROKER:**

**⦁** PLEASE COMPLETE THESE FIELDS SO THAT WE MAY CONTACT YOU IF NECESSARY. **\***REQUIRED FIELDS

**\***NAME:       TITLE:

**\***NAME OF COMPANY

**\***EMAIL:       **\***TELEPHONE:       FAX:

**⦁** **SEND ORIGINAL CERTIFICATION WITH COPY OF CGL ADDITIONAL INSURED ENDORSEMENT OR BLANKET ADDITIONAL INSURED POLICY WORDING and applicable endorsements that evidences the coverage required TO: THE CITY OF SEATTLE PURCHASING SERVICES DIVISION**

**ATTN:**      

**PO Box 94687**

**SEATTLE, WA 98124-4678**

1. In the “Certificate Holder” field of the certificate of insurance, write “Attention: City of Seattle.”
2. Upon award of the Contract, Vendor shall, at its sole expense and for the entire term of the Contract, provide insurance coverage to the City of Seattle (“City”) as checked below within 15 days or the City may withdraw its intent to award:

* **☒ COMMERCIAL GENERAL LIABILITY (CGL), MARINE GENERAL LIABILITY (MGL)** OR EQUIVALENT INCLUDING:

☒PREMISES

☒PRODUCTS-COMPLETED OPERATIONS

☒CONTRACTUAL LIABILITY

☒STOP GAP/EMPLOYER’S LIABILITY (UNLESS NO OBLIGATION TO INSURE WA STATE WC)

**XCU AND SUBSIDENCE PERILS NOT EXCLUDED**

**PRODUCTS/COMPLETED OPNS. ADD’L INSURED FOR THREE (3) YEARS FOLLOWING END OF CONTRACT**

* **MINIMUM LIMITS OF LIABILITY SHALL BE:**

|  |  |
| --- | --- |
| **$1,000,000** | EACH OCCURRENCE COMBINED SINGLE LIMIT BODILY INJURY AND PROPERTY DAMAGE (CSL) |
| **$2,000,000** | PRODUCTS/COMPLETED OPERATIONS AGGREGATE |
| **$2,000,000** | GENERAL AGGREGATE |
| **$1,000,000** | EACH ACCIDENT/ DISEASE—POLICY LIMIT/ DISEASE—EACH EMPLOYEE STOP GAP/EMPLOYER’S LIABILITY |

* **☒ BUSINESS AUTOMOBILE LIABILITY** INSURANCE FOR OWNED, NON-OWNED, LEASED AND HIRED VEHICLES AS APPROPRIATE written on a form CA 00 01 or equivalent WITH **MINIMUM LIMITS** **OF LIABILITY OF $5,000,000** CSL (may be satisfied with any combination of primary and excess insurance).
* **NOTE: GARAGE LIABILITY WITH APPROPRIATE COVERAGES AND LIMITS OF LIABILITY MAY SUBSTITUTE FOR CGL AND AUTOMOBILE INSURANCE:**
* **Garage Keeper’s Legal Liability (GKLL)** insurance to cover vehicles in vendor’s bailment.  Minimum limit of liability of $   each vehicle and $  each occurrence.
* **“On-Hook” GKLL** coverage required with minimum limit of liability of $ each vehicle.

**IN-TRANSIT POLLUTION LIABILITY CA 99 48/MCS-90** (N/A IF COVERED UNDER AN IN-TRANSIT EXTENSION OF A CONTRACTOR’S POLLUTION LIABILITY INSURANCE POLICY)

* **☒ WORKER'S COMPENSATION** INSURANCE FOR WASHINGTON STATE AS REQUIRED BY TITLE 51 RCW.

**UMBRELLA/EXCESS/BUMBERSHOOT LIABILITY** INSURANCE OVER **CGL**

MINIMUM LIMIT OF LIABILITY SHALL BE **$9,000,000** CSL **($10,000,000 MINIMUM TOTAL LIMITS** REQUIREMENT)

**CONTRACTOR’S POLLUTION LIABILITY** INSURANCE. MINIMUM LIMITS OF LIABILITY SHALL BE  $1,000,000  $      EACH CLAIMWITH A MINIMUM AGGREGATE LIMIT OF 200% OF THE EACH CLAIM LIMIT. THERE SHALL BE NO REQUIREMENT FOR A DEDICATED PROJECT AGGREGATE LIMIT PROVIDED THAT THE CONTRACTOR SHALL (1) SUBMIT TO THE CITY WITH ITS INSURANCE CERTIFICATION A WRITTEN STATEMENT FROM ITS AUTHORIZED INSURANCE REPRESENTATIVE THAT THE FULL MINIMUM AGGREGATE LIMIT IS AVAILABLE AND HAS NOT BEEN IMPAIRED BY ANY CLAIMS RESERVED ON ANOTHER PROJECT, AND (2) THEREAFTER, UNTIL THE COMPLETION OF THE WORK, THE CONTRACTOR SHALL PROVIDE NOTICE IN WRITING TO THE CITY WITHIN TEN (10) DAYS OF CONTRACTOR’S CONSTRUCTIVE KNOWLEDGE OF ANY PENDING OR ACTUAL IMPAIRMENT OF THE AGGREGATE LIMIT.

**AVIATION LIABILITY** INSURANCEWITH MINIMUM LIMITS OF $1,000,000 CSL OR $      CSL

**PROFESSIONAL LIABILITY** INSURANCE WITH MINIMUM LIMIT OF LIABILITY $      EACH CLAIM

**WATERCRAFT/P&I LIABILITY** INSURANCE WITH MINIMUM LIMITS OF LIABILITY $

**SHIP REPAIRER’S OR MARINA OPERATOR’S LEGAL LIABILITY** INSURANCE COVERING THE VENDOR’S LIABILITY FOR LOSS OR DAMAGE, INCLUDING LOSS OF USE, TO OWNERS OF WATERCRAFT WHILE IN THE VENDOR’S CARE, CUSTODY AND CONTROL FOR THE PURPOSE OF BEING REPAIRED OR SERVICED.

MINIMUM LIMITS OF LIABILITY SHALL BE $      EACH VESSEL

**TOWER’S LEGAL LIABILITY** INSURANCE   
Any tower hired by the Vendor or any subcontractor shall carry for any tow of the vessel within …….. Such insurance limits shall be for not less than the portion of the Total Contract Price allocable to such vessel (and in no event less than the replacement cost for such vessel), to cover loss, damage and/or expense to the City of Seattle arising out of such towage.

**JONES ACT LIABILITY** WITH MINIMUM LIMITS$1,000,000 OR $     .

**U.S.L. & H. LIABILITY** INSURANCE WITH MINIMUM LIMITS OF LIABILITY **$**

**Crime Fidelity, Theft, Disappearance & Destruction Liability (to include Employee THEFT, wire transfer, forgery & mail coverage, and client coverage)**: WITH MINIMUM LIMIT $**1,000,000** PER OCCURRENCE AND IN THE AGGREGATE. The policy shall cover “client’s property,” not just when legally liable and shall have a Joint Loss Payee Endorsement in favor of the City of Seattle.

**TECHNOLOGY ERRORS & OMISSION / Professional Liability Insurance with an aggregate limit of liability not less than $      Million Dollars ($     ,000,000).**  Such insurance shall cover any and all errors, omissions or negligent acts in the delivery or performance of products, services and/or licensed programs under this agreement. Such Professional Liability insurance shall include coverage for claims and losses with respect to network risks (such as data breaches, unauthorized access/use, identity theft, invasion of privacy, damage/loss/theft of or to data, degradation, downtime, etc.) and intellectual property infringement, such as copyrights, trademarks, service marks and trade dress.  The Professional Liability Insurance retroactive coverage date shall be no later than the effective date of this agreement. Suppler/Vendor shall continuously maintain such insurance or purchase an extended reporting period providing that claims first made and reported to the insurance company within three (3) years after termination of the agreement will be deemed to have been made during the policy period.

**Information Technology –Cyber Liability (Network Security Liability and Privacy Liability)** with minimum limit **$1,000,000** per occurrence and in the aggregate. This shall include, but not be limited to, coverage for any actual or alleged breach of duty, neglect, error, act, mistake, omission, or failure arising out of Vendor’s Internet and Network Activities including coverage for, but not limited to, the following events:

An attack that has the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access or unauthorized use of Vendor’s computer system; Computer Crime or Information Theft; Denial of Service; Extortion; Introduction, implantation, or spread of a Computer Virus; Loss of Service; Identity Theft; Infringement; Electronic data loss and restoration; Unauthorized Access or Use, including the gaining of access to Vendor’s computer systems by an unauthorized person or persons or an authorized person in an unauthorized manner. Shall include coverage for NOtification Costs,

. **OTHER**: Property Insurance WITH MINIMUM LIMIT $

**TERMS AND CONDITIONS:**

1. **City of Seattle as Additional Insured:** The CGL/MGL insurance shall include “the City of Seattle” as an additional insured for primary and non-contributory limits of liability.
2. **No Limitation of Liability:** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only; they shall not be construed to limit the liability of Vendor or any insurer for any claim that is required to be covered hereunder to less than the applicable limits of liability stated in the declarations. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by vendor, whether those limits are primary, excess, contingent or otherwise. Vendor expressly understands and agrees that this provision shall override any limitation of liability or similar provision in any agreement or statement of work between the City and Vendor.
3. **Required Separation of Insured Provision; Cross-Liability Exclusion and other Endorsements Prohibited**: Vendor’s insurance policy shall include a “separation of insureds” or “severability” clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer’s liability. Vendor’s insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the Vendor’s insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. Vendor’s CGL policy shall NOT include any of the following Endorsements (or their *equivalent endorsement or exclusions*): (a) Contractual Liability Limitation, (CGL Form 21 39 or equivalent), b) Amendment Of Insured Contract Definition, (CGL Form 24 26 or equivalent), (c) Limitation of Coverage to Designated Premises or Project, (CGL Form 21 44 or equivalent), (d) any endorsement modifying or deleting the exception to the Employer’s Liability exclusion, (e) any “Insured vs. Insured” or “cross-liability” exclusion, and (f) any type of punitive, exemplary or multiplied damages exclusion. Vendor’s failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by Vendor or reduced and/or offset against the Contract.
4. **Claims Made Form:** If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this contract. Claims made coverage shall be maintained by the Vendor for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Vendor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Vendor shall purchase an extended reporting period (“tail”) or execute another form of guarantee acceptable to the City to assure financial responsibility for liability assumed under the contract.
5. **Deductibles and Self-Insured Retentions:**  Any self-insurance retention or deductible in excess of $ 25,000 that is not “fronted” by an insurer and for which claims the vendor or its third-party administrator is directly responsible for defending and indemnifying must be disclosed on the certificate of liability insurance. Vendor agrees to defend and indemnify the City under its self-insured or deductible layer and upon City’s request advise the full delivery address of the individual or department to whom a tender of a claim should be directed.
6. **Notice of Cancellation:** Under RCW 48.18.290 (“Cancellation by insurer”) applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than 45 days prior to cancellation (10 days as respects non-payment of premium). As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation (10 days as respects non-payment of premium).
7. **Qualification of Insurers:** Insurers shall maintain A.M. Best’s ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.
8. **Changes in Insurance Requirements:** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to the Vendor. Should Vendor, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.
9. **Evidence of Insurance:** Vendor must provide the following evidence of insurance:
   1. A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
   2. An attached City of Seattle designated additional insured endorsement or blanket additional insured wording to the CGL/MGL (and if required Contractor’s Pollution Liability insurance policy).
   3. A copy of all other amendatory policy endorsements or exclusions of Vendor’s insurance CGL/MGL policy that evidences the coverage required.

At any time upon the City’s request, Vendor shall also cause to be timely furnished a copy of declarations pages and schedules of forms and endorsements. In the event that the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, Vendor shall also cause a complete and certified copy of the requested policy to be timely furnished to the City.

Send evidence of insurance to the City at the addresses at the top of this form.

For questions or issues about insurance, contact the City of Seattle Risk Management at (206) 615-1507 or by email at [Sheila.Barker@seattle.gov](mailto:Sheila.Barker@seattle.gov%20)

**NOTE: CERTIFICATES WITHOUT ATTACHED ADDITIONAL INSURED ENDORSEMENT OR BLANKET ADDITIONAL INSURED COVERAGE FOR THE CITY OF SEATTLE WILL NOT BE APPROVED!**

13.8 APPENDIX—FINANCIAL PROPOSAL SCORING METHODOLOGY FOR PROPOSALS SUBMITTING TWO MODELS

For Proposers submitting two options (Model A and Model B) for the Financial portion of the Proposal:

Proposers' total scores will be totaled and ranked separately for each Model or option. The score received for Model A will be added to the scores received for the other evaluation criteria to obtain a total score for this option with Model A. The same process will be followed in scoring Model B to arrive at a total score for the option with Model B. An example is provided below to illustrate the methodology.

Option 1

|  |  |
| --- | --- |
| Evaluation Criteria | Points Received |
| Organization and Experience | 85 |
| Technical Equipment | 90 |
| Technical Operations | 95 |
| Model A Financial Equipment | 90 |
| Model A Financial Operations | 95 |
| Total Score for Option 1 | 455 |

Option 2

As illustrated below, the points for the first two evaluation criteria remain unchanged and are added to the scores for the Model B financial proposals for Equipment and Operations, which may also affect the scoring for the Technical Operations criterion:

|  |  |
| --- | --- |
| Evaluation Criteria | Points Received |
| Organization and Experience | 85 |
| Technical Equipment | 90 |
| Technical Operations | 85 |
| Model B Financial Equipment | 85 |
| Model B Financial Operations | 70 |
| Total Score for Option 2 | 415 |

## 13.9 APPENDIX – City of Seattle CONTRACT

Note: This contract indicates all terms and conditions required by Seattle. All submitting companies agree to this contract, terms and conditions.

City of Seattle

This Contract is made effective \_\_\_\_\_\_\_ (the “Effective Date”), and entered into by and between the City of Seattle (“Seattle”), a Washington municipal corporation; and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”)**,** a corporationof the State of \_\_\_\_\_\_\_, and authorized to do business in the State of Washington.

|  |  |
| --- | --- |
| Contractor Business |  |
| Name of Representative |  |
| Contractor Address |  |
| Contractor Phone |  |
| Contractor Fax |  |
| Contractor E-mail |  |

WHEREAS, the purpose of this contract is to procure equipment and operate bike share equipment in Seattle; and

WHEREAS, Contractor was selected as a result of a Request for Proposal process initiated \_\_\_\_\_\_\_20­16\_\_\_\_ as required by Seattle Municipal Code since costs are anticipated to exceed $49,000 in value; and

WHEREAS, funds for this purpose are authorized through City of Seattle annual budget, subject to appropriation;

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made a part hereof, Seattle and Contractor mutually agree as follows:

1. **Entire Agreement.** This Contract including all attachments, consisting of but not limited to existing and future exhibits, statements of work, project schedules, and future Contract amendments comprises the entire agreement between the City of Seattle (Seattle) and the Contractor. The Contract is defined to explicitly include the City’s Purchase Order/Vendor or Blanket Contract, the City’s Solicitation and all Addenda and Vendor’s Offer. Where there are conflicts between these documents, the controlling documents will be in that same sequence, with the first taking priority over the last listed.
2. **Term of Contract.**

This contract shall be for ten (10) years, with a single ten (l0) extension allowed at the option of the City. Such extensions shall be automatic, and shall go into effect with or without written confirmation from the City to the Contractor, unless the City provides the Contractor advance notice of the intention to not renew. Such notice shall be given prior to the otherwise automatic renewal date.

1. **Time of Beginning and Completion**

Contractor shall begin the work stated in the "Scope of Work" (“work”) section upon receipt of written notice to proceed from Seattle. Seattle will acknowledge in writing when work is complete. Time limits established pursuant to this Contract shall not be extended because of delays for which Contractor is responsible, but may be extended by Seattle, in writing, for its convenience or for conditions beyond Contractor’s control. Time is of the essence.

1. **Scope of Work.**

Contractor shall provide the following products and/or services as specified in attachment A. These services shall be termed “work” herein.

1. **Limits of Sales to Authorized Products and Services.**

Contractor has responsibility to limit sales to those products or services authorized within the contract, whether authorized by changes and amendments or stated within the original contract scope. The Contractor is responsible for refusing orders that are not properly authorized by the contract or through other proper Purchase Orders issued by authorized persons from the City. If the Contractor has consistent sales of unauthorized products or services, the City reserves the right to use any of the following: terminate the contract in accordance with termination provisions, place the Contractor payments on “hold” for all incoming invoices while the City determines which are authorized items eligible for payment, and/or refuse certain invoices that contain non-authorized items.

1. **Payment/Payment Procedures.**

Seattle agrees to compensate as specified herein or attached, in consideration of acceptable Contractor performance. Payment shall only be made for services performed and/or product delivered, after receipt, review and authorization by the City. If the City is unable to pay within the period allowed for early payment discount, the payment term will revert to net thirty (30) days after the City’s receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery an acceptance of all goods ordered, the acceptance by the City of completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract.All dollars referenced in this Contract and attachments are US Dollars.

1. **Late Invoice Payment.**

If the City pays an invoice after the 30 day allowance, the Contractor may charge the City no more than 1% interest calculated per month upon the total invoice amount. The Contractor is not entitled to any late fees or penalties for late payments. (Per RCW Chapter 39.76.011)

1. **Invoices.**

Invoices must show line item detail and price for each**.** Invoices must provide the name of the City employee that placed the order, and the City Contract Number. If the pricing structure is based upon a discount below list, or a mark-up above cost, then the Vendor must provide a method for tracking the cost of the item to the City, with the City discount calculation displayed so that pricing discounts can be easily tracked and verified by the City.

1. **Taxes, Fees and Licenses.**
   1. Fees and Licenses: Contractor shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the Contractor’s sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or charges and to immediately comply with said changes during the entire term of this Contract. Contractor must pay all custom duties, brokerage or import fees where applicable as part of the contract price. Contractor shall take all necessary actions to ensure that materials or equipment purchased are expedited through customs.
   2. Taxes: Where required by state statute, ordinance or regulation, Contractor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, Seattle agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. No charge by the Contractor shall be made for federal excise taxes and Seattle agrees to furnish Contractor with an exemption certificate where appropriate.
   3. Withholding payment for taxes/business license fees due the City of Seattle: If specified by Seattle Municipal Code the Director of the Department of Finance and Administrative Services may withhold payment due a City contractor pending satisfactory resolution of unpaid taxes and fees due the City.
   4. Supplier is to calculate and enter the appropriate Washington State and local sales tax on the invoice. Tax is to be computed on new items after deduction of any trade-in, in accordance with WAC 458-20-247.
2. **Pricing.**

Pricing shall be subject to the following terms. These are in addition to annual Prevailing Wage adjustments instructions when required that are specified elsewhere within this solicitation. The Buyer may exempt these requirements for extraordinary conditions that could not have been known by either party at the time of bid or other circumstances beyond the control of both parties, as determined in the opinion of the Buyer. Changes (whether increases or decreases) may only be issued by the City Purchasing Buyer (Department of Finance and Administrative Services). No other individual or City Department is authorized to approve such modifications. Changes shall be issued in writing by the City Purchasing Buyer. Absent a written contract document, such changes shall not be considered effective. The Change Order shall not require joint signature, and implies concurrence unless the vendor rejects in writing immediately upon receipt of such a Change Order.

**Requests for Price Decreases**: Vendors can offer volume discounts or improved pricing that is more favorable to the City at any time, when a specific order is placed or when a long-term change in costs allows the vendor to offer a permanent change to the contract prices. Requests that reduce pricing charged to the City may be delivered to the City Purchasing Buyer at any time during the contract period. Such price reductions should use the same pricing structure as the original contract (i.e. discounts below list, mark-up above, fixed price, or hourly rates). The City may likewise initiate a request to the vendor for price reductions, subject to mutual agreement of the vendor.

**Requests for Price Increases** must be delivered to the City Purchasing Buyer in accordance to the rules below. No other employee may accept a rate increase request on behalf of the City. Any invoice that is sent to the City with pricing above that specified by the City in writing within this Contract or specified within an official written change issued by City Purchasing to this contract, shall be invalid. Payment of an erroneous invoice does not constitute acceptance of the erroneous pricing, and the City would seek reimbursement of the overpayment or would withhold such overpayment from future invoices.

1. **Discount from Manufacturer List Pricing:** The City will not accept requests to change discount rates below Manufacturer List prices or mark-up above wholesale, except for those that are more favorable to the City than the original contract. As manufacturer list prices change, the net price to the City will automatically change in the same percentage as the discount rate to the City.
2. **Hourly Rates or Service Pricing**: For multi-year contracts that provide services. The vendor may submit a price reduction that implements a lower and more favorable cost to the City at anytime during the contract. Vendor requests for rate increases must be no sooner than two years after contract signature, are at the discretion of the Buyer; and must be:
   1. The direct result of increases to wage rates and do not exceed the U.S. Dept. of Labor Consumer Price Index (CPI) for All Urban Consumers Seattle-Tacoma-Bremerton or other appropriate service rate index agreed upon between the Buyer and the Contractor. A link to the CPI Data is available at http://data.bls.gov/PDQ/outside.jsp?survey=wp
   2. Calculated over the previous 12-month period.
   3. Not produce a higher profit margin than that on the original contract.
   4. Clearly identify the service titles and the hours of service performed if specified within the contract and the before and after wage rates for such titles.
   5. Be filed with Buyer a minimum of 90 calendar days before the effective date of proposed increase.
   6. Be accompanied by detailed documentation acceptable to the Buyer sufficient to warrant the increase.
   7. The Adjustment (if any) shall remain firm and fixed for at least 365 days after the effective date of the adjustment.
   8. Should not deviate from the original contract pricing scheme/methodology

Seattle will not be bound by prices contained in an invoice that are higher than those in the contract. Unless the higher price has been accepted by the City and the contract amended, the invoice may be rejected and returned to the Vendor for corrections.

1. **Cancellation of Orders.**

The City may cancel an order before delivery without penalty or charge, providing that the Vendor has not incurred any special production costs such as custom fabrication in fulfilling the order. If the City cancels the order after production has begun for a non-standard or custom order, then the Vendor may charge the customer reasonable expenses incurred up until the date of the cancellation, that cannot be reasonably avoided or offset by the Vendor, not in any event to exceed 10% of the total value of the order.

1. **Returns and Restocking.** Unless specified otherwise in the solicitation, the following shall apply:

Vendor Error: No restocking charge for items ordered due to Vendor error. Vendor pays all shipping costs.

Stock items: No restocking fee applies if new, unused, in original packaging and shipped back within 30 days of receipt by the City. Customer pays the shipping cost.

Non-Stocked items: Item(s) may be returned if new, unused, in original packaging and shipped back within 30 days of receipt. If the City cancels the order after production has begun for a non-standard or custom order, then the Vendor may charge the customer reasonable expenses incurred up until the date of the cancellation, that cannot be reasonably avoided or offset by the Vendor, not in any event to exceed 10% of the total value of the order.

Non-Standard Items: Items that are custom engineered and fabricated to design specifications may be returned under the terms negotiated between the parties upon request of the City.

Failure to perform: If Vendor has presented a particular product as suitable and fit for the purpose described by the City herein or upon order by the City, and the product fails to perform as advised and/or specified, that shall be defined as a Vendor error. No restocking charge shall be charged to the City. Further, if such fitness could not have been determined until the product had been in use, the City may return the product opened and used within 30 days of receipt without penalty or charges due to the City.

1. **Delivery – Idling Prohibited.**

Vehicles and/or diesel fuel trucks shall not idle at the time and location of the delivery to the City for more than five minutes. The City requires vendors to utilize practices that reduce fuel consumption and emission discharge, including turning off trucks and vehicles during delivery of products to the City. Exceptions to this requirement include when a vehicle is making deliveries and associated power is necessary; when the engine is used to provide power in another device, and if required for proper warm-up and cool-down of the engine. Specific examples include “bucket” trucks that allow a worker to reach wires on telephone poles or tree branches for trimming; and vehicles with a lift on the back of a truck to move products in and out of the truck. The City of Seattle has a commitment to reduction of unnecessary fuel emissions. The City intends to improve air quality by reducing unnecessary air pollution from idling vehicles. Limiting car and truck idling supports cleaner air, healthier work environments, the efficient use of city resources, the public’s enjoyment of City properties and programs, conservation of natural resources, and good stewardship practices.

1. **Travel and Other Direct Charges.**

Travel and other travel related charges will not be reimbursed, unless travel is specifically requested by City and terms for reimbursement are agreed upon in writing in advance.

1. **Delivery.**

Except when instructed otherwise, delivery must be made during normal work hours and within timeframes proposed by Contractor herein and as accepted by Seattle. Failure to comply may subject Contractor to non-delivery assessment charges and/or damages as appropriate. Seattle reserves the right to refuse shipment when delivered before or after normal working hours. Contractor shall verify specific working hours of offices and so instruct carrier(s) to deliver accordingly. The acceptance by Seattle of late performance without objection or reservation shall not waive the right of Seattle to claim damages for such breach, nor preclude Seattle from pursuing any other remedy provided herein, including termination, nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor. All deliveries are to be made to the applicable delivery location in accordance with Interstate Commerce Commission rules or as indicated in Purchase Order. When applicable, Contractor shall take necessary actions to safeguard items during inclement weather.

1. **Identification.**

All invoices, packing slips, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written documents affecting this contract shall be identified by the applicable purchase order number. Packing lists shall be enclosed with each shipment, indicating the contents therein.

1. **Charges for handling.**

No charges will be allowed for handling that includes but is not limited to packing, wrapping, bags, containers, or reels, unless otherwise stated herein.

1. **Contract Notices, Deliverable Materials and Invoices Delivery**

Official Contract notices shall be delivered to the following addresses (or such other address (es) as either party may designate in writing):

**If delivered by the U.S. Postal Service, it must be addressed to:** Liz Alzeer  
 City of Seattle Purchasing and Contracting Services

PO Box 94687  
 Seattle, WA 98124-4687  
  
**If delivered by other than the U.S. Postal Service, it must be addressed to:** “Liz Alzeer  
 City of Seattle Purchasing and Contracting Services

Seattle Municipal Tower

700 5th Ave., #4112  
 Seattle, WA 98104-5042

Phone:206-684-4535

E-Mail:liz.alzeer@seattle.gov

Project work, invoices and communications shall be delivered to the City Project Manager:

City of Seattle, Department of Transportation

Attention: Nicole Freedman

Address700 5th Ave., #  
 Seattle, WA 98104-5042

Phone 206-684-4690

E-Mail: Nicole.Freedman@seattle.gov

**If to the Vendor:**

Vendor Contact

Vendor Name

Vendor Address

Phone:

Fax:

E-Mail:

1. **Representations.**

Contractor represents and warrants that it has the requisite training, skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.

1. **Independent Contractor.**

It is the intention and understanding of the Parties that Contractor shall be an independent contractor and that Seattle shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of the Contractor shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that Seattle is not the exclusive user of the services that Contractor provides.

1. **Inspection**.

The Work shall be subject, at all times, to inspection by and with approval of Seattle, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Work in accordance with this Contract, notwithstanding Seattle’s knowledge of defective or noncomplying performance, its substantiality or the ease of its discovery. Contractor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

1. **Title, Risk of Loss, Freight, Overages or Underages.**

Title of goods received under this contract shall remain with the Contractor until they are delivered to the address specified, at which time title passes to Seattle. Regardless of FOB point, Contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein which occur prior to delivery and acceptance. Such loss, injury, or destruction shall not release Contractor from any obligations under. Prices include freight prepaid. Contractor assumes the risk of every increase, and receives the benefit of every decrease, in delivery rates and charges. Shipments shall correspond with the Contract; any unauthorized advance or excess shipment is returnable at Contractor’s expense.

1. **Performance.**

Acceptance by Seattle of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach, or terminate the contract, nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

1. **Federal Transit Administration Grant Requirements**

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT):** This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Proposer is required to verify that none of the Proposer, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.   
  
The Successful Proposer is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its Proposal, the Proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City and the City of Seattle. If it is later determined Proposer knowingly rendered an erroneous certification, in addition to remedies available to City and the City of Seattle, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions

**BUY AMERICA**: Proposer agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. Proposer must submit to City with its proposal the Buy America certification located in the Proposal package. Proposals that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subvendors.

**FLY AMERICA:** The Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by US flag air carriers to the extent service by these carriers is available, as required by the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 USC § 40118, in accordance with US GAO regulations, "Uniform Standards and Procedures for Transportation Transactions." 4 CFR Part 52, and US GAO Guidelines for Implementation of the "Fly America Act," B-138942, 1981 US Comp. Gen. LEXIS 2116, March 31, 1981.

**SEISMIC SAFETY:** The Vendor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Vendor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

**ENERGY CONSERVATION:** The Vendor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**CLEAN WATER:**

1. The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et. The Vendor agrees to report each violation to City of Seattle and understands and agrees that City of Seattle will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Vendor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by the FTA.

**LOBBYING**

1. This Agreement is subject to Section 319, Public Law 101-121 (31 U.S.C. §1352) and U.S. DOT regulations "New Restrictions on Lobbying," 49 CFR Part 20, (which is by this reference incorporated herein) which prohibits Federal funds from being expended to influence or to attempt to influence an officer or employee of any agency, members of Congress, an office or employee of Congress or an employee of any Member of Congress in connection with the awarding of any federally funded contract, the making of any Federal grant or loan, or entering into any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. Vendors and Subvendors at any time who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or any employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The Vendor shall submit the "Certification Regarding Lobbying" included in the RFQ for this project. The Vendor's signature on this certification shall certify that: a) it has not engaged in the prohibited activity and b) the language of the certification shall be included in all lower tier subcontracts which exceed $100,000, and that all such Subvendors shall certify and disclose accordingly. The City is responsible for keeping the certification form of the Vendor, who is in turn responsible for keeping the certification forms of Subvendors. Further, by executing the Agreement, the Vendor agrees to comply with these laws and regulations.

B. If the Vendor has engaged in any lobbying activities to influence or attempt to influence the awarding of this Agreement, the Vendor must disclose these activities. In such a case, the Vendor shall complete Standard Form SF-LLL, "Disclosure of Lobbying Activities" and must send all disclosure forms to the City to be forwarded to the FTA. This form can be found in Section 9.5 of this RFP.

C. The Vendor and any Subvendors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of a previously filed disclosure form. An event that materially affects the accuracy of the information reported includes:

1. A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence this federally funded Agreement; or

2. A change in the person(s) influencing or attempting to influence this federally funded Agreement; or

3. A change in the officer(s), employee(s) or member contracted to influence or attempt to influence this federally funded Agreement.

**ACCESS TO RECORDS AND REPORTS**

1. The Vendor shall comply with reporting requirements of the U.S. Department of Transportation grant management rules, and any other reports required by the Federal Government.

B. Vendor agrees to maintain intact and readily accessible all work, materials, payrolls, books, documents, papers, data, records and accounts pertaining to the Agreement. Vendor agrees to permit the Secretary of Transportation, the Comptroller General of the United States and the City, or their authorized representatives, access to any work, materials, payrolls, books, documents, papers, data, records and accounts involving the Agreement for the purpose of making audit, examination, excerpts, and transcriptions pertaining to the Agreement as it affects the Project. Vendor shall retain all required records for six (6) years after the City has made final payments. The period of access and examination for records that relate to (1) litigation or the settlement of claims arising out of the performance of this Agreement, or (2) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General of the United States or the U.S. Department of Transportation, or any of their duly authorized representatives, shall continue until such litigation, claims, or exceptions have been disposed of. Vendor shall require its Subvendors to also comply with the provisions of this Paragraph B, and shall include the provisions of this Paragraph B in each of its subcontracts.

**FEDERAL CHANGES:** Vendor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between City of Seattle and FTA, as they may be amended or promulgated from time to time during the term of this contract. Vendor’s failure to so comply shall constitute a material breach of this contract.

**CLEAN AIR:** The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 422 U.S.C. §§ 7401 et seq. The Vendor agrees to report each violation to City of Seattle and understands and agrees that City of Seattle will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Vendor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

**RECYCLED PRODUCTS:** The Vendor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES:** The City of Seattle and Vendor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City of Seattle, Vendor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Vendor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed the clause shall not be modified, except to identify the Subvendor who will be subject to its provisions.

**PROGRAM FRAUD AND FALSE OR FRADULENT STATEMENTS AND RELATED ACTS**

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

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

The Vendor agrees to include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subvendor who will be subject to the provisions.

**PRIVACY:** Should the Vendor, or any of its Subvendors, or their employees administer any system of records on behalf of the federal government, the Privacy Act of 1974, 5 USC § 552a, imposes information restrictions on the party administering the system of records.

1. For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a government function, Sound Transit and any Vendors, third-party contractors, subcontractors, and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this Agreement will make this Agreement subject to termination.
2. The Vendor agrees to include this clause in all subcontracts awarded under this Agreement that require the design, development, or operation of a system of records on individuals subject to the Act.

**CIVIL RIGHTS REQUIREMENTS: T**he following requirements apply to the underlying contract:

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees that it will not discriminate against any person on the basis of race, color, creed, national origin, sex, age, or disability under any program or activity receiving Federal financial assistance. In addition, the Vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. Specific requirements to implement Title VI and the American with Disabilities Act of 1990 are included in Sections 45, respectively, of this agreement.

B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Vendor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Vendor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

(2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

(3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Vendor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

C. The Vendor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**SUBCONTRACTING COMPLIANCE**

The Contracted Vendor agrees to include these requirements in each subcontract entered into for this project modified only if necessary to identify the affected parties.

A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. No DBE goal will be established for this Contract. However, a DBE goal may be required for any subsequent contract for construction work.

B. The Vendor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Vendor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Vendor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Seattle deems appropriate. Each subcontract the Vendor signs with a Subvendor must include the assurance in this paragraph (see 49CFR 26.13(b)).

C. The Vendor is required to document sufficient DBE participation to meet any goal outlined in subsection A above, or, alternatively document adequate good faith efforts to do so, as provided for in 49CFR 26.53. Award of this contract is conditioned on submission of the following as a matter of responsiveness concurrent with and accompanying an initial proposal and at the time of any substitution during contract administration:

1. The names and addresses of DBE firms that will participate in this contract;

2. A description of the work each DBE will perform;

3. The dollar amount of the participation of each DBE firm participating;

4. Written documentation of the Vendor’s commitment to use a DBE Subvendor whose participation it submits to meet the contract goal;

5. Written confirmation from the DBE that it is participating in the contract as provided in the prime Vendor’s commitment; and

6. If the contract goal is not met, evidence of good faith efforts to do so.

Vendors must present the required forms as a matter of responsiveness with initial proposals (see 49CFR 26.53(3)).

D. The Vendor must promptly notify City of Seattle whenever a DBE Subvendor performing work related to this contract is terminated or fails to complete its work, and if this contract includes DBE goals, the Vendor must make good faith efforts to engage another DBE Subvendor to perform at least the same amount of work. The Vendor may not terminate any DBE Subvendor and perform that work through its own forces or those of an affiliate without prior written consent of City Seattle.

E. In the event the Vendor and/or its Subvendors fail(s) to comply with any substantive requirement of the Contract related to non-discrimination, participation by Disadvantaged Business Enterprises or other Small Businesses, or equal employment opportunity, the City may impose sanctions as it may determine to be appropriate, including but not limited to:

1. Requiring the Vendor to take remedial action to bring the Vendor or its Subvendor into compliance;

2. Withholding payments to the Vendor until the Vendor or its Subvendor is in compliance;

3. Suspend this Contract;

4. Terminate this Contract;

5. Debar the Vendor or its Subvendor from future contracts with City of Seattle; and/or

6. File civil and/or criminal action(s) against the Vendor and, if applicable, its Subvendors, suppliers, employees, agents, and representatives.

The City may consider any such failure by the Vendor in determining whether to award any future contracts to the Vendor.

F. **Reporting Requirement*.*** The Owner requires that the Vendor report any actual DBE participation based on dollars paid on this Contract to enable the City to monitor DBE participation accurately and for reporting purposes. All DBE work shall be reported. *The Vendor shall submit a report on the Owner provided form on a quarterly basis for any calendar quarter in which DBE Work is accomplished or upon completion of the project, as appropriate.* The dollars are to be reported as specified herein.

In the event that the payments to a DBE have been made by an entity other than the prime Vendor (as in the case of a lower-tier Subcontractor or supplier), then the prime Contractor shall obtain the quarterly report, including the signed affidavit, from the paying entity and submit the report to the Owner.

* + - 1. DBE Eligibility. A DBE may be eligible to count toward Contract participation if the firm is certified and performs work on the contract within their certified scope of work.
      2. DBE Listing. A Directory of DBE firms certified by OMWBE is available online at the following website address: <http://www.omwbe.wa.gov/directory/directory.htm> or the OMWBE can be reached at 360-753-9693.
      3. Counting DBE Participation. The Owner will count DBE participation toward the overall DBE goal as provided for in 49 CFR 26.55, provided that the following are also met:

1. DBE Contractor. The Owner will only count the work a DBE contractor performs with its own forces as well as the work performed by DBE subcontractors, with their own work forces.
2. Joint Venture. When a DBE performs as a participant in a joint venture, the Owner will only count that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work that the DBE performs with its own forces.
3. Commercially Useful Function. The Owner will count expenditures to a DBE contractor only for DBEs who perform a commercially useful function on that contract.
4. DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (if applicable) and paying for the material itself.
5. DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract or project through which funds is passed in order to obtain the appearance of DBE participation.
6. A DBE does not perform a commercially useful function if it fails to exercise responsibility with its own work force for at least 30 percent of the total cost of its contract, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved.
7. Trucking. Use the following factors in determining whether DBE trucking company is performing a commercially useful function:
8. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for meeting the DBE goals.
9. The DBE must itself own and operate at least one fully licensed, insured, and operational truck that is used on the contract.
10. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
11. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
12. The DBE may also lease trucks from a non-DBE firm and may enter an agreement with an owner-operator who is a non-DBE. The DBE who leases trucks from a non-DBE or employs a non-DBE owner-operator is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE
13. In any lease or owner-operator situation, as described in subparagraphs d and e above, the following rules shall apply:
14. A written lease/rental agreement on all trucks leased or rented, showing the true ownership and the terms of the rental must be submitted and approved by the Contracting Agency prior to the beginning of the work. The agreement must show the lessor’s name, trucks to be leased, and the agreed upon method of payment (hour, ton, or per load). All lease agreements shall be for a long-term relationship, rather than for the individual project. Does not apply to owner-operator arrangements
15. Only the vehicle (not the operator) is leased or rented. Does not apply to owner-operator arrangements.
16. In order for DBE project goals to be credited, DBE trucking firms must be covered by a subcontract or a written agreement approved by the City prior to performing their portion of the work.
17. For purposes of this subparagraph 4, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
18. Expenditures with DBEs. Expenditures with DBEs for materials or supplies shall be counted as provided in the following:
19. Manufacturer. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies towards the DBE goal. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
20. Regular Dealer. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
21. To be a regular dealer a firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
22. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, as provided in this Section (5)(b), if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or of the cost of the materials and supplies themselves shall be counted on a contract by contract basis.
23. Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not regular dealers.
24. Purchases from a DBE. With respect to materials or supplies purchased from a DBE who is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and typical for the services rendered. No part of the cost of the materials and supplies themselves shall be counted.

(E) Disadvantaged Business Enterprise And Other Small Contractors And Suppliers Participation. . Even though this Contract has no DBE goal, the Owner still encourages Contractors to pursue opportunities for DBE participation. The Owner encourages bidders to carry out the following steps to facilitate DBE and other small contractors and suppliers participation, which may be either on a direct basis in response to this solicitation or as a subcontractor to a bidder.

1. Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) DBE and other small contractors and suppliers that have the capability to perform the work of the contract.
2. Select portions of the work to be performed by subcontractors to increase the likelihood that DBE and other small contractors and suppliers’ goals will be achieved.
3. Provide interested subcontractors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. Negotiate in good faith with interested DBEs and other small contractors and suppliers.
5. Avoid rejecting DBEs and other small contractors and suppliers as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor’s standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor’s efforts to obtain DBE and other small business participation.
6. Make efforts to assist interested DBEs and other small contractors and suppliers in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
7. Make efforts to assist interested DBEs and other small contractors and suppliers in obtaining necessary equipment, supplies, materials, or related assistance or services.
8. Effectively use the services of available minority/women community organizations, contractors’ groups, local, state, and Federal minority/women business assistance offices; Disadvantaged Business Enterprise and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs and other small contractors and suppliers.

(F) The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from the Owner.In addition, **the Contractor may not hold retainage from its subcontractors.**

(G) The contractor must promptly notify the Citywhenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Owner.

**NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS**

The Vendor agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and with FTA Notice, "Federal Transit Administration National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other subsequent Federal directives that may be issued.

**ADA, SECTION 504 AND OTHER FEDERAL REQUIREMENTS:** The Vendor is also required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

A. U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;

B. U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;

C. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local federal government Services," 28 CFR Part 35;

D. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;

E. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19;

F. U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;

G. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and

H. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.

I. Activities Not Involving Construction. Federal laws and regulations providing wage and hour protections for nonconstruction employees, including:

(1). Section 102 of the Contract Work Hours and Safety Standards Act, as amendment, 40 U.S.C. § 3702, and other relevant parts of the Act, 40 U.S.C. § 3701 et seq., and

(2). U.S. Department of Labor (DOL) regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

J. Any implementing requirements that the FTA may issue.

**INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any City of Seattle requests which would cause City of Seattle to be in violation of the FTA terms and conditions.

1. **Assignment:** Contractor shall not assign any of its obligations under this Contract without Seattle’s written consent, which may be granted or withheld in Seattle’s sole discretion.
2. **Subcontracting:** Contractor shall not subcontract any of its obligations under this Contract without Seattle’s written consent, which may be granted or withheld in Seattle’s sole discretion. Contractor shall ensure that all subcontractors comply with the obligations, requirements and terms and conditions of the subcontract, except for Equal Benefit provisions. Seattle’s consent to subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent to subcontract.
3. **Key Persons and Subcontractors.**  Contractor shall not transfer, reassign or replace any individual or subcontractor that is determined to be essential or that has been agreed upon in the Contractor’s Subcontracting (Inclusion) Plan, without express written consent of Seattle. If during the term of this Contract, any such individual leaves the Contractor’s employment or any named subcontract is terminated for any reason, Contractor shall notify Seattle and seek approval for reassignment or replacement with an alternative individual or subcontractor. Upon Seattle’s request, the Contractor shall present to Seattle, one or more subcontractors or individual(s) with greater or equal qualifications as a replacement. Continued achievement of the Subcontracting (Inclusion) Plan that was incorporated into this Contract by reference, if any, and the associated subcontract awards, aspirational goals and efforts, will be one of the considerations in approval of such changes. Seattle’s approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.
4. **Equal Benefits.**

Compliance with SMC Ch. 20.45: The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits (“equal benefits”) to its employees with domestic partners as the Contractor provides to its employees with spouses. At Seattle’s request, the Contractor shall provide complete information and verification of the Contractor’s compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. (For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules, go to review information at [http://www.seattle.gov/city-purchasing-and-contracting/social-equity/equal-benefits](http://www.seattle.gov/city-purchasing-and-contracting/social-equity/).)

Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:

1. Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; or
2. Terminate the Contract; or
3. Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; or
4. Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.
5. **Publicity.**

No news release, advertisement, promotional material, tour, or demonstration related to Seattle’s purchase or use of the Contractor’s product or services performed pursuant to this Contract shall be produced, distributed, or take place, without the prior, specific written approval of the City’s Project Manager or his/her designee.

1. **Proprietary and Confidential Information**

**The State of Washington’s Public Records Act (Release/Disclosure of Public Records) Under Washington State Law (reference RCW Chapter 42.56, the Public Records Act) all materials received or created by the City of Seattle are considered public records. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material.**

The State of Washington’s Public Records Act requires that public records must be promptly disclosed by the City upon request unless that RCW or another Washington State statute specifically exempts records from disclosure. Exemptions are narrow and explicit and are listed in Washington State Law (Reference RCW 42.56 and RCW 19.108).

As mentioned above, all City of Seattle offices (“the City”) are required to promptly make public records available upon request. However, under Washington State Law some records or portions of records may be considered legally *exempt from disclosure.* A list and description of records identified as exempt by the Public Records Act can be found in RCW 42.56 and RCW 19.108.

If the City receives a public disclosure request for any records or parts of records that Contractor has properly and specifically listed on the City Non-Disclosure Request Form (Form) submitted with Contractor’s bid/proposal, or records that have been specifically identified in this contract, the City will notify Contractor in writing of the request and will postpone disclosure. While it is not a legal obligation, the City, as a courtesy, will allow Contractor up to ten business days to obtain and serve the City with a court injunction to prevent the City from releasing the records (reference RCW 42.56.540). If you fail to obtain a Court order and serve the City within the ten days, the City may release the documents.

The City will not assert an exemption from disclosure on Contractor’s behalf. If Contractor believes that its records are exempt from disclosure, Contractor is obligated to seek an injunction under RCW 42.56.540. Contractor acknowledges that the City will have no obligation or liability to Contractor if the records are disclosed.

1. **General Legal Requirements.**
2. General Requirement: Contractor, at no expense to Seattle, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Without limiting the generality of this paragraph, the Contractor shall specifically comply with the following requirements of this section.
3. Licenses and Similar Authorizations: Contractor, at no expense to Seattle, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.
4. Taxes: The Contractor shall pay, before delinquency, all taxes, import duties, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.
5. **OSHA/WISHA.**

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against purchaser as a result of Contractor’s failure to comply with the acts and standards thereunder and for the failure of the items furnished under this order to so comply.

1. **Contract Work Hours and Safety Standards.**

For all contracts that employ mechanics or laborers, the Contractor and all subs shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provide that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

1. **Beck Notice.**

Notification of Employee Rights Concerning Payment of Union Dues or Fees (Executive Order 13201) shall apply to all contracts above $100,000.

1. **Indemnification.**

To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, or trade secret arising out of the work performed or goods provided under this Contract, or the Contractor’s violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of the City. As to the City of Seattle, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker’s Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

1. **Background Checks and Immigrant Status**

Background checks will not be required for workers that will be performing the work under this contract. The City has strict policies regarding the use of Background checks, criminal checks and immigrant status for contract workers. The policies are incorporated into the contract and available for viewing on-line at<http://www.seattle.gov/business/WithSeattle.htm>

1. **Insurance.**

Contractor shall maintain at its own expense at all times during the term of this Contract the following insurance, as well as any other additional coverage requirements issued by the City.

1. MINIMUM COVERAGES AND LIMITS OF LIABILITY. Vendor shall at all times during the term of this Agreement maintain continuously, at its own expense, minimum insurance coverages and limits of liability as specified below:

* **A. COMMERCIAL GENERAL LIABILITY (CGL), MARINE GENERAL LIABILITY (MGL)** OR EQUIVALENT INCLUDING:

**-**PREMISES

**-** PRODUCTS-COMPLETED OPERATIONS

**-** CONTRACTUAL LIABILITY

**-** STOP GAP/EMPLOYER’S LIABILITY (UNLESS NO OBLIGATION TO INSURE WA STATE WC)

**MINIMUM LIMITS OF LIABILITY SHALL BE:**

|  |  |
| --- | --- |
| **$1,000,000** | EACH OCCURRENCE COMBINED SINGLE LIMIT BODILY INJURY AND PROPERTY DAMAGE (CSL) |
| **$2,000,000** | PRODUCTS/COMPLETED OPERATIONS AGGREGATE |
| **$2,000,000** | GENERAL AGGREGATE |
| **$1,000,000** | EACH ACCIDENT/ DISEASE—POLICY LIMIT/ DISEASE—EACH EMPLOYEE STOP GAP/EMPLOYER’S LIABILITY |

B. Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of $5,000,000 CSL.

C. Worker’s Compensation for industrial injury to Vendor’s employees in accordance with the provisions of Title 51 of the Revised Code of Washington.

**D. UMBRELLA/EXCESS/BUMBERSHOOT LIABILITY** INSURANCE OVER **CGL**

MINIMUM LIMIT OF LIABILITY SHALL BE **$9,000,000** CSL **($10,000,000 MINIMUM TOTAL LIMITS** REQUIREMENT)

1. **Crime Fidelity, Theft, Disappearance & Destruction Liability (to include Employee THEFT, wire transfer, forgery & mail coverage, and client coverage)**: WITH MINIMUM LIMIT $**1,000,000** PER OCCURRENCE AND IN THE AGGREGATE. The policy shall cover “client’s property,” not just when legally liable and shall have a Joint Loss Payee Endorsement in favor of the City of Seattle.
2. **Information Technology –Cyber Liability (Network Security Liability and Privacy Liability)** with minimum limit **$1,000,000** per occurrence and in the aggregate. This shall include, but not be limited to, coverage for any actual or alleged breach of duty, neglect, error, act, mistake, omission, or failure arising out of Vendor’s Internet and Network Activities including coverage for, but not limited to, the following events:

An attack that has the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access or unauthorized use of Vendor’s computer system; Computer Crime or Information Theft; Denial of Service; Extortion; Introduction, implantation, or spread of a Computer Virus; Loss of Service; Identity Theft; Infringement; Electronic data loss and restoration; Unauthorized Access or Use, including the gaining of access to Vendor’s computer systems by an unauthorized person or persons or an authorized person in an unauthorized manner. Shall include coverage for NOtification Costs,

1. **City of Seattle as Additional Insured:** The CGL/MGL insurance shall include “the City of Seattle” as an additional insured for primary and non-contributory limits of liability.
2. **No Limitation of Liability:** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only; they shall not be construed to limit the liability of Vendor or any insurer for any claim that is required to be covered hereunder to less than the applicable limits of liability stated in the declarations. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by vendor, whether those limits are primary, excess, contingent or otherwise. Vendor expressly understands and agrees that this provision shall override any limitation of liability or similar provision in any agreement or statement of work between the City and Vendor.
3. **Required Separation of Insured Provision; Cross-Liability Exclusion and other Endorsements Prohibited**: Vendor’s insurance policy shall include a “separation of insureds” or “severability” clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer’s liability. Vendor’s insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the Vendor’s insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. Vendor’s CGL policy shall NOT include any of the following Endorsements (or their *equivalent endorsement or exclusions*): (a) Contractual Liability Limitation, (CGL Form 21 39 or equivalent), b) Amendment Of Insured Contract Definition, (CGL Form 24 26 or equivalent), (c) Limitation of Coverage to Designated Premises or Project, (CGL Form 21 44 or equivalent), (d) any endorsement modifying or deleting the exception to the Employer’s Liability exclusion, (e) any “Insured vs. Insured” or “cross-liability” exclusion, and (f) any type of punitive, exemplary or multiplied damages exclusion. Vendor’s failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by Vendor or reduced and/or offset against the Contract.
4. **Claims Made Form:** If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this contract. Claims made coverage shall be maintained by the Vendor for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Vendor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Vendor shall purchase an extended reporting period (“tail”) or execute another form of guarantee acceptable to the City to assure financial responsibility for liability assumed under the contract.
5. **Deductibles and Self-Insured Retentions:**  Any self-insurance retention or deductible in excess of $ 25,000 that is not “fronted” by an insurer and for which claims the vendor or its third-party administrator is directly responsible for defending and indemnifying must be disclosed on the certificate of liability insurance. Vendor agrees to defend and indemnify the City under its self-insured or deductible layer and upon City’s request advise the full delivery address of the individual or department to whom a tender of a claim should be directed.
6. **Notice of Cancellation:** Under RCW 48.18.290 (“Cancellation by insurer”) applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than 45 days prior to cancellation (10 days as respects non-payment of premium). As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation (10 days as respects non-payment of premium).
7. **Qualification of Insurers:** Insurers shall maintain A.M. Best’s ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.
8. **Changes in Insurance Requirements:** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to the Vendor. Should Vendor, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.
9. **Evidence of Insurance:** Vendor must provide the following evidence of insurance:
   1. A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
   2. An attached City of Seattle designated additional insured endorsement or blanket additional insured wording to the CGL/MGL (and if required Contractor’s Pollution Liability insurance policy).
   3. A copy of all other amendatory policy endorsements or exclusions of Vendor’s insurance CGL/MGL policy that evidences the coverage required.

At any time upon the City’s request, Vendor shall also cause to be timely furnished a copy of declarations pages and schedules of forms and endorsements. In the event that the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, Vendor shall also cause a complete and certified copy of the requested policy to be timely furnished to the City.

For questions or issues about insurance, contact the City of Seattle Risk Management at (206) 615-1507 or by email at [Sheila.Barker@seattle.gov](mailto:Sheila.Barker@seattle.gov%20)

1. **Audit.**

Upon request, Contractor shall permit Seattle, and any other governmental agency involved in the funding of the Work (“Agency”), to inspect and audit all pertinent books and records of Contractor, any subcontractor, or any other person or entity that performed work in connection with or related to the Work, at any and all times deemed necessary by Seattle or Agency, including up to six years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in King County, Washington or other such reasonable location as Seattle or Agency selects. The Contractor shall supply Seattle with, or shall permit Seattle to make, a copy of any books and records and any portion thereof. The Contractor shall ensure that such inspection, audit and copying right of Seattle and Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work under this Contract.

1. **Examination of Records by Comptroller General.**

FAR clause 52.215-2 incorporated by reference. The complete clause may be viewed at <http://www.whitehouse.gov/omb/circulars/a110/> The OMB A-110 provisions in effect at the time of this order govern. FAR clauses may be viewed at http:www.arnet.gov/far/

1. **Contractual Relationship**

The relationship of Contractor to Seattle by reason of this Contract shall be that of an independent contractor. This Contract does not authorize Contractor to act as the agent or legal representative of Seattle for any purpose whatsoever. Contractor is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of Seattle or to bind Seattle in any manner or thing whatsoever.

1. **Federal Debarment for Primes and all Subcontractors.**

Contractor shall immediately notify the City of any suspension or debarment or other action that excludes the Contractor and any subcontractor from participation in Federal contracting. Contractor shall verify all subcontractors that are intended and/or used by the Contractor for performance of City work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.sam.gov/portal/public/SAM/#1> The Contractor shall keep proof of such verification within the Contractor records.

1. **Supervision and Coordination**.

Contractor shall:

* Competently and efficiently, supervise and direct the implementation and completion of all contract requirements specified herein.
* Designate in its bid or proposal to Seattle, a representative(s) with the authority to legally commit Contractor’s firm. All communications given or received from the Contractor’s representative shall be binding on the Contractor.
* Promote and offer to Purchasers only those materials, equipment and/or services as stated herein and allowed for by contractual requirements. Violation of this condition will be grounds for contract termination.

1. **Involvement of Current and Former City Employees**

If a Contractor has any current or former City employees, official or volunteer, working or assisting on solicitation of City business or on completion of an awarded contract, you **must** provide written notice to City Purchasing of the current or former City official, employee or volunteer’s name. The Vendor Questionnaire within your bid documents prompts you to answer that question. You must continue to update that information to City Purchasing during the full course of the contract. The Contractor is to be aware and familiar with the Ethics Code, and educate vendor workers accordingly.

1. **Anti-Trust Overcharges**.

Seattle maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore the Contractor hereby assigns to Seattle any and all claims for such overcharges except overcharges which result from antitrust violations commencing after the price is established under this contract and which are not passed on to Seattle under an escalation clause.

1. **No Conflict of Interest.**

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

1. **No Gifts or Gratuities.**

Contractor shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official, that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Vendor. Promotional items worth less than $25 may be distributed by the vendor to City employees if the Vendor uses the items as routine and standard promotions for business. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

1. **Contract Workers with 1,000 Hours**

Throughout the life of the Contract, Contractor shall provide written notice to City Purchasing and the City Project Manager of any contract worker that shall perform more than 1,000 hours of contract work for the City within a rolling 12-month period. Such hours include those that the contract worker performs for the Contract, and any other hours that the worker performs for the City under any other contract. Such workers are subject to the requirements of the City Ethics Code, Seattle Municipal Code 4.16. The Contractor shall advise their Contract workers as applicable.

1. **Errors & Omissions: Correction.**

Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Contractor under this Contract. The Contractor, without additional compensation, shall correct or revise any errors or omissions in the designs, drawings, specifications, and/or other Contractor services immediately upon notification by Seattle. The obligation provided for in this section with respect to any acts or omissions during the term of this Contract shall survive any termination or expiration of this Contract and shall be in addition to all other obligations and liabilities of the Contractor.

1. **Intellectual Property Rights.**

**Patents:** Contractor hereby assigns to Seattle all rights in any invention, improvement, or discovery, together with all related information, including but not limited to, designs, specifications, data, patent rights and findings developed in connection with the performance of Contract or any subcontract hereunder. Notwithstanding the above, the Contractor does not convey to Seattle, nor does Seattle obtain, any right to any document or material utilized by Contractor that was created or produced separate from this Contract or was preexisting material (not already owned by Seattle), provided that the Contractor has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the Contractor grants Seattle an irrevocable, non-exclusive, fully paid, royalty-free right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

**Copyrights**: For materials and documents prepared by Contractor in connection with the Work, Contractor shall retain the copyright (including the right of reuse) whether or not the Work is completed. Contractor grants to Seattle a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the Contractor for Seattle under this Contract. If requested by Seattle, a copy of all drawing, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs and other storage facilities), software programs or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials which are developed solely for, and paid for by, Seattle in connection with the performance of the Work, shall be promptly delivered to Seattle.

Seattle may make and retain copies of such documents for its information and reference in connection with their use on the project. The Contractor does not represent or warrant that such documents are suitable for reuse by Seattle, or others, on extensions of the project, or on any other project. Contractor represents and warrants that it has all necessary legal authority to make the assignments and grant the licenses required by this Section.

1. **Interlocal Cooperation Act.**

RCW 39.34 allows cooperative purchasing between public agencies, and other political subdivisions. **SMC 20.60.100 also allows non profits to use these agreements.** If a public agency files or has filed an Intergovernmental Cooperative Purchasing Agreement with the City of Seattle, those agencies are eligible to purchase from Contracts established by the City. Such agencies may ask City of Seattle Contractors to accept orders from the agency, citing the City of Seattle contract as the basis for the order. The Vendor may accept or decline such orders. If the Vendor accepts an order from another public agency using the City of Seattle contract as the basis, the Vendor agrees to sell additional items at the contract prices, terms and conditions. The City of Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies.

51**. Expansion.**

Any resultant contract or Purchase Order may be expanded as allowed below. A modification may be considered per the criteria and procedures below, for any ongoing Blanket Contract that has not yet expired. Likewise, a one-time Purchase Order may be modified if the bid reserved the right for additional orders to be placed within a specified period of time, or if the project or body of work associated with a Purchase Order is still active. Such modifications must be mutually agreed. The only person authorized to make such agreements on behalf of the City is the Buyer from the City Purchasing Division (Department of Finance and Administrative Services). No other City employee is authorized to make such written notices. Expansions must be issued in writing from the City Buyer in a formal notice. The Buyer will ensure the expansion meets the following criteria collectively: (a) it could not be separately bid, (b) the change is for a reasonable purpose, (c) the change was not reasonably known to either the City or vendors at time of bid or else was mentioned as a possibility in the bid (such as a change in environmental regulation or other law); (d) the change is not significant enough to be reasonably regarded as an independent body of work; (e) the change could not have attracted a different field of competition; and (f) the change does not vary the essential identity or main purpose of the contract. The Buyer shall make this determination, and may make exceptions for immaterial changes, emergency or sole source conditions, or for other situations as required in the opinion of the Buyer.

Note that certain changes are not considered an expansion of scope, including an increase in quantities ordered, the exercise of options and alternates in the bid, or ordering of work originally identified within the originating solicitation. If such changes are approved, changes are conducted as a written order issued by the City Purchasing Buyer in writing to the Vendor.

**52. Disputes.**

The parties shall endeavor to resolve any dispute or misunderstanding that may arise under this Contract concerning Contractor’s performance, if mutually agreed to be appropriate, through negotiations between the Contractor’s Project Manager and Seattle’s Project Manager, or if mutually agreed, referred to the City’s named representative and the Contractor’s senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes including termination as allowed for within the contract, or may by mutual agreement pursue other dispute alternatives such as alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the contract for cause or convenience.

Notwithstanding all above, if Seattle believes in good faith that some portion of Work has not been completed satisfactorily, Seattle may require Contractor to correct such work prior to Seattle payment. In such event, Seattle will provide to Contractor an explanation of the concern and the remedy that Seattle expects. Seattle may withhold from any payment that is otherwise due, an amount that Seattle in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, Seattle may retain the amount equal to the cost to Seattle for otherwise correcting or remedying the work not properly completed.

**53. Termination.**

1. For Cause: Seattle may terminate this Contract if the Contractor is in material breach of any of the terms of this Contract, and such breach has not been corrected to Seattle’s reasonable satisfaction in a timely manner.
2. For City’s Convenience: Seattle may terminate this Contract at any time, without cause and for any reason including Seattle’s convenience, upon written notice to the Contractor.
3. Nonappropriation of Funds: Seattle may terminate this Contract at any time without notice due to nonappropriation of funds, whether such funds are local, state or federal grants, and no such notice shall be required notwithstanding any notice requirements that may be agreed upon for other causes of termination.
4. Acts of Insolvency: Seattle may terminate this Contract by written notice to Contractor if the Contractor becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise.
5. Termination for Gratuities: Seattle may terminate this Contract by written notice to Contractor if Seattle finds that any gratuity in the form of entertainment, a gift, or otherwise, was offered to or given by the Contractor or any agent therefor to any City official, officer or employee.
6. Notice: Seattle is not required to provide advance notice of termination. Notwithstanding, the Buyer may issue a termination notice with an effective date later than the termination notice itself. In such case, the Contractor shall continue to provide products and services as required by the Buyer until the effective date provided in the termination notice.
7. Actions Upon Termination: In the event of termination not the fault of the Contractor, Contractor shall be paid for the services properly performed prior to the effective termination date that has been specified by the Buyer, together with any reimbursable expenses then due, but in no event shall such compensation exceed the maximum compensation to be paid under the Contract. Contractor agrees that this payment shall fully and adequately compensate Contractor and all subcontractors for all profits, costs, expenses, losses, liabilities, damages, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Contract. Upon termination for any reason, Contractor shall provide Seattle with the most current design documents, contract documents, writings and other product it has completed to the date of termination, along with copies of all project-related correspondence and similar items. Seattle shall have the same rights to use these materials as if termination had not occurred.

**54. Force Majeure – Suspension and Termination.**

This section applies in the event that either party is unable to perform the obligations of this contract because of a Force Majeure event as defined herein, to the extent that the Contract obligations must be suspended in full. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body, which prevents performance.

Force Majeure under this Section shall only apply in the event that performance is rendered not possible by either party or its agents. Should it be possible to provide partial performance that is acceptable to the City under Section #2 (Emergencies or Disasters), Section #2 below shall instead be in force.

Should either party suffer from a Force Majeure event and is unable to provide performance, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance.

Upon receipt of such notice, the party shall be excused from such performance as is affected by the Force Majeure Event for the period of such Event. If such Event affects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such Event.

**55. Major Emergencies or Disasters.**

The City may undergo an emergency or disaster that may require the Contractor to either increase or decrease quantities from normal deliveries, or that may disrupt the Contractor’s ability to provide normal performance. Such events may include, but are not limited to, a storm, high wind, earthquake, flood, hazardous material release, and transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above. In such events, the following shall apply.

1. The City shall notify the Contractor that the City is experiencing an emergency or disaster, and will request emergency and priority services from the Contractor.
2. The City may request that the Contractor provide either increased or decreased quantities from traditional orders, or may request Contractor provide additional products or services.
3. Upon such notice by the City, the Contractor shall make reasonable efforts to provide the City the materials in the quantities requested and within the schedule specified by the City, adhering to the conditions in this Section.
4. The City of Seattle shall be the customer of first priority for the Contractor, except where preceded by State or Federal government mandates. The Contractor shall provide its best and priority efforts to provide the requested goods and/or services to the City of Seattle in as complete and timely manner as possible. Such efforts by the Contractor are not to be diminished as a result of Contractor providing service to other customers, except as mandated by State or Federal governments.
5. If the Contractor is unable to respond in the time and/or quantities requested by the City, the Contractor shall promptly assist the City to the extent practicable, to gain access to alternative materials and/or services. This may include:
   1. Coordinating with other distributors or subsidiaries beyond those in the local region to fulfill order requests;
   2. Offering the City substitutions provided the Contractor obtains prior approval from the City for such substitution.

The Contractor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). However, in the event that the City’s request results in the Contractor incurring unavoidable additional costs and causes the Contractor to increase prices in order to obtain a fair rate of return, the Contractor shall charge the City a price not to exceed the cost/profit formula found in this Contract.

**56. City Debarment.**

In accordance with SMC Ch. 20.70, the Director of Executive Administration or designee may debar a Vendor from entering into a Contract with the City or from acting as a subcontractor on any Contract with the City for up to five years after determining that any of the following reasons exist:

* 1. Contractor has received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City Contracts.
  2. Contractor failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, prevailing wage requirements, equal benefits, or apprentice utilization.
  3. Contractor abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.
  4. Contractor failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.
  5. Contractor submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.
  6. Contractor colluded with another contractor to restrain competition.
  7. Contractor committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.
  8. Contractor failed to cooperate in a City debarment investigation.
  9. Contractor failed to comply with SMC 14.04, SMC Ch. 14.10, SMC Ch. 20.42, or SMC Ch. 20.45, or other local, State, or federal non-discrimination laws.

The Director may issue an Order of Debarment following the procedures specified in SMC 20.70.050. The rights and remedies of the City under these provisions are in addition to any other rights and remedies provided by law or under the Contract.

**57. Recycle Products Requirements**. To promote and encourage environmentally sustainable practices for companies doing business with the City, the City requires that vendors under City contract use environmentally preferable products in production of City work products.

**Green Seal Products:** Contractor shall use Green Seal, Eco Logo or other certified cleaning products as approved by the City, in performance of all cleaning and janitorial work to protect the health, safety, wellness and environmentally sustainable practices that the City requires of companies doing business with the City. Cleaning products, floor care products and other products used in the performance of work that carry a Green Seal certification are required. The Bidder shall identify the products that the Bidder intends to use at the City facilities and shall list them on the Offer Form, with a notation to confirm Green Seal product certification. The Green Seal website is: <http://www.greenseal.org/findaproduct/index.cfm>. The City has contracts with various vendors who will supply the winning Bidder with Green Seal certified products for use in performance of City contract work, at City contract pricing, For the list of vendors, contact the City Buyer.

**Paper and Paper Product Requirements:**  The City desires use of 100% PCF (post consumer recycled content, chlorine-free) paper, to comply with the City Executive Order and to encourage environmentally preferable practices for City business. Such paper is available at City contract prices from Keeney’s Office Supplies at 425-285-0541.

The City prohibits vinyl binders. The City prefers 100% recycled stock Binders. “Rebinders” are a product that fit this requirement and are available at City contract prices from Complete Office at 206-628-0059 or Keeney’s Office Supplies at 425-285-0541. Please do not use binders or plastic folders, unless essential. Note - Keeney’s is a Women Owned Firm and may be noted on your Outreach Plan.

Contractors shall duplex materials prepared for Seattle under this Contract, whether materials are printed or copied, except when impracticable due to the nature of the product. This is executed under the Mayor's Executive Order, issued February 13, 2005.

**58. Workers Right to Know**.

“Right to Know” legislation required the Department of Labor and Industries to establish a program to make employers and employees more aware of the hazardous substances in their work environment. WAC 296-62-054 requires among other things that all manufacturers/distributors of hazardous substances, including any of the items listed on this ITB, RFP or contract bid and subsequent award, must include with each delivery completed Material Safety Data Sheets (MSDS) for each hazardous material. Additionally, each container of hazardous material must be appropriately labeled with: the identity of the hazardous material, appropriate hazardous warnings, and the Name and Address of the chemical manufacturer, improper, or other responsible party.

Labor and Industries may levy appropriate fines against employers for noncompliance and agencies may withhold payment pending receipt of a legible copy of the MSDS. OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to “carcinogenic ingredients: and “routes of entry” of the product(s) in question.

1. **Paid Sick Time and Safe Time Ordinance**

Be aware that the City has a Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside Seattle, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance. Please see <http://www.seattle.gov/laborstandards>, or may call the Office of Labor Standards at 206.684.4500 with questions.

1. **Campaign Contributions (Initiative Measure No. 222)**

Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least $250,000 in contracts with the City in the last two years or who has paid at least $5,000 in the last 12 months to lobby the City. Please see Initiative 222, or call the Ethics Director with questions. For questions about this measure, contact: Polly Grow, Seattle Ethics and Elections, 206-615-1248 or [polly.grow@seattle.gov](mailto:polly.grow@seattle.gov).

**61**. **Miscellaneous Provisions.**

1. Amendments: No modification of this Contract shall be effective unless in writing and signed by an authorized representative of the City, except as otherwise authorized herein. The City shall issue change notices to Contractor, and such notices shall take effect under the signature of the City unless written objection of the notice is received by the Contractor upon Contractor receipt of the change notice.
2. Conflict: In the event of conflict between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford Seattle the maximum benefits.
3. Liens, Claims and Encumbrances: All materials, equipment, or services shall be free of all liens, claims or encumbrances of any kind and if Seattle requests a formal release of same shall be delivered to Seattle.
4. Binding Contract: This Contract shall not be binding until signed by both parties. The provisions, covenants and conditions in this Contract shall bind the parties, their legal heirs, representatives, successors, and assigns.
5. Applicable Law/Venue: This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County, Washington
6. Remedies Cumulative: Rights under this Contract are cumulative and nonexclusive of any other remedy at law or in equity.
7. Captions: All titles, including sections or subsections, are for convenience only and do not define or limit the contents.
8. Severability: Any term or provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Contract.
9. Waiver: No covenant, term, or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by Seattle of any performance by the Contractor after the time the same shall have become due nor payment to the Contractor for any portion of the Work shall constitute a waiver by Seattle of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Seattle, in writing. The City’s failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City’s waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.
10. Contract Representations: This Contract as described in Item 1 constitutes the entire Agreement. No verbal agreement or conversation between any officer, agent, associate or employee of Seattle and any officer, agency, employee or associate of the Contractor prior to the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.
11. Negotiated Contract: The parties acknowledge that this is a negotiated Contract, that they have had the opportunity to have this Contract reviewed by respective legal counsel, and that terms and conditions are not construed against any party on the basis of such party's draftsmanship thereof.
12. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Contract by having their authorized representatives affix their signatures below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (Contractor)  By | |  | **City of Seattle**  By | |
|  | Signature Date |  |  | Signature Date |
|  | (Printed Name) |  |  | NANCY LOCKE  City Purchasing and Contracting Services Director |
|  | Title |  |  |  |

**Attachment A**

**BIKE SHARE PROGRAM SERVICES**

This Attachment A is attached to, and is a part of, the Contract between the City of Seattle and Vendor relating to operation of an existing bike share system within the City (the "Agreement").

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**SECTION 1 DEFINED TERMS**

In this Attachment, capitalized terms shall have the meaning described below or as specified in the Agreement:

* 1. "Advertising" means any printed matter, including, but not limited to, words, pictures, photographs, symbols, graphics or visual images (both still and moving) of any kind or combination, promoting or soliciting the sale or the use of a product or service or providing other forms of textual or visual images, messages or information, but in no event will it include any information that is required to be posted on any Equipment by any Laws or Regulations or by this Attachment.
  2. "Attachment" means this Attachment A including all Schedules as amended from time to time.
  3. "Bicycle" or "Bike" means a device described as such in Schedule A *[ Equipment Specifications].*
  4. "Business Day" means any day that is not a Saturday, Sunday or "holiday" as defined in the list of federal holidays found at usa.gov.
  5. "Business Hours" mean 9:00 a.m.to 5:00 p.m.on any Business Day.
  6. "Call Center" refers to an entity that will answer Program User or general public calls.
  7. "City" means the City of Seattle, a municipal corporation in the State of Washington.
  8. "City Sites" means the Sites located on City streets, public-right of way or other public property owned or controlled by the City within which the System is operated.
  9. "Day" means a calendar day, unless otherwise stated herein.
  10. "Demobilization Costs" means the actual direct costs of removing the Equipment from the Sites, vacating the offices and warehouses, restoring the Sltes, offices, and warehouses in accordance with Vendor's contractual obligations.
  11. "Docks" means the locking mechanisms mounted on the Technical Platform that are designed to receive into and release from locked storage a Bicycle, as further described in Schedule A *[Equipment Specifications].*
  12. "Equipment" means, individually or in any combination, the Technical Platforms, Terminals, Docks, Helmet Distribution and Return Bin, Bicycles, and Helmets all as further described in Schedule A *[Equipment Specifications].* The initial Equipment for

the Program was acquired by the City from Puget Sound Bike Share d/b/a Pronto Cycle Share, the original owner of the Pronto Cycle Share bike share system.

* 1. "Helmet'' means a device described as such in Schedule A *[Equipment Specifications].*
  2. "Helmet Requirements" has the meaning set out in Schedule A *[Equipment Specifications].*
  3. "Helmet Distribution and Return Bin" means a device described as such in Schedule A *[Equipment Specifications].*
  4. "Laws and Regulations" means any and all statutes, laws, regulations, orders, bylaws, standards, guidelines, protocols, criteria, permits, ordinances, rules, codes of practice and other lawful requirements of any federal, state, municipal or other governmental authority in force in the State of Washington, including the principles of common law and equity, and including all applicable guidelines and standards with

respect to the above as adopted by any of those governmental authorities from time to time.

* 1. "Notification" means all communications including, but not be limited to, all information provided by City to Vendor about a specific defect or problem concerning the Program, Equipment or operations of the Program. Such Notifications may include any written document, or electronic communications. Notification may also include, but not be limited to, information provided to Vendor by the general public via the Vendor Call Center(s), in writing or by electronic communications.
  2. "Program" means the Equipment, Sites, website, Software Licenses, Services and all other assets and activities required of Vendor by this Attachment to provide the public bike share system within the Program Area.
  3. "Program Area" means that portion of the City of Seattle within which Stations have been installed, as such may change from time to time during the Term.
  4. "Program Fleet" means the total number of Bicycles owned by the City and provided for operation of the Program.
  5. "Program Operation Plan" means an operation plan describing the operational activities to be conducted by Vendor in the day-to-day operation of the system.
  6. "Purchase Order" means a written order by Vendor and approved by City consisting of Equipment and/or Services to be provided to City by Vendor. Each Purchase Order must include items, number of units ordered and price per unit. Each Purchase Order must be signed by City and Vendor.
  7. "Program Manager'' means the City's primary contact person for administration and management of the Services described in this Attachment, as designated by the City from time to time.
  8. "Pronto" refers to Pronto Cycle Share, the brand name for the Program as of the Effective Date.
  9. "Services" means the installation, operation and maintenance of the Stations, the acquisition, placement, maintenance and rental to users of the Bicycles and Helmets and all other necessary activities to operate the Program in accordance with the requirements of this Attachment.
  10. "Site" means a designated area on publicly or privately owned real property, or public right-of-way, which area contains a Station.
  11. "Site (Non-City) Agreement" means a written confirmation that allows Vendor to place a Station at a Site other than a City Site.
  12. "Software Licenses" means the licenses from the Supplier and others approved by City granting Vendor the right to use the software components of the Equipment and Services necessary to operate the Program.
  13. "Spare Parts Purchase Order" means a Purchase Order for additional parts and equipment that are not Full Stations.
  14. "Sponsor" means an entity that enters into an agreement with City whereby it is legally obligated to pay City money or in-kind services in consideration for the Sponsorship.
  15. "Sponsor Property" means trademarks, logos, servicemarks, and other similar intellectual property of a Sponsor identified for use in connection with the Sponsorship agreement.
  16. "Sponsorship" means an arrangement pursuant to which, in connection with a payment or payments that will be used to help defray the costs of installing or operating the Program, the Sponsor contributing such payment or payments is acknowledged by the Parties for such contribution and is permitted to place Advertising on the Equipment subject to local sign code regulations, and other considerations by City.
  17. "Station" means each assembly on a Site of a Technical Platform, complete with Terminal, Docks, and Helmet Distribution and Return Bin as further described in Schedule A *[Equipment Specifications].*
  18. "Supplier" refers to the vendor of Vendor for the Equipment.
  19. "System Metrics" means the key metrics as set out in Schedule E *[Service Levels and Liquidated Damages]* by which the Parties will determine how effectively the Program is performing.
  20. "Technical Platform" means the mounting platform onto which the Terminal and Docks are mounted and secured.
  21. "Terminal" means the component of the Station that provides Bicycle and Helmet rental instructions, rental terms and conditions, rental payment device (i.e. credit card device), and includes power and communication necessary to transmit the rental transactions for Bicycles and/or Helmets, as further described in Schedule A *[Equipment Specifications].*
  22. "Wayfinding Elements" means the information to be printed and installed by Vendor onto the Helmet Distribution and Return Bin at each Station.

**SECTION 2 SERVICES**

2.1 Vendor will operate the Program using Equipment owned by the City and will provide the Services in accordance with this Attachment.

2.2 Title to any Equipment purchased by Vendor after the Effective Date using City funds (to the exclusion of the underlying intellectual property) will be held by City at all times.

2.3 Vendor has obtained and will maintain the Software Licenses throughout the term of the Agreement.

2.4 Vendor confirms that the Equipment Specifications and Software Licenses,with respect to the Software Licenses only, are validly licensed or sublicensed to Vendor; to the knowledge of Vendor after reasonable inquiry, do not infringe, dilute, misappropriate, or improperly disclose any intellectual property or proprietary rights of any third party, or otherwise violate any law, rule, or regulation; will store, process, or transmit customer payment card data in a secure manner and will maintain the confidentiality of such information at all times; and to the knowledge of Vendor after reasonable inquiry, do not constitute defamation or invasion of the right of privacy.

2.5 **Source Code Escrow Package Definition.** The term “Source Code Escrow Package” shall mean:

1. A complete copy in machine-readable form of the source code and executable code of the licensed Software;
2. A complete copy of any existing design documentation and user documentation and/or
3. Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

Delivery of Source Code into Escrow. Vendor shall deliver a Source Code Escrow Package to Escrow Agent, provided that Vendor, City and Escrow Agent shall first enter into a supplementary escrow agreement as attached. Vendor and City shall use best efforts to enter into such an Escrow Agreement as soon as possible after the Effective Date of this Contract, but not later than 30 days after the Effective Date of this Contract.

**2.5.1 Delivery of New Source Code into Escrow.** If during the term of this Contract, term of license, or term of maintenance and support, Vendor provides City with a maintenance release or upgrade version of the licensed Software, Vendor shall within then (10) Business Days deposit with Escrow Agent a Source Code Escrow Package for the maintenance release or upgrade version and give city notice of such delivery.

2.5.2 Verification of Source Code Escrow Package.

At its option and expense, City may request that the completeness and accuracy of any Source Code Escrow Package be verified.

1. Such verification may be requested once per Source Code Escrow Package.
2. Such verification will be conducted by Escrow Agent, or upon at least ten (10) Business Days’ prior notice to the Vendor, by another party (“verifier”) acceptable to Vendor, after full disclosure to Vendor of information reasonably requested by Vendor about Verifier.
3. Prior to conducting the verification, Verifier shall first execute a confidentiality agreement prepared by Vendor that precludes Verifier from disclosing any information to City about the Source Code Escrow Package other than whether the Source Code Escrow Package was found to be complete and accurate.
4. Unless otherwise agreed at the time y Vendor and City, verification will be performed on-site at Vendor’s premises, utilizing Vendor’s equipment and software, at a time reasonably acceptable to Vendor. Vendor shall make technical and support personnel available as reasonably necessary for the verification. At its discretion, Vendor may designate a representative to accompany the Source Code Escrow Package at all times, and to be present at the verification. Verifier will be City’s sole representative at the verification.
5. Verifier is solely responsible for the completeness and accuracy of the verification. Neither the Escrow Agent, if different from the Verifier, nor Vendor shall have any responsibility or liability to City for any incompleteness or inaccuracy of any verification.

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2.5.3 Escrow Fees. All fees and expenses charged by Escrow Agent will be borne by Vendor.

**2.5.4 Release Events for Source Code Escrow Packages.** The Source Code Escrow Package may be released from escrow to City, temporarily or permanently, solely upon the occurrence of one or more of the following “Escrow Release Events:”

1. Vendor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for business or assets, or becomes subject to any proceeding under any bankruptcy or solvency law, whether domestic or foreign;
2. Vendor has wound up or liquidated its business voluntarily or otherwise and City has compelling reasons to believe that such events will cause Vendor to fail to meet its warranties and maintenance obligations in the foreseeable future; or
3. Vendor has wound up or liquidated its business voluntarily or otherwise and City has compelling reasons to believe that such events will cause Vendor to fail to meet its warranties and maintenance obligations in the foreseeable future; or
4. Vendor has voluntarily or otherwise discontinued support of the Software or fails to support the Software in accordance with its warranties and maintenance obligations.

2.5.5 Release Event Procedures. If City desires to obtain the Source Code Escrow Package from Escrow Agent:

1. City shall comply with the procedures set forth in the Escrow Agreement to document the occurrence of the Release Event;
2. City shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with the Contract section titled Vendor’s Proprietary Information;
3. If release is temporary, City shall promptly return all released materials to Vendor when the circumstances leading to the release are no longer in effect; and
4. City shall promptly, fully, and completely respond to any and all requests for information from Vendor concerning City’s use or contemplated use of the Source Code Escrow Package.

**2.6 PAYMENT CARD INDUSTRY (PCI) COMPLIANCE**

Vendor agrees to the following undertakings with respect to payment card industry (PCI) compliance requirements:

2.6.1 Within 10 days after the Effective Date of the Contract and on an annual basis thereafter, Vendor will provide a current Attestation of Compliance (AOC) for the payment gateway provider and station equipment and transaction software provider, and for any successor to either of these vendors.

2.6.2 Vendor is responsible for the security of any cardholder data that may be exposed while performing regular service in connection with station equipment where functions related to storing, processing, and transmitting of cardholder data occur.

2.6.3 Any repair or replacement of kiosk credit card readers shall be performed only by qualified Vendor staff.

2.6.4 Vendor will provide annual skimmer training approved by IT and meeting City standards to station technician employees with responsibility for performing periodic skimmer checks.

2.6.5 Station kiosks will be checked for skimming devices by station technicians whenever stations are serviced. In addition, Vendor will place a tamper-resistant seal on the kiosk card readers (subject to City bearing any costs in excess of $1,000 for materials), and rebalancers will check for evidence of tampering when visiting stations and immediately report any such evidence to Vendor's Operations Manager for appropriate follow-up. Skimmer inspection frequency shall be directly proportional to station utilization, depending on factors such as seasonality or peak usage. Regular or high-throughput stations (those experiencing more than 20 card transactions per day) will be inspected by rebalancers at least once per week.

2.6.6 PCI-DSS Certification. The credit card gateway utilized for the Program shall maintain appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as a Level 1 Service Provider. The gateway provider shall comply with Visa Cardholder Information Security Program (CISP) and Mastercard Data Protection (SOP) programs.

2.6.7 Unauthorized Access to Cardholder Data

* + - 1. In the event of a breach or intrusion or otherwise unauthorized access to cardholder data stored at or for Vendor and relating to the Program, Vendor shall notify the City's CISO within 24 hours to allow the proper PCI DSS compliant breach notification process.
      2. Upon request by City, Vendor shall provide copies of records relevant to PCI compliance (e.g., logs for skimmer checks) within a reasonable period of time.

2.6.8 In the event Vendor learns that its station equipment/software provider is no longer PCI DSS compliant, Vendor must notify the City's CISO within 5 calendar days.

* + - 1. Vendor shall ensure all system components and software have the latest vendor-suppl ied security patches, and relevant security patches are installed within 30 days of release; or as soon as adequately tested.

Vendor shall notify the City in advance of any new device deployments, including inventory information related to the station equipment being deployed.

2.7 Station location, re-location, and removal will be governed by Schedule C [Stations} and, additionally, Seattle City Sites will be governed by applicable Seattle Department of Transportation Street Use standards for locations in the public right-of­ way, by the Department of Planning and Development ("DPD") for private property locations and by the Seattle Parks and Recreation for Seattle park locations.

2.8 The parties intend that the Equipment used or installed pursuant to this Attachment comply with all applicable Laws and Regulations. In the event that any changes to the Equipment Specifications are required by any changes in Laws and Regulations from those in effect as at the Effective Date, Vendor will (A) notify City of any such changes in Laws and Regulations, (B) propose a plan, for the City's approval, not to be unreasonably withheld, delayed or conditioned, for changing the Equipment so that it complies with such changes in Laws and Regulations, (C) following the City's approval of such plan and receipt from the City of sufficient funds to implement such plan, commence, and proceed with diligence, to implement such plan. Vendor will note any such changes to the Equipment in its inventory records so that this information is included in the inventory reporting required under Schedule G [Reporting Requirements}.

In addition, if such changes to the Equipment result in higher costs for Vendor to provide Services and operate the System, then the Operations Fee shall be appropriately adjusted. In addition, Vendor will, at a minimum, replace Equipment and parts pursuant to the manufacturer's warranty or as necessary throughout the Term.

2.9 Before using or installing any Equipment, Vendor will obtain all necessary permits, authorizations, approvals, consents, licenses, and certifications required for the Equipment, including those required by:

* SDOT Street Use permit for Equipment on Seattle City Sites in the public right-of-way;
* DPD permits for publicly- or privately-owned real property or right-of-way, if DPD determines that such permits are necessary;
* Grant Requirements
* the Persons owning or occupying a Site which is not a City Site; and
* all other applicable Laws and Regulations.

2.10 Vendor will remain liable for all applicable taxes and fees, including without limitation and by way of example only, property taxes on its office and maintenance facilities, business license fees for Vendor, utility fees for water, sewer, and solid waste for its offices and maintenance facilities. Vendor will collect applicable sales taxes from Program users on the City's behalf and Vendor will remit such collections to the City, but the City shall be solely responsible for remitting applicable sales taxes to the State of Washington. Vendor will be solely responsible for obtaining and maintaining current any applicable licenses or permits, as required for the operations contemplated in this Attachment including, but not limited to, any occupational licenses required by law for the performance of the Services.

2.11 In connection with the installation, operation, maintenance, and removal or re-location of any and all Equipment, Vendor will not damage or injure any other property or right-of-way or Persons including without limitation and by way of example only, designated City landmarks, structures or pavement, including distinctive pavement.

2.12 Except with regard to the purchase of Equipment and other preexisting contracts with the Supplier, Vendor shall ensure that all contracts executed by Vendor and any entity, vendor, contractor, subcontractor, corporation, partnership, or individual for the provision of any good provided or service rendered in connection with the Program, including, but not limited to, contracts with any subcontractor, and contracts to purchase, use, lease, or rent real property are competitively priced.

**SECTION 3 PROGRAM-RESERVED**

**SECTION 4 SERVICE PERFORMANCE LEVELS**

4.1. Except where and to the extent prevented or delayed by a Force Majeure Vendor will operate the Program from the Effective Date to the end of the Term in accordance with the Meets Expectations minimums described in Schedule E *[Service Levels and Liquidated Damages].*

**SECTION 5 CONSTRUCTION AND TECHNICAL REQUIREMENTS**

* 1. Vendor will operate, and maintain the Equipment in accordance with the Equipment Specifications, Program Implementation Plan, Program Operation Plan, Schedule E *[Service Levels and Liquidated Damages],* Schedule D *[Station Installation and Relocations] ,* SDOT Street Use permit, *[Federal Transit Administration (FTA) Requirements]* if applicable, *[WSDOT Statement of Financial Assistance]* if applicable, all Laws and Regulations and any other applicable permits, and otherwise in accordance with this Attachment.

Construction, as defined within FTA Circular 4220.1F, shall not be performed under this contract and shall be separately bid by the City, and in compliance with City of Seattle and Federal procurement regulations, including but not limited to requirements for competitive bidding, contract bond requirements, DBE requirements, and state and federal prevailing wage requirements.

* 1. The Equipment will meet or exceed the requirements imposed by any and all applicable Laws and Regulations and will be of a standard of quality equal to or exceeding that of any Equipment samples shown to City during the procurement of the Program.
  2. In connection with the installation, operation, and maintenance of the Equipment, Vendor will use best efforts to minimize the extent to which the use of the right-of-way or other real property of any City is disrupted, and Vendor will use reasonable efforts not to obstruct the use of such right-of-way or real property of any City, including, but not limited to, pedestrian travel. Sidewalk clearance must be maintained at all times so as to provide a free pedestrian passage in accordance any applicable Laws and Regulations or guidelines unless prior consent has been obtained from the relevant City Engineer(s) or Director(s) in his or her sole discretion.
  3. Vendor will undertake best efforts, in accordance with all applicable Laws and Regulations to provide for safety and to prevent accidents at its work sites, including, if necessary, the placing and maintenance of proper guards, fences, barricades, security personnel and bollards at the curb and suitable and sufficient lighting for all stations located in the public right-of-way.
  4. Vendor will provide, install and maintain,appropriate traffic markings and

devices as may be reasonably requested by any City Engineer(s) or Director(s) for public right-of-way locations for the station removals or relocations as outlined in Schedule D.

* 1. In the event either Vendor or City seeks to have new Equipment or other hardware-based technology, which was not previously included within the Equipment Specifications, or is not otherwise required by applicable Laws and Regulations, integrated into the Program, then such Party will make a request, in writing, to the other Party that outlines the proposed new Equipment or technologies and the proposed advantages that would result from integration of such items into the Program. If both Parties agree, then Vendor will integrate the new Equipment and technology into the Program, pursuant to a schedule that is agreed upon by the Parties; and, either Party may request other amendments to this Attachment that are based on new Equipment or technology, including provisions to cover all related costs.

**SECTION 6 CUSTOMER SERVICE—RESERVED**

**This Section will be completed following Contract Award**

**SECTION** 7 **SPONSORSHIP AND MARKETING--RESERVED**

**This Section will be completed following Contract Award**

**SECTION 8 FINANCIAL TERMS AND CONDITIONS-- RESERVED**

**This Section will be completed following Contract Award**

**SECTION 9 PROGRAM RATES AND TERMS--RESERVED**

**This Section will be completed following Contract Award**

**SECTION 10 MERCHANDISING, LICENSING AND INTELLECTUAL PROPERTY RESERVED**

**This Section will be completed following Contract Award**

**SECTION 11 TRADEMARK OWNERSHIP**

* 1. Vendor agrees that by virtue of this Attachment it does not and will not claim any right, title, or interest in the Program Name, the City Property, Program IP, City or any part thereof (except the right to use them in accordance with this Attachment), and that any and all uses thereof by Vendor will inure to the benefit, respectively, of City or any Sponsor whose marks are incorporated into the Program Name, to the extent that such uses incorporate City or Sponsor Property. Vendor acknowledges City's sole right, title, and interest in and to, and ownership of City Property (and in the Program Name to the extent it incorporates City Property) and the validity of the trademarks and service marks that are part of the City Property (or Program Name to the extent that it incorporates City Property) and City's rights therein. Vendor agrees that it will not raise or cause to be raised any challenges, questions, or objections to the validity, registrability, or enforceability of the Program Name, the City Property, Program IP, or City or to the validity of the City Property (or the Program Name, Program IP, or City to the extent that it incorporates City Property) and City's rights therein, and will not contest such right and title, nor do or permit to be done any act or omission which will in any way impair the rights of City with respect to such City Property or the Program Name, Program IP, or City to the extent that it incorporates City Property. City acknowledges that the Program Name may or may not include City

Property and may consist of or incorporate Sponsor Property to the extent such Program Name is approved in advance by City in its sole discretion.

* 1. Vendor agrees to reasonably assist City in protecting City's rights to City Property (and the Program Name to the extent that it incorporates City Property), including but not limited to reporting to City any infringement or imitation of City Property or the Program Name of which Vendor becomes aware. City will have the sole right to determine whether to institute litigation with respect to such infringements of City Property or the Program Name to the extent that it incorporates City Property, as well as the sole right to select counsel. City may commence or prosecute any claims or suits for infringement of City Property in its own name or the name of Vendor or join Vendor as a party thereto. If City brings an action against any infringement of the City Property or the portion of any Program Name that infringes City Property, Vendor will reasonably cooperate with City and will be reimbursed for its reasonable and pre­ approved out-of-pocket expenses.
  2. If claims are made against City, or Vendor with respect to the use of City Property or the Program Name to the extent that it incorporates City Property in connection with any licensed products, then the parties agree to consult with each other on a suitable course of action. In no event will Vendor, without the prior written consent of City, have the right to acknowledge the validity of the claim of such party, to obtain or seek a license from such party, or to take any other action which might impair the ability of City to defend or otherwise contest the claim of such party. City will have the right to participate at its own expense in the defense of any claims or suit instituted against Vendor with respect to the use by Vendor of City Property or any Program Name that incorporates City Property.
  3. Vendor agrees to make modifications requested by City in Vendor's use of the City Property or any Program Name incorporating City Property, if City, in its sole discretion, determines such action to be necessary or desirable to resolve or settle a claim or suit or to eliminate the threat of a claim or suit by any party.

**SECTION 12 COMMUNICATIONS REPORTING AND MEETINGS**

* 1. Media. The prior written approval of the City (either the Program Manager or a representative of SDOT's press office) is required before Vendor or any of its Personnel make any statement to the press or issue any material for publication through any media of communication under in respect to the Program or this Attachment. Vendor agrees to follow the Issues Management Protocol once developed by the Program Manager in cooperation with Vendor. If Vendor publishes a work dealing with any aspect of performance under this Attachment, or of the results and accomplishments attained in such performance, then City will have a royalty-free, non­ exclusive and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use the publication, or, in the event that only a portion of the publication deals with an aspect of performance under this Attachment, such portion of the publication.
  2. Reporting. All data generated by the Program, excluding technical or proprietary data such as technical specifications of the Equipment, that is recorded and maintained by Vendor, will be provided to City in the format and at the times set out in Schedule G [Reporting Requirements] or as otherwise reasonably requested by the Program Manager, provided that such information transfer is not otherwise prohibited by Laws or Regulation.
  3. Confidentiality. All personally identifiable information that is held by Vendor and pertains to customers, including all Names, addresses, phone numbers, email addresses, and credit and debit card numbers, will be kept confidential by Vendor; provided, however, that (i) if there is any accident where a customer is unable to communicate personal information to the appropriate authorities, then Vendor may, in its sole discretion, provide the customer's name, address, phone number, an other important information to such authorities, (ii) if Vendor receive a subpoena for any court or other authority, then Vendor will provide all requested information in accordance with applicable Laws and Regulations, (iii) Vendor may disclose trip data, gender, aggregate and other data about customers in accordance with applicable Laws and Regulations, including but not limited to zip codes for customer addresses (provided this would not allow any individual's address to be separately identified), and (iv) to the extent allowable by law Vendor may disclose contact information for members to third parties for non-commercial, non-marketing purposes, including but not limited to gathering feedback on the Program and Services, provided that any such third parties agree to keep any such information regarding members confidential.
  4. Contract Management and Meetings. Vendor will meet regularly with City as set out in Schedule H [Reporting Requirements] and as otherwise reasonably requested by City.

**SECTION 13 WEBSITE--RESERVED**

**SECTION 14 REPRESENTATIONS AND WARRANTIES**

* 1. Vendor represents and warrants to City as follows:
  2. Vendor International Inc. is a for profit company, validly existing and in good standing under the laws of the State of ( ), and it is duly authorized to do business in Washington state and the City of Seattle.
  3. It has all requisite corporate power and authority to execute and deliver this Attachment and to perform its obligations hereunder. The execution, delivery and performance by Vendor of this Attachment have been duly authorized by all requisite corporate action in respect thereof on the part of Vendor.
  4. It has or will obtain all government licenses, permit or other authorizations necessary to perform its obligations as contemplated under this Attachment and that such licenses, permits, and/or authorizations will be valid and sufficient for the performance of the Services by Vendor.
  5. It will comply with all applicable laws, regulations, ordinances and codes pertaining to the fulfillment of its obligations under this Attachment.
  6. It shall perform the Services using Personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with standards acceptable to the City and shall devote adequate resources to meet its obligations under this Attachment.

**SCHEDULE A EQUIPMENT SPECIFICATIONS RESERVED**

**This Schedule will be completed following Contract Award**

**SCHEDULE B SITE PLANNING RESERVED**

**This Schedule will be completed following Contract Award**

**SCHEDULE C SYSTEM OPERATION—RESERVED**

**This Schedule will be completed following Contract Award**

**SCHEDULE D STATION INSTALLATION AND RELOCATION**

**This Section will be completed following Contract**

**SCHEDULE E SERVICE LEVELS AND LIQUIDATED DAMAGES--RESERVED**

**This Section will be completed following Contract Award and identification of service levels.**

**SCHEDULE F FEES** **AND PAYMENTS-RESERVED**

**This Section will be completed following Contract**

**SCHEDULE G REPORTING REQUIREMENTS-RESERVED**

**This Section will be completed following Contract**

**SCHEDULE H CITY PERMITS AND APPROVALS**

Vendor will comply with any and all permits or approvals required by the City of Seattle identifying conditions under which permission may be granted for use of the right-of-way and any other applicable City property for Operation of the Program.

**SCHEDULE** I **EQUIPMENT WARRANTY--RESERVED**

**This Section will be completed following Contract**

**SCHEDULE J EQUIPMENT ACQUISITION---RESERVED**

**This Section will be completed following Contract**

1. Note that the City updates the analysis and data that defines the map and zip codes designations at least every two years, although the zip codes may not change. If the zip codes do, however, change during the contract duration, the Vendor will be required to make adjustments to the station distribution to ensure that at least 20% are within those same areas. [↑](#footnote-ref-1)
2. Except when approved by both the Operator and the City. [↑](#footnote-ref-2)
3. Grant agreements may require Contracted Vendor to pay grantors back if equipment is removed. Any net profit from removal and disposition of equipment will go to the City to support the system. [↑](#footnote-ref-3)
4. The City of Seattle sign code currently does not allow advertising. Actions are being taken to potentially amend this rule. Sign code can be viewed at: <http://www.seattle.gov/dpd/codesrules/codes/signs/default.htm> [↑](#footnote-ref-4)
5. King County has a mandatory all-ages helmet law. [↑](#footnote-ref-5)
6. If the equipment demonstrated does not meet performance and/or capability requirements in the opinion of the City, the apparent successful Respondent may be asked to modify the product to the City’s satisfaction and submit a new product sample at no additional cost to the City unless mutually agreed upon otherwise in advance of such costs being incurred, or the City may not award a contract. [↑](#footnote-ref-6)
7. The Pronto system was originally partially funded by an FTA and WSDOT grant. Certain obligations may apply for useful life of existing equipment. [↑](#footnote-ref-7)
8. Not applicable to flat fee or time and management financial models [↑](#footnote-ref-8)
9. Not applicable to flat fee or time and management financial models [↑](#footnote-ref-9)
10. Premium Service to be reviewed as part of Premium Services only. [↑](#footnote-ref-10)
11. See Appendix 13.8 for more information regarding the methodology to be used in evaluating proposals submitting two financial models for Equipment and two financial models for Operations. [↑](#footnote-ref-11)
12. See Footnote 11. [↑](#footnote-ref-12)