



TRAFFIC SAFETY COMMISSION

EXHIBIT D – CONTRACT No. 2024-06

JUDICIAL OUTREACH LIAISON

By and Between

**STATE OF WASHINGTON
WASHINGTON TRAFFIC SAFETY COMMISSION**

and

Dated _____

CONTRACT
COMPETITIVE SOLICITATION No. 2024-06
JUDICIAL OUTREACH LIAISON

This Contract (“Contract”) is made and entered into by and between the State of Washington acting by and through the Washington Traffic Safety Commission, a Washington State governmental agency (“WTSC”) and _____, a _____ (“Contractor”). The period of performance of this Contract shall commence upon the date of execution by both Parties or October 1, 2024, whichever is later, and remain in effect until September 30, 2025, unless terminated sooner, as provided herein.

RECITALS

- A. Pursuant to Legislative direction codified in RCW 39.26, WTSC is authorized to competitively solicit and award contracts for goods and/or services for use by WTSC.
- B. WTSC is the State of Washington’s designated highway safety office. See RCW 43.59. Pursuant to its organization mission, WTSC develops and/or provides certain safety programs.
- C. WTSC issued Solicitation #2024-06 dated August 6, 2024, for the purpose of obtaining a contractor for the Judicial Outreach Liaison in accordance with its authority under RCW 39.26.
- D. The United States Department of Transportation (USDOT) National Highway Traffic Safety Administration (NHTSA) has provided federal funding to WTSC, as allowed under Assistance Listing/Catalog of Federal Domestic Assistance (CFDA) #20.616, for work to be accomplished under traffic safety grant project 2025-FG-5389 – Judicial Outreach Liaison. WTSC, pursuant to this Contract is utilizing such federal funding to compensate Contractor. Accordingly, this Contract is subject to certain federal requirements. See, e.g., *Exhibit D – Additional Federal/WTSC Requirements*.
- E. WTSC evaluated all responses to the Competitive Solicitation and identified Contractor as the apparent successful bidder.
- F. WTSC has determined that entering into this Contract will meet the identified needs and be in the best interest of the State of Washington.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

- 1. TERM.** The term of this Contract commences upon the date of execution by both Parties and ends October 1, 2024; *Provided*, however, that if Contractor is not in default and if, by the end of the term, in WTSC’s reasonable judgment, Contractor satisfactorily has met the performance-based goals for contract extension, WTSC shall extend the term of this Contract, by written amendment, for up to two, 1-year extensions. Such extension amendment shall be on the same terms and conditions as

set forth in this Contract. To earn the performance-based Contract term extension, Contractor must achieve the following performance-based metrics:

PERFORMANCE METRIC	PERFORMANCE REQUIREMENT FOR CONTRACT EXTENSION
Grant Management:	WTSC grant-required reports (four quarterly reports and one annual report) are timely completed and submitted in the Washington Enterprise Management System (WEMS) grant management system every year of the contract period.
Project Goal #1:	Provide educational materials, technical support, and training to Washington judges and other stakeholders involved in traffic safety related to impaired driving and other traffic safety issues.
Project Goal #2:	Function as a liaison between the WTSC, state judicial educators, and Washington judges and their representative organizations.
Project Goal #3:	Connect courts to resources and training related to impaired driving specialty dockets with an emphasis on rural and tribal courts.

2. SCOPE – INCLUDED GOODS AND/OR SERVICES AND PRICE.

2.1. CONTRACT SCOPE. Pursuant to this Contract, Contractor is authorized to sell and provide only those goods and/or services set forth in *Exhibit A – Included Goods/Services* for the prices set forth in *Exhibit B – Prices for Goods/Services*.

- (a) Goods. For purposes of this Contract, “Goods” means all equipment, materials, supplies, ancillary parts, accessories, components and other items purchased as defined in this Contract.
- (b) Services. For purposes of this Contract, “Services” means all services of any nature ordered by WTSC pursuant to this Contract and provided by Contractor pertaining to the Goods.
- (c) Specifications. Where applicable, specifications for Goods and/or Services as detailed in this Contract. Unless otherwise specified, all Goods and/or Services provided shall be new and unused of the latest model or design.

2.2. ABILITY TO MODIFY SCOPE OF CONTRACT. Subject to mutual agreement between the parties, WTSC reserves the right to modify the Goods and/or Services included in this Contract; *Provided*, however, that any such modification shall be effective only upon ten (10) days advance written notice; and *Provided further*, that any such modification must be within the scope of the Competitive Solicitation for this Contract.

2.3. PRICE CEILING. Although Contractor may offer lower prices to WTSC, during the term of this Contract, Contractor guarantees to provide the Goods and/or Services at no greater than the prices set forth in *Exhibit B - Prices for Goods/Services*.

3. CONTRACTOR REPRESENTATIONS AND WARRANTIES. Contractor makes each of the following representations and warranties as of the effective date of this Contract and at the time of performance pursuant to this Contract. If, at the time of performance, Contractor cannot make such

representations and warranties, Contractor shall not perform and shall, within three (3) business days notify WTSC, in writing, of such breach.

- 3.1. QUALIFIED TO DO BUSINESS. Contractor represents and warrants that Contractor is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue and the Washington Secretary of State.
- 3.2. TAXES. Contractor represents and warrants that Contractor is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.
- 3.3. LICENSES; CERTIFICATIONS; AUTHORIZATIONS; & APPROVALS. Contractor represents and warrants that Contractor possesses and shall keep current during the term of this Contract all required licenses, certifications, permits, authorizations, and approvals necessary for Contractor's proper performance of this Contract.
- 3.4. SUSPENSION & DEBARMENT. Contractor represents and warrants as previously certified in Contractor's Bidder's Certification, that neither Contractor nor its principals or affiliates presently are not, nor have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental Contract by any governmental department or agency within the United States. Contractor further represents and warrants as previously certified in Contractor's Federal Certification that, in performing this Contract, Contractor shall comply with the federal suspension and debarment requirements.
- 3.5. WAGE VIOLATIONS. Contractor represents and warrants as previously certified in Contractor's Bidder's Certification, that during the term of this Contract and the three (3) year period immediately preceding the award of the Contract, Contractor has not been determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgement entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW 49.46, 49.48, or 49.52.
- 3.6. CIVIL RIGHTS. Contractor represents and warrants that Contractor complies with all applicable requirements regarding civil rights. Such requirements prohibit discrimination against individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3.7. EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Contract, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.
- 3.8. WASHINGTON SMALL BUSINESS [IF APPLICABLE]. Contractor represents and warrants, as previously certified in Contractor's Bidder Certification, that Contractor qualifies as a Washington Small Business pursuant to RCW 39.26.010.

- 3.9. CERTIFIED VETERAN-OWNED BUSINESS [IF APPLICABLE]. Contractor represents and warrants, as previously certified in Contractor's Bidder Certification, that Contractor qualifies as a Certified Veteran-Owned Business pursuant to RCW 43.60A.190.
- 3.10. PUBLIC CONTRACTS AND PROCUREMENT FRAUD. Contractor represents and warrants that, within the three (3) year period prior to this Contract, neither Contractor nor its principals or affiliates: (a) have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract under a public contract; (b) have been in violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offense enumerated in subsection (b) of this provision; or (d) had one or more public contracts (federal, state or local) terminated for cause or default.
- 3.11. PROCUREMENT ETHICS & PROHIBITION ON GIFTS. Contractor represents and warrants that Contractor complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to State employees.
- 3.12. WASHINGTON'S STATEWIDE PAYEE DESK. Contractor represents and warrants that Contractor is registered with Washington's Statewide Payee Desk, which registration is a condition to payment.
- 3.13. ADVERTISING AND ENDORSEMENT. Contractor understands and acknowledges that neither WTSC nor the State of Washington are endorsing Contractor's goods and/or services or suggesting that such goods and/or services are the best or only solution to their needs. Accordingly, Contractor further represents and warrants that Contractor shall make no reference to WTSC or the State of Washington in any promotional material without the prior written consent of WTSC.
- 3.14. CONTINGENT FEES. Contractor represents and 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 as defined in the Federal Acquisition Regulations.
- 3.15. FINANCIALLY SOLVENT. Contractor represents and warrants that Contractor has not commenced bankruptcy proceedings and that there are no judgment, liens, or encumbrances of any kind affecting title to any Goods and/or Services that are the subject of this Contract.
- 3.16. OPERATIONAL CAPABILITY. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor has the operational and financial capability to perform the Contract.
- 3.17. ACCESS EQUITY – CONTRACT REPORTING. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor, if utilizing subcontractors to perform this Contract, shall register and report monthly, as Contractor, through *Access Equity*, Washington's secure online business diversity vendor management system (B2Gnow), which is managed by Washington's Office of Minority and Women's Business Enterprises (OMWBE), any payments to subcontractors pertaining to the Contract. Contractor further represents

and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor shall use commercially reasonable efforts to ensure that such subcontractors also utilize *Access Equity* to verify such payment information as reported by Contractor.

- 3.18. FEDERAL FUNDING. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor complies with the Federal Funding requirements set forth in this Contract.
- 3.19. CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Contract is transitioned to another contractor (e.g., Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist WTSC for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

4. QUALITY; WARRANTY; REMEDIES.

- 4.1. GOODS WARRANTY. Contractor warrants that, for a period of twelve (12) months from the date when the Goods are put into use, or eighteen (18) months after delivery of the Goods, whichever is later ("Goods Warranty Period"), the Goods: (a) are free from defects in design, material, and workmanship; (b) are fit and safe for the intended purposes and appropriate for the specified application(s) (if any); (c) are consistent with recognized industry quality standards; (d) comply with the requirements, specifications, drawings, standards, and descriptions included in this Contract; and (e) are produced and delivered in full compliance with applicable law ("Goods Warranty"). Contractor further warrants that it has good and marketable title to the Goods and shall keep WTSC's property free of liens. If WTSC receives notice of a lien caused by Contractor, WTSC may withhold any payment otherwise due Contractor until Contractor submits proof, in a form satisfactory to WTSC, that all lienable claims have been fully paid or waived.
- 4.2. GOODS REMEDY. If Goods do not comply with the Goods Warranty or any defects develop during the Goods Warranty Period under normal use, at WTSC's election, Contractor promptly shall remedy the defect by removing, repairing, correcting, or replacing, and/or reinstalling any defective Goods. Contractor's Goods Warranty support shall include, at Contractor's sole expense, all technical support, parts, materials and equipment, and labor, including freight and "in/out" costs required to address the defect. If, in WTSC's judgment, repair or replacement is inadequate, or fails of its essential purpose, Contractor shall refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 4.3. SERVICES WARRANTY. Contractor warrants that: (a) Services will be performed in a timely, efficient, professional, and workmanlike manner; (b) all Contractor personnel assigned to perform Services will have the necessary skill and training; and (c) Services will be performed in a manner consistent with the standard of care in the industry ("Services Warranty"). The Services Warranty will survive for a period of twelve (12) months after the date when Services are completed ("Services Warranty Period").
- 4.4. SERVICES REMEDY. If Services do not comply with the Services Warranty or are in any manner found to be nonconforming during the Services Warranty Period, Contractor promptly shall

remedy the non-conformance, or at WTSC's election, Contractor shall re-perform or correct the nonconforming Services at no additional cost to WTSC or refund the amounts paid for the Services.

- 4.5. **IT WARRANTY.** Contractor warrants, that all hardware, software, and firmware associated with Goods or Services ("IT Goods" and "IT Services", respectively) will not: (a) contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (i) damage, destroy, or alter any software or hardware; (ii) reveal, damage, destroy, or alter any data; (iii) disable any computer program automatically; or (d) permit unauthorized access to any software or hardware; (b) contain any third party software (including software that may be considered free software or open source software) that (i) may require any software to be published, accessed, or otherwise made available without the consent of WTSC, or (ii) may require distribution, copying, or modification of any software free of charge; and (c) infringe on any patent, copyright, trademark, or other proprietary or intellectual property right of any third party or misappropriate any trade secret of any third party ("IT Warranty"). The IT Warranty will expire twelve (12) months after the date IT Goods are delivered or IT Services are complete, as applicable.
 - 4.6. **IT REMEDY.** If IT Goods or IT Services do not comply with the IT Warranty, or if any defect or non-conformance develops during the IT Warranty Period, Contractor, at WTSC's election, promptly will: (a) remedy the defect by removing, repairing, correcting or replacing, and/or reinstalling any defective IT Goods; (b) re-perform or correct the non-conforming IT Services at no additional cost to WTSC; or (c) refund the amounts paid for IT Services and IT Goods.
 - 4.7. **FAILURE TO REMEDY.** If Contractor does not remedy a defect or nonconformity within ten (10) calendar days after receipt of written notice from WTSC, or if an emergency exists rendering it impossible or impractical for WTSC to have Contractor provide a remedy, WTSC may, without prejudice to any other rights or remedies available to it, make or cause to be made required modifications, adjustments, or repairs, or may replace Goods, Services, IT Goods, or IT Services, in which case Contractor shall reimburse WTSC for its actual costs or, at WTSC's option, WTSC will offset the costs incurred from amounts owing to Contractor.
 - 4.8. **TECHNICAL SUPPORT.** During any applicable warranty period, Contractor shall provide all warranty service and telephone support, including after-hour technical support, at its own cost. Contractor shall maintain a technical support hotline to address breakdowns and safety incidents.
- 5. SAFETY; SECURITY.** Contractor's failure to comply with any of the requirements in this Section shall be cause for termination.
- 5.1. **REGULATORY REQUIREMENTS/SAFETY.** Goods and/or Services supplied by Contractor shall meet all OSHA and other safety-related federal, state, and/or local regulatory agency requirements applicable to the Goods and/or Services.
 - 5.2. **MATERIAL SAFETY DATA SHEETS.** As applicable, Contractor shall provide WTSC with all appropriate Material Safety Data Sheets ("MSDS") at the time of delivery of each shipment of Goods which requires such compliance and/or and for materials used by Contractor while performing Services and any updates of the same.

- 5.3. CLEAN-UP. If Contractor, its agents, employees, or subcontractors perform onsite Services, Contractor, at its cost, will remove all excess materials, equipment, packaging, and garbage within the scope of its performance of Services and leave that portion of the premises in which the work was performed in a clean condition. Should Contractor fail to clean up a Site after completion of work, WTSC will have the right to remove the materials and set off the cost of clean up against amounts owed to Contractor.
- 5.4. ACCIDENT AND INJURY REPORTING. If Contractor, its agents, employees, or subcontractors are present at WTSC's premises, Contractor promptly will report in writing all injuries, accidents, property damage, near-miss incidents, or any claims regarding damages or injury involving Contractor, its agents, employees, or subcontractors occurring at such premises. Contractor agrees to cooperate and assist in any WTSC investigation of incidents.
- 5.5. ON SITE REQUIREMENTS. While on WTSC's premises, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with WTSC's physical, fire, access, safety, and other security requirements and not interfere with WTSC's operations. Contractor represents and warrants that Contractor, its agents, employees, or subcontractors who access WTSC's premises will be adequately trained and at all times comply with WTSC's requirements.
- 5.6. IT SECURITY POLICIES. Contractor, its agents, employees, or subcontractors shall comply with all Washington State IT security policies and standards which will be made available to Contractor upon request.
- 5.7. HAZARDOUS MATERIALS. If Contractor uses chemicals or any potentially hazardous materials in the performance of Services, Contractor assumes responsibility for any loss, release, or environmental incident arising out of Contractor's unloading, discharge, storage, handling, or disposal of any chemical or container holding potentially hazardous materials, including the use of potentially hazardous material alone or in combination with other substances, and for Contractor's noncompliance with any related laws or regulations. If Contractor receives hazardous materials or toxic waste from a Purchaser, Contractor immediately shall contact the Purchaser to discuss disposal options, at Purchaser's expense. It is the Purchaser's responsibility to ensure hazardous materials and wastes created by Purchaser are disposed of properly. The Purchaser may elect, if permitted by law: 1) to have such materials returned, 2) hire the Contractor to dispose of the materials/waste through appropriate disposal methods, or 3) arrange for disposal through the state's Hazardous Waste Disposal contract number 03614 (once that expires, whichever contract follows). Purchaser shall bear all associated handling and disposal costs to meet all governmental regulations for disposal. Contractor shall receive Purchaser's pre-approval for any related Contractor's handling and disposal charges, which charges shall not exceed those regularly charged to customers. Learn more about hazardous waste disposal guidelines and options at <http://1800recycle.wa.gov/> and <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Dangerous-waste-guidance/Dispose-recycle-or-treat>.

6. SUBCONTRACTORS.

- 6.1. CONTRACTOR RESPONSIBILITY. Notwithstanding any provision to the contrary, in the event Contractor elects to utilize subcontractors to perform this Contract, Contractor shall:
(a) incorporate Contractor's responsibilities under this Contract into its subcontracts; (b) be

fully responsible for the performance of any such subcontractors (regardless of tier) and ensure that subcontractors comply with each and every Contractor obligation set forth in this Contract; (c) be the sole point of contact for WTSC regarding all contractual matters; and (d) defend, indemnify, and hold WTSC harmless in case of negligence, other tortious fault, or intentional misconduct by any such subcontractors (regardless of tier).

- 6.2. REPORTING. If Contractor is required to report to WTSC, such report(s) will include subcontractor data, by subcontractor, for any data that Contractor is required to report as well as a consolidated 'rollup' report combining Contractor and subcontractor data.
- 6.3. SUBCONTRACTOR REPRESENTATIONS AND CERTIFICATIONS. Any Contractor representations or certifications set forth in this Contract shall apply to subcontractors (at any tier) and Contractor shall not utilize any subcontractors (at any tier) who cannot provide such representations or certifications, excepting the certification to be registered with Washington's Statewide Payee Desk, unless WTSC will pay such subcontractor directly.

7. PERFORMANCE

- 7.1. PERFORMANCE REQUIREMENTS. Contractor shall ensure that the Goods and/or Services required by this Contract, including the requirements set forth in *Exhibit A - Performance Requirements*, or as otherwise mutually agreed in writing between WTSC and Contractor, are timely provided to WTSC.
- 7.2. RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES. Goods and/or Services provided by Contractor to WTSC pursuant to this Contract are subject to WTSC's reasonable inspection, testing, and approval. WTSC reserves the right to reject and refuse acceptance of goods and/or services that are not in accordance with this Contract. If there are any apparent defects in the Goods and/or Services at the time of delivery, WTSC promptly will notify Contractor. At WTSC's option, and without limiting any other rights, WTSC may require Contractor to repair or replace, at Contractor's expense, any or all deficient goods and/or services or, at WTSC's option, WTSC's may note such deficiency to the goods and/or services on the receiving report, decline acceptance, and deduct the cost of rejected goods and/or services from final payment.
- 7.3. OWNERSHIP OF DELIVERABLES. Notwithstanding any provision to the contrary, the parties understand and agree that WTSC shall own all rights to any plans, reports, or other deliverables provided to WTSC pursuant to this Contract. The copyright in all works of authorship created pursuant to this Contract shall be owned by the State of Washington. All such works or portions of works created by the Contractor are hereby agreed to be "works made for hire" within the meaning of 17 U.S.C. § 201. If, however, the State of Washington is not able to obtain copyright ownership under the statutory provisions for "works made for hire," then Contractor hereby assigns to State of Washington all right, title, and interest in: (a) the copyright to Contractor's work of authorship ("Work") and contribution to any such Work ("Contribution"); (b) any registrations and copyright applications, along with any renewals and extensions thereof, relating to the Contribution or the Work; (c) all works based upon, derived from, or incorporating the Contribution or the Work; (d) all income, royalties, damages, claims and payments now or hereafter due or payable with respect to the

Contribution or the Work; (e) all causes of action, either in law or in equity, for past, present, or future infringement of copyright related to the Contribution or the Work, and all rights corresponding to any of the foregoing, throughout the world. In addition, to the extent any applicable law or treaty prohibits the transfer or assignment of any moral rights or rights of restraint the Contractor has in the Contribution or the Work, the Contractor waives those rights as to State of Washington, its successors, licensees, and assigns.

7.4. CONTRACTOR KEY STAFF CHANGES.

- (a) Except in the case of a leave of absence, sickness, death, termination of employment or unpaid or paid leave of absence, agreed upon Key Staff must not be changed during the term of this Contract. Otherwise, any change in Key Staff must be agreed in writing between the parties. During the term of the Contract, WTSC reserves the right to approve or disapprove of Contractor and Subcontractor Key Staff assigned to perform services as required by this Contract, or to require the removal or reassignment of any Contractor or Subcontractor Key Staff found unacceptable by WTSC, subject to WTSC's compliance with applicable laws and regulations. Contractor must provide WTSC with a resume of any member of its Key Staff or a Subcontractor's Key Staff assigned to or proposed for any aspect of performance under this Contract prior to commencing any Services.
- (b) In the event that proposed Contractor resources are unavailable to deliver the work, Contractor must staff the project with resources with equal or greater skills and capabilities, subject to approval from WTSC.
- (c) WTSC must be notified of any change in Contractor Key Staff as soon as practicable but in no event less than five (5) working days after removal of such staff from their duties in support of this Contract. Contractor must provide resumes and describe the roles and responsibilities of any replacement staff to WTSC as soon as practicable but in no event less than five (5) working days prior to the date that such staff begin work under this Contract. WTSC reserves the right, in its sole judgement, to approve or reject such replacement staff. WTSC's approval of such staff will not be unreasonably withheld.

8. INVOICING, PAYMENT

- 8.1. **CONTRACTOR INVOICE.** Contractor shall submit properly itemized invoices to WTSC’s designated invoicing contact for Goods and/or Services provided pursuant to this Contract. Contractor shall submit monthly invoices for payment consistent with the payment schedule included in this Contract to WTSC with supporting documentation as WTSC shall require. All such invoices shall be submitted through the WEMS invoicing process, or via alternate method if approved by WTSC. Payment to Contractor will be made by warrant or account transfer by WTSC within 30 days of receipt of such properly documented invoices acceptable to WTSC. Upon expiration of the Contract, any claim for payment not already made shall be submitted within 45 days after the expiration date of this Contract. All invoices for goods received or services performed on or prior to June 30 must be received by WTSC no later than August 10 of that same year. All invoices for goods received or services performed between July 1 and September 30 must be received by WTSC no later than November 15 of that same year. WTSC reserves the right to delay the processing of invoices until the activity reports required by Section 8.7 are received and approved. Such invoices shall itemize the following:
- (a) Contract No. 2024-02 or 2024-FG-5012
 - (b) Project Fiscal Year
 - (c) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative, Vendor Claimant);
 - (d) Contractor’s Federal Tax Identification Number or statewide vendor number;
 - (e) Date(s) of delivery;
 - (f) Billing start and end date
 - (g) Description of Services and Deliverables provided;
 - (h) Net invoice Price for each Service or Deliverables;
 - (i) Applicable taxes;
 - (j) Total invoice amount;
 - (k) Payment terms, including any available prompt payment discounts; and
 - (l) Back up documentation.
- 8.2. **CONTRACTOR’S INVOICES FOR PAYMENT SHALL REFLECT ACCURATE CONTRACT PRICES.** Invoices will not be processed for payment until receipt of a complete invoice as specified herein. WTSC shall have no obligation to pay Contractor for any services that do not comply with this Contract Payment. Payment is the sole responsibility of, and will be made by, WTSC.
- 8.3. **OVERPAYMENTS.** Contractor promptly shall refund to WTSC the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) calendar days of written notice to Contractor; Provided, however, that WTSC shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely refunds of overpayment(s) (either directly or by such credit memo), Contractor shall pay WTSC interest at a rate of one percent (1%) per month on the amount overdue thirty (30) calendar days after notice to Contractor.

- 8.4. **ADVANCE PAYMENT PROHIBITED.** Except as authorized by law, Contractor shall not request or receive advance payment for any Good and/or Services furnished by Contractor pursuant to this Contract.
- 8.5. **NO ADDITIONAL CHARGES.** Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, insurance, or payment processing.
- 8.6. **TAXES/FEES.** The Contractor shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements/standards necessary for the performance of this Contract. The Contractor shall complete registration with the Washington State Department of Revenue, if required, and be responsible for payment of all taxes due on payments made under this Contract.
- 8.7. **ACTIVITY PROGRESS REPORTING.** Contractor shall submit activity reports pertaining to this Contract in the form provided by WTSC using the WTSC Enterprise Management System (WEMS) Progress Reporting process or other alternate means pre-approved by WTSC. Contractor shall include copies of publications, training reports, and any statistical data generated in project execution in the reports. WTSC reserves the right to delay the processing of invoices until activity reports are received and approved.
- 8.8. **SUBCONTRACTOR ACCESS EQUITY REPORTING.** This Contract is subject to compliance tracking using the State’s business diversity management system, Access Equity (B2Gnow). Access Equity is web-based and can be accessed at the Office of Minority and Women’s Business Enterprises at <https://omwbe.diversitycompliance.com/>. In the event that Contractor utilizes subcontractors to perform this Contract, Contractor (and subcontractor(s)) shall comply with this provision. Contractor and all Subcontractors shall report and confirm receipt of payments made to Contractor and each Subcontractor through Access Equity. Contractor may contact WTSC at 360-725-9860 for technical assistance in using the Access Equity system. User guides and documentation related to Contractor and Subcontractor access to and use of Access Equity are available online at <https://omwbe.wa.gov/access-equity-help-center>. WTSC reserves the right to withhold payments from Contractor for non-compliance with this section. For purposes of this Contract, Subcontractor means any subcontractor working on the Contract, at any tier and regardless of status as certified WMBE or Non-WMBE.
- (a) Register and enter all required Subcontractor information into Access Equity no later than 15 days after WTSC creates the Contract Record in Access Equity.
 - (b) Complete the required user training (two (2) one-hour online sessions) no later than 20 days after WTSC creates the Contract Record in Access Equity.
 - (c) Report the amount and date of all payments (i) received from WTSC, and (ii) paid to Subcontractors, no later than September 30, 2024, issuance of each payment made by WTSC to Contractor, unless otherwise specified in writing by WTSC, except that Contractor shall mark as “Final” and report the final Subcontractor payments) into Access Equity no later than thirty (30) days after the final payment is due to the Subcontractor(s) under the Contract, with all payment information entered no later than sixty (60) days after the end of the fiscal year.

- (d) Monitor contract payments and respond promptly to any requests or instructions from WTSC or system-generated messages to check or provide information in Access Equity.
- (e) Coordinate with Subcontractors, or WTSC when necessary, to resolve promptly any discrepancies between reported and received payments.
- (f) Require each Subcontractor to: (i) register in Access Equity and complete the required user training; (ii) verify the amount and date of receipt of each payment from Contractor or a higher tier Subcontractor, if applicable, through Access Equity; (iii) report payments made to any lower tier Subcontractors, if any, in the same manner as specified herein; (iv) respond promptly to any requests or instructions from Contractor or system-generated messages to check or provide information in Access Equity; and (v) coordinate with Contractor, or WTSC when necessary, to resolve promptly any discrepancies between reported and received payments.

9. CONTRACT MANAGEMENT

9.1. **CONTRACT ADMINISTRATION & NOTICES.** Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of contract administration for this Contract. WTSC’s contract administrator shall provide contract administrative oversight. Contractor’s contract administrator shall be Contractor’s principal contact for invoice/billing activities under this Contract. The parties may change contract administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

<p>WTSC Attn: Megan Baker Washington Traffic Safety Commission PO Box 40944 Olympia, WA 98504 Tel: (360) 725-9881 Email: mbaker@wtsc.wa.gov</p>	<p>Contractor Attn: _____ _____ _____ Tel: (____) _____ Email: _____</p>
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Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

- 9.2. **CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE.** Contractor shall designate a customer service representative (and inform WTSC of the same) who shall be responsible for addressing WTSC’s issues pertaining to this Contract.
- 9.3. **LEGAL NOTICES.** Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

WTSC

Attn: Megan Baker
Washington Traffic Safety Commission
PO Box 40944
Olympia, WA 98504
Tel: (360) 725-9881
Email: mbaker@wtsc.wa.gov

Contractor

Attn: _____

Email: _____

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

10. RECORDS RETENTION & AUDITS

- 10.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect contract performance and administration of purchases, payments, taxes and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Contract or final payment, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 10.2. AUDIT. WTSC reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor properly has invoiced WTSC. Accordingly, Contractor shall permit WTSC and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor’s books, documents, papers and records directly pertinent to this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Contract or final payment, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

11. INSURANCE

- 11.1. REQUIRED INSURANCE. Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for Goods and/or Services and no additional payment shall be made to Contractor.
- 11.2. WORKERS COMPENSATION. Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If 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, WTSC may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. If Contractor performs Services on WTSC’s behalf in the State of Washington, and only to the extent of claims against Contractor by WTSC under the Indemnity

obligations in this Contract, Contractor expressly waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. Contractor's indemnification obligation will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The parties expressly acknowledge and certify that the waiver of immunity under Title 51 RCW was mutually negotiated and agreed upon.

12. CLAIMS

- 12.1 ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees and agents in connection with Contractor's operations under this Contract. WTSC has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any WTSC's property resulting directly or indirectly from Contractor's acts or omissions under this Contract, even if not attributable to negligence by Contractor or its agents.
- 12.2 THIRD-PARTY CLAIMS; GENERAL INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold WTSC and its employees and agents harmless from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "Claims") arising out of Contractor's or its successors', agents', and subcontractors' negligence, other tortious fault, or intentional misconduct under this Contract; Provided, however, that no right to indemnity will exist as to that portion of a Claim resulting from the sole negligence, tortious fault, or intentional misconduct of WTSC. The parties agree that if there are any limitations of Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability shall not apply to injuries to persons, including death, or to damages to property. Contractor shall take all steps needed to keep WTSC's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.
- 12.3 INTELLECTUAL PROPERTY INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold WTSC and their employees and agents harmless from against any and all Claims resulting from allegations of infringement of any patents, copyrights, trade secret, or similar intellectual property rights covering the Goods and/or Services provided, or the use of the Goods and/or Services under this Contract. If WTSC's use of Goods and/or Services provided by Contractor is enjoined based on an intellectual property infringement Claim, Contractor shall, at its own expense, either procure for WTSC's the right to continue using the Goods and/or Services or, after consulting with WTSC's and obtaining WTSC's consent, replace or modify the Goods and/or Services with substantially similar and functionally equivalent non-infringing Goods and/or Services.

13. DISPUTE RESOLUTION.

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 review by the WTSC. The request for a dispute review (“Requestor’s Statement”) must: be in writing, state the disputed issue(s), state the relative positions of the requester’s Party, state the designated contact’s name, address, and telephone number, and be submitted by mail or electronic correspondence (email) to WTSC and the other Party’s Designated Contact within three working days after the Parties agree that they cannot resolve the dispute.

Within five working days after receipt of the Requestor’s Statement, the other Party’s Designated Contact shall send a written response to the Requester’s Statement to both the WTSC and the requester. The WTSC shall review the written statements and provide a resolution reply in writing to both Parties within 10 working days after receiving the second Party’s written response. The WTSC may extend this period if necessary to allow more time for review or to collect more information from the Parties by notifying both Parties. 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 or in lieu of the dispute resolution procedure outlined above. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in the superior court situated in Thurston County, Washington

14. SUSPENSION; EXPIRATION; TERMINATION; REMEDIES.

14.1. **TERMINATION.** This Contract may be terminated: (a) upon the mutual written agreement of the parties; (b) by the non-breaching party where the breach is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in this Contract; and (c) as otherwise expressly provided for in this Contract. This Contract shall terminate automatically and without further action if a party becomes insolvent or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate this Contract as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach will not affect rights or obligations accrued or owed before the effective date of the termination notice.

14.2. **TERMINATION FOR NONAPPROPRIATION OR REDUCTION OF FUNDS OR CHANGES IN LAW.** WTSC may suspend or terminate this Contract, at the sole discretion of WTSC or, as applicable, if WTSC reasonably determines that: (a) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects WTSC’s ability to pay Contractor. A change of available funds as used in this section includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor. If a written notice is delivered under this provision, WTSC will reimburse Contractor for Goods properly ordered and/or Services properly performed until the effective date of said notice. Except as stated in this provision, in the event of termination for nonappropriation or reduction of funds or changes in law, WTSC will have no obligation or liability to Contractor.

- 14.3. **TERMINATION FOR PUBLIC CONVENIENCE.** WTSC, for public convenience, may terminate this Contract; Provided, however, that such termination for public convenience must, in WTSC's judgment, be in the best interest of the State of Washington; and Provided further, that such termination for public convenience shall only be effective upon sixty (60) days prior written notice; and Provided further, that such termination for public convenience shall not relieve WTSC from payment for Goods and/or Services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, WTSC shall not have any obligation or liability to Contractor.
- 14.4. **TERMINATION – Contractor's Obligations.** Upon termination of this Contract, Contractor shall: (a) continue to fulfill its warranty obligations with respect to any Goods and/or Services provided hereunder and all provisions of the Contract that, by their nature, would continue beyond termination or cancellation of the Contract shall so continue and survive; and (b) promptly return to WTSC all keys, badges, and other materials supplied by WTSC pursuant to this Contract.
- 14.5. **DEFAULT.** Any of the following events shall constitute cause for WTSC to declare Contractor in default of this Contract:
- (a) Contractor fails to perform or comply with any of the terms or conditions of this Contract;
 - (b) Contractor breaches any representation or warranty provided herein; or
 - (c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.
- 14.6. **SUSPENSION & TERMINATION FOR DEFAULT.** WTSC may suspend Contractor's operations under this Contract immediately by written cure notice of any default. Suspension shall continue until the default is remedied to WTSC's reasonable satisfaction; Provided, however, that, if after twenty (20) days from such a suspension notice, Contractor remains in default, WTSC may terminate Contractor's rights under this Contract. All of Contractor's obligations to WTSC survive termination of Contractor's rights under this Contract, until such obligations have been fulfilled.
- 14.7. **REMEDIES FOR DEFAULT.**
- (a) WTSC's rights to suspend and terminate Contractor's rights under this Contract are in addition to all other available remedies.
 - (b) In the event of termination for default, WTSC may exercise any remedy provided by law including, without limitation, the right to procure replacement goods and/or services. In such event, Contractor shall be liable to WTSC for damages as authorized by law including, but not limited to, any price difference between the Contract price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.
- 14.8. **LIMITATION ON DAMAGES.** Notwithstanding any provision to the contrary, the parties agree that in no event shall any party be liable to the other for exemplary or punitive damages; Provided, however, that nothing contained in this Section will in any way exclude or limit: (a) a party's liability for all damages arising out of that party's intentional acts or omissions; (b) the operation of any Goods and/or Services warranty provided in this Contract; or (c) damages

subject to the Intellectual Property Indemnity section of this Contract. Any limitation of either party's obligations under this Contract, by delivery slips or other documentation is void.

- 14.9. **SUSPENSION/TERMINATION PROCEDURE.** Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, Contractor shall deliver to WTSC all Goods and/or Services that are complete (or with approval from WTSC, substantially complete) and WTSC shall inspect, accept, and pay for the same in accordance with this Contract.

15. PUBLIC INFORMATION & PUBLIC RECORDS DISCLOSURE REQUESTS.

- 15.1. **WASHINGTON'S PUBLIC RECORDS ACT.** Unless statutorily exempt from public disclosure, this Contract and all related records are subject to public disclosure as required by Washington's Public Records Act, RCW 42.56.
- 15.2. **CONTRACTOR OBLIGATION.** Contractor shall identify and mark the precise portion(s) of the relevant page(s) of any records provided to WTSC that Contractor believes are statutorily exempt from disclosure and identify the precise statutory basis for exemption from disclosure. In addition, if, in Contractor's judgment, certain portions of such records are not statutorily exempt from disclosure but are sensitive because particular portions of Contractor's records (NOT including pricing) include highly confidential, proprietary, or trade secret information (or the equivalent) that Contractor protects through the regular use of confidentiality or similar agreements and routine enforcements through court enforcement actions, Contractor shall identify and mark the precise portion(s) of the relevant page(s) of any records that include such sensitive information.
- 15.3. **WTSC'S OBLIGATION.** In the event that WTSC receives a public records disclosure request pertaining to records that Contractor has submitted and marked either as (a) statutorily exempt from disclosure; or (b) sensitive WTSC, prior to disclosure, will do the following: WTSC's Public Records Officer will review any records marked by Contractor as statutorily exempt from disclosure. In those situations, where the designation comports with the stated statutory exemption from disclosure, WTSC will redact or withhold the record(s) as appropriate. For records marked 'sensitive' or for records where WTSC determines that no statutory exemption to disclosure applies or is unable to determine whether the stated statutory exemption to disclosure properly applies, WTSC will notify Contractor, at the address provided in the Contract, of the public records disclosure request and identify the date that WTSC intends to release the record(s) (including records marked 'sensitive' or exempt from disclosure) to the requester unless Contractor, at Contractor's sole expense, timely obtains a court order enjoining WTSC from such disclosure. In the event Contractor fails to timely file a motion for a court order enjoining such disclosure, WTSC will release the requested record(s) on the date specified. Contractor's failure properly to identify exempted or sensitive information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such records are exempt or protected from public disclosure.

16. GENERAL PROVISIONS.

- 16.1. **TIME IS OF THE ESSENCE.** Time is of the essence for each and every provision of this Contract.

- 16.2. COMPLIANCE WITH LAW. Contractor shall comply with all applicable law. Contractor shall obtain all necessary permits and approvals and give all stipulations, certifications, and representations that may be required for it to perform this Contract.
- 16.3. NONDISCRIMINATION.
- a) Nondiscrimination Requirement. During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
 - b) Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
 - c) Default. Notwithstanding any provision to the contrary, WTSC may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until WTSC receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), WTSC may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
 - d) Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between this Contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. WTSC and/or Purchasers shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Enterprise Services and/or Purchasers for default under this provision.
- 16.4. ENTIRE AGREEMENT. This Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 16.5. AMENDMENT OR MODIFICATION. Except as set forth herein, this Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party.
- 16.6. AUTHORITY. Each party to this Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Contract and that its execution, delivery, and performance of this Contract has been fully

authorized and approved, and that no further approvals or consents are required to bind such party.

- 16.7. NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 16.8. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor relationship is created by this Contract. Contractor and its employees or agents performing under this Contract are not employees or agents of WTSC. Contractor shall not have authorization, express or implied, to bind WTSC to any agreement, liability, or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or worker's compensation benefits through WTSC or the State of Washington and WTSC and the State of Washington will not pay for or otherwise provide such coverage for Contractor and its employees and agents.
- 16.9. ASSIGNMENTS. Contractor may not assign its rights under this Contract without WTSC's prior written consent and WTSC may consider any attempted assignment without such consent to be void; Provided, however, that, if Contractor provides written notice to WTSC within thirty (30) days, Contractor may assign its rights under this Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Contract notwithstanding any prior assignment of its rights.
- 16.10. BINDING EFFECT; SUCCESSORS & ASSIGNS. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 16.11. ASSIGNMENT OF ANTITRUST RIGHTS Regarding Purchased Goods and/or Services. Contractor irrevocably assigns to WTSC, on behalf of the State of Washington, any claim for relief or cause of action which Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any goods and/or services provided in Washington for the purpose of carrying out the Contractor's obligations under this Contract, including, at WTSC's option, the right to control any such litigation on such claim for relief or cause of action.
- 16.12. FORCE MAJEURE. Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that causes a delay that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences. If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the rights reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract. Notwithstanding any provision to the contrary, in the event

that a Contractor-declared force majeure event lasts for more than thirty (30) days, WTSC shall have the right to terminate the Contract and/or purchase the goods and/or services set forth in this Contract; Provided, however, that in such event, Contractor shall not be liable to WTSC for any price difference for such goods and/or services.

- 16.13. **FEDERAL FUNDS.** To the extent that WTSC uses federal funds to purchase goods and/or services pursuant to this Contract, WTSC shall specify any applicable requirement or certification that must be satisfied by Contractor as a condition of payment and Contractor shall adhere to such applicable federal requirements and/or certifications.
- 16.14. **SEVERABILITY.** If any provision of this Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Contract, and to this end the provisions of this Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Contract.
- 16.15. **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Contract, nor shall any purported oral modification or rescission of this Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.
- 16.16. **SURVIVAL.** All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Contract shall survive and remain in effect following the expiration or termination of this Contract, Provided, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 16.17. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to any choice of law principles that would provide for the application of the laws of another jurisdiction.
- 16.18. **JURISDICTION & VENUE.** In the event that any action is brought to enforce any provision of this Contract, the parties agree to submit to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- 16.19. **ATTORNEYS' FEES.** In the event of litigation or other action brought to enforce the terms of this Contract or alternative dispute process, each party agrees to bear its own attorneys' fees and costs.
- 16.20. **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Contract. Each party hereto and its counsel has reviewed and revised this Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of

this Contract. Each term and provision of this Contract to be performed by either party shall be construed to be both a covenant and a condition.

- 16.21. FURTHER ASSURANCES. In addition to the actions specifically mentioned in this Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Contract.
- 16.22. EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this Contract in their entirety.
- 16.23. CAPTIONS & HEADINGS. The captions and headings in this Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Contract nor the meaning of any provisions hereof.
- 16.24. ELECTRONIC SIGNATURES. An electronic signature or electronic record of this Contract or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract or such other ancillary agreement for all purposes.
- 16.25. COUNTERPARTS. This Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Contract.

EXECUTED as of the date and year first above written.

WASHINGTON TRAFFIC SAFETY COMMISSION
A WASHINGTON STATE AGENCY

Insert Company name

By (Print): _____

By (Print): _____

Signature: _____
Its: _____

Signature: _____
Its: _____

Date: _____

Date: _____

**INCLUDED GOODS/SERVICES
PERFORMANCE REQUIREMENTS**

Objectives and Scope of Work:

The number of traffic-related fatalities in Washington State increases each year, with 2023 marking the highest number of deaths on Washington roads since 1990. Despite ongoing efforts, there is a clear need for a dedicated Judicial Outreach Liaison to bridge gaps between law enforcement, the judiciary, and community stakeholders to effectively address and mitigate DUI-related incidents.

By educating judges and legal professionals about the latest trends, detection methods, and legal implications of impaired driving, the JOL can facilitate collaboration between judges, law enforcement, and other partners, encouraging a comprehensive approach to traffic safety. This can lead to better enforcement of DUI laws and ultimately reduce impaired driving incidents.

Project Phases:

The purpose of this project is to improve the delivery of justice in impaired driving cases and other traffic safety cases, through education, communication, community outreach activities, (to the extent judicial independence and ethics are not compromised), and collegial and ethical collaboration with judges, Washington Traffic Safety Commission (WTSC) and other stakeholders.

- The JOL will provide training, education, and technical assistance to judges and other criminal justice officials regarding impaired driving.
- Promote evidence-based practices and innovations in sentencing and probation supervision practices related to impaired driving and substance abuse disorder, including DUI specialized dockets.
- Function as an active liaison between the WTSC, state judicial educators, and Washington judges and their representative organizations.

Performance Requirements:

1. Demonstrate an understanding of issues judges are faced with regarding impaired driving.
 - Familiarity with the bench and how they deal with traffic safety issues (toxicology lab, breath tests, alternative monitoring, etc.)
 - Their individual approach/potential solutions
2. Demonstrate an understanding of training needs/utilization for judges as it pertains to impaired driving.
 - Prioritize trainings based on importance/difficulty level

- Identify how new training will be offered?
 - Strategies for fostering/facilitating different trainings
3. Demonstrate knowledge and/or experience with the Treatment Court Model.
 - Knowledge of the Drug Court Model/10 Guiding Principles
 - Alternative monitoring techniques
 4. Minimum of 15 years of serving as a lawyer and/or judge
 5. Ability and willingness to travel across Washington State
 6. Minimum of 10 hours a week dedicated to the JOL position. The contractor is expected to work throughout the period of performance.
 7. Attend a minimum of eight (8) in-person meetings/conferences across Washington State throughout the period of performance.

**PRICES
FOR
GOODS/SERVICES**

The purpose of this project is to improve the delivery of justice in impaired driving cases and other traffic safety cases, through education, communication, community outreach activities, (to the extent judicial independence and ethics are not compromised), and collegial and ethical collaboration with judges, Washington Traffic Safety Commission (WTSC) and other stakeholders.

- The JOL will provide training, education, and technical assistance to judges and other criminal justice officials regarding impaired driving.
- Promote evidence-based practices and innovations in sentencing and probation supervision practices related to impaired driving and substance abuse disorder, including DUI specialized dockets.
- Function as an active liaison between the WTSC, state judicial educators, and Washington judges and their representative organizations.
- The JOL program is a federally recommended best practice by NHTSA and a prioritized strategy that will be included in our 3HSP and the Washington State Impaired Driving Strategic Plan.

Total Project Budget: \$120,000.

- Year 1: \$120,000
- Year 2: \$140,000
- Year 3: \$160,000

Section A: Annual Price		
Estimated Hours – Monthly (Minimum of 10 hours required weekly)	Hourly Rate	Monthly Total
	\$	\$
Section B: Statewide/Local Travel Expenses. (Travel is included in the annual RFP amount. Any travel incurred is the responsibility of the contractor). Please itemize and provide details for proposed expenditures.		

A minimum of eight (8) in person travel events required throughout the period of performance.	
Transportation (mileage reimbursement, airfare, public transportation, baggage fees)	\$
Lodging	\$
Meals	\$
Misc. travel costs	\$
Subtotal cost	\$
Section C: Training Materials and Resources	
Please itemize and provide details for proposed expenditures.	
Printed Materials and Supplies	\$
Training Curriculum Development	\$
Legal Research Tools and Subscriptions	\$
Other costs associated with training materials and resources	\$
Subtotal cost	\$
Section D: Professional Development	
Please itemize and provide details for proposed expenditures.	

Conferences/Workshops (Registration, etc.)	\$
Membership Dues	\$
Other costs associated with professional development opportunities. (Must be listed with a justification aligned to the JOL role and receive pre-approval from the Program Manager.)	\$
Subtotal cost	\$
Total	\$()

INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION.** During the Term of this Contract, Contractor shall obtain and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages:
 - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial General Liability Insurance (and, if necessary, commercial umbrella liability insurance) covering Bodily Injury and Property Damage on an 'occurrence form' in the amount of not less than \$2,000,000 per occurrence and \$4,000,000 general aggregate. This coverage shall include Contractual Liability insurance for the indemnity provided under this Contract.
 - b. **WORKERS' COMPENSATION INSURANCE.** Contractor shall comply with applicable Workers' Compensation or Industrial Accident insurance providing benefits as required by law.
 - c. **EMPLOYER'S LIABILITY (STOP GAP) INSURANCE.** Employer's liability insurance (and, if necessary, commercial umbrella liability insurance) with limits not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 bodily injury by disease policy limit.
 - d. **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE.** Commercial automobile liability insurance covering the ownership, maintenance, and/or use of all owned/leased, non-owned, and hired vehicles used in the performance of the Contract, with limits of not less than \$2,000,000 per accident, combined single limit for bodily injury and property damage liability. Coverage shall be provided on Insurance Services Office (ISO) form number CA 0001 or an equivalent. The required limits can be satisfied by any combination of primary, umbrella, or excess policy
 - e. **PROFESSIONAL LIABILITY (ERRORS & OMISSIONS) INSURANCE.** Professional liability insurance in the amount of not less than \$250,000 combined single limit per occurrence or claim, \$250,000 general annual aggregate for malpractice or errors and omissions coverage against liability for damages because of personal injury, bodily injury, death, or damage to property, including the loss of use thereof, and damages because of negligent acts, errors, and omissions in any way related to this Contract. The policy shall have an extended reporting period of not less than five (5) years after completion.
 - f. The insurance coverage limits set forth herein are the minimum. Contractor's insurance coverage shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits. Contractor waives all rights against the State of Washington for the recovery of damages to the extent such damages are covered by any insurance required herein.
2. **INSURANCE CARRIER RATING.** Any required Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently

published edition of Best’s Insurance Rating. WTSC reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

3. **ADDITIONAL INSURED.** Commercial General Liability, Commercial Automobile Liability, and Pollution Liability Insurance shall include the State of Washington and all authorized WTSC (and their agents, officers, and employees) as Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.
4. **CERTIFICATE OF INSURANCE.** Prior to execution of the Contract, Contractor shall furnish to WTSC, as evidence of the insurance coverage required by this Contract, a certificate of insurance satisfactory to WTSC that insurance, in the above-stated kinds and minimum amounts, has been secured. In addition, no less than ten (10) days prior to coverage expiration, Contractor shall furnish to WTSC an updated or renewed certificate of insurance, satisfactory to WTSC, that insurance, in the above-stated kinds and minimum amounts, has been secured. Failure to maintain or provide proof of insurance, as required, will result in contract cancellation. **All policies and certificates of insurance shall include the Contract number stated on the cover of this Contract.** All certificates of Insurance and any related insurance documents shall be sent via email to WTSC, and shall be sent to the email address asset forth below:

Email: _____

Note: For Email notice, the Email Subject line must state:

Contract Insurance Certificate – Contract No. 2024-06 – Judicial Outreach Liaison

5. **PRIMARY COVERAGE.** Contractor’s insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any WTSC. All insurance or self-insurance of the State of Washington and/or WTSC shall be excess of any insurance provided by Contractor or subcontractors.
6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies. Alternatively, prior to utilizing any subcontractor, Contractor shall cause any such subcontractor to provide insurance that complies with all applicable requirements of the insurance set forth herein and shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor’s liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any WTSC for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) days prior written Legal Notice by Contractor to WTSC. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the Contract number stated on the cover of this Contract.

9. **EXTENDED REPORTING PERIOD.** If any required insurance coverage is on a claims-made basis (rather than occurrence), Contractor shall maintain such coverage for a period of no less than three (3) years following expiration or termination of the Contract.

* * * END OF INSURANCE REQUIREMENTS * * *

ADDITIONAL FEDERAL / WTSC REQUIREMENTS

Federal Requirements**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)**

In accordance with FFATA, the Bidder shall, upon request, provide WTSC the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

FEDERAL NONDISCRIMINATION (Title VI, 42 U.S.C. § 2000d et seq.)

Bidder, if awarded a Contract, certifies that, during the performance of such Contract, bidder, as Contractor, agrees:

1. To comply with all federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
 - 49 CFR part 21 (entitled Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
 - 28 CFR section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
 - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
 - Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
 - The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
 - The Civil Rights Restoration Act of 1987, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the

- programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
 - Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (preventing discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
 - Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (requiring that recipients of Federal financial assistance provide meaningful access for applicants and beneficiaries who have limited English proficiency (LEP));
 - Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government (advancing equity across the Federal government); and
 - Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation (clarifying that sex discrimination includes discrimination on the grounds of gender identity or sexual orientation).
2. Not to participate directly or indirectly in the discrimination prohibited by any federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR Part 21 and herein.
 3. To keep and permit access to its books, records, accounts, other sources of information, and its facilities as required by the WTSC, USDOT, or NHTSA in a timely, complete, and accurate way. Additionally, the Bidder must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
 4. That, in the event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this Contract, the WTSC will have the right to impose such contract sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the Bidder under the Contract until the Bidder complies, and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.
 5. In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Bidder hereby gives assurance that it will promptly take any measures necessary to ensure that: “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any

program or activity, for which the Recipient receives Federal financial assistance from DOT, including NHTSA”.

To insert this clause, including all paragraphs, in every sub-contract and sub-agreement and in every solicitation for a sub-contract or sub-agreement that receives federal funds under this program.

DRUG-FREE WORKPLACE

In accordance with the Drug-Free Workplace Act of 1988 (41 USC 8103 and 42 USC 12644), the Bidder shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Bidder's workplace and shall specify the actions that will be taken against employees for violation of such prohibition.
2. Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the Bidder's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug violations occurring in the workplace.
3. Make it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by this section.
4. Notify the employee in the statement required by this section that, as a condition of employment under the grant, the employee will abide by the terms of the statement, notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction, and notify the WTSC within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction.
5. Take one of the following actions within 30 days of receiving notice under paragraph 1. of this section, with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination, and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)

The Bidder will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

FEDERAL LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

STATE LOBBYING

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

1. Bidder (hereinafter in this section referred to as the "lower tier participant"), by providing the certification set out below, agrees to comply with the requirements of 2 CFR part 180 and 23 CFR part 1200.
2. The certification in this clause is a material representation of fact upon which reliance is placed if a Contract is awarded. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with

which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which bidder's bid is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this bid is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting its bid that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The lower tier participant further agrees that, if awarded a Contract, it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions, and will require lower tier participants to comply with 2 CFR part 180 and 23 CFR part 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. If a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the

Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

The Bidder will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using federal funds. Buy America requires the Bidder to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use federal funds to purchase foreign produced items, the WTSC must submit a waiver request that provides an adequate basis and justification, and which is approved by the Secretary of Transportation.

CERTIFICATION ON CONFLICT OF INTEREST

General Requirements

No employee, officer or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.
 - a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.
 - b. The code or standards shall establish penalties, sanctions or other disciplinary actions for violations, as permitted by State or local law or regulations.

2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

Disclosure Requirements

No State or its subrecipient, including its officers, employees or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.
2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may (a) terminate the award, or (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.
3. Conflicts of interest that require disclosure include all past, present or currently planned organizational, financial, contractual or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

The State and each subrecipient will not use 23 U.S.C Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

WTSC Specific Requirements

PUBLICITY

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

RIGHT OF INSPECTION

The Bidder shall provide right of access to its facilities to the WTSC, 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.

The Bidder shall make available information necessary for WTSC to comply with the client's right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. Bidder shall upon request make available to the WTSC and the U.S. Secretary of the Department of Health & Human Services all internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this contract.

SITE SECURITY

As applicable, while on WTSC's premises or while interacting with WTSC's personnel, Bidder, its agents, employees, or subcontractors shall comply, in all respects, with WTSC's physical, fire, access, safety, health, and security requirements and not interfere with WTSC's operations. Bidder represents and warrants that Bidder, its agents, employees, or subcontractors who access WTSC's premises shall at all times comply with WTSC's requirements.

TREATMENT OF ASSETS

1. Title to all property furnished by the WTSC shall remain property of the WTSC. Title to all property furnished by the Bidder, for the cost of which the Bidder is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the WTSC upon delivery of such property by the Bidder. Title to other property, the cost of which is reimbursable to the Bidder under this contract, shall pass to and vest in the WTSC 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 WTSC in whole or in part, whichever first occurs.
2. Any property of the WTSC furnished to the Bidder shall, unless otherwise provided herein or approved by the WTSC, be used only for the performance of this contract.
3. The Bidder shall be responsible for any loss or damage to property of the WTSC which results from the negligence of the Bidder, or which results from the failure on the part of the Bidder to administer and protect that property in a reasonable manner and to the extent practicable in all instances.
4. If any WTSC property is lost, destroyed, or damaged, the Bidder shall immediately notify the WTSC and shall take all reasonable steps to protect the property from further damage.
5. The Bidder shall surrender to the WTSC all property described in Section 1 of Treatment of Assets prior to settlement upon completion, termination, or cancellation of the Contract.

6. All reference to the Bidder under this clause shall also include Bidder's employees, agents, or Subcontractors.

CONFIDENTIAL INFORMATION; DATA SECURITY; NETWORK ACCESS

- (a) CONFIDENTIAL INFORMATION. For purposes of this Contract, “Confidential Information” includes, but is not limited to, information that is deemed confidential under federal or state law, personal information as defined in RCW 42.56.590, as well as any information identified, in writing, by Purchaser as confidential or protected.
- (b) PROTECTION OF CONFIDENTIAL INFORMATION. Notwithstanding any provision to the contrary, Bidder’s use of Confidential Information will be in compliance with all applicable state and federal law. At a minimum, Bidder shall maintain records documenting: (i) the Confidential Information received pertaining to this Contract; (ii) the purpose(s) for which the Confidential Information was received; (iii) who received and maintained the Confidential Information; and (iv) final disposition of the Confidential Information. Purchaser reserves the right to monitor, audit, and/or investigate Bidder’s use of Confidential Information used, collected, or acquired by Supplier pursuant to this Contract.
- (c) BIDDER OBLIGATION – CONFIDENTIAL INFORMATION. Bidder shall: (i) hold Confidential Information in strictest confidence and not make use of Confidential Information for any purpose other than the performance of this Contract; (ii) release Confidential Information only to authorized employees or agents requiring such information for the purpose of performing this Contract and who have executed an appropriate nondisclosure agreement or data sharing agreement as approved by Purchaser; (iii) implement and maintain physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information including, but not limited to, storing Confidential Information on secure servers with access to the data strictly controlled and limited to staff with appropriate training and clearance; and (iv) ensure that all Confidential Information is encrypted in transmission from and to Bidder, at rest in the data base or other data facility maintained or used by Bidder, and when transmitted to authorized recipients.
- (d) BIDDER OBLIGATION – DATA SECURITY. If the Contract involves Purchaser’s Data and/or access to Purchaser’s IT network, Bidder, at its expense, will comply with the data security requirements set forth in *Attachment XX – Data Security Requirements*.
- (e) BIDDER OBLIGATION – EXPIRATION OR TERMINATION. Upon expiration or termination of this Purchase Order, Bidder, at Purchaser’s direction, timely will: (i) Certify to Purchaser that all Confidential Information has been destroyed; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other actions Purchaser requires of Bidder to protect such Confidential Information.
- (f) NETWORK ACCESS. During its performance of this Contract, Bidder may be granted access to Purchaser’s computer and telecommunication networks (“Networks”). As a condition of Network use, Bidder shall: (a) use the Networks in compliance with all applicable laws, rules, and regulations; (b) use software, protocols, and procedures as directed by

Purchaser to access and use the Networks; (c) only access Network locations made available to Bidder by Purchaser; (d) not interfere with or disrupt other users of the Networks; (e) assure the transmissions over the Networks by Bidder (i) do not contain any libelous, defamatory, profane, offensive, obscene, pornographic, or unlawful material, and (ii) are not used to perform any illegal activities, including but not limited to, encouraging, selling, or soliciting illegal drugs, gambling, pornography, prostitution, robbery, spreading computer worms or viruses, hacking into computer systems, or trafficking credit card codes; and (f) upon termination or expiration of the Contract, relinquish all IP addresses or address blocks assigned to them on the Networks. Additionally, Bidder shall comply with Purchaser's IT policies.

DATA SECURITY REQUIREMENTS.

- (a) SECURITY COMPLIANCE. Bidder is responsible for establishing an information security program and maintaining physical, technical, administrative, and organizational safeguards, that comply with: (a) applicable industry standards and guidelines; (b) American Institute of Certified Public Accountants (AICPA) System and Organization Controls (SOC) 1; and (c) Washington Technology Solutions Standards (WaTech). See Policy 141.10 – *Securing Information Technology Assets Standards*
- (b) ANNUAL SECURITY CERTIFICATIONS. Bidder will, at the commencement of this Contract and annually thereafter provide WTSC the following reports and certifications: (a) AICPA Statement of Standards for Attestation Engagement (SSAE) No. 18 SOC 1 Type II fiscal year cycle audit report; (b) SOC 2 Type I report in accordance with AICPA AT 101; and (c) attestation that Bidder's Services are in compliance with WaTech Security Policy 141.10 – *Securing Information Technology Assets Standards*. WTSC may accept, at its sole discretion, alternative reports, audits or reporting formats which WTSC determines to be equivalent or better to the reports and certifications described herein.
- (c) DATA BREACH. Bidder must have an incident response process that follows National Institute of Standards and Technology (NIST) of Standards and Technology (NIST) standards and includes breach detection, breach notification and breach response. Upon discovery or reasonable belief of any access, destruction, loss, theft, use or disclosure of WTSC's Data by an unauthorized party ("Data Breach"), Bidder shall notify WTSC by the fastest means available and also in writing. Bidder shall provide such notification within forty-eight (48) hours after Bidder reasonably believes there has been such a Data Breach. Bidder's notification shall identify:
 - 1) The nature of the Data Breach;
 - 2) The Data accessed, used or disclosed;
 - 3) The person(s) who accessed, used, disclosed and/or received Data (if known);
 - 4) What Bidder has done or will do to quarantine and mitigate the Data Breach; and
 - 5) What corrective action Bidder has taken or will take to prevent future Data Breaches.

Bidder shall quarantine the Data Breach, ensure secure access to Data, and restore Services as needed to comply with terms and conditions of this Contract. Bidder shall conduct an investigation of the Data Breach and shall share the report of the investigation with WTSC.

In the event of the Data Breach, Bidder agrees to comply with all applicable state and federal statutory provisions, including but not limited to RCW 19.255.010 and RCW 42.56.590. Where notifications are required to the public or regulators, Bidder shall coordinate and cooperate with WTSC in the development of a communication plan, and promptly and at no cost, provide advance copies of any notifications for WTSC review before disseminating. If a Data Breach occurs and is found to be the result of Bidder's acts, omissions or negligence, Bidder shall assume complete responsibility for notification of affected parties, and be liable for all associated costs incurred by WTSC in responding to or recovering from the Data Breach.

- (d) TECHNICAL EXAMINATION AND AUDIT. Upon advance written request, Bidder agrees that WTSC or its designated representative shall have reasonable access to Services purchased by WTSC under this contract, its operational documentation, records and databases, including online inspections. The online inspection shall allow WTSC, its authorized agents, or a mutually acceptable third party hired by WTSC, to test that controls are in place and working as intended. Tests may include, but not be limited to, the following:
- 1) Operating system/network vulnerability scans;
 - 2) Web application vulnerability scans;
 - 3) Database application vulnerability scans; and
 - 4) Any other scans to be performed by WTSC or representatives on behalf of WTSC.

Bidder shall allow WTSC reasonable access to Services security logs, latency statistics, and other related Services security data that affect this Contract and WTSC's Data, at no cost to WTSC. After any significant Data loss, specific to data stored within the Services platform, or as a result of any disaster or catastrophic failure, Bidder will at its expense have an independent, industry-recognized third party perform an information security audit. This does not apply to data loss resulting from interruptions in the Services stemming from WTSC's computers, network hardware, internet connectivity, or other elements owned or controlled by WTSC that are reasonably required to use Services. The audit results shall be shared with WTSC within seven (7) days of Bidder's receipt of such results. Upon Bidder receiving the results of the audit, Bidder will provide WTSC with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract.

SAFEGUARDING OF INFORMATION

The Bidder shall not use or disclose Personal Information in any manner that would constitute a violation of federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Bidder agrees to comply with all federal and state laws and

regulations, as currently enacted or revised, regarding data security and electronic data interchange of all Personal Information.

The Bidder shall protect Personal Information collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification, or loss. The Bidder shall ensure its directors, officers, employees, subcontractors or agents use it solely for the purposes of accomplishing the services set forth in this agreement. The Bidder and its Subcontractors agree not to release, divulge, publish, transfer, sell, or otherwise make it known to unauthorized persons without the express written consent of WTSC or as otherwise required by law. The Bidder agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of data in any form. The Bidder shall make the Personal Information available to amend as directed by WTSC and incorporate any amendments into all the copies maintained by the Bidder or its Subcontractors.

The Bidder shall certify its return or destruction upon expiration or termination of this Contract and the Bidder shall retain no copies. If the Bidder and WTSC mutually determine that return or destruction is not feasible, the Bidder shall not use the Personal Information in a manner other than those permitted or required by state and federal laws.

WTSC reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the Bidder through this contract. The monitoring, auditing, or investigating may include, but is not limited to, "salting" by WTSC. Salting is the act of introducing data containing unique but false information that can be used later to identify inappropriate disclosure of data.

The Bidder shall notify WTSC in writing within five (5) working days of becoming aware of any unauthorized access, use or disclosure. The Bidder will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access. The Bidder agrees to indemnify and hold harmless WTSC for any damages related to unauthorized use or disclosure by the Bidder, its officers, directors, employees, Subcontractors or agents.

Any breach of this clause may result in termination of the contract and the demand for return of all Personal Information.