

**PORT OF PORT ANGELES
REQUEST FOR QUALIFICATIONS (RFQ)
ARCHITECTUAL & ENGINEERING SERVICES
MARINE TRADES CENTER BUILDING DESIGN**

Due September 16, 2021

The Port of Port Angeles (Port) is seeking responses from consultants or consultant teams to complete the architectural and engineering for the development of a 30,000 square foot (sf) industrial building at the Marine Trades Center (MTC). The MTC is located at 439 Marine Drive, Port Angeles, WA 98363.

Port Angeles is located 80 miles Northwest of Seattle on the Strait of Juan de Fuca. The Port is a complex enterprise that operates, manages and makes capital investments in four lines of business, Marine Facilities, Marinas, Airports and Industrial Properties.

The Port's central waterfront property is currently anchored by two deep water Marine Terminals supporting cargo export operations and vessel topside repair. The adjacent developed upland consists of marine trades businesses engaged in the construction and maintenance of recreational, commercial and government vessels (See attached Figure 1). These marine trades businesses are supported by a 500-ton haul-out pier located along the eastside of the deep water Terminals.

Adjacent to the current marine trades operations is the Port owned Marine Trades Center. The vacant upland site is approximately 18 acres, zoned heavy marine industrial and has direct access to the marine terminals and the haul-out pier. A plywood mill operated at the site from the 1940s to 2011. The mill was demolished, and the site cleaned up between 2013 and 2016. Subsequently, a Master Plan for the development of the MTC was completed in 2017 that detailed the preferred project alternative (See attached Figure 2). The MTC development will combine a premium waterfront location with the infrastructure to support a broad range of marine trades businesses. The project development has been phased and Phase I, a boat washdown facility was completed in 2019.

The selected consultant will work with the Port to design and prepare bid documents and permit applications for a 30,000 sf Marine Trades Building at the MTC. The Port is requesting qualifications that include the full spectrum of anticipated disciplines, including architecture, structural, electrical, mechanical, civil and project permitting. The 2018 Concept Infrastructure Plan for the development is located at: [Drop Box Link](#)

This building would be used for boat retrofit, repair, maintenance and construction. It is anticipated that boats would be hauled to the building by 300-500-ton mobile boat hoist or self-propelled transporter.

The Port is evaluating potential funding sources and so the design, engineering and construction may be funded with a combination of state and federal grant funding. Therefore, interested consultants should have experience with federally funded projects. Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises are encouraged to submit proposals. Prior to awarding the contract for this engineering work the Port will verify that the selected consultant is not listed (is not debarred) through the System for Award Management (www.SAM.gov). Included is the Port's Standard Agreement for Professional Services are the potential terms and conditions for federally funded professional services agreements.

Anticipated Scope of Work

The scope of work will include design and development of a Marine Trades Building. The successful consultant and the Port will further refine the scope of work and schedule during the contract negotiation process.

1. Marine Trades Building (30,000 sf) – Design and Construction

- a. Stakeholder Interviews** – Develop questionnaire and lead individual meetings with potential building users. The Port will host meetings at its Administration office. Common user inputs will be incorporated into the design.
- b. Conceptual Design** – Consultant will develop architectural renderings and floor plans for review and approval prior to proceeding into detail design.
- c. Design** - Consultant will be responsible for developing plans, specifications, technical manuals, bid drawings and construction cost estimates for the Port’s preferred Marine Trades Building layout. The selected consultant will provide necessary documentation required to meet current City of Port Angeles building code standards and work with the Port and potential building tenants to finalize the preferred building layout.
- d. Permitting** – Consultant will provide permit assistance to obtain all permits and approvals required for this building development. These permits and approvals may include SEPA checklist, City Shoreline Permit, City Building Permit and WA Ecology Construction Stormwater Permit.
- e. Bidding Support** – Consultant will provide pre-bid assistance, be responsible for meeting with prospective bidders and provide bid addendums as may be required. Once bids are accepted for construction, the selected consultant will assist the Port in bid review and selection of successful bidder.
- f. Construction Support** – Consultant will provide construction support for the duration of the project, including review of all submittals and shop drawings, responses to requests for information, and review pay estimates and change order proposals.

Estimated Schedule

1. RFQ Advertisement	August 20 & 27, 2021
2. RFQ Responses Due	September 16, 2021
3. Consultant Selected	September 24, 2021
4. Scope of Work Negotiations	October 13, 2021
5. Submit contract to the Port’s Board of Commissioners for Approval	October 26, 2021
6. Consultant Notice to Proceed	October 27, 2021
7. Final Design & Bid Package Complete	Summer 2022*
8. Bidding and Construction	January 2023 – December 2023*

*Estimated schedule. Design work may be segmented to allow the Port to use completed preliminary building design to apply for federal or state funding.

Proposal Criteria & Qualifications

Responses should address the following criteria, which will be used to evaluate all firms.

1. Qualifications and Experience (50 possible points)

- a. Briefly list and describe your firm's previous experience in providing Architectural & Engineering services for industrial waterfront development and building design. For each project listed, the information should include:
 - i. Name and location of the facility and the date the work was completed.
 - ii. Name and telephone number of the manager or staff person whom your firm worked with on the project.
 - iii. Name of your project manager and pertinent project team members.
 - iv. Brief description of the work performed.
 - v. Total final combined design and construction dollar amount of the work performed and whether the project was completed within the original budget.
- b. Provide the names of your members and those of any proposed sub-consultants who would be involved in this project. Include the following information:
 - i. Individual's proposed role in the project.
 - ii. A resume or brief description of the individual's previous experience as it relates to his/her role in this project.
 - iii. For any proposed sub-consultants, indicate if your firm has worked with the sub-consultant on previous projects. The Port of Port Angeles encourages consultants to use qualified local sub-consultants and labor force when possible.
- c. List any experience providing design and construction management for federally funded projects.

2. Description of Approach (40 points possible)

- a. Provide a proposed work plan and how that plan will be accomplished. Highlight issues you feel will be relevant and strengths your organization possesses to deal with those issues.

3. Demonstrate Capability to Perform Services and Bid for Project (10 Points)

- a. List references that would attest to the expertise of the company and the assigned personnel.
- b. Provide an estimated timeline to complete the project.

Review and Selection

Consultant selection will be according to Chapter 39.80 RCW and 2 CFR 200 and based on the evaluation and scoring of the qualifications unless it is deemed necessary by the Port to conduct interviews of closely scored consultants. The consultant determined best qualified to perform the studies will be recommended to the Port Board of Commissioners for acceptance, subject to successful negotiation of a contract for professional services.

Submitting Proposal

Direct all inquiries on this Request for Qualifications to Chris Hartman, at 360-417-3422 or chrish@portofpa.com.

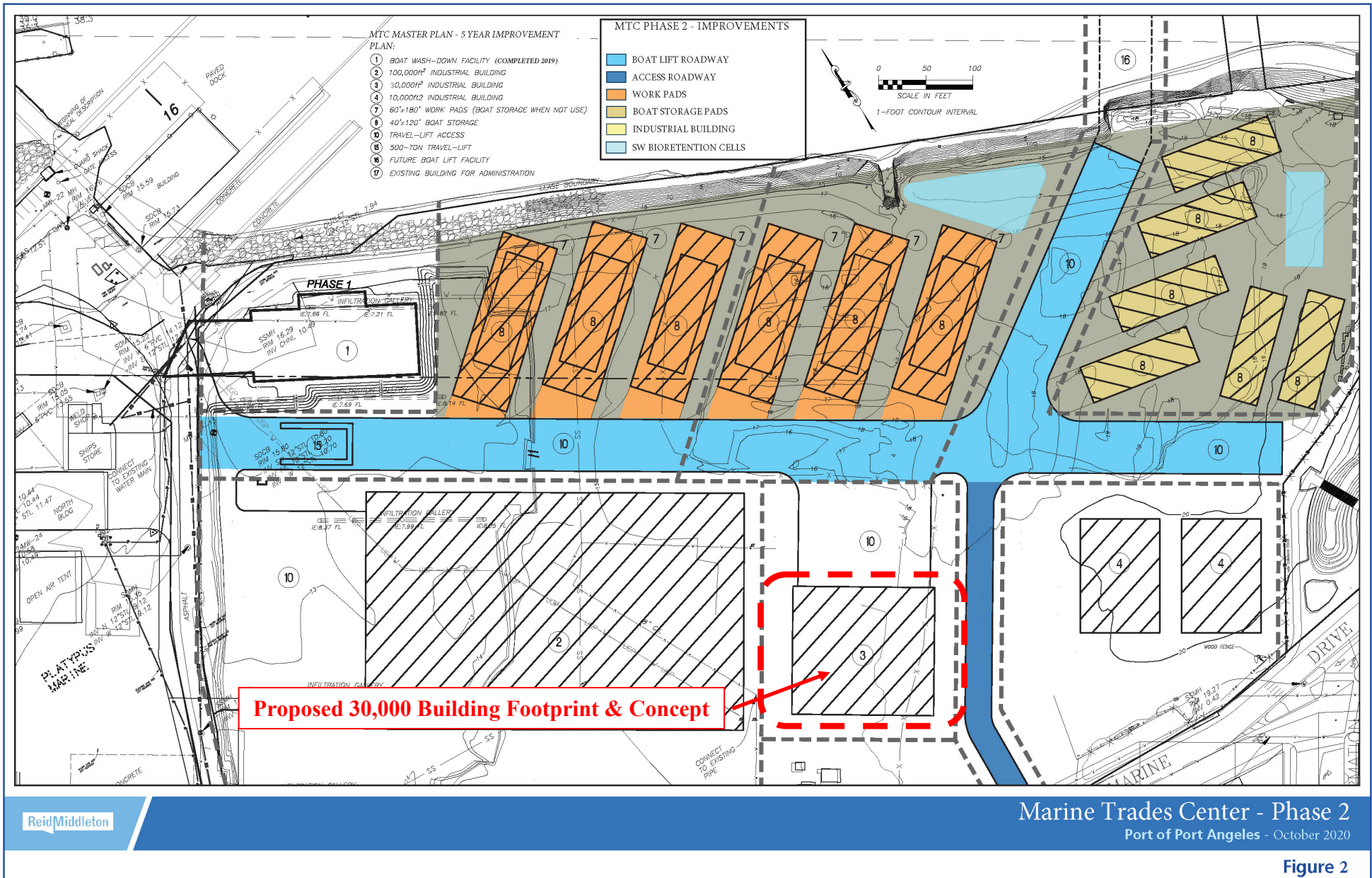
The proposals shall be submitted as a single PDF via email, with the subject: **MTC Building**, to Chris Hartman at chrish@portofpa.com , no later than **5 PM PST, September 16, 2021**. Proposals shall not exceed twenty (20) pages, including attachments.

The Port reserves the right to reject any and all proposals submitted. This RFQ and the firm's response, including all promises, warranties, commitments, and representations made in the successful proposal (as accepted by the Port), shall be binding and incorporated by reference in the Port's contract with the Consultant. The Port will not be liable for any costs incurred by the Consultant in the preparation and presentation of proposals submitted in response to this RFQ. The selected firm will be required to execute the Port's Standard Agreement for Professional Services (attached).

Figure 1 – Site Overview (Looking East)



Figure 2 – MTC Phase II & 30,000 sf Building Concept



PROFESSIONAL SERVICES AGREEMENT

PROJECT:
CONSULTANT:

THIS AGREEMENT is made and entered into by and between the Port of Port Angeles (*hereinafter referred to as the "Port"*) and _____ (*hereinafter referred to as the "Consultant"*) for the furnishing of consultant services for _____.

The Port and Consultant mutually agree as follows:

SCOPE AND SCHEDULE OF WORK

List of Deliverables:

Note: See Attachment A for scope details.

COMPENSATION

This will be accomplished on a time and expense basis and will not exceed _____, without prior written approval from the Port.

LENGTH OF AGREEMENT

The length of this agreement is from _____ through _____.

RATE AND FEE SCHEDULE AND OUT-OF-POCKET EXPENSES

REPRESENTATIVES

The Port's Project Manager and Consultant's Representative for this Agreement are as specified. Alternate representatives may be appointed by either party with written notice to the other party.

Port's Project Manager: _____
Consultant's Representative: _____

TERMS AND CONDITIONS

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

1. Relationship of the Parties

Consultant, its subconsultants and employees, is an independent Contractor. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

2. Conflicts of Interest

Consultant warrants that it has no direct or indirect economic interest which conflicts in any manner with its performance of the services required under this Agreement. Consultant warrants that it has not retained any person to solicit this Agreement and has not agreed to pay such person any compensation or other consideration contingent upon the execution of this Agreement.

3. Compliance with Laws

Consultant agrees to comply with all local, state, tribal and federal laws and regulations applicable to the services, including registration and taxes, permitting regulations and those regarding employee safety, the work place environment, and employment eligibility verifications as required by the Immigration and Naturalization Service. Consultant shall obtain all licenses and permits required to complete the scope of work as defined.

The Port shall furnish Consultant with the information required by the Hazard Communication standard for materials preexisting on the project site. Consultant will ensure that this information is made available to the Consultant's personnel and subconsultants, and incorporated into the contract documents as appropriate.

4. Suspension and Debarment

By signing this agreement, the Consultant verifies that it has not been suspended or debarred from working on federally funded projects

5. Records and other Tangibles

Until the expiration of six years after the term of this Agreement, Consultant agrees to maintain accurate records of all work done in providing services specified by the Agreement and following Consultant's receipt of final payment therefore to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

6. Ownership of Work

The services to be performed by Consultant shall be deemed instruments of service for purposes of the copyright laws of the United States. The Port has ownership rights to the work products prepared by the Consultant in performing these services. Consultant shall not be responsible for changes made in the work products by anyone other than the Consultant. Consultant shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent.

7. Disclosure

All information developed by the Consultant and all information made available to the Consultant by the Port, and all analyses or opinions reached by the Consultant shall be confidential and shall not be disclosed by the Consultant without the written consent of the Port except to the extent required by law or legal process.

8. Deliverables

Unless otherwise specified in the Scope of Work, Consultant shall provide draft deliverables to the Port for review prior to preparation of final deliverables. Delivery of materials produced shall consist both of the tangible materials and one copy of any computer file used in the creation of the tangible product in a PDF format or other format specified by the Port.

9. Compensation

As full compensation for the performance of its obligations of this Agreement and the services to be provided, the Port shall pay Consultant as specified in the Agreement. Compensation for vehicle usage will be paid at the current Internal Revenue Service allowable mileage reimbursement rate based on road mileage distance between Consultant's office and project location. Consultant's expenses will be reimbursed at cost. Hourly rates shall include all of Consultant's routine administration and overhead expenses, including all equipment, software, tools and supplies reasonably required to perform the scope of services. The Port will not separately reimburse Consultant for routine overhead expenses or administration including but not limited to:

- A. Computer hardware or software usage
- B. Digital camera or recording equipment
- C. Communications - including phone, internet, fax, postage and courier
- D. Routine reproduction except for documents produced by outside vendor
- E. Small tools and expendables.
- F. Federal, state or local taxes
- G. Safety training and equipment
- H. Time devoted to Agreement negotiation, invoicing or dispute resolution.

10. Payment Schedule

Consultant shall submit detailed numbered invoices showing description of work items being invoiced, work order number, title of project, total authorized, total current invoice, balance of authorization, individual's names and titles, hours, hourly rate and all authorized expenses itemized, with backup, by the 10th of the month to be paid by the end of the current month, unless other terms are agreed to by the parties.

11. Costs and Disbursements

Consultant shall pay all costs and disbursements required for the performance of its services under this Agreement.

12. Indemnity

For all claims arising from the performance of the Consultant's professional services Consultant and its subconsultants agree to indemnify and hold harmless the Port of Port Angeles, its appointed and elective officers and its employees from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind and nature, including attorney fees and costs, by reason of any and all claims and demands on it, its officers and employees, to the extent arising from the negligent acts, errors or omissions by the Consultant in the performance of the Consultant's professional services.

13. Insurance

Prior to commencement of services under this Agreement and if required below, Consultant shall procure and maintain one or more lines of insurance coverage to be kept in force for the life of this Agreement. If required, insurance shall

be procured from insurance carriers with a current A.M. Best's rating of no less than "A VI". Consultant shall submit to the Port a Certificate of Insurance which shows that it has obtained the required coverage(s). Coverage shall not lapse or be terminated without written notification to the Port, delivered electronically or by mail, not less than thirty (30) days prior to any such lapse or termination. Consultant agrees to notify the Port of any material change of coverage or reduction in limits. Except for professional liability, the Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B.

This Agreement ☒ Does ☐ Does not require commercial general liability insurance. If neither box is checked, commercial general liability insurance is required. If required, the following will apply:
Consultant shall procure and maintain during the life of this Agreement commercial general liability coverage on occurrence form CG0001 or equivalent with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate;

This Agreement ☒ Does ☐ Does not require automobile liability insurance. If neither box is checked, automobile liability insurance will be required.
Consultant shall procure and maintain during the life of this Agreement automobile liability insurance covering owned, non-owned and hired vehicles of \$1,000,000 combined single limit per accident. Sole proprietors may provide coverage on a Personal Auto Policy in lieu of a Commercial Auto coverage form.

This Agreement ☒ Does ☐ Does not require Professional Liability insurance coverage. If neither box is checked, the Agreement does require this coverage.
Consultant shall procure and maintain during the life of this Agreement professional liability insurance of \$1,000,000 per claim and in the aggregate. Insurance shall have a retroactive date before the date of commencement of services and shall remain in effect for the term of this Agreement plus three years.

14. Force Majeure

Neither the Port nor the Consultant shall hold the other party responsible for damages or delay in performance caused by acts of god, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

15. Standard of Care

Consultant shall perform its work to conform to generally accepted professional standards. Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all deliverables prepared under this Agreement. Consultant shall, without additional compensation, correct or revise any errors or omissions in such deliverables. The Port's approval of deliverables shall not relieve Consultant of responsibility for the adequacy or accuracy thereof. The Consultant shall remain liable for damages and costs incurred by the Port to the extent arising from the Consultant's errors, omissions or negligent performance of services furnished under this Agreement.

16. Competitive Specification

This Agreement ☒ Does ☐ Does not require development of plans or specifications. If required, the following paragraph shall apply:

Consultant shall provide for the maximum use of materials, equipment, construction methods and products that are readily available through competitive procurement, or through standard or proven production techniques.

Consultant shall not produce a design or specification which would be restrictive or written in a manner as to contain proprietary requirements other than those based on performance, unless such requirements are necessary to demonstrate a specific outcome or to provide for necessary interchangeability of parts and equipment. Consultant shall justify in writing the use of any sole source. Where brand names are identified, they shall be followed by the salient product performance characteristics and the words "or approved equal" so that comparable quality or utility may be determined.

17. Time

Time is of the essence in the performance by the Consultant of the services required by this Agreement. The Consultant shall complete its services within the milestones set forth in the project schedule. The Consultant shall also address issues which may result in completion beyond the established schedule or budget.

18. Assignability

Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

19. Term of this Agreement

The effective dates of this Agreement are as specified. This Agreement may be terminated by the Port for cause when the Port deems continuation to be detrimental to its interests or for failure of the consultant to perform the services specified in the Agreement. The Port may terminate this Agreement at any time for government convenience in which

case it shall provide notice to the Consultant and reimburse the Consultant for its costs and fees incurred prior to the notice of termination. The provisions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of performance or termination of this Agreement shall so survive. All indemnities provided in this Agreement shall survive the expiration or any earlier termination of this Agreement.

20. Disputes

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Consultant agrees to such joinder, so that all disputes related to the project may be consolidated and resolved in one forum. Venue for any litigation shall be the Clallam County Superior Court of the state of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorney fees.

21. Extent of Agreement

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

22. Order of Precedence

The provisions of this Agreement are complimentary and shall be interpreted to give effect to all of its provisions. Any inconsistency in this Agreement shall be resolved in the following order of precedence:

- A. Professional Services Agreement including Terms and Conditions, as modified by the latest amendment.
- B. Attachment A, Scope of Work, as modified by the latest amendment.
- C. Attachment B, Schedule of Fees, as modified by the latest amendment.
- D. Attachment C, Terms & Conditions Federally Funded Professional Services Agreement
- E. Remaining attachments to the Professional Services Agreement:

AGREED

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

PORT OF PORT ANGELES

By: _____
Karen Goschen

Title: Executive Director

Date: _____

By: _____

Title: _____

Date: _____

ATTACHMENT C-Terms And Conditions

Federally Funded Professional Services Agreement

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2. Key Personnel.....	1
3. Relationship of the Parties	1
4. Conflicts of Interest	1
5. Compliance with Laws	1
6. Records and other Tangibles.....	1
7. Ownership of Work	1
8. Disclosure	2
9. Deliverables	2
10. Compensation	2
11. Payment Schedule.....	2
12. Costs and Disbursements	2
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14. Standard of Care	3
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23. Open and Fair Participation	4
24. Open and Fair Opportunities.....	4
25. Conflicts of Interest	5
26. Program Fraud and False or Fraudulent Statements or Related Acts	6
27. Lobbying Certification And Disclosure	6
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ATTACHMENT A - Lobbying Certificate

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

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

1. Representatives

The Port's Project Manager and Consultant's
Representative for this Agreement are as specified.
Alternate representatives may be appointed by either
party with written notice to the other party.

2. Key Personnel

The Consultant and/or its subconsultants' key
personnel, as described in its Consultant selection
submittals, shall remain assigned for the duration of
the Project unless otherwise agreed to by the Port.

3. Relationship of the Parties

Consultant, its subconsultants and employees, is an
independent Contractor. Nothing contained herein
shall be deemed to create a relationship of employer
and employee or of principal and agent.

4. Conflicts of Interest

Consultant warrants that it has no direct or indirect
economic interest which conflicts in any manner with
its performance of the services required under this
Agreement. Consultant warrants that it has not
retained any person to solicit this Agreement and has
not agreed to pay such person any compensation or
other consideration contingent upon the execution of
this Agreement.

5. Compliance with Laws

Consultant agrees to comply with all local, state,
tribal and federal laws and regulations applicable to
the project, including building codes and permitting
regulations existing at the time this Agreement was
executed and those regarding employee safety, the
work place environment, and employment eligibility
verifications as required by the Immigration and
Naturalization Service. Consultant shall obtain all
professional licenses and permits required to
complete the scope of work as defined.

The Port shall furnish Consultant with the information
required by the Hazard Communication standard for
materials preexisting on the project site. Consultant
will ensure that this information is made available to
the Consultant's personnel and subconsultants, and
incorporated into the contract documents as
appropriate.

6. Records and other Tangibles

Until the expiration of six years after the term of this
Agreement, Consultant agrees to maintain accurate
records of all work done in providing services
specified by the Agreement and to deliver such
records to the Port upon termination of the
Agreement or otherwise as requested by the Port.

7. Ownership of Work

The services to be performed by Consultant shall be
deemed instruments of service for purposes of the
copyright laws of the United States. The Port has
ownership rights to the plans, specifications, and

other products prepared by the Consultant. Consultant shall not be responsible for changes made in the plans, specifications or other products by anyone other than the Consultant. Consultant shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent.

8. Disclosure

All information developed by the Consultant and all information made available to the Consultant by the Port, and all analyses or opinions reached by the Consultant shall be confidential and shall not be disclosed by the Consultant without the written consent of the Port.

9. Deliverables

All tangible materials produced as a result of this Agreement shall be prepared as specified by the Port's Project Manager. Delivery of materials produced shall consist both of the tangible materials and one copy of any computer file used in the creation of the tangible product on floppy disk or CD-Rom in a PDF format or other format specified by the Port. Deliverable drawings shall be prepared in accordance with the Port's "Consultant Drawing Submittal Procedure" and "Technical Specification Development Procedure". The Port may offset from the Consultant's fee expenses incurred by the Port in correcting drawings or specifications not prepared in accordance with the Port's procedure.

10. Compensation

As full compensation for the performance of its obligations of this Agreement and the services to be provided, the Port shall pay Consultant as specified in the Agreement. Compensation for vehicle usage will be paid at the current Internal Revenue Service allowable mileage reimbursement rate. Consultant's expenses will be reimbursed at cost, with the exception of all third party costs which will be reimbursed at cost plus the negotiated percentage markup.

11. Payment Schedule

Consultant shall submit detailed numbered invoices showing description of work items being invoiced, work order number, title of project, total authorized, total current invoice, balance of authorization, individual's names and titles, hours, hourly rate and all authorized expenses itemized, with backup, in

accordance with the Port's "Guidelines for Consultant Fees and Reimbursable Items", by the 10th of the month to be paid by the end of the current month, unless other terms are agreed to by the parties.

12. Costs and Disbursements

Consultant shall pay all costs and disbursements required for the performance of its services under this Agreement.

13. Insurance - Assumption of Risk

As a further consideration in determining compensation amounts, the Consultant shall procure and maintain, during the life of this Agreement, such commercial general liability insurance as shall protect Consultant and any subconsultant performing work under this Agreement from claims for damages from bodily injury, including death, resulting therefrom as well as from claims for property damage which may arise under this Agreement, whether arising from operations conducted by the Consultant, any subconsultant, or anyone directly or indirectly employed by either of them.

With respect to claims other than professional liability claims, Consultant and its subconsultants agree to defend, indemnify and hold harmless the Port, its appointed and elective officers and its employees from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind and nature, including attorney fees and costs by reason of any and all claims and demands on it, its officers and employees, arising from the negligent acts, errors or omissions by the Consultant in the performance of the Consultant's professional services.

With respect to professional liability claims only, and not commercial general liability claims, Consultant and its subconsultants agree to indemnify and hold harmless the Port, its appointed and elective officers and its employees from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind and nature, including attorney fees and costs by reason of any and all claims and demands on it, its officers and employees, arising from the negligent acts, errors or omissions by the Consultant in the performance of the Consultant's professional services.

Consultant shall submit to the Port, prior to the commencement of services, certificates of insurance evidencing:

Commercial General Liability coverage on occurrence form CG0001 or equivalent with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate; Automobile Liability covering owned, non-owned and hired vehicles of \$1,000,000 combined single limit per accident; and Professional Liability not less than \$1,000,000 per claim and in the aggregate. Coverage shall remain in effect for the term of this Agreement plus three years. All policies shall be issued by a company having an A. M. Best rating of A:VI or better. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or limits except after 45 days prior written notice has been given to the Port. Except for professional liability, the Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B.

14. Standard of Care

Consultant shall perform its work to conform to generally accepted professional standards. Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all plans, designs, drawings and specifications prepared under this Agreement. Consultant shall, without additional compensation, correct or revise any errors or omissions in such work.

The Port's approval of plans, drawings and specifications shall not relieve Consultant of responsibility for the adequacy or accuracy thereof. The Consultant shall remain liable for damages and costs incurred by the Port arising from the Consultant's errors, omissions or negligent performance of services furnished under this Agreement.

15. Time

Time is of the essence in the performance by the Consultant of the services required by this Agreement. The Consultant shall complete its services within the milestones set forth in the project schedule. At the end of each month the Consultant shall submit a copy of the current schedule and a written narrative description of the work accomplished, identifying scheduled milestones and the status thereof. The Consultant shall also address issues which may result in completion beyond the established schedule or budget.

16. Assignability

Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

17. Term of this Agreement

The effective dates of this Agreement are as specified. This Agreement may be terminated by the Port for cause when the Port deems continuation to be detrimental to its interests or for failure of the consultant to perform the services specified in the Agreement. The Port may terminate this Agreement at any time for government convenience in which case it shall provide notice to the Consultant and reimburse the Consultant for its costs and fees incurred prior to the notice of termination.

18. Disputes

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Consultant agrees to such joinder, so that all disputes related to the project may be consolidated and resolved in one forum. Venue for any litigation shall be the Pierce County Superior Court of the state of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorneys fees.

19. Extent of Agreement

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

20. Federal Requirements

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

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

21. Written Approval of Federal Government

The Consultant acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Consultant or any other party pertaining to any matter resulting from this Agreement. The Consultant agrees to include the above clause in each subcontract.

22. Sole Source Methods

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

23. Open and Fair Participation

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

24. Open and Fair Opportunities

During the term of this Agreement, the Consultant shall not create barriers to open and fair opportunities to participate in Port contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. During the performance of this Agreement, neither the Consultant nor any party subcontracting under the authority of this Agreement shall discriminate nor

tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

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

Nondiscrimination in Federal Programs.

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

Nondiscrimination -- Title VI of the Civil Rights Act.

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

Equal Employment Opportunity.

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

Equal Employment Opportunities for Construction Activities.

With respect to construction activities, the selected Consultant agrees to comply with all applicable EEO 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. § 2000(e), and any Federal statutes, executive orders, regulations, and Federal policies pertaining to construction undertaken as part of the Project.

Nondiscrimination on the Basis of Sex.

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

Nondiscrimination on the Basis of Age.

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

Nondiscrimination on the Basis of Disability.

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

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

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

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

25. Conflicts of Interest Contingent Fees

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

Gratuities

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

Conflict of Interest

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

Breach of Covenants

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

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

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

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

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

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

27. Lobbying Certification And Disclosure

The Consultant shall execute and return to the Port the certification required by 49 CFR part 20, "New Restrictions on Lobbying," found in Attachment A

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

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

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

This certification is a material representation of fact. If at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, it shall immediately provide written notice to the Port. If it is later determined that the Consultant knowingly rendered an erroneous certification, the Port may terminate the Agreement for cause of default, in addition to other remedies available including federal suspension and/or debarment.

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

The Consultant shall not knowingly enter into any subcontract exceeding \$100,000 with an entity or person who is debarred, suspended or has been declared ineligible by the federal government from obtaining federal assistance funds. The Consultant's knowledge and information regarding any sub-consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business.

The Consultant shall include in each subcontract, regardless of tier, a clause requiring each lower tiered sub-consultant to provide the certification set forth in Attachment B. Each subcontract, regardless of tier, shall contain a provision that the sub-consultant shall not knowingly enter into any lower tier subcontract with a person or entity who is debarred, suspended or declared ineligible from obtaining federal assistant funds. The Consultant shall require each sub-consultant, regardless of tier, to immediately provide written notice to the Consultant if at any time the sub-consultant learns that its, or a lower tier, certification was erroneous when submitted or has become erroneous by reason of changed circumstances, which the Consultant shall immediately forward on to the Port. The Consultant may rely upon the certifications of the sub-consultant unless it knows that the certification is erroneous.

30. Audit.

The Comptroller General and the Inspector General of the Department of Transportation shall have direct access to sufficient records and information of the Recipient, as they determine to ensure accountability for Federal Funds. Audits will be conducted in accordance with OMB Circular A-133.

31. Small Business And Small Disadvantaged Business Opportunities.

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

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

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

32. Metric Conversion

All progress and final reports, other reports, or publications produced under this award shall employ the metric system of measurements to the maximum extent practicable. Both metric and inch-pound units (dual units) may be used if necessary during any transition period(s). However, the Port may use non-metric measurements to the extent the Port has supporting documentation that the use of metric measurements is impracticable or is likely to cause significant inefficiencies or loss of markets to the Port, such as when foreign competitors are producing competing products in non-metric units.

ATTACHMENT C-Terms And Conditions

Federally Funded Professional Services Agreement

ATTACHMENT A - LOBBYING CERTIFICATE

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions, [as amended by “Government wide Guidance for New Restrictions on Lobbying,” 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

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

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

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

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

(Type or Print Company Name)

By: _____

(Signature) (Title)

Print Name: _____

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

END OF FORM

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

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

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

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

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

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

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

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

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

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

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

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

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

Name

Date