

**STATE OF WASHINGTON
PUGET SOUND PARTNERSHIP**

REQUEST FOR PROPOSALS RFP NO. 201003 PSP Issued February 10, 2010

If you download this RFP from the Puget Sound Partnership (PSP) web site located at www.psp.wa.gov you are responsible for sending your name, address, e-mail address, and telephone number to the RFP Coordinator in order for your organization to receive any RFP amendments or bidder questions/agency answers.

PROJECT TITLE and OVERVIEW: Develop Guidance, Model Ordinances and Other Tools to Help Local Governments Add LID to their Development Codes and Stormwater Regulations

The PSP is requesting proposals from engineering firms to provide the next step in helping local governments in the Puget Sound region add LID to their development standards and stormwater regulations: Specifically, develop a “how to” guidebook, with accompanying model ordinances and other tools and materials, and present these materials at three half-day workshops.

The Puget Sound Partnership (PSP) is a state agency created by the Washington State Legislature in 2007. PSP is charged with overseeing the restoration of Puget Sound by 2020. PSP released the 2020 Action Agenda – the plan for restoration and recovery efforts for Puget Sound - in December, 2008, which can be found at http://www.psp.wa.gov/aa_action_agenda.php.

During 2005-09, the Puget Sound Partnership, and its predecessor, the Puget Sound Action Team (“the Partnership”), provided technical assistance to help local governments in the Puget Sound basin integrate the low impact development (LID) approach to stormwater management into their ordinances, regulations and development standards. This “LID Local Regulation Assistance Project” was a key part of the Partnership’s efforts to help the region transition to the LID approach to manage stormwater from developed lands. Providing technical assistance to local governments was a priority in the state’s biennial plans to protect and restore Puget Sound, and is currently a key, near-term action in the Action Agenda (December 2008), which is the current state and federal comprehensive plan to protect and restore Puget Sound.

Following competitive processes, the Partnership chose AHBL, Inc. to provide the technical assistance. AHBL provided assistance and detailed recommendations to a total of 36 cities, towns and counties during this time period. The assistance took the form of in-person meetings, phone calls and email exchanges. For final products, AHBL provided binders and CDs that contained new ordinances, revised ordinances in strikeout/underline format, engineering drawings, memos, and numerous appendices containing additional pertinent information. The following web site contains a listing of the 36 recipient local governments, summaries of the assistance, and appendices provided, listed by year: http://www.psparchives.com/our_work/stormwater/lid/lid_regs.htm#2005

The Department of Ecology initiated the “LID Standards Process” in September 2009 in order to comply with a series of rulings by the Pollution Control Hearings Board that directed the department to modify the municipal NPDES phase I permit to require LID where feasible, and to prepare municipal NPDES phase II permittees for future LID requirements. This project is scheduled to be completed in June 2010.

PURPOSE OF THIS RFP

The purpose of this request for proposals is to contract with a qualified engineering firm to provide the next step in helping local governments in the Puget Sound region add LID to their development standards and stormwater regulations.

SCOPE OF SERVICES

The successful firm will develop a guidebook that walks users through the detailed process of adding LID to local government codes, standards and regulations; develop accompanying model code and ordinances to help in this process; and develop other tools and materials, as needed, to further help local government staff. The audiences for the guidebook, model ordinances, and other tools developed under this project are all local governments in the Puget Sound basin, both permitted under NPDES and non-permitted, that must integrate LID into their municipal codes and stormwater regulations in response to NPDES permit requirements AND other local governments interested in adding LID to their codes, regulations and standards. A secondary purpose of the guidebook is to help local governments add LID policies to relevant sections of their Growth Management Act (GMA) comprehensive plans. These products are dependent on the outcome of Ecology's LID Standards Process; therefore, this project will start after July 1, 2010 (Ecology's process is scheduled to be completed June 2010).

Project elements

The project includes four primary tasks:

1. Review the results of Ecology's LID Standards Process and results of the Partnership's 2005-09 LID Local Regulation Assistance Project and accompanying 2010 LID Local Regulation Assistance Project Survey of 2005-09 participants (due May 2010).
2. Based on this review and other information, develop a new, on-line "how to" guidebook that includes:
 - a. Step by step approach for local government staff (as the primary audience) and other interested parties (secondary audiences) to integrate LID stormwater management into local land development and stormwater management codes, regulations and standards.
 - b. Descriptions of local codes, regulations and standards that should be reviewed and amended, as needed.
 - c. Descriptions of new codes that should be created.
 - d. Description of the administrative process needed to integrate the LID approach (not just LID practices) into local zoning, subdivision, native vegetation, parking, public works, and other codes.
 - e. Key staff and departments that should participate in this process.
 - f. Descriptions of LID code integration that is relevant to small as well as large projects, within urban cities as well as within counties.
 - g. Descriptions of other key activities at the basin and watershed scale that local governments should undertake to also help protect and restore water resources from the adverse effects of stormwater runoff.
3. Develop a series of on-line model ordinances for various municipal codes and other guidance materials and tools to serve as models and aid local government staff.
4. Provide presentations at and lead a minimum of three (3) half-day workshops at three (3) different locations around Puget Sound (north, south and west) to present and explain the guidance and model ordinances to interested audiences. At least two team members of the project should lead the workshops. (Partnership staff will determine locations and provide the administrative work of securing rooms, coordinating with local governments, providing any refreshments, and providing copies of materials.)

Deliverables

1. Monthly status reports sent by the first of each month via email.
2. Guidebook delivered in electronic (PDF) format, suitable for on-line use.
3. Series of model ordinances and other guidance materials and tools delivered in electronic (PDF) format, suitable for on-line use.
4. Three (3) printed copies of the guidebook and model ordinances and other guidance materials and tools.
5. Three (3) CDs containing the guidebook, model ordinances and other materials developed.
6. CD labels in print-ready (one color), electronic format.
7. Presentations and leading of discussion by a minimum of two (2) team members at minimum of three (3) half-day workshops located around Puget Sound.

Partnership Review

The Partnership will provide comments on draft versions of all materials developed.

PART 4 - FEES AND EXPENSES

- All labor, supplies and other costs shall not exceed **\$80,000**.
- Invoices shall be sent to PSP by the Consultant by the tenth day of each month for the monthly fee relating to the preceding month.

PART 5 – SUBMITTING PROPOSALS

Proposals should be no more than five pages in length, not including additional support materials (e.g., resumes and basic company information), and should include:

1. Contact information, including project manager.
2. Statement of interest in this project.
3. Statement of qualifications and direct related experience.
4. Description of project team.
5. Detailed project timeline, including reviews of drafts.
6. Detailed budget, including team member hours dedicated to each activity and hourly rate for each team member.

PROPOSAL DUE DATE:

Electronic proposals are preferred, and should be sent to Michael Klos, Puget Sound Partnership, at: Michael.Klos@psp.wa.gov. If submitting via regular mail, send to attn. Michael Klos, Puget Sound Partnership, P.O. Box 40900, Olympia, WA. 98504.

Proposals must be received no later than 5:00 p.m. local time on February 25, 2010.

PART 6 - EVALUATION CRITERIA

Partnership staff will score proposals according to the elements listed under “Submitting Proposals.”

EXPECTED TIME PERIOD FOR CONTRACT:

July 1, 2010 – April 30, 2011. The Agency reserves the right to extend the contract for up to one additional one-year period at the sole discretion of the agency.

CONSULTANT ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated herein and that are available for work in Washington State.

TABLE OF CONTENTS

1. Introduction	3
1.1 Purpose and Background	3
1.2 Objective	3
1.3 Period of Performance	3
1.4 Definitions	4
1.5 ADA	4
2. General Information for Consultants	4
2.1 RFP Coordinator	4
2.2 Estimated Schedule of Procurement Activities	4
2.3 Pre-proposal Conference	5
2.4 Submission of Proposals	5
2.5 Proprietary Information/Public Disclosure	5
2.6 Revisions to the RFP	6
2.7 Minority & Women-Owned Business Participation	6
2.8 Acceptance Period	6
2.9 Responsiveness	6
2.10 Most Favorable Terms	6
2.11 Contract and General Terms & Conditions	6
2.12 Costs to Propose	7
2.13 No Obligation to Contract	7
2.14 Rejection of Proposals	7
2.15 Commitment of Funds	7
2.16 Electronic Payment	7
2.17 Insurance Coverage	7
3. Proposal Contents	8
3.1 Letter of Submittal	9
3.2 Proposal	9
4. Evaluation and Contract Award	11
4.1 Evaluation Procedure	11
4.2 Clarification of Proposal	11
4.3 Evaluation Weighting and Scoring	11
4.4 Oral Presentations may be Required	12
4.5 Notification to Proposers	12
4.6 Debriefing of Unsuccessful Proposers	12
4.7 Protest Procedure	12
5. RFP Exhibits	13
Exhibit A Certifications and Assurances	
Exhibit B Personal Service Contract Format including General Terms and Conditions (GT&Cs)	

The PSP is requesting proposals from engineering firms to provide the next step in helping local governments in the Puget Sound region add LID to their development standards and stormwater regulations: Develop a “how to” guidebook, with accompanying model ordinances and other tools and materials, and present these materials at three half-day workshops.

1. INTRODUCTION

1.1 OBJECTIVE

The objective of this request for proposals is to find and contract with a qualified engineering firm to provide the next step in helping local governments in the Puget Sound region add LID to their development standards and stormwater regulations.

1.2 FUNDING

The AGENCY has budgeted an amount not to exceed \$80,000 for this project. Any contract awarded as a result of this procurement is contingent upon the availability of funding.

1.3 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about July 1, 2010 and to end on April 30, 2011. Amendments extending the period of performance, if any, shall be at the sole discretion of the AGENCY.

1.4 DEFINITIONS

Definitions for the purposes of this RFP include:

Agency – The Puget Sound Partnership is the agency of the state of Washington that is issuing this RFP.

Consultant – Individual or company submitting a proposal in order to attain a contract with the AGENCY.

Contractor – Individual or company whose proposal has been accepted by the AGENCY and is awarded a fully executed, written contract.

Proposal – A formal offer submitted in response to this solicitation.

1.5 ADA

The AGENCY complies with the Americans with Disabilities Act (ADA). Consultants may contact the RFP Coordinator to receive this Request for Qualifications and Quotations in Braille or on tape.

2. GENERAL INFORMATION FOR CONSULTANTS

2.1 RFP COORDINATOR

The RFP Coordinator is the sole point of contact in the AGENCY for this procurement. All communication between the Consultant and the AGENCY upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	<u>Bruce Wulkan</u>
Address	<u>PO Box 40900</u>
City, State, Zip Code	<u>Olympia, WA 98504-0900</u>

Phone Number _____
 Fax Number _____
 E-Mail Address Bruce.wulkan@psp.wa.gov

Any other communication will be considered unofficial and non-binding on the AGENCY. Consultants are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Consultant.

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	<u>2/10/10</u>
Question and answer period	<u>2/11-</u> <u>2/25/10</u>
Proposals due	<u>2/25/10</u>
Evaluate proposals	<u>3/1-3/10/10</u>
Announce "Apparent Successful Contractor" and send notification via fax or e-mail to unsuccessful proposers	<u>3/15/10</u>
Negotiate contract	<u>3/16-</u> <u>4/16/10</u>
File contract with OFM (if required)	<u>4/21/10</u>
Begin contract work	<u>7/1/2010</u>

The AGENCY reserves the right to revise the above schedule

2.3 PRE-PROPOSAL CONFERENCE

The Agency has determined there will not be a pre-proposal conference.

2.4 SUBMISSION OF PROPOSALS

Proposals are preferred to be sent electronically as an attachment to an e-mail to Michael Klos at Michael.Klos@psp.wa.gov. Proposals must arrive by 5:00 p.m. local time in Olympia, Washington on February 25, 2010. Attachments to e-mail shall be in either MS Word or Adobe PDF format. Zipped files cannot be received by the Puget Sound Partnership and cannot be used for submission of proposals. If submitting by regular mail, Consultants shall send proposals to: attn. Michael Klos, Puget Sound Partnership, P.O. Box 40900, Olympia, WA. 98504. The AGENCY does not assume responsibility for any problems in the e-mail.

Late proposals will not be accepted and will be automatically disqualified from further consideration. The proposals must respond to the procurement requirements. Do not respond by referring to material presented elsewhere. The proposal must be complete and must stand on its own merits.

Failure to respond to any portion of the procurement document may result in rejection of the proposal as non-responsive. All proposals and any accompanying documentation become the property of the AGENCY and will not be returned.

2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Materials submitted in response to this competitive procurement shall become the property of the AGENCY.

All proposals received shall remain confidential until the contract, if any, resulting from this RFP, is signed by the Director of the AGENCY and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in RCW 42.17.250 to 42.17.340, "Public Records."

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.17.250 to 42.17.340 must be clearly designated. The page must be identified and the particular exception from disclosure upon which the Consultant is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

The AGENCY will consider a Consultant's request for exemption from disclosure; however, the AGENCY will make a decision predicated upon Chapter 42.17 RCW and Chapter 143-06 of the Washington Administrative Code. Marking the entire proposal exempt from disclosure will not be honored. The Consultant must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected proposer has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping, as outlined in RCW 42.17.300. No fee shall be charged for inspection of contract files, but twenty-four (24) hours notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

2.6 REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be published on the AGENCY web site, www.psp.wa.gov and on the Department of General Administration's Washington Electronic Business Solutions web site, <https://fortress.wa.gov/ga/webs/>

The AGENCY also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

2.7 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION

In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by 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 or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals 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 established annual procurement participation goals for MBE are 10 percent and for WBE, 4 percent, for this type of project. These goals are voluntary. Bidders may contact OMWBE at 360/753-9693 to obtain information on certified firms.

2.8 ACCEPTANCE PERIOD

Proposals must provide 30 days for acceptance by AGENCY from the due date for receipt of proposals.

2.9 RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Consultant is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

The AGENCY also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

2.10 MOST FAVORABLE TERMS

The AGENCY reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms that the Consultant can propose. There will be no best and final offer procedure. The AGENCY does reserve the right to contact a Consultant for clarification of its proposal during the evaluation process. In addition, if the Consultant is selected as the apparent successful contractor, the AGENCY reserves the right to enter into contract negotiations with the apparent successful contractor, which may include discussion regarding the terms of the proposal. Contract negotiations may result in incorporation of some or all of the Consultant's proposal. The Consultant should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. It is also understood that the proposal will become part of the official procurement file.

2.11 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful contractor will be expected to enter into a contract that is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. In no event is a Consultant to submit its own standard contract terms and conditions in response to this solicitation. The Consultant may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. The AGENCY will review requested exceptions and accept or reject the same at its sole discretion.

2.12 COSTS TO PROPOSE

The AGENCY will not be liable for any costs incurred by the Consultant in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

2.13 NO OBLIGATION TO CONTRACT

This RFP does not obligate the state of Washington or the AGENCY to contract for services specified herein.

2.14 REJECTION OF PROPOSALS

The AGENCY reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

2.15 COMMITMENT OF FUNDS

The Director of the AGENCY or his delegate are the only individuals who may legally commit the AGENCY to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.16 ELECTRONIC PAYMENT

The state of Washington prefers to utilize electronic payment in its transactions. The successful contractor will be provided a form to complete with the contract to authorize such payment method.

2.17 INSURANCE COVERAGE

The Contractor is to furnish the Agency with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at its own expense, obtain and keep in force insurance coverage that shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to the Agency within fifteen (15) days of the contract effective date.

Liability Insurance

- Commercial General Liability Insurance: Contractor shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) condition.
- Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto."

Employers Liability ("Stop Gap") Insurance

In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Additional Provisions

Above insurance policy shall include the following provisions:

- **Additional Insured.** The state of Washington, Puget Sound Partnership, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.
- **Cancellation.** State of Washington, Puget Sound Partnership, shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
- **Identification.** Policy must reference the State's contract number and the Puget Sound Partnership.
- **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by Puget Sound Partnership Risk Manager, or the Risk Manager for the state of Washington, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
- **Excess Coverage.** By requiring insurance herein, the State does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the State in this contract.

Workers' Compensation Coverage

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The State will not be held responsive in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

3. PROPOSAL CONTENTS

Proposals must include:

1. Signed or Certified Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP).
2. Proposal.

3.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Consultant to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Consultant and any proposed subcontractors:

- a. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
- b. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.).
- c. Legal status of the Consultant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- d. Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue.
- e. Location of the facility from which the Consultant would operate.
- f. Identify any State employees or former State employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Consultant's organization. If following a review of this information, it is determined by the AGENCY that a conflict of interest exists, the Consultant may be disqualified from further consideration for the award of a contract.

3.2 PROPOSAL (SCORED/MANDATORY)

Proposals should be no more than five pages in length, not including additional support materials (e.g., resumes and basic company information), and should include:

1. Contact information, including project manager. (Mandatory – 0 points)
2. Statement of interest in this project. (5 points maximum)
3. Statement of qualifications and direct related experience. (45 points maximum)
4. Description of project team. (30 points maximum)
5. Detailed project timeline, including reviews of drafts. (10 points maximum)
6. Detailed budget, including team member hours dedicated to each activity and hourly rate for each team member. (10 points maximum)

4. EVALUATION AND CONTRACT AWARD

ALL MANDATORY REQUIREMENTS MUST BE MET IN ORDER TO BE EVALUATED.

4.1 EVALUATION PROCEDURE

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team, to be designated by the AGENCY, which will determine the ranking of the proposals.

PSP, at its sole discretion, may elect to select the top-scoring firms as finalists for an oral presentation/interview.

4.2 CLARIFICATION OF PROPOSAL

The RFP Coordinator may contact the Consultant for clarification of any portion of the Consultant’s proposal.

4.3 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

Proposal 100 points

Sub-Total 100 points

GRAND TOTAL FOR WRITTEN PROPOSAL 100 points

References may be contacted in addition to the scoring criteria above.

4.4 ORAL PRESENTATIONS MAY BE REQUIRED

Written submittals and oral presentations/interviews, if considered necessary, will be utilized in selecting the winning proposal(s). The AGENCY, at its sole discretion, may elect to select the top scoring finalists from the written evaluation for an oral presentation and final determination of contract award. Should the AGENCY elect to hold oral presentations, it will contact the top-scoring firm(s) to schedule a date, time and location. Commitments made by the Consultant at the oral interview, if any, will be considered binding.

4.5 NOTIFICATION TO PROPOSERS

Firms whose proposals have not been selected for further negotiation or award will be notified by e-mail.

4.6 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Notification of Unsuccessful Consultant letter is faxed/e-mailed to the Consultant. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Consultant’s proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

4.7 PROTEST PROCEDURE

This procedure is available to Consultants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Consultant is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests may be submitted by facsimile, but should be followed by the original document.

Consultants protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Consultants under this procurement.

All protests must be in writing and signed by the protesting party or an authorized Agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFP Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator.
- Errors in computing the score.
- Non-compliance with procedures described in the procurement document or AGENCY policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) AGENCY'S assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by the AGENCY. The AGENCY director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within five business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Consultant that submitted a proposal, such Consultant will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the AGENCY's action; or
- Find only technical or harmless errors in the AGENCY's acquisition process and determine the AGENCY to be in substantial compliance and reject the protest; or
- 1) Find merit in the protest and provide the AGENCY options which may include:
 - Correct the errors and re-evaluate all proposals, and/or
 - Reissue the solicitation document and begin a new process, or
 - Make other findings and determine other courses of action as appropriate.

If the AGENCY determines that the protest is without merit, the AGENCY will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

5. RFP EXHIBITS

Exhibit A Certifications and Assurances

Exhibit B Personal Service Contract General Terms and Conditions (GT&Cs)

EXHIBIT A

CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. I/we declare that all answers and statements made in the proposal are true and correct.
 2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
 3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the AGENCY without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
 4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
 5. I/we understand that the AGENCY will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the AGENCY, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
 6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
 7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
 8. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
- I/we grant the AGENCY the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.

*Note: If submitted electronically, include the following:
On behalf of the firm submitting this proposal, my name below attests to the accuracy of the above statements.*

Signature of Proposer

Title

Date

**EXHIBIT B -
GENERAL TERMS AND CONDITIONS**

DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

1. "AGENCY" shall mean the PUGET SOUND PARTNERSHIP of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
2. "AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
3. "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
4. "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

ACCESS TO DATA

In compliance with RCW 39.29.080, the CONTRACTOR shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CONTRACTOR'S reports, including computer models and methodology for those models.

ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

AMENDMENTS

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of the AGENCY.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The CONTRACTOR shall not use or disclose any information concerning the AGENCY, or information that may be classified as confidential, for any purpose not directly connected with the

administration of this contract, except with prior written consent of the AGENCY, or as may be required by law.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the AGENCY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the contract by the CONTRACTOR. The rights and remedies of the AGENCY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the AGENCY. The AGENCY shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the AGENCY effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, CONTRACTOR hereby grants to the AGENCY a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the AGENCY.

The CONTRACTOR shall exert all reasonable effort to advise the AGENCY, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract.

The AGENCY shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any data delivered under this contract. The AGENCY shall have the right to modify or remove any restrictive markings placed upon the data by the CONTRACTOR.

COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

The AGENCY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this contract without liability or, in its discretion, to deduct from the contract price or

consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISALLOWED COSTS

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

DISPUTES

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with AGENT.

- A. The request for a dispute hearing must:
 - A. Be in writing;
 - B. State the disputed issue(s);
 - C. State the relative positions of the parties;
 - D. State the CONTRACTOR'S name, address, and contract number; and
 - E. Be mailed to the AGENT and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.
- B. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working calendar days.
- C. The AGENT shall review the written statements and reply in writing to both parties within 10 working days. The AGENT may extend this period if necessary by notifying the parties.
- D. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

DUPLICATE PAYMENT

The AGENCY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.

GOVERNING LAW

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

CONTRACTOR'S obligations to indemnify defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to CONTRACTOR'S or any subcontractor's performance or failure to perform the contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this contract. The CONTRACTOR and his or her employees or agents performing under this contract are not employees or agents of the AGENCY. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the AGENCY or of the State of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

INDUSTRIAL INSURANCE COVERAGE

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The AGENCY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the AGENCY under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the CONTRACTOR.

LICENSING, ACCREDITATION AND REGISTRATION

The CONTRACTOR shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY

Only the AGENT or AGENT'S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the AGENT.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

In the event of the CONTRACTOR'S non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with the AGENCY. The CONTRACTOR shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION

During the performance of this contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations and policies.

PRIVACY

Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees,

subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR'S unauthorized use of personal information.

PUBLICITY

The CONTRACTOR agrees to submit to the AGENCY all advertising and publicity matters relating to this contract wherein the AGENCY'S name is mentioned or language used from which the connection of the AGENCY'S name may, in the AGENCY'S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of the AGENCY.

RECORDS MAINTENANCE

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

CONTRACTOR shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE

The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION

The CONTRACTOR shall provide right of access to its facilities to the AGENCY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY

While on AGENCY premises, CONTRACTOR, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TERMINATION FOR CAUSE

In the event the AGENCY determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the AGENCY has the right to suspend or terminate this contract. Before suspending or terminating the contract, the AGENCY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The AGENCY reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by the AGENCY to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the AGENCY provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

TERMINATION FOR CONVENIENCE

Except as otherwise provided in this contract, the AGENCY may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES

Upon termination of this contract, the AGENCY, in addition to any other rights provided in this contract, may require the CONTRACTOR to deliver to the AGENCY any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The AGENCY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the AGENCY, and the amount agreed upon by the CONTRACTOR and the AGENCY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by the AGENCY, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of the AGENCY. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The AGENCY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the AGENCY against potential loss or liability.

The rights and remedies of the AGENCY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

- Stop work under the contract on the date, and to the extent specified, in the notice;
- Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- Assign to the AGENCY, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the AGENCY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to the AGENCY and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the contract had been completed, would have been required to be furnished to the AGENCY;
- Complete performance of such part of the work as shall not have been terminated by the AGENT; and
- Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which the AGENCY has or may acquire an interest.

TREATMENT OF ASSETS

- Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
- Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
- The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or which results from the

failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.

- If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
- The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract
- All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

WAIVER

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the AGENCY.