

July 9, 2025

TO: PLAN HOLDERS LIST

SUBJECT: CONTRACT NO. PA000000330
WORKFORCE CLASSIFICATION & COMPENSATION SERVICES 2025

ADDENDUM NUMBER 03

This addendum is issued to amend the following:

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS:

See attached revised Terms & Conditions.

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS

Port of Tacoma Terms And Conditions Personal Services Agreement

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

1. Key Personnel

The Consultant's 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.

2. Relationship of the Parties

Consultant and its subconsultants and their employees, are independent contractors. Nothing contained herein shall be deemed to create a relationship of employer and employee nor of principal and agent.

3. Conflicts of Interest

Consultant warrants that it has no direct nor 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 nor other consideration contingent upon the execution of this Agreement.

4. 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 is 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 Services.

5. Records and other Tangibles

The PORT is a public entity and must maintain access to, and be able to provide, records per RCW 40.14, RCW 42.56 and the Secretary of State's Local Government Common Records Retention Schedule (CORE) Version 4.2 (August 2021). Therefore, until the expiration of six (6) years after the term of this Agreement, Consultant agrees to maintain accurate records of all activities done in providing the Services and to deliver such records to the PORT upon termination of the Agreement or otherwise as requested by the PORT.

6. Ownership of IP

~~The plans, specifications, models, programs, reports, and other products prepared by the Consultant in performing the Services are Instruments of Service for purposes of the copyright laws of the United States. The PORT has ownership rights to the Instruments of Service. Consultant shall not be responsible for changes made in the Instruments of Service 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 the Instruments of Service for promotional purposes shall require the PORT's prior consent. Notwithstanding anything to the contrary in this Agreement, Consultant and its personnel are free to use and employ their general skills, know how, and expertise, and use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of this Agreement so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information from the PORT.~~

Requested Revision (Port accepts)-The PORT has ownership rights to the Instruments of Service. Consultant shall not be responsible for changes made in the Instruments of Service 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 the Instruments of Service for promotional purposes shall require the PORT's prior consent. Notwithstanding anything to the contrary in this Agreement, Consultant and its personnel are free to use and employ their general

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skills, know how, and expertise, and use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of this Agreement so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information from the PORT. Notwithstanding the foregoing, Consultant will maintain all ownership right, title and interest to all of Consultant's Knowledge. For purposes of this Agreement "Consultant's Knowledge" means Consultant's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Consultant prior to the Effective Date of this Contract ("Consultant's Preexisting Knowledge") (2) developed or obtained by Consultant after the Effective Date, including during the course of providing services under this Contract, but: (i) which are developed or obtained without using PORT's Confidential Information, or (ii) which PORT has not paid for such development; and (3) extensions, enhancements, or modifications of Consultant's Preexisting Knowledge which do not include or incorporate PORT's Confidential Information. To the extent that any Consultant Knowledge is incorporated into the deliverables, Consultant grants to PORT a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Consultant Knowledge in connection with the deliverables, and for no other purpose without the prior written consent of Consultant.

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, unless required by law.

8. Compensation

As full compensation for the performance of its obligations of this Agreement and the Services, the PORT shall pay Consultant as specified in the Agreement.

9. Payment Schedule

Consultant shall submit detailed numbered invoices monthly showing descriptions of the Services being invoiced, work order number, title of the Project, total authorized, total current invoice, balance of authorization, individual's names and titles, hours, hourly rate by the 10th of the following month to be paid by the end of the 30th, unless other terms are agreed to by the parties.

10. Costs and Disbursements

Consultant shall pay all costs and disbursements required for the performance of its the Services.

11. Insurance - Assumption of Risk

- a) As a further consideration in determining compensation amounts, Consultant shall procure and maintain, during the term of this Agreement, such commercial general, IT Professional or Cyber Liability, and automobile liability insurance as shall protect Consultant and any subconsultants performing the Services from claims for damages from bodily injury, including death, resulting there from as well as from claims for property damage and cyber-related risks such as theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of IT systems control which may arise under this Agreement, whether arising from operations conducted by the Consultant, any subconsultants, or anyone directly or indirectly employed by either of them.
- b) ~~The Consultant and its subconsultants shall indemnify, defend (the defense obligation shall not apply to professional liability claims), and hold harmless the Port of Tacoma and the Northwest Seaport Alliance and their respective appointed and elective officers and employees ("Indemnified Parties") 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 the Indemnified Parties arising from the negligent acts, errors, or omissions by the Consultant in the performance of the Services.~~

~~Requested Revision-The Consultant and its subconsultants shall indemnify, defend (the defense obligation shall not apply to professional liability claims), and hold harmless the Port of Tacoma~~

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~~and the Northwest Seaport Alliance and their respective appointed and elective officers and employees (“Indemnified Parties”) from and against any and all third party 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 the Indemnified Parties to the extent such third party claim is finally determined to be arising from the grossly negligent acts, willful misconduct or fraudulent behavior by the Consultant in the performance of the Services. Notwithstanding the foregoing, PORT hereby releases Consultant, its subsidiaries and their present or former partners, principals, employees, officers and agents from, and acknowledges that such parties shall not be required to indemnify PORT or any Indemnified Party against, any costs, fees, expenses, damages and liabilities (including attorneys’ fees and all defense costs) relating to or arising as a result of the acts or omissions of PORT or any Indemnified Party. Furthermore, because of the importance of the information that PORT provides to Consultant with respect to Consultant’s ability to perform the services, PORT hereby releases Consultant and its present and former partners, principals, agents and employees from any liability, damages, fees, expenses and costs, including attorney’s fees, relating to the services that arise from or relate to any information, including representations by management, provided by PORT, its personnel or agents, that is not complete, accurate or current.~~

~~The liability (including attorney’s fees and all other costs) of Consultant and its present or former partners, principals, agents or employees related to any claim for damages relating to the services performed under this Contract shall not exceed the fees paid to Consultant for the portion of the work to which the claim relates, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of Consultant relating to such services. This limitation of liability is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted, including the negligence of either party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays, interruptions, or viruses arising out of or related to this Contract even if the other party has been advised of the possibility of such damages.~~

~~Port Revision-The Consultant and its subconsultants shall indemnify, defend, and hold harmless the Port of Tacoma and the Northwest Seaport Alliance and their respective appointed and elected officers and employees (“Indemnified Parties”) from and against any and all suits, claims, actions, losses, costs, penalties and damages, including attorney fees and costs by reason of any and all claims and demands on the Indemnified Parties to the extent such third party claim is finally determined to be arising from the negligent acts, willful misconduct or fraudulent behavior of the Consultant in the performance of the Services. The indemnity in this paragraph shall have a cap on liability equal to \$1 million (\$1,000,000).~~

~~c) Not used~~

~~c) Requested Revision-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.~~

~~Port Revision- 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 including but not limited to theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of IT systems control. The indemnity in this paragraph shall have a cap on liability equal to \$1 million (\$1,000,000).~~

12. Standard of Care

Consultant shall perform the Services to conform to any applicable generally accepted professional standards. Consultant shall, without additional compensation, correct or revise any errors or omissions in such the Services.

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13. Time

Time is of the essence in the performance of the Services.

14. 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, except Consultant may assign its rights or delegate performance to one of its affiliates that is wholly-owned by the same parent company and operating under the same trade name, provided that there is no change in primary personnel performing services or to the ownership of the parent company.

15. 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, provided that the Consultant shall have 30 days in which to cure such violation prior to termination becoming effective, unless PORT reasonably and in good faith determines that the violation is not curable. The PORT may terminate this Agreement at any time for government convenience in which case it shall provide no less than the 30 days' written notice to the Consultant and reimburse the Consultant for its costs and fees incurred prior to the notice of termination.

16. 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.

17. 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.