



April 4, 2022

TO: **PARCEL 91 INVESTIGATION (FS, DCAP & IA)**

SUBJECT: RFP NO. 071530

ADDENDUM NUMBER # 02

This addendum is issued to add, remove, clarify, and amend the following:

ATTACHMENT B – SAMPLE PROFESSIONAL SERVICES AGREEMENT PORT OF TACOMA TERMS AND CONDITIONS.

19. Indemnity / Hold Harmless Clause

- a. The Consultant shall indemnify, defend and hold harmless the Port of Tacoma and the Northwest Seaport Alliance and its officers, managing members, employees and agents from and against any liability, claims, damages, losses, expenses or actions, including reasonable attorney's fees, and costs, caused by or arising out of the negligence, recklessness, or intentional wrongdoing of Consultant or its officers, employees, subcontractors, or agents under this Agreement; or arising from out of a failure to comply with any applicable state, federal, local, law, statute, rule, regulation or act by the Consultant's, or its' officers, employees, subcontractors, or agent's failure to comply with any applicable state, federal, local, law, statute, rule, regulation or act provided, however, that for any defense obligation related to a claim for which Contractor has insurance coverage under a professional liability policy, such obligation shall be limited to reimbursement by the Consultant for expenses incurred by the Port of Tacoma or the Northwest Seaport Alliance.
- b. This duty to indemnify, defend and hold harmless shall not apply to claims which arise solely out of ~~the sole~~ negligence on the part of the Port of Tacoma and the Northwest Seaport Alliance, and this duty shall survive the termination or expiration of this Agreement.
- c. Consultant specifically assumes potential liability for actions brought by Consultant's own employees against the Port and the Northwest Seaport Alliance and, solely for the purpose of this indemnification and defense, Consultant specifically waives any immunity under the state industrial insurance law, Title 51 RCW. Consultant's indemnity obligations shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under the Worker Compensation Acts, Disability Benefit Acts, or other employee benefit acts. Consultant recognizes that this waiver was the subject of mutual negotiation.
- d. Consultant shall indemnify and hold the Port of Tacoma and Northwest Seaport Alliance harmless from and against any liability, expense, fines, penalties, cost, demand, or other obligation, resulting from or out of any cyber-related risk that include theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of IT systems control.
- e. The provisions of this Section 19 shall survive the expiration or termination of this Agreement.