

PORT OF TACOMA
REQUEST FOR PROPOSALS
No. 071734
HR SYSTEMS PLANNING, DESIGN, AND
IMPLEMENTATION PROJECT

Issued by
Port of Tacoma
One Sitcum Plaza
P.O. Box 1837
Tacoma, WA 98401-1837

RFP INFORMATION	
Contact:	Michelle Walker, Contracts & Procurement Analyst
Email Addresses:	procurement@portoftacoma.com
Phone:	(253) 888-4744
Deadline for Questions	SEPTEMBER 9, 2022 @ 2:00 PM (PST)
Submittal Date	SEPTEMBER 23, 2022 @ 2:00 PM (PST)

YOU MUST SUBMIT ALL QUESTIONS AND PROPOSALS
VIA THE PROCUREMENT PORTAL.
(LINK LOCATED ON THE LEFT SIDE OF THE PROCUREMENT PAGE)

A. BACKGROUND

Created by Pierce County citizens in 1918, the Port of Tacoma is a major center for container cargo, bulk, break-bulk, autos and heavy-lift cargo. To learn more about the Port of Tacoma, visit www.portoftacoma.com.

The Port of Tacoma (**Port**) is soliciting proposals from firms interested in:

- Planning, designing, and implementing the replacement of the Port's current HRIS and related HR capabilities with a solution of either NeoGov or Microsoft Dynamics 365 platforms.
- Engaging in Post-production support of the implemented solution.

Description of Current Systems and Future Capability Needs:

Currently, the Port of Tacoma has multiple systems to support Human Resources (**HR**) services and some HR processes are not currently well supported by existing technology, including approval workflows and document/records management. The Port's current HRIS, PDS HR Vista, was implemented in 2009, but its utilization has been limited to core HR record keeping functions. The Port's Recruiting and Performance Management functions are supported by the NEOGOV platform. Payroll and Time & Attendance are administered and supported by the ADP platform. The Port of Tacoma plans to implement a next generation HRIS solution that is modular, extensible, and fully integrated. By simplifying and reducing the number of HR systems utilized, the new HR solution will improve overall systems functionality and utility, while also simplifying the support, maintenance, and licensing needed.

Proposed solutions must be a SaaS solution. Solutions should include:

- HRMS
- Benefits
- Employee & Labor Relations
- Integrations with Finance, Payroll and Benefit Provider systems
- Employee Performance Management
- Employee Records Management
- Recruiting
- New Employee Onboarding
- Reporting
- Training Management
- Union Grievance Management
- Time & Attendance (if a viable solution is available and recommended)

Additional relevant parameters that will influence your firm's proposal:

- **Platforms to be Considered:** To be consistent with the Port's IT strategy to simplify our IT ecosystem and informed by recent HR Systems Assessment RFI responses, the Port will accept only proposals based on NeoGov or Microsoft Dynamics 365 (**D365**) platforms; others will be deemed non-responsive. We will only consider solutions specified in the RFP.

- **Proposal & Bid Structure:** The Port requires that proposals and bids be grouped into the following phases:
 - Planning & Design
 - Implementation
- **3rd-Party or Proprietary Components:** The Port anticipates that solutions can be designed using components native to the respective platform. Other than NeoGov and D365, the Port requests that proposed solutions do not include 3rd-party or proprietary tools such as integration connectors except when the needed functionality does not exist within the proposed platform. Elaboration explaining the need for such components is expected.
- **Solution Scope and Capabilities:** The Port requests proposals address all capabilities listed above including recommendations on phased migrations to proposed platforms and capabilities if components of the proposed solutions won't be available for the first phase of deployment (e.g., Time & Attendance; etc.). Additionally, provide general comments, guidance, and feedback on our planned approach to scope and sequencing related initiatives (see below).
- **Related Port Initiatives to Consider:** In the coming weeks, The Port plans to advertise an RFP for migrating our current Finance and Procurement systems to D365 F&SC. Our current plan is to schedule this after migrating to a new HR platform. With Microsoft's direction to fold D365 HR into the D365 F&SC, The Port requests that submissions proposing a D365 solution include recommendations and guidance for the sequencing of these major efforts.
- **Expected Level of Vendor Engagement:** The Port expects the selected vendor to lead and play a hands-on consulting partner role in the Planning, Design, and Implementation phases of these projects, performing key tasks including, but not limited to, requirements validation, design, system configuration, project management and initial testing.
- **Anticipated Planning & Design Timeline:** The Port expects to begin the Planning and Design project with the selected vendor by Q4 2022.
- **Location of Operations:** Firms outside the United States may propose if they can meet the requirements of the RFP.
- **Location of Data Centers:** All data centers utilized must be located within the continental United States. Companies outside the USA can propose if they can meet the requirements of the RFP (i.e.-add data has to stay in the USA).
- **Engagement Logistics:** Meetings and training can be done remotely via phone/web. Assuming the submitter can meet the requirements of the work, home office location is negotiable.
- **Data contained in current POT HR system** is Current and Prior employee records - There are about 4,000 person records, 1000 employee records about 300 are active employees. Our Visa HRMS database is about 5GB, about 3GB is historical data; Legacy data HRIS data must be available for reporting after the deployment of the new solution.

The Port's Standard Terms and Conditions are included in Attachment B to this RFP. By submitting a Proposal, the Proposer represents that it has carefully read and agrees to be bound by the Port's Standard Terms and Conditions. Identify

during the question submittal and response period, any sections you consider onerous, clarify why you consider these sections onerous, propose alternative language and describe why it is in the Port's best interests to adopt the alternative language.

Proposals submitted with altered or conditioned Terms and Conditions without prior written agreement from the Port will be considered non-responsive and not considered for evaluation.

B. SCOPE OF SERVICES

- **One-Time HR Systems Planning & Design project (Fixed Bid)**

The first project to be undertaken using the project-based contract is to plan and design the implementation of a new SaaS HR system and related integrations in Attachment C. This project scope includes:

- Consulting services for planning the project tasks, deliverables, and timeline for implementing a new HR system and integrations.
- Consulting services to plan and design processes, workflows, configuration, data migration, testing, technical documentation, and go-live support with minimal disruption to our users.
- The Port anticipates that this project can be performed 100% remotely and no travel will be required.

At the conclusion of the Planning & Design project, the selected provider will be evaluated prior to proceeding to the Implementation project.

- **One-Time HR Systems Implementation project (Time & Materials not to exceed)**

The Port expects to execute a contract with the Planning & Design project provider to execute the project-based contract to implement the selected SaaS HR system and related integrations as planned and designed in the Planning & Design project. This project scope includes:

- Consulting services for executing the project tasks, deliverables, and timeline for implementing a new HR system and integrations.
- Services to perform configuration, data migration, testing, technical documentation, and go-live support with minimal disruption to our users.
- The Port anticipates that this project can be performed 100% remotely and no travel will be required.

- **Ongoing managed support services of the implemented HR systems solution:**

- Routine administration, maintenance, patching, minor version upgrade, and support services for our HR system for a fixed monthly fee.
- Routine support services will be provided remotely, and no travel is required.

D. DELIVERABLES

All tasks, services, scope, and deliverables will be agreed upon between the Port and the vendor before the commencement of work.

- One-Time HR Systems Planning & Design project (Fixed Bid)
 - Scope, plan (project tasks, deliverables, milestones, and timeline for implementing a new HR system and integrations) describe methodology.
 - Plan and design processes, workflows, configuration, data migration, testing, technical documentation, and go-live support with minimal disruption to our users.

At the conclusion of the Planning & Design project, the selected provider will be evaluated prior to proceeding to the Implementation project.

- One-Time HR Systems Implementation project (Time & Materials not to exceed)
 - Execute the project tasks, deliverables, and timeline for implementing a new HR system and integrations.
 - Configuration, data migration, testing, technical documentation, and go-live support with minimal disruption to our users.
- Ongoing managed support services of the implemented HR systems solution:
 - Routine administration, maintenance, patching, minor version upgrade, and support services for our HR system for a fixed monthly fee.
 - Routine support services will be provided remotely, and no travel is required.

E. RFP ELEMENTS & EVALUATION CRITERIA

Proposals should present information in a straightforward and concise manner, while ensuring complete and detailed descriptions of the proposing team (to include the prime, key team members and major sub-consultants, if any) and the team's ability to meet the requirements and provide the requested services of this RFP. The written proposals should be prepared in the same sequential order of proposal criteria as outlined below.

Proposals are limited to 30 numbered pages (8 ½ by 11 inch) excluding the cover letter, compensation information and appendices required by the Port. All pages shall be in portrait orientation with 1-inch (1") margins. Font size shall be 11 point or larger.

The cover letter shall include the RFP Title and Number, Name, Title, Email Address, Phone Number, and current Address of the submitting firm's main contact and include the following information:

- **Describe any claim submitted by any client against the prime firm within the past two (2) years related to the professional services provided by the firm or its key personnel. For purposes of this request, "claim" means a sum of money in dispute in excess of 10% of the firm's fee for the services provided.**
- **Any real or perceived conflicts of interests for team members, inclusive of the prime, sub-consultants and key team members.**

Proposals are to address, and will be evaluated upon, the following criteria. Please respond in the same sequential order as specified below:

INITIAL EVALUATION PHASE

1. Solution Functional Capabilities – Satisfaction of Requirements 35 PTS

- a) Identify the platform, modules, or functionality that you would recommend be in scope for initial deployment and which might be candidates for future phase consideration. Describe compatibility with Port legacy applications, integration methods and reporting & analytics methods. Provide your recommendations regarding sequencing this engagement before our upcoming migration from Dynamics GP to Dynamics 365 F&SC.
- b) Complete the Fit/Gap Matrix referenced in Attachment F and include it as a appendix with your proposal submission.

2. Project-Based Professional Services 35 PTS

- a) Identify the proposed team (to include working titles, degrees, certifications, and licenses), demonstrate the team's experience in performing the requested services and describe how the team meets or exceeds the required qualifications.
- b) Describe your firm's solution qualifications, including the relevant partner level of the firm and relevant certifications and experience performing project-based planning, business workflow & requirements documentation, solution design, configuration, and consulting work.
- c) Describe your firm's typical project approach and describe the typical deliverables and documentation you produce as part of a SaaS HR systems project (requirements, design documents, knowledge transfer documents, project plans, test plans, etc.).
- d) Provide a sample of your current Service Level Agreement as a appendix with your proposal submission.
- e) Specifically, for a project to plan, design and implement the Port's new HR system, using information available to you in this RFP:
 - Describe how your firm would approach this project.
 - Identify anticipated deliverables and give a timeline / project plan with key milestones and tasks for your team and the Port's team.
 - Identify the project roles from your team that would be involved in the project as well as the resources from the Port that you anticipate would need to be involved.

NOTE: If selected as a finalist, you will have an opportunity to ask questions during the interview meetings before submitting a best-and-final plan, deliverables, and project cost during the **Final Evaluation** phase.

3. Service Compensation 20 PTS

Do not include cost information when responding to items 1 or 2 above. All cost information should only be included in this section's response.

- a) Using information available to you in this RFP, provide a fixed-bid cost for the project to ***plan and design*** the implementation of your proposed solution as described in the first item in the Scope of Services section.

NOTE: If selected as a finalist, you will have an opportunity to ask questions during the interview meetings before submitting a best-and-final plan, deliverables, and project cost during the **Final Evaluation** phase.

- b) Using information available to you in this RFP, estimate the cost for the project to **implement** your proposed solution as described in the second item in the Scope of Services section.
- c) Present detailed information on the firm's proposed hourly rates for performing time-and-materials project-based support services using the table in Attachment D – Cost Breakdown Offer with your proposal submittal as an appendix.

COST BREAKDOWN-OFFER (Attachment D) information MUST be provided in an individual PDF document as a separately labeled file.

4. Software Subscription Cost Estimate 10 PTS

Do not include cost information when responding to items 1 or 2 above. All cost information should only be included in this section's response.

Using information available to you in this RFP, estimate the cost to procure needed software subscriptions and storage. The Port may elect to procure software subscriptions independently of service contracts awarded. Refer to the National Association of State Procurement Officials (NASPO) agreement (www.naspo.org).

FINAL EVALUATION PHASE

1. Presentations & Interviews (as requested by the Port) 35 PTS

Interviews will be conducted with the top-ranked proposers. Failure to participate in the interview process will result in the Proposer's disqualification from further consideration. Interviews will be conducted by online video meeting.

2. Scripted Demonstrations (as requested by the Port) 35 PTS

Interviews will be conducted with the top-ranked proposers. Failure to participate in the interview process will result in the Proposer's disqualification from further consideration. Interviews will be conducted by online video meeting.

**3. Best and Final Project Proposal for
New HR Systems Solution Planning & Design Project..... 30 PTS**

After interview discussions are conducted in #1 above, proposers should submit best-and-final proposal for two projects: 1) to plan & design configuration and 2) to implement the proposed HR Systems and related capabilities, including the following as **four separate documents**:

- Solution Proposal with platform, integrations, data migration, etc.
- Project Plan with deliverables, milestones, dependencies, risks, etc.
- Fixed-price quote for project Planning & Design phase.
- Time & materials quote for Implementation phase.

References.....

Reference checks may be performed on the selected firm, if based directly on the proposals received, or on shortlisted firms if interviews are being requested. The Port may evaluate the reference checks to assess the proposed team's overall performance and success of previous, similar work. Reference checks may also be utilized to validate information contained in the proposal.

Vendor Cybersecurity Self-EvaluationPass/Fail

Complete the Vendor Cybersecurity Self-Assessment spreadsheet referenced in Attachment E and return it with your proposal submittal as an appendix. The Port may request further information during the Presentations and Interviews to clarify responses.

Attachments:

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS

ATTACHMENT C – CURRENT HR SYSTEMS & RELATED SYSTEMS INFORMATION

ATTACHMENT D – COST BREAKDOWN-OFFER

ATTACHMENT E – VENDOR CYBERSECURITY SELF-ASSESSMENT

ATTACHMENT F – REQUIREMENTS FIT/GAP ANALYSIS MATRIX

ATTACHMENT G – AS-IS AND TO-BE DIAGRAMS

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING

SOLICITATION TIMELINE:

Issuance of RFP	August 29, 2022
Last Day to Submit Questions	September 9, 2022 @ 2:00 PM (PST)
Proposal packets due	September 23, 2022 @ 2:00 PM (PST)
Review/Shortlist*	October 12, 2022
Demos & Presentations (if required)*	October 24-27, 2022
Best & Final Proposals Due	November 4, 2022 @ 2:00 PM (PST)
Final Selection*	November 14, 2022
Execute Contract*	December 2022

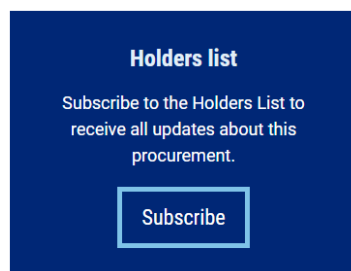
*Dates are tentative.

All status updates on the above solicitation timeline will be announced on the Port's website for this solicitation.

VENDOR OBLIGATION

The NWSA and Port of Tacoma's (Port) Invitation to Bid, Request for Proposals and Request for Qualifications can be accessed on the Port's website, www.portoftacoma.com under 'Business -> Contracting -> Procurement'.

When viewing the details page for this procurement on the Port's Website firms have the option of subscribing to the Holder's List.



By subscribing to the Holder's List, firms will automatically be notified when new documents or changes relating to this procurement occur.

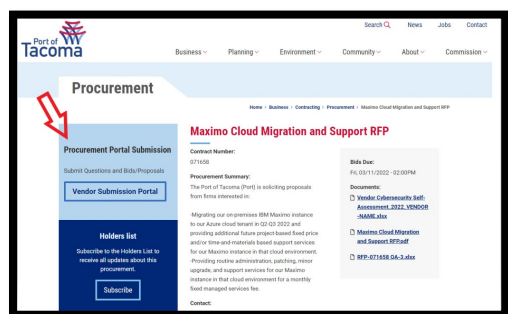
***Only those who have subscribed to the Holder's List will receive notifications throughout the procurement process, up until a firm is selected.**

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING

COMMUNICATION / INQUIRES

Proposers who, relative to this scope of services, contact any individuals or Commission members representing the NWSA or the Port, other than the Procurement Representative listed on the solicitation may be disqualified from consideration.

Written questions about the meaning or intent of the Solicitation Documents shall only be submitted to the Procurement Department via the Procurement Portal (**Portal link is accessible via this specific procurements website. See left side of page.**).



Proposers who may have questions about provisions of these documents are to submit their questions by the date listed above. The Port will respond to all written questions submitted by this deadline, and responses will be posted on the corresponding procurements website.

ADDENDA

The Port may make changes to this Solicitation. Oral or other interpretations, clarifications or submittal instructions will be without legal effect. Any information modifying a solicitation will be furnished in a formal, written addendum. If at any time, the Port changes, revises, deletes, increases, or otherwise modifies the Solicitation, the Port will issue a written Addendum to the Solicitation. Addenda will be posted to the Port's web site and conveyed to those potential submitters who have requested to be placed on the Holder's List.

SUBMITTAL PROCESS

Electronic Submittal:

Proposals must be received via the procurement portal on or before the date and time outlined on the front page of this proposal.

Procurement Submission Portal Instructions:

Navigate to this procurements web page (referencing the number and name) via the following link [Procurement | Port of Tacoma](#). While on the procurements page, click on the 'Procurement Submission Portal' link (located on the lefthand side of the page).

Full instructions on how to utilize the submission portal can be found on the Port's website, www.portoftacoma.com under 'Business -> Contracting -> Procurement'. See bold red heading above the bid search box "Bid and Question Submittal Instructions", to access the thorough instructions in PDF format.

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING

Please submit proposal, including all appendices and compensation in separate Adobe Acrobat PDF format. Submittals need to be limited to **9 MB in total size**. It is the **Consultant's responsibility to verify the receipt of the submittal. Electronic verification will be provided.**

***Late proposals will not be accepted by the Port. Proposals received after the stated date and time will not be reviewed and shall be deemed non-responsive.**

All proposals submitted shall be valid and binding on the submitting firm for a period of ninety (90) days following the submittal deadline and for any extension of time granted by the submitting firm.

EVALUATION AND AWARD PROCESS

An evaluation team, using the point method of award, will review each proposal and evaluate all responses received based upon the criteria listed herein. The Port may request clarifications or additional information, if needed. After the evaluation team individually scores each proposal, the scores are tallied and the firms are ranked based on the scores.

A selection may be made based on the proposals and initial evaluation criteria alone. Alternatively, the evaluation team may create a short list of the top ranked firms and invite the short-listed firms in for interview and/or check references. Scores for reference checks and interviews will be tallied and added to the short-listed firm's initial evaluation scores. Final selection will be based on the accumulative score.

The Port intends to select the Proposer who represents the best value to the Port.

The Port reserves the right to accept or reject any or all information in its entirety or in part and to waive informalities and minor irregularities and to contract as the best interest of the Port may require. The Port reserves the right to reject any or all Proposals submitted as non-responsive or non-responsible.

Procedure When Only One Proposal is received

In the event that a single responsive proposal is received, the Proposer shall provide any additional data required by the Port to analyze the proposal. The Port reserves the right to reject such proposals for any reason.

GENERAL INFORMATION

News releases pertaining to this RFP, the services, or the project to which it relates, shall not be made without prior approval by, and then only in coordination with, the Port.

COSTS BORNE BY PROPOSERS

All costs incurred in the preparation of a Proposal and participation in this RFP and negotiation process shall be borne by the proposing firms.

PROTEST PROCESS

A Bidder protesting for any reason the Bidding Documents, a Bidding procedure, the Port's objection to a Bidder or a person or entity proposed by the Bidder, including but not limited to a finding of non-Responsibility, the Award of the Contract or any other aspect arising from or relating in any way to the Bidding shall cause a written protest to be filed with the Port within two (2) business days of the event giving rise to the protest.

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING

(Intermediate Saturdays, Sundays, and legal holidays are not counted as business days.) The written protest shall include the name of the protesting Bidder, the bid solicitation number and title under which the protest is submitted, a detailed description of the specific factual and legal grounds for the protest, copies of all supporting documents, evidence that the apparent low bidder has been given notice of the protest, and the specific relief requested. The written protest shall be sent by email to procurement@portoftacoma.com.

Consideration. Upon receipt of the written protest, the Port will consider the protest. The Port may, within three (3) business days of the Port's receipt of the protest, provide any other affected Bidder(s) the opportunity to respond in writing to the protest. If the protest is not resolved by mutual agreement of the protesting Bidder and the Port, the Contracts Director of the Port or his or her designee will review the issues and promptly furnish a final and binding written decision to the protesting Bidder and any other affected Bidder(s) within six (6) business days of the Port's receipt of the protest. (If more than one (1) protest is filed, the Port's decision will be provided within three (3), but no more than six (6) business days of the Port's receipt of the last protest.) If no reply is received from the Port during the six (6) business-day period, the protest will be deemed rejected.

Waiver. Failure to comply with these protest procedures will render a protest waived.

Condition Precedent. Timely and proper compliance with and exhaustion of these protest procedures shall be a condition precedent to any otherwise permissible judicial consideration of a protest.

SMALL BUSINESS AND DISADVANTAGED BUSINESS OPPORTUNITIES

The Northwest Seaport Alliance encourages participation in all of its contracts by MWBE firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation/invitation or as a subcontractor to a Bidder/Proposer. However, unless required by federal statutes, regulations, grants, or contract terms referenced in the contract documents, no preference will be included in the evaluation of bids/submittals, no minimum level of MWBE participation shall be required as a condition for receiving an award and bids/submittals will not be rejected or considered non-responsive on that basis. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply. The selected firm will be required to show evidence of outreach.

PUBLIC DISCLOSURE

Proposals submitted under this Solicitation will be considered public documents and, with limited exceptions, will become public information and may be reviewed by appointment by anyone requesting to do so following the conclusion of the evaluation, negotiation, and award process. This process is concluded when a signed contract is completed between the Port and the selected Consultant.

If a firm considers any portion of its response to be protected under the law, the vendor shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "TRADE SECRET" on each page for which the protection is sought.

ATTACHMENT A – INSTRUCTIONS FOR PROPOSING

If a request is made for disclosure of such portion, the Port will notify the vendor of the request and allow the vendor not less than ten (10) days to seek a protective order from the Courts or other appropriate remedy and/or waive the claimed confidentiality. Unless such protective order is obtained and provided to the Port by the stated deadline, the Port will release the requested portions of the proposal. By submitting a response the vendor assents to the procedure outlined in this paragraph and shall have no claim against the Port on account of actions taken under such procedure.

PERSONAL SERVICES AGREEMENT NO. 071734

PROJECT: HR SYSTEMS PLANNING & DESIGN SERVICES

CONSULTANT: Company, Address, City, State, Zip

PROJECT MANAGER: PM GL ACCOUNT NO. XX-XXXX-XX-0000-00

THIS AGREEMENT is made and entered into by and between the **Port of Tacoma** (hereinafter referred to as the "Port") and **xxCOMPANYxx** (hereinafter referred to as the "Consultant") for the furnishing of HR SYSTEMS PLANNING & DESIGN Personal Services (hereinafter referred to as the "Project").

The Port and Consultant mutually agree as follows:

SCOPE OF WORK

Consultant will provide

DELIVERABLES

Deliverables will include:

COMPENSATION

This will be accomplished on fully burdened, time and materials basis and will not exceed **\$00,000.00** without prior written approval from the Port.

Consultant is responsible for working within the budget as agreed. Should the Consultant incur costs beyond the not-to-exceed contract budget amount without an executed amendment to this contract, the Consultant is solely responsible for the additional costs.

Invoices shall be submitted by the consultant to cpinvoices@portoftacoma.com each month. Invoice period is for the previous calendar month and shall be computed pursuant to the rates and limitations set forth in the Agreement. Consultant agrees to submit monthly invoices as the Services progress. Invoices that are submitted for payment ninety (90) days or more after the Services were completed are subject to non-payment. Under no circumstances will the Port of Tacoma pay interest on payment.

TERM

The length of this agreement is from the date of execution to **xxDATExx**. With two (2) separate one (1) year renewal options at the sole discretion of the Port. This agreement is expressly conditioned upon the Terms and Conditions attached and by reference incorporated herein. Consultant acknowledges reading this Agreement, understands it and agrees to be bound by its Terms and Conditions.

ATTACHMENT B – PERSONAL SERVICES CONTRACT TEMPLATE & TERMS AND CONDITIONS

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

AGREED

PORT OF TACOMA

CONSULTANT (LEGAL NAME)

By _____
Name _____
Title _____
Date _____

By _____
Name _____
Title _____
Date _____

Port of Tacoma Terms and Conditions for Personal Service Agreements

Updated 7/13/22

1. Relationship of the Parties

Consultant and its employees are independent Contractors. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

2. Subconsultant and Supplier Relations

- a. Subconsultants at all tiers shall be approved by the Port prior to performing Services in support of this Agreement between Consultant and Port.
- b. The award of a subcontract does not create a contract between the Port and the subconsultant. Subconsultants shall have no rights whatsoever against the Port by reason of their contract with the Consultant. The foregoing provision shall apply with equal force to subconsultants, suppliers and all other persons or parties otherwise engaged by the Consultant to do any portion of the Services.
- c. The Consultant shall ensure every subcontract shall bind the subconsultant to the applicable terms of the Agreement. The Consultant shall appropriately monitor the activities of the subconsultant. In no event shall the activities of the subconsultant operate to release or reduce the liability of the Consultant to the Port for any breach in the performance of the Consultant's duties.

3. 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.

4. Compliance with Laws

- a. Consultant agrees to comply with all local, state, tribal, and federal laws and regulations applicable to the Services existing at the time this Agreement was executed or that became applicable subsequent to this Agreement's execution, and those regarding employee safety, the workplace environment, and employment eligibility verifications as required by the Immigration and Naturalization Service. Consultant shall obtain and maintain all professional licenses and permits required to complete the Services.
- b. Consultant must comply with all Occupational Safety and Health Administration (OSHA), Washington Industrial Safety and Health Act (WISHA), Department of Labor, Environmental Protection Agency and other applicable environmental standards as prescribed by

law while on or occupying Port-owned properties.

- c. The Consultant is responsible for ensuring that all personnel performing Services are paid wages in accordance with federal, state and local laws when applicable.

5. Records and other Tangibles

- a. 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 3.3 (October 2016). 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.
- b. The Port or its designated agent, and federal and state auditing authorities have the right to audit this Agreement and access to all records and documents, including financial data, for a period of not less than six (6) years after Completion of all projects related to this Agreement or until resolution of any litigation related to this Agreement whichever occurs last.

6. Custom Code and/or Custom Reports

Any custom code or custom reports requested by The Port and written or otherwise created by Consultant shall be owned by The Port, but Consultant shall retain the right to use and sell the custom code or custom reports in whole or in part. The source code used by Consultant to create or write custom code or custom reports will only be provided to The Port once payment for all outstanding invoices has been received in full and/or both parties are satisfied that all obligations under this Agreement have been met.

7. Disclosure

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

8. Compensation

- a. 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.
- b. Consultant is responsible for working within the agreement amount. Should the consultant incur costs beyond the agreement amount without an executed amendment to this agreement, the

Port of Tacoma Terms and Conditions for Personal Service Agreements

Updated 7/13/22

Consultant is solely responsible for the additional costs.

9. Invoices

- a. Consultant shall submit detailed **numbered invoices 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, and all authorized expenses, if allowed, for the month, itemized, with backup, in accordance with the Port's "Guidelines for Consultant Fees and Reimbursable Items", 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.
- b. Consultant agrees to submit timely invoices as the Services progress. Invoices that are submitted for payment ninety (90) days or more after the Services were completed are subject to non-payment.
- c. Un-invoiced Services performed through December 31 of each year shall be invoiced no later than the 7th day of January. If the Consultant is unable to provide an invoice, they shall advise the Port in writing with a summary of the work completed and the accrual amount to be invoiced through December 31 of that year.

10. Costs and Disbursements

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

11. Standard of Care

- a. Consultant shall perform the Services 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 Services.
- b. 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 the Services.

12. Time

Time is a material consideration in the performance of the Services. The Consultant shall complete the Services within the agreed upon schedule, including any established milestones and task completion dates, and the overall period of performance. The completion dates for tasks may be modified by a written

directive; however, the period of performance for the Agreement may only be modified through an amendment. The period of performance and contract milestones shall not be extended because of any unwarranted delays attributable to the Consultant. The period of performance and contract milestones may be extended in the event of a delay caused by the Port which results in a delay in the performance of an affected task, because of unavoidable delay caused by any governmental action, or other conditions beyond the control of the Consultant, which could not reasonably be anticipated and which results in a delay in the period of performance and contract schedule. Upon mutual agreement, the period of performance may be accelerated to meet Project requirements.

13. Assignability

The Consultant may not assign, transfer, or novate all or any portion of the Agreement, including but not limited to any claim or right to the Contract Sum, without the Port's prior written consent. If the Consultant attempts to make an assignment, transfer, or novation without the Port's consent, the assignment or novation, shall be of no effect, and the Consultant shall nevertheless remain legally responsible for all obligations under the Agreement. The Consultant also shall not assign or transfer to any third party any claims it may have against the Port arising under the Agreement or otherwise related to the Project.

14. Termination of Agreement

- a. Termination for Default:
 - i. The Port may terminate this Agreement, in writing, if the Consultant substantially fails to fulfill any or all of its material obligations under this Agreement through no fault of the Port; provided that the Consultant has been given an opportunity to cure.
 1. Cure Notice: If the Port determines that a breach of this Agreement has occurred, that is, the Consultant has failed to comply with any material terms or conditions of this Agreement or the Consultant has failed to provide in any manner the Services agreed to herein, and if the Port deems said breach to warrant corrective action, the following sequential procedure will apply:

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- ii. The Port will provide the Consultant with a written Cure Notice, notifying the Consultant of the nature of the breach.
 - iii. The Consultant shall respond within five (5) calendar days of the notification. The Consultant shall submit a corrective action plan indicating the steps to be taken to correct the specified deficiencies within fifteen (15) calendar days of the notification. The corrective action plan shall specify the proposed completion date for bringing this Agreement into compliance within the number of calendar days specified by the Port;
 - b. Show Cause Notice:
 - i. In the event that the Consultant does not respond within the appropriate time with a corrective action plan, the Port will provide the Consultant with a written Show Cause Notice; notifying the Consultant of their requirement to notify the Port in writing within seven (7) calendar days of any reason the Port should not terminate this Agreement. At the expiration of the seven (7) calendar day period the Port may commence termination of this Agreement in whole or in part.
 - ii. The Port may withhold payment owed the Consultant, instruct the Consultant to stop work and to refrain from incurring additional costs until the Port is satisfied that the breach has been corrected.
 - iii. No increase in total price or period of performance shall result from breach of this Agreement; and
 - iv. Nothing herein shall be deemed to affect or waive any other rights of the Port.
 - c. Notice of Termination:
 - i. If the Port terminates this Agreement for default, the Port shall determine the amount of Services satisfactorily performed to the date of termination and the amount owing to the Consultant using the criteria set forth below; provided, that (a) no amount shall be allowed for anticipated profit on unperformed Services or other work and (b) any payment due to the Consultant at the time of termination may be adjusted to the extent of any additional costs the Port incurs because of the Consultant's default.
- In such event, the Port shall consider the actual costs incurred by the Consultant in performing this Agreement to the date of termination, the amount of Services originally required which was satisfactorily completed to the date of termination, whether the Services are in a form or of a type which is usable and suitable to the Port at the date of termination, the cost to the Port of completing the Services itself or of employing another firm to complete it and the inconvenience and time which may be required to do so, and other factors which affect the value to the Port of the Services performed to the date of termination. Under no circumstances shall payments made under this provision exceed the Total Price set forth in this Agreement. This provision shall not preclude the Port from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by withheld payments.
- ii. Upon receipt of a termination notice the Consultant shall at no additional cost to the Port:
 - 1. Promptly discontinue all Services (unless the notice directs otherwise);
 - 2. No later than fourteen (14) calendar days after receipt of termination, promptly deliver or otherwise make available to the Port specifications, calculations, reports, estimates, summaries, official Project documentation and other Project documentation, such other information and materials as the Consultant or subconsultants may have accumulated in performing this Agreement, whether completed or in progress and all equipment/materials purchased specifically for this Agreement where the Port has paid the Consultant for such items.
 - 3. Upon termination, the Port may take over the Services and prosecute the same to completion by agreement with another party or otherwise.

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- d. Termination for Convenience:
- i. The Port may terminate this Agreement, for the convenience of the Port. The Port shall terminate by delivery to the Consultant a Notice of Termination specifying the termination and the effective date.
 - ii. If the Port terminates this Agreement for convenience, the Port shall pay the Consultant for the following items:
 1. An amount for Direct Labor Costs and Indirect Costs in accordance with the Agreement for Services satisfactorily performed to the date of termination.
 2. Reasonable invoiced Other Direct Costs as allowed by the Agreement, actually incurred before the date of termination; or
 3. Reasonable termination settlement costs the Consultant actually incurred unless the Port determines to assume said commitments. Reasonable termination settlement costs include settlement costs for subconsultants, and reasonable accounting and clerical costs actually incurred by the Consultant.
 - iii. Upon receipt of a termination notice the Consultant shall at no additional cost to the Port:
 1. Promptly discontinue all Services (unless the notice directs otherwise);
 2. No later than fourteen (14) calendar days after receipt of termination, promptly deliver or otherwise make available to the Port all Port Data including specifications, calculations, reports, estimates, summaries, official Project documentation, other Project documentation, and such other information and materials as the Consultant may have accumulated in performing this Agreement, whether completed or in progress and all equipment/materials purchased specifically for this Agreement where the
- Port has reimbursed the Consultant for such costs;
3. Take any action necessary, or that the Port may direct, for the protection and preservation of property related to this Agreement that is in the possession of the Consultant and in which the Port has or may acquire an interest.
 - iv. Within sixty (60) calendar days of receipt of the notice of Termination for Convenience, the Consultant shall submit to the Port a Termination Settlement Proposal. The Termination Settlement Proposal shall include:
 1. Request for Direct Labor Costs and Indirect Costs for services satisfactorily performed to the date of termination.
 2. As allowed by the Agreement, Actual and reasonable Other Direct Costs incurred before the termination.
 3. Documentation supporting all costs identified in the Termination Settlement Proposal; and
 4. A statement certifying, under penalty of perjury, that the Termination Settlement Proposal is made in good faith, the Termination Settlement Proposal and supporting data are true and accurate to the best of the Consultant's knowledge and belief, the Termination Settlement Proposal is fully supported by the accompanying data, and the amount requested accurately reflects the amount for which the Consultant believes the Port is responsible.
 - v. Termination settlement costs and proposals are subject to audit verification by the Port.
 - vi. Upon termination, the Port may take over the work and prosecute the same to completion by agreement with another party or otherwise.

15. Disputes

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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 this Agreement may be consolidated and resolved in one forum.

16. Venue & Governing Law

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 attorney(s) fees. This Agreement shall be interpreted under the laws of the State of Washington.

17. Integration and Merger/ Extent of Agreement

- a. This Agreement represents the entire and integrated understanding between the Port and Consultant, supersedes any previous written or oral representations and may be amended only by written instrument signed by both the Port and Consultant. No verbal agreement or conversation between any officer, agent, associate or employee of Port and any officer, agency, employee or associate of consultant prior to or following the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement.
- b. Authority to sign. Every signer of this Agreement warrants that they have the authority to enter into this Agreement and to bind the entity for which they represent.

18. Non-Discrimination

- a. Nondiscrimination in Employment and Provision of Services: During performance of this Agreement, the Consultant and all parties subcontracting under the authority of this Agreement agrees that it will not discriminate against any employee or applicant for employment because of the employee or applicant's age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.
- b. Equal Employment Opportunity Efforts: The Consultant and all parties subcontracting under the authority of this Agreement agree to undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to

their age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

- c. The Consultant and all parties subcontracting under the authority of this Agreement shall comply fully with all applicable federal, state, and local laws, ordinances, executive orders and regulations that prohibit discrimination.
- #### **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, but only to the extent of the negligence, gross negligence, willful misconduct, of Consultant or its officers, employees, subcontractors, or agents; or to the extent arising out of a failure to comply with any applicable state, federal, local, law, statute, rule, regulation or act by the Consultant or its officers, employees, subcontractors, or agent's 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 out of negligence, gross negligence or willful misconduct 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.

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- 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.

20. General Insurance Requirements

The Consultant shall procure and maintain during the life of this Agreement such insurance as shall protect it from claims or damages for, IT Professional or Cyber Liability, bodily injury, including death resulting therefrom 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 from operations under this Agreement, whether such operations be by itself, its agents, or by anyone directly or indirectly employed by either of them, and shall comply with any such Project specific insurance requirements as determined by the Port.

21. Miscellaneous Provisions

- a. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy at law or in equity.
- b. Captions: All titles, including sections or subsections, are for convenience only and do not define or limit the contents.
- c. Severability: Any term or provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Agreement.
- d. 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 Port of any performance by consultant after the time the same shall have become due nor payment to consultant for any portion of the Services shall constitute a waiver by Port of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Port, in writing. Port's failure to insist on performance of any of the terms or conditions herein or to exercise any right or

privilege or Port's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.

- e. Negotiated Agreement: The Parties acknowledge that this is a negotiated Agreement, that they have had the opportunity to have this Agreement 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.
- f. No Personal Liability: No officer, agent or authorized employee of either Port or Consultant shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Agreement.

22. Key Personnel

The Consultant's key personnel, as described in the Consultant selection submittals, shall remain assigned for the duration of the Project unless otherwise agreed to in writing by the Port.

23. Insurance - Assumption of Risk

- a. 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, professional liability insurance and other insurance as required by contract for this project that 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, economic damage or cleanup costs, 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. Consultant recognizes that it is the obligation of the Consultant to ensure that all Subconsultants of any tier have insurance for the activities performed under this agreement. If this agreement requires that a Subconsultant perform ultra-hazardous operations the Port will require that it be named as an Additional Insured by endorsement on all Subconsultant insurance policies and waivers of subrogation shall be provided by endorsement. Workers Compensation and Professional Liability are exempted from the additional insured requirement.
- b. Consultant shall submit to the Port of Tacoma, prior to the commencement of services, certificates of insurance evidencing:

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- i. Commercial General Liability coverage on occurrence form CG0001 or equivalent with limits of \$2,000,000 per occurrence and \$4,000,000 aggregate. Coverage will include: Products and Completed Operations, Contractual Liability and Personal & Advertising Injury; and
 - ii. Automobile Liability covering owned, non-owned and hired vehicles of \$2,000,000 combined single limit per accident; and
 - iii. Professional Liability including environmental consulting services of not less than \$2,000,000 per claim and in the aggregate. If the scope of Professional Services includes environmental testing, consulting or other such professional services, the Consultant's Professional Liability policy shall include coverage for these services. If such coverage is written on a claims-made basis, any retroactive date on the policy shall be prior to the start of this contract. Coverage shall remain in effect for the term of this Agreement plus three years. Certificates of Insurance citing the contract and project number shall be provided to the Port of Tacoma on an annual basis for each of the three years.
 - iv. Workers Compensation Insurance: Statutory Workers Compensation Insurance as required by the State of Washington.
 - v. Stop Gap/Employers Liability Insurance shall be provided with a limit of not less than \$2,000,000 per claim.
- c. All policies shall be issued by a company having an A. M. Best Financial Strength Rating of A- and Financial Size Category of VIII or better. The Consultant shall be responsible for notifying the Port in writing within ten (10) days of receipt of notice of coverage being suspended, voided, cancelled or materially reduced. Except for professional liability, the Port and the Northwest Seaport Alliance shall be named as an additional insured on all policies by endorsement on ISO Form CG 20 10 Form B or equivalent. Except for Workers Compensation and Professional Liability, waivers of subrogation shall be provided by endorsement to all policies.
 - d. Consultant is responsible for complying with the Washington State laws that pertain to

industrial insurance (RCW 51). Consultant shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of Consultant's worker compensation account prior to contract execution, including those Consultants who are qualified self-insurers with the state. Consultant bears the responsibility to ensure that any out-of-state (non-Washington) employees and subconsultants have appropriate workers compensation coverage while working for the Port in Washington State. Consultant may be exempt from state worker compensation insurance requirements (RCW 51.12.020) such as if Consultant is a sole proprietor.

24. Payment Schedule

- a. Consultant shall submit detailed numbered invoices in accordance with the Agreement by the 10th of the month. After a complete and correct invoice has been received by the Port, payment will be made within thirty (30) days.
- b. Consultant shall submit detailed invoices showing the following:
 - i. Invoice Number, Contract number, Title, Invoice Period.
 - ii. Summary page with a brief description of Services completed during the invoice period, deliverables provided during the invoice period, and forthcoming milestones / deliverables.
 - iii. Further, provide a summary breakdown of all projects with the amount of the overall invoice to be charged to each project.
 - iv. Current Amount Due, with a Time and Materials Breakdown: titles, hours, hourly rates, and all expenses itemized, with backup, in accordance with the Contract.
 - v. Total amount of the Contract, and balance of Contract amount. Indicate "Final Invoice" when invoice is the final billing.

25. Compensation

- a. Consultant expenses will be reimbursed at cost with the exception of:
 - i. Subconsultant services will be reimbursed at cost plus negotiated markup.
 - ii. Services provided by a third party will be reimbursed at cost plus negotiated markup.
- b. Costs marked up by a sub-tier shall be passed through to higher tiers as a direct cost. In no case shall the mark up at any tier exceed the negotiated percentage.

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- c. Reimbursable expenses by a sub-tier shall be passed through to higher tiers as a direct cost. In no case shall markup be applied to reimbursable expenses at any level.
- d. Rates: Rates are fully burdened and will remain in effect for the contract term unless renegotiated and agreed to by both parties in a written amendment.
 - i. Rates may be negotiated no more than once annually. Rate adjustments will be tied to the CPI for the Seattle, Tacoma/Bremerton area.
- e. Rates and Markup: are defined in the attached Rate Sheet and made a part of this contract.

26. 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 files used in the creation of the tangible product in a PDF format or other format specified by the Port.

27. Security – Transportation Worker Identification Credential (TWIC)

- a. The Services may require the consultant to work within a secured/restricted TWIC regulated terminal.
- b. TWIC is a credentialing program managed by the Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration. All credentialed merchant mariners and individuals who will need unescorted access to secure areas of a maritime regulated facility or vessel must obtain a TWIC. For more information on TWIC visit <https://www.tsa.gov/for-industry/twic>.
- c. The Consultant shall have a minimum of one TWIC compliant employee trained as an escort for every five workers not possessing TWIC cards working on a secured or restricted site. Each escort will be required to receive Terminal Operator provided escort training.

28. Existing Hazardous Material Information

The Port shall furnish the Consultant with the information as required by the Hazard Communication standard for materials pre-existing on the Project. The Consultant is solely responsible for ensuring that this information is made available to the Consultant's personnel, subconsultants, and that relevant information is incorporated into work products including, but not limited to, reports, specifications, and contract documents.

29. Extent of Agreement

- a. In the event the Consultant identifies something that may impact the Services, Project schedule, total price, task budget(s) or cost of performing the Services, the Consultant shall inform the Project Manager in writing prior to exceeding the task budget(s) and within seven (7) calendar days of the event and possible impacts to scope, schedule and cost or task budget.
- b. The Project Manager may, at any time, by written directive require the Consultant to perform the Services consistent with the Agreement; provided that this directive does not add scope or cost to the project.
- c. Any directive shall not constitute an amendment to the Agreement nor entitle the Consultant to any additional compensation or a time adjustment.

30. Prevailing Wages

- a. The Consultant shall ensure that all Subcontractors of any tier pay all prevailing wages and other wages (such as Davis-Bacon Act wages) applicable to the Project.
- b. Pursuant to RCW 39.12, "Prevailing Wages on Public Works," no worker, laborer, or mechanic employed in the performance of any part of the Work shall be paid less than the "prevailing rate of wage" in effect as of the date that bids are due.
- c. The applicable effective date for prevailing wages for this project is the execution date of this Amendment.
- d. The State of Washington prevailing wage rates applicable for this public works project, which is located in Pierce County, may be found at the following website address of the Department of Labor and Industries: <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>
- e. The schedule of the prevailing wage rates is made a part of the Contract Documents by reference as though fully set forth herein; and a copy of the applicable prevailing wage rates are also available for viewing at the Port Administration Building, located at One Sitcum Plaza, Tacoma, WA 98421 (253-383-5841). Upon request to the Procurement Department at procurement@portoftacoma.com, the Port will email or mail a hard copy of the applicable Journey Level prevailing wages for this project.
- f. Questions relating to prevailing wage data should be addressed to the Industrial Statistician.

Mailing Address:

Department of Labor and Industries
Prevailing Wage Office
PO Box 44540, Olympia, WA 98504
Telephone: (360) 902-5335

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Facsimile: (360) 902-5300

- g. If there is any discrepancy between the attached or provided schedule of prevailing wage rates and the published rates applicable under WAC 296-127-011, or if no schedule is attached, the applicable published rates shall apply with no increase in the Contract Sum. It is the Contractor's responsibility to ensure that the correct prevailing wage rates are paid.
 - h. Prior to any payment being made by the Port under this Contract, the Contractor, and each Subcontractor of any tier, shall file a Statement of Intent to Pay Prevailing Wages under oath with the Port and certified by the Director of Labor and Industries. The statement shall include the hourly wage rate to be paid to each classification of workers entitled to prevailing wages, which shall not be less than the prevailing rate of wage, and the estimated number of workers in each classification employed on the Project by the Contractor or a Subcontractor of any tier, as well as the Contractor's contractor registration number and other information required by the Director of Labor and Industries. The statement, and any supplemental statements, shall be filed in accordance with the requirements of the Department of Labor and Industries. No progress payment shall be made until the Port receives such certified statement.
 - i. The Contractor shall post in a location readily visible to workers at the Project site (1) a copy of the Statement of Intent to Pay Prevailing Wages approved by the Industrial Statistician of the Department of Labor and Industries and (2) the address and telephone number of the Industrial Statistician of the Department of Labor and Industries to whom a complaint or inquiry concerning prevailing wages may be directed.
 - j. If a State of Washington prevailing wage rate conflicts with another applicable wage rate (such as Davis-Bacon Act wage rate) for the same labor classification, the higher of the two shall govern.
 - k. Pursuant to RCW 39.12.060, if any dispute arises concerning the appropriate prevailing wage rate for work of a similar nature, and the dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the Director of the Department of Labor and Industries, and his or her decision shall be final and conclusive and binding on all parties involved in the dispute.
 - l. The Contractor shall defend (at the Contractor's sole cost, with legal counsel approved by Port), indemnify and hold the Port harmless from all liabilities, obligations, claims, demands, damages, disbursements, lawsuits, losses, fines, penalties, costs and expenses, whether direct, indirect, including but not limited to attorneys' fees and consultants' fees and other costs and expenses, from any violation or alleged violation by the Contractor or any Subcontractor of any tier of RCW 39.12 ("Prevailing Wages on Public Works") or Chapter 51 RCW ("Industrial Insurance"), including but not limited to RCW 51.12.050.
- 31. On-Call Definitions Supplementary Conditions (As Applicable)**
- a. Task Order: The document that memorializes agreement between the Consultant and the Port, in accordance with the terms of the On-Call Contract. Task Orders are executed for defined Services under the On-Call Contract.
 - b. Contract Owner: Port staff member responsible for managing the On-Call Contract and executing all Task Orders.
 - c. Project Manager: Port staff member responsible for managing a specific Task Order.
 - d. Consultant Representative: The Consultant staff member(s) delegated the authority to provide signature approval for Task Orders under the On-Call Contract.
 - e. Task Order Proposals:
 - i. The Project Manager will request consultant to provide a fee proposal for the Services requested by the Port.
 - ii. The Port will not pay for time or materials associated with development of fee proposals, unless such costs are approved by the Project Manager and Contract Owner in advance.
 - iii. Task Order proposals shall be signed and submitted by the Consultant Representative to the Port's Project Manager in writing. Proposals shall include one of the following:
 - 1. Time and Materials
- Proposal
- a. Description of Task Order scope and deliverables.

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- b. Consultant's Personnel Titles and Rates as negotiated.
 - c. Hours per person per task.
 - d. Sub-tier consultant scope and deliverables (when applicable).
 - e. Anticipated reimbursable costs.
 - f. Total proposal with Not to Exceed dollar amount.
- f. Task Order Execution:
Executed Task Orders will be issued by the Contract Owner to the Consultant.
- g. Task Order Revision:
 - i. Revisions include when the Consultant becomes aware of the potential to exceed the executed amount or when changes are requested by the Project Manager.
 - ii. Consultant shall provide a revised proposal detailing all revisions per 2A and B above. Consultant shall not proceed with changed work until a revised Task Order is executed by the Contract Owner.
- h. Payment Schedule:
 - i. Each Task Order shall be invoiced separately. Consultant shall submit detailed invoices showing the following:
 - ii. Invoice Number, Contract number, Title, Task Order Number and Title.
 - iii. Summary page with a brief description of Services completed during the invoice period, deliverables provided during the invoice period, and forthcoming milestones / deliverables.
 - iv. Current Amount Due:
 - v. For Lump Sum Task Orders: Percentage of Services complete, percentage of completed Services billed.
 - 1. For Time and Materials Task Orders: titles, hours, hourly rates, and all expenses itemized, with backup, in accordance with the contract.
 - vi. Total amount of the Task Order, and balance of Task Order amount.
 - vii. Indicate "**Final Invoice**" when invoice is the final billing for that Task Order.
- i. Task Order Closure:

When the Services have been completed and final invoice processed by the Port, the Contract Owner will issue a Task Order Completion Notification to the Consultant Representative.

j. Task Order Termination:

The Port may terminate the Task Order at its convenience with or without cause. In such case, the Consultant shall be paid for all Services performed and reasonable expenses properly incurred in connection with the termination.

32. **Warranties**

a. No Warranties regarding data restoration:

Consultant will use its Best Efforts to deploy the Services and make effective recommendations regarding data protection technologies but cannot affect the manufacturer's product from a warranty perspective, nor guarantee that such third-party products or technologies will be effective, free of bugs or other defects. The recoverability of data in the event of network or system failure is subject to the integrity of the media, success of backup procedures, and other factors that may be outside the control of Consultant. Therefore, CONSULTANT CANNOT AND DOES NOT MAKE ANY REPRESENTATIONS, PROMISES, OR WARRANTIES THAT THE PORT WILL BE ABLE TO RESTORE DATA AS A RESULT OF FOLLOWING ANY SUCH CONSULTANT RECOMMENDATIONS. NO WARRANTIES REGARDING SECURITY OF THE PORT CONFIDENTIAL INFORMATION FROM ELECTRONIC THREATS & HACKING. In providing the Services, Consultant shall use Best Efforts to see that the Port's Confidential Information is kept secure; however, the Port understands, acknowledges, and agrees as follows:

- i. The nature of the Internet, e-mail, and other forms of electronically storing and communicating information are subject to ever-changing and evolving vulnerabilities, some, or all of which cannot be reasonably anticipated or protected against even with the use of reasonable care, including, without limitation, Electronic Threats & Hacking.
- ii. ANYTHING IN THIS AGREEMENT OR THE DESCRIPTION OF SERVICES TO THE CONTRARY NOTWITHSTANDING, CONSULTANT MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE THAT THE

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PORT'S CONFIDENTIAL
INFORMATION OR IT SYSTEMS
WILL BE PROTECTED FROM
BREACH OR EXPOSURE BY
ELECTRONIC THREATS &
HACKING.

ARISING FROM CONDUCT, COURSE OF
DEALING, OR CUSTOM OF TRADE, AND ALL
WARRANTIES OF TITLE AND NON-
INFRINGEMENT. USE OF THE SERVICES IS
ENTIRELY AT THE PORT'S OWN RISK AND,
EXCEPT AS SET FORTH IN THIS SECTION,
CONSULTANT SHALL HAVE NO LIABILITY OR
RESPONSIBILITY FOR SUCH USE.

b. Limited Warranty From Third Party

Providers:

To the extent authorized under applicable
third-party manufacturer or third party
provider agreements, Consultant shall
provide or assign to the Port all third party
product or service warranties associated
with the hardware, equipment, software, or
other services the third party provided in
connection with the Services under this
Agreement. the Port acknowledges and
agrees that:

- i. Third-party Provider agreements for
hardware, equipment, software, or
services provided in connection with
the Services, vary in the terms,
conditions, and limited warranties
they respectively provide; and some
third-party Provider agreements
either may not provide any
warranties, or may prohibit
Consultant from transferring to the
Port any limited warranty they do
provide;
- ii. Consultant does not and will not
provide any separate, independent,
or concurrent warranty of any kind
or nature for third party hardware,
equipment, software, or services
provided in connection with the
Services; and
- iii. The Port shall make any warranty
claims with respect to hardware,
equipment, software, or services
supplied by third parties in
connection with the Services,
directly to the manufacturer, vendor,
licensor or third party provider of
such hardware, equipment,
software, or services, and not to
Consultant.

c. Disclaimer of Warranties:

EXCEPT AS EXPRESSLY SET FORTH IN THIS
SECTION, THE SERVICES ARE PROVIDED "AS-
IS," "WHERE-IS." TO THE MAXIMUM EXTENT
PERMITTED BY APPLICABLE LAW,
CONSULTANT MAKES NO REPRESENTATION
OR WARRANTY OF ANY KIND, WHETHER
EXPRESS OR IMPLIED (EITHER IN FACT OR BY
OPERATION OF LAW) WITH RESPECT TO THE
SERVICES. CONSULTANT EXPRESSLY
DISCLAIMS ALL WARRANTIES OF
MERCHANTABILITY AND FITNESS FOR A
PARTICULAR PURPOSE, ALL WARRANTIES

ATTACHMENT C – CURRENT HR SYSTEMS & RELATED SYSTEMS INFORMATION

Existing Environment	Comments
Current Employee Counts	Total: 270
HR Staff	4
People Managers	43
Integrations & Related Systems	
HR Systems Environment As-Is & To-Be Diagrams	See <u>Attachment G</u>
Dynamics GP	Migrating to D365 Finance
Prophix Budget Management	
Dynamics 365 Finance	- Multi-company Acct Budget Mgt - Upon Retirement of Dynamics GP
ADP Payroll Management	
ADP e-Time	If Time & Attendance isn't in scope of your solution
Benefit Providers	See list in Appendix F Fit/Gap Matrix
User Authentication and Synchronization	
Azure Active Directory	

ATTACHMENT C – CURRENT HR SYSTEMS & RELATED SYSTEMS INFORMATION

Question	Answer
Which functions in Port of Tacoma's HR process involve approval workflows?	Hiring; interviewing; terminations; benefits; & labor grievances.
Approximately how many distinct approval workflow processes do you anticipate implementing for each primary HR function?	Hiring; interviewing; terminations; benefits; & labor grievances.
When is the Payroll Forms Workflow executed and what records does it affect?	As needed. It affects employee, payroll, benefits, & organization records.
How many Port of Tacoma stakeholders are involved in each phase of this project (design/implementation)?	3-4 Business stakeholders and 3-4 IT core team.
What are the key factors that will define the success of this project?	Replacement of our current HRIS; integration with key current and future Port systems: Dynamics 365 F&SC (future), ADP Payroll; etc.
Are their internal Port timelines driving the schedule of this project? What are they?	We would like the Planning & Design engagement started and possibly completed in Q4 2022.
Is the Port open to hybrid resource models (onshore /offshore) for this engagement?	We will consider such a proposal, but all data remains in U.S.
Are there any compliance requirements we should be aware of?	State, local, federal employment laws, & IRS.
Does the HRIS solution need to support multiple languages?	No, English only.
Which functions in Port of Tacoma's HR process involve approval workflows, and who is responsible for these approvals?	Hiring; interviewing; terminations; benefits; labor grievances. There will be various approvers.
When is the Payroll Forms Workflow executed, and what records does it affect?	As needed. It affects employee, payroll, benefits, & organization records.
Is Port of Tacoma using other Microsoft technologies at this time (e.g. Azure AD, Microsoft 365)?	Yes, Azure for AD, IaaS, App Services, Data Services, Data Factory, Power BI, Power Platform, Dynamics 365 CE, MS365, and others.
How much data needs to be migrated into the new system (e.g. number of records, size and age of the data)?	Current and Prior employee records.
Specific metrics the Port is looking to improve?	Metrics to be determined during the Design phase.
Is the Port's intention to use the new HR system for full benefit administration, open enrollment, etc. then interface to the carriers?	Yes
Is all time entered tracked against specific projects?	Some but not all employees track time against specific projects.
Are you only looking to track completion of required training, not administration of any of the training (like an LMS system would do)?	Yes
Who is your current Dynamics GP support partner?	Encore.
Who helped you implement Dynamics GP?	The Resource Group.
Who is your Dynamics 365 CE partner?	Altriva.

ATTACHMENT D –COST BREAKDOWN-OFFER

Project Role	Remote Hourly Rate	On-Site (Tacoma, WA) Hourly Rate – inclusive of travel expenses
	\$x	\$x
	\$x	\$x
	\$x	\$x
	\$x	\$x
	\$x	\$x

All costs/fees quoted shall be:

- For the Planning & Design phase, use fixed, fully burdened, including, but not limited to, administrative overhead, travel expenses, and all direct/indirect expenses.
- For the Implementation phase, use time & material estimate, including, but not limited to, administrative overhead, travel expenses, and all direct/indirect expenses.
- Three (3) years term, with one (1) optional 1-year terms
- Full cost exclusive of sales tax and other government fees, taxes, and charges Quoted in US Dollars.
- Valid throughout the contract period unless otherwise amended and agreed to by both parties in writing.
- Hourly rates and fixed phased rates.
- This Form must be filled out and returned with your proposal materials as an appendix.

ATTACHMENT E – VENDOR CYBERSECURITY SELF-ASSESSMENT

This **self-assessment** (Attachment E) is an Excel spreadsheet that should be filled out and returned with your proposal materials as an appendix. The spreadsheet can be found in the Procurement page for this RFP on the Port's website.

[ATTACHMENT E – VENDOR CYBERSECURITY SELF-ASSESSMENT_VENDOR-NAME.xlsx](#)

ATTACHMENT F – REQUIREMENTS FIT/GAP ANALYSIS MATRIX

This **Requirements Fit/Gap Matrix** (Attachment F) is an Excel spreadsheet that must be filled out and returned with your proposal submittal as a appendix.

Indicate how each requirement is satisfied in your proposed solution:

FIT – Requirement is satisfied within the core application without any custom development, configuration nor set-up.

CONFIGURATION – Requirement is satisfied by configuration provided in the core application without any need for custom development nor bolt-on software.

CUSTOMIZATION – Requirement is met only by customer development. Customization must be fully described in your proposal and accounted for in cost.

3rd PARTY – Requirement can be met by introducing a 3rd-party. The 3rd-party solution must be fully described in your proposal and accounted for in cost.

The spreadsheet can be found in the Procurement page for this RFP on the Port's website.

[ATTACHMENT F – REQUIREMENTS FITGAP ANALYSIS MATRIX VENDOR.xlsx](#)

ATTACHMENT G – AS-IS AND TO-BE DIAGRAMS

The **As-Is and To-Be Diagrams** (Attachment G) is a pdf. The document can be found in the Procurement page for this RFP on the Port's website.

[ATTACHMENT G – AS-IS AND TO-BE DIAGRAMS.pdf](#)