KingCounty

Finance and Business Operations Division
Procurement and Contracts Services Section
Department of Executive Services

CNK-ES-0340
3rd Floor
401 5th Avenue
SEATTLE, WA 98104

206-263-9400 Ph
206-296-7676 Fax
TTY Relay: 771
www.kingcounty.gov

CONTRACTOR:
GREAT FLOORS
9021 S 180TH ST

KENT, WA 98032 United States
Fax: (206) 2412699

CONTRACT

CONTRACT NO.	REVISION	PAGE
493237	3	1 of 1

CREATION DATE	BUYER
01-JAN-2012	MARY SCHUMACHER
DATE OF REVISION	**BUYER**
28-SEP-2012	MARY SCHUMACHER

SHIP TO:
KC DES FBOD PCSS GOODS AND SERVICES
401 5TH AVE, CNK-ES-0340
SEATTLE, WA 98104

BILL TO:
KC DES FBOD ACCOUNTS PAYABLES
401 5TH AVE, CNK-ES-0320
SEATTLE, WA 98104

CONTRACTOR NO	PAYMENT TERMS	FREIGHT TERMS	FOB	SHIP VIA	CONFIRM TO
5789	NET30DAYS	Paid	DESTINATION	Seller Chooses	Telephone: (206) 730-4535

DESCRIPTION

Change Order #1 (09/27/12)

This change order is issued to extend the contract purchase agreement for Flooring Materials and Services as requested by authorized King County Agencies, Departments and Divisions during the period September 24, 2012 through September 23, 2014, in accordance with Washington State Contract No. 00710 incorporated by reference as if fully set forth herein.

Estimated annual contract value: $100,000.00

This is not the authority for ordering specific goods and services. Individual standard purchase orders, with unique purchase order numbers, referencing this contract, will be issued that provide the authority for ordering.

All invoices must reference the individual standard purchase order number, and not the contract agreement number, to avoid delay in payment.

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CNK-ES-0340
3rd Floor
401 5th Avenue
Seattle, WA 98104

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TTY Relay: 771
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VENDOR:
GREAT FLOORS
524 E SHERMAN AVE
COEUR D'ALENE,ID 83814

SHIP TO
KC DEPARTMENT OF EXEC SERVICES
PROCUREMENT-GOODS & SERVICES
401 5TH AVE, CNK-ES0340
SEATTLE,WA 98104
United States

BILL TO
KC DEPT OF EXECUTIVE SERVICES
ACCOUNTS PAYABLE, 3RD FLOOR
401 5TH AVE, CNK-ES0320
SEATTLE,WA 98104
United States

Purchase Order

PURCHASE ORDER NO.	REVISION	PAGE
493237	1	1

THIS PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKING LISTS, CARTONS AND CORRESPONDENCES RELATED TO THIS ORDER.

CREATION DATE	BUYER
16-NOV-10	M,Schumacher
DATE OF REVISION	**BUYER**
19-NOV-10	M Schumacher

CUSTOMER ACCT #	VENDOR NO.	PAYMENT TERMS	FREIGHT TERMS	F.O.B	SHIP VIA
	34319	Net30days	Paid	Destination	UPS

CONFIRM TO / TELEPHONE

REQUESTOR / DELIVER TO

LINE	PART NUMBER / DESCRIPTION	DELIVERY DATE	QUANTITY	UNIT	UNIT PRICE	EXTENSION	T
	Furnish Flooring Materials and Services as requested by authorized King County Agencies, Departments and Divisions during the period November 16, 2010 through September 23, 2012, in accordance with Washington State Contract No. 00710 incorporated by reference as if fully set forth herein. This is not the authority for ordering specific goods and services. Individual standard purchase orders, with unique purchase order numbers, referencing this Contract, will be Issued that provide the authority for ordering. All invoices must reference the individual standard purchase order number, and not the contract agreement number, to avoid delay in payment. Estimated Annual Contract Value: $ 100,000.00 Purchase Agreement Effective From: 16-NOV-10 To: 23-SEP-12	Amount Agreed:					

SEE REVERSE SIDE FOR ADDITIONAL TERMS AND CONDITIONS. THIS ORDER IS SUBJECT TO ALL THE TERMS AND CONDITIONS ON THE FRONT AND BACK HEREOF.

Required invoice information: Ship to Address, Mailstop, Requestor's Name, Purchase Order Number, Contract Number (if applicable), Line Item Number, description and Unit Price as stated on the purchase order. Missing information may result in payment delays.

ACCEPTANCE:
This purchase order expressly limits acceptance to the terms and conditions stated herein.

TOTAL

DR Leach
Authorized signature

PURCHASE ORDER
GENERAL TERMS AND CONDITIONS

Compliance: By acceptance of this order, the vendor warrants full compliance with all applicable local, state or federal laws and regulations including specific statutory requirements of Federal Agencies. Upon request, the purchasing agent will provide applicable contract terms and conditions.

Acceptance/Changes: All goods or materials purchased hereunder are subject to approval by King County. No substitutions or changes of any nature under this purchase order will be accepted unless approved in writing by King County.

Inspections: By acceptance of this order, vendor grants the right to Buyer to make periodic visits to the vendor's plant or their subcontractor's for inspection of materials or to determine actual progress of manufacture.

Change Orders: Change orders modifying the terms and conditions herein will be without effect unless issued and authorized in writing by King County.

Cancellation: The County may cancel any purchase order or any part thereof by written notice at any time, without penalty, if the vendor fails to comply with the terms, specifications, delivery/completion date or to perform the work with diligence.

Invoices: Invoices must reference the purchase order number.

All vendors licensed to do business in Washington State must bill King County for applicable tax. Indicate discount terms to the County for prompt payment. Discount period to be extended if the invoice is returned for correction or clarification.

Shipping Instructions: All shipments must contain a packing slip. Unless other wise specified, all goods are to be shipped prepaid, FOB Destination. Where shipping addresses indicate room numbers, the Vendor shall make delivery to that location at no additional charge, including, but not limited to delivery, packing and or crating.

Warranty: The Vendor warrants that all products delivered under this purchase order shall be free from defects in material and workmanship, and shall be fit for the intended purpose. This warrantee is in addition to any standard warranty or guarantee give by vendor to the County. All products determined by King County to be defective shall be replaced within 15 days of notice by King County.

All costs of replacement, including shipping charges shall be borne by the Vendor. Vendor warrants that the merchandise is free and clear of all liens and encumbrances and that vendor has a good and marketable title to same. Vendor warrants that the equipment, materials or service on this order do not infringe any patent, registered trademark or copyright and agrees to hold King County harmless in the event of any infringement or claim thereof.

Certification Regarding Debarment, Suspension and Other Responsibility Matters: By providing goods or services under this purchase order, the Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Order of Precedence: When this purchase order is issued subsequent to the results of a request for bid or proposal, the terms and conditions contained in the solicitation or resulting contract shall control.

STATE OF WASHINGTON
DEPARTMENT OF GENERAL ADMINISTRATION/OFFICE OF STATE PROCUREMENT
210 11th Ave SW Room 201 GA Building • PO Box 41017 • Olympia, Washington 98504-1017

INVITATION FOR BID (IFB) #00710

FLOORING MATERIALS AND SERVICES

Sales & Ordering Information	
Primary Sales Contact	**Secondary Sales Contact**
Kris Helberg, Education &Government Services	Ian Martin, Vice President, Commercial Sales
Great Floors Commercial Sales	Great Floors Corporate Office
6215 South 228th Street	East 524 Sherman Avenue
Kent, WA 98032	Coeur d'Alene, ID 83814
206/241-0229	208/444-5405
k.helberg@greatfloors.com	imartin@greatfloors.com

Price Sheets: The Price Sheets embedded below are temporary. The contractor will provide a dedicated URL in the coming weeks for state of Washington customers.	
Core Flooring Products and Services	**Additional Flooring Options and Services**
Core Items Revised 11-10-10.xls	Other Items Revised 11-10-10.xls

CERAMIC TILE

Note: All prices listed include standard installation on either floors or walls with backerboard, thinset and standard grouts. Specifically Excludes Demo. If Backerboard is not required a deduct of $2.85 per square foot will be provided.

Manufacturer/Style	Installed Price	Per Unit
Daltile **Keystones Unglazed Porcelain Mosaics** **Standard Colors**		
Group 1:		
2x2	$14.46	SF
2x2 tread surface	$17.61	SF
Cove Base		
2x1 Cove	$8.60	LF
2x1 Outcorner Cove	$7.57	PC
Surface Cap		
2x2 Bullnose	$8.80	LF
2x2 Bullnose Corner	$7.57	PC
Universal Trim		
2x2 Cap	$8.60	LF
2x2 In Corner Round Cap	$9.07	PC
2x2 Out Corner Round Cap	$9.07	PC
2x2 Out Corner Cove Base	$9.07	PC
Built Up Base		
MB3T	$13.87	LF
MB4C	$11.59	LF
MB5	$14.43	LF
MB5A	$13.56	LF
MB5B	$14.59	LF
Semi-Gloss & Matte Group 1		
4-1/4x4-1/4 Glazed Interior Tile	$12.30	SF
4-1/4x4-1/4 Bullnose	$2.26	PC
4-1/4x4-1/4 Bullnose Corner	$3.41	PC
4-14x6 Thin Lip Cove Base	$2.83	PC
4-14x6 Thin Lip Cove Base Corner	$4.04	PC
Colour Scheme Floor Tile Group 1		
12x12	$13.60	SF
3x12 Bullnose	$7.09	PC
6x12 Cove Base	$10.77	PC
1x6 Cove Outcorner	$7.20	PC

Quarry Tile Group 1 Non Abrasive		
6x6	$13.26	SF
5x6 Cove Corner	$6.36	PC
6x6 Bullnose	$4.44	PC
6x6 Bullnose Corner	$6.36	PC
American Olean Shadow Bay		
12"x12"	$12.86	SF
Bullnose Floor S43C9	$14.60	PC
Cove Base S36C9T	$24.16	PC
Cove Base Outcorner	$24.16	PC
Domain	$0.00	
Unpolished 12x12 Solids Group 1 Color	$13.81	SF
Unpolished 12x12 Graniti Group 1 Color	$13.81	SF
Bullnose S435C9	$7.41	PC
Cove Base S36C9T	$11.41	PC
In-Corner SB36C9T	$9.81	PC
Out-Corner SC36C9T	$9.81	PC
Unglazed 2'x1' Sheets		
2"x2" Group 1 Color	$14.46	SF
2"x2" Abrasive Group 1 Color	$15.24	Sf
2"x2" Tread Surface Group 1 Color	$18.26	SF
2"x2" Group 2 Color	$14.81	SF
2"x2" Abrasive Group 2 Color	$15.59	SF
1" Hex Group 2 Color	$16.37	SF
2"x2" Tread Surface Group 2 Color	$18.74	SF
Bright and Matte Glazed Tile		
4-1/4"x4-1/4" Flat Tile	$12.31	SF
6"x6" Flat Tile	$12.71	SF
2"x6" Bullnose on 6" Edge S-4269	$2.60	PC
4-1/4"x4-1/4" Bullnose S-4449	$2.19	PC
4-1/4"x4-1/4" Outcorner SCRL-4449	$3.51	PC
6"x6" Bullnose S-4669	$4.07	PC
6"x6" Outcorner SCRL-4669	$6.24	PC
4-1/4"x4-1/4" Bullnose A-4402	$2.24	PC
4-1/4"x4-1/4" Outcorner ACRL-4449	$3.70	PC
6"x6" Bullnose A-3602	$4.33	PC
6"x6" Outcorner ACRL-3602	$6.43	PC
2"x6" Bullnose on 6" Edge A-4200	$2.73	PC
4-1/4"x4-1/4" Cove	$2.23	PC
4-1/4"x4-1/4" Outcorner ACR-L-3401	$3.60	PC
4-1/4"x4-1/4" Outcorner SCR-L-3401	$3.56	PC

6"x6" Cove	$4.33	PC
6"x6" Outcorner SCR-L-3601	$6.37	PC
4-1/4"x6" Cove Round Top	$4.03	PC
4-1/4"x6" Out Corner	$5.97	PC
6"x6" Cove Round Top	$4.29	PC
6"x6" Outcorner SCR-L-3619T+	$6.87	PC
Starting Line Glazed Wall Tile		
4-1/4"x4-1/4" Flat Tile	$11.54	SF
6"x6" Flat Tile	$11.79	SF
Daltile **Keystones Unglazed Porcelain Mosaics** **Standard Colors**		
Group 1:		
2x2	$14.46	SF
2x2 tread surface	$17.61	SF
Cove Base		
2x1 Cove	$8.24	LF
2x1 Outcorner Cove	$3.07	PC
Surface Cap		
2x2 Bullnose	$8.44	LF
2x2 Bullnose Corner	$3.07	PC
Universal Trim		
2x2 Cap	$8.24	LF
2x2 In Corner Round Cap	$4.57	PC
2x2 Out Corner Round Cap	$4.57	PC
2x2 Out Corner Cove Base	$4.57	PC
Built Up Base		
MB3T	$13.51	LF
MB4C	$11.23	LF
MB5	$14.07	LF
MB5A	$13.20	LF
MB5B	$14.23	LF
Semi-Gloss & Matte Group 1		
4-1/4x4-1/4 Glazed Interior Tile	$12.30	SF
4-1/4x4-1/4 Bullnose	$2.26	PC
4-1/4x4-1/4 Bullnose Corner	$3.41	PC
4-14x6 Thin Lip Cove Base	$4.19	PC
4-14x6 Thin Lip Cove Base Corner	$5.40	PC
Colour Scheme Floor Tile Group 1		
12x12	$13.60	SF
3x12 Bullnose	$7.09	PC
6x12 Cove Base	$10.77	PC

1x6 Cove Outcorner	$6.63	PC
Quarry Tile Group 1 Non Abrasive		
6x6	$13.26	SF
5x6 Cove Corner	$6.36	PC
6x6 Bullnose	$4.44	PC
6x6 Bullnose Corner	$6.36	PC

BROADLOOM CARPET	Product Number	Unit	Installed Price
Note: Installed (direct glue); no cut pricing; no overages			
Minimum 25 Year Warranty w/Moisture Barrier: For heavy to severe traffic areas and demanding environments that encounter frequent exposure to moisture (e.g. walk off water and high frequencies of wet cleanings and spills) such as building entrances, public spaces, corridors, and heavily-used offices.			
The Mohawk Group Bigelow/New Basics 26 with Duraloc MG Backing	BC122	Sq. Yd.	$19.43
The Mohawk Group Bigelow/CityStep with Duraloc MG Backing	BQ215	Sq. Yd.	$19.94
The Mohawk Group Bigelow/New View with Duraloc MG Backing	BC248	Sq. Yd.	$19.99
The Mohawk Group Bigelow/Artist with Duraloc MG Backing	BQ199	Sq. Yd.	$20.52
The Mohawk Group Bigelow/CEO with Duraloc MG Backing	BQ197	Sq. Yd.	$20.52
The Mohawk Group Bigelow/Doctor with Duraloc MG Backing	BQ198	Sq. Yd.	$20.52
The Mohawk Group Bigelow/Take Flight with Duraloc MG Backing	BC146	Sq. Yd.	$20.52
The Mohawk Group Bigelow/Cross Country with Duraloc MG Backing	BC145	Sq. Yd.	$21.26
The Mohawk Group Bigelow/Fairfield II with Duraloc MG Backing	BC104	Sq. Yd.	$22.14
The Mohawk Group Bigelow/Aero with Duraloc MG Backing	BC113	Sq. Yd.	$22.72
Mannington Commercial/Centerfield III 20 with Integra HPRE Backing	Centerfield III 20	Sq. Yd.	$22.77
The Mohawk Group Bigelow/Art Room with UPS RE Bloc Backing	MC-143	Sq. Yd.	$22.80
The Mohawk Group Bigelow/Thumbs Up with Duraloc MG Backing	BC144	Sq. Yd.	$22.90
The Mohawk Group Bigelow/Surreal with Everset UPS RE Bloc Backing	MC067	Sq. Yd.	$22.92
The Mohawk Group Bigelow/McCormick II with Duraloc MG Backing	BC181	Sq. Yd.	$22.98
Mannington Commercial/Gametime III 20 with Integra HPRE Backing	Gametime III 20	Sq. Yd.	$23.49
Mannington Commercial/Everywear III with Integra HPRE Backing	Everywhere III	Sq. Yd.	$23.61
The Mohawk Group Bigelow/Gridworks III with UPSRE Bloc Backing	BC228	Sq. Yd.	$23.70
The Mohawk Group Bigelow/Stati Tuft III Everset UPS RE Bloc Backing	MC038	Sq. Yd.	$24.07
The Mohawk Group Bigelow/Florentine Curve with Durloc MG Backing	BC152	Sq. Yd.	$24.11
The Mohawk Group Bigelow/Get Real with Durloc MG Backing	BC157	Sq. Yd.	$24.66

"Performance Broadloom": For moderate to heavy traffic areas and spaces subject to multiple wet cleanings such as commercial office and administrative spaces.			
The Mohawk Group Bigelow/Trax III UPS Re Backing System	BC230	Sq. Yd.	$18.78
The Mohawk Group Bigelow/Graphic Edge UPS Re Backing System	BC229	Sq. Yd.	$19.01
The Mohawk Group Bigelow/New Basics II 26 on Duraloc MG Backing	BC265	Sq. Yd.	$19.08
The Mohawk Group Bigelow/Semillon on UPS Re Backing System	MC002	Sq. Yd.	$20.16
The Mohawk Group Bigelow/Bizarre on UPS Re Backing System	BC231	Sq. Yd.	$20.28
The Mohawk Group Bigelow/Thrill on UPS Re Backing System	MC140	Sq. Yd.	$20.39
The Mohawk Group Bigelow/Spontaneuos on UPS Re Backing System	BC233	Sq. Yd.	$20.51
The Mohawk Group Bigelow/Dreamlike on UPS Re Backing System	BC232	Sq. Yd.	$20.85
Mannington Commercial/Means II with UltrabacRE Backing	Means II UBRE	Sq. Yd.	$20.86
Mannington Commercial/Trustee with UltrabacRE Backing	Trustee UBRE	Sq. Yd.	$20.86
Mannington Commercial/Ways II with UltrabacRE Backing	Ways II UBRE	Sq. Yd.	$20.86
The Mohawk Group Bigelow/Smiles on UPS Re Backing System	MC112	Sq. Yd.	$21.43
Mannington Commercial/Centerfield III 26 with UltrabacRE Backing	Centerfield III 26 UBRE	Sq. Yd.	$21.83
Mannington Commercial/Halftime with UltrabacRE Backing	Halftime UBRE	Sq. Yd.	$22.99
The Mohawk Group Bigelow/Estancia on Everset UPS Re Backing System	MC075	Sq. Yd.	$23.72
Mannington Commercial/Close Knit with UltrabacRE Backing	Close Knit UBRE	Sq. Yd.	$20.46
Mannington Commercial/Close Knit II with UltrabacRE Backing	Close Knit II UBRE	Sq. Yd.	$20.46
Mannington Commercial/Gametime III 26 with UltrabacRE Backing	Gametime III 26 UBRE	Sq. Yd.	$22.64
Mannington Commercial/Deep Thoughts with UltrabacRE Backing	Deep Thoughts UBRE	Sq. Yd.	$21.84
Mannington Commercial/Dreams with UltrabacRE Backing	Dreams UBRE	Sq. Yd.	$21.84
Mannington Commercial/New Possibilities with UltrabacRE Backing	New Possibilities UBRE	Sq. Yd.	$21.84
"Light Duty/Short Term Improvement": For light to moderate traffic areas and limited-use spaces such as private offices, conference rooms, some administrative areas and residential facilities.			
Shaw Industries/ Style Modern Tradition on Stalok Pattern Backing	54207	Sq. Yd.	$15.70
Shaw Industries/ Style White Noise on Stalok Pattern Backing	50101	Sq. Yd.	$15.90
Shaw Industries/ Style Broadcast on Stalok Pattern Backing	50102	Sq. Yd.	$16.10
Shaw Industries/ Style Wireless on Stalok Pattern Backing	54141	Sq. Yd.	$16.10
Shaw Industries/ Style Ad Lib on Stalok Pattern Backing	54210	Sq. Yd.	$14.60
Shaw Industries/ Style Direct Line on Stalok Pattern Backing	54416	Sq. Yd.	$14.90
Bentley Prince Street Washington Boulevard w/ High Performance Backing	8WB200630R	Sq. Yd.	$18.77
Bentley Prince Street Lake Street w/ High Performance Backing	4LR220620R	Sq. Yd.	$18.77
Bentley Prince Street Oak Street w/ High Performance Backing	4OS220620R	Sq. Yd.	$18.77
Bentley Prince Street Hill Street w/ High Performance Backing	8HL200630R	Sq. Yd.	$18.77

THE CONTRACT

State of Washington
Department of General Administration
Office of State Procurement (OSP)

CONTRACT NO. 00710
FOR PURCHASES OF FLOORING MATERIALS AND SERVICES

Under the Authority of Chapter 43.19 RCW

1 OVERVIEW

1.1 CONTRACT SCOPE

The purpose of this Contract is to support the as-needed purchases of flooring materials and services by authorized purchasers, which include materials, delivery, on-site labor, disposal/recycling and other services as described herein.

This Contract is intended primarily for repair or replacement projects typically about 500 square yards. While the intention of the state is to create a catalog of materials suitable for typical government, institutional and educational environments, the state acknowledges not all products may be represented by this Contract.

This Contract is Bid under the statutory authority of RCW 43.19 for the purchase of goods and services as stated herein and does not include other statutory purchasing activities by the state, e.g. Public Works under RCW 39.04.

1.2 CONTRACT SCOPE AND MODIFICATIONS

The state reserves the right to modify this Contract by mutual agreement between the state and the Contractor, so long as such modification is substantially within the scope of the original Contract. The state reserves the right to add products as the market conditions and Purchasers' needs change. Such modifications will be evidenced by issuance of a written authorized amendment by the Contract Administrator.

1.3 RECITALS

The State of Washington, acting by and through GA, issued an Invitation for Bid (IFB) for the purpose of purchasing goods and services in accordance with its authority under Chapter 43.19 RCW.

The Awarded Contractor submitted a timely Response to GA's IFB.

GA evaluated all properly submitted Responses to the above-referenced IFB and has identified the Awarded Contractor as the apparently successful Contractor.

GA has determined that entering into a Contract with the Awarded Contractor will meet Purchaser's needs and will be in Purchaser's best interest.

NOW THEREFORE, The State of Washington awards to the Awarded Contractor this Contract, the terms and conditions of which shall govern Contractor's furnishing to Purchasers the goods and services as described herein. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1.4 ESTIMATED USAGE

Based on past usage, estimated annual purchases may approximate **$4.3 million**. This estimate is provided solely for the purpose of assisting Bidders in preparing their Response. Orders will be placed only on an as-needed basis.

The State of Washington does not represent or guarantee any minimum purchase.

While the scope of this Contract contemplates carpeting, resilient flooring, and other incidentals, the primary utility is carpeting as it represents approximately 90 percent of the estimated spend on this objective.

1.5 CONTRACT TERM

The initial term of this Contract is two (2) years from date of award with the option to extend for additional term(s) or portions thereof. Extension for each additional term or portion thereof shall be exercised at the sole discretion of the state upon written notice to Contractor. The total Contract term, including the initial term and all subsequent extensions, shall not exceed six (6) years unless an emergency exists and/or special circumstances require a partial term extension. The state reserves the right to extend with all or some of the Contractors, solely determined by the state.

1.6 PURCHASERS

General Use:

The resulting Contract is for use by all members of the Washington State Purchasing Cooperative (WSPC) including where applicable: State Agencies, Institutions of Higher Education, Political Subdivisions, and Non-Profit Corporations.

While use of the Contract by Political Subdivisions and Non-Profit Corporations that are members of the WSPC members is optional, OSP encourages them to use state Contracts. Their use of the Contracts may significantly increase the purchase volume. Their orders are subject to the same Contract terms, conditions and pricing as state agencies. OSP accepts no responsibility for orders or payment by WSPC members.

A list of WSPC members is available at http://www.ga.wa.gov/PCA/SPC.htm.

Purchases by Nonprofit Corporations:

Legislation allows nonprofit corporations to participate in state Contracts for purchases administered by OSP. By mutual agreement with OSP, the Contractor may sell goods or services at Contract pricing awarded under this IFB and resulting Contract to self- certified nonprofit corporations. Such organizations purchasing under the state Contract shall do so only to the extent they retain eligibility and comply with other Contract and statutory provisions. The Contractor may make reasonable inquiry of credit worthiness prior to accepting orders or delivering goods or services on Contract. The state accepts no responsibility for payments by nonprofit corporations. Their use of the Contracts may significantly increase the purchase volume. Their orders are subject to the same Contract terms, conditions and pricing as state agencies.

2 CONTRACT ADMINISTRATION

2.1 STATE CONTRACT ADMINISTRATOR

The state shall appoint a single point of contact that will be the Contract Administrator for this Contract and will provide oversight of the activities conducted hereunder. The Contract Administrator will be the principal contact for Contractor concerning business activities under this Contract.

2.2 ADMINISTRATION OF CONTRACT

GA will maintain Contract information and pricing, and make it available on the GA web site.

2.3 CONTRACTOR SUPERVISION AND COORDINATION

Contractor shall:

1. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein;
2. Identify the Contractor's Representative, who will be the principal point of contact for the state Contract Administrator concerning Contractor's performance under this Contract;
3. Immediately notify the Contract Administrator in writing of any change of the designated Contractor's Representative assigned to this Contract; and
4. Be bound by all written communications given to or received from the Contractor's Representative.

Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination.

2.4 POST AWARD CONFERENCE

Contractor may be required to attend a post award conference scheduled by the Procurement Coordinator to discuss Contract performance requirements. The time and place of this conference will be scheduled following Contract award.

2.5 CONTRACT MANAGEMENT

Upon award of this Contract, the Contractor shall:

1. Review the impact of the award and take the necessary steps needed to ensure that Contractual obligations will be fulfilled.
2. Promote and market the use of this Contract to all authorized Contract Purchasers.
3. Ensure that those who endeavor to utilize this Contract are authorized Purchasers under this Contract.
4. Assist Purchasers, at no additional charge, in the following manner to make the most cost effective, value based, purchases including, but not limited to:
   a) Visiting the Purchaser site and providing Purchaser with materials/supplies/equipment recommendations.
   b) Providing Purchasers with a detailed list of Contract items including current Contract pricing and part numbers.
5. Designate a Purchaser service representative who will be responsible for addressing Purchaser issues including, but not limited to:
   a) Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
   b) Providing Purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.
   c) Acting as the lead and liaison between the manufacturer and Purchaser in resolving warranty claims for Contract items purchased.

2.6 CHANGES

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract Amendment by the Contract Administrator. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract Amendment.

To accommodate Purchaser requirements and manufacturer discontinuations, Contractor may propose a revision to its offerings which reflects product changes appropriate to the scope of the Contract to the Contract Administrator for approval. Proposed pricing shall remain consistent with Bid pricing. Contract Administrator has the sole discretion in approval of revised offerings and pricing. New products proposed by Contractor must meet the requirements established in this Solicitation document or subsequent revisions. Upon OSP approval, product additions will be implemented by written amendment.

Purchasers may request pricing for products not included in the award. Contractor may submit a proposal for satisfaction of the request to the Contract Administrator for consideration. If the Contractor is unable to provide a reasonable solution, the Contractor will notify the Purchaser. If the Contact Administrator concludes the pricing offered is in the best interest of the state, considering the cost of alternatives, he/she will by written notification accept the offer of solution and record it in the file.

2.7 STATEWIDE VENDOR PAYMENT REGISTRATION

Contractor is required to be registered in the Statewide Vendor Payment system, prior to submitting a request for payment under this Contract. Purchasers who are Washington State agencies require registration to be completed prior to payment. The Washington State Office of Financial Management (OFM) maintains a central Contractor registration file for Washington State agencies to process Contractor payments. To obtain registration materials go to http://www.ofm.wa.gov/isd/vendors.asp the form has two parts; Part 1 is the information required to meet the above registration condition. Part 2 allows the state to pay invoices electronically with direct deposit and is the state's most efficient method of payment and you are encouraged to sign up for this form of payment.

2.8 CONTRACT SALES REPORTS

Contractor shall provide a Contract Sales Report to OSP on a quarterly basis in the electronic format provided by OSP at: https://fortress.wa.gov/ga/apps/CSR/Login.aspx. **Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter**, i.e., no later than April 30th, July 31st, October 31st and January 31st.

2.9 OTHER REQUIRED REPORT(S)

All other reports required under this Contract must be delivered to the Contract Administrator. Contractor may be required to provide a detailed annual Contract sales history report that may include but is not limited to products description, part number, per unit quantities sold, Contract price in an electronic format that can be read by MS Excel.

Example: Quarterly Contract Activity Report

Other required reports may be designed and approved by the parties through mutual agreement.

2.10 WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS)

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solution (WEBS) www.ga.wa.gov/webs, maintained by the GA. Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register with WEBS and maintain an accurate Contractor profile in WEBS.

3 PRICING

3.1 PRICE PROTECTION

Contractor agrees all the prices, terms, warranties, and benefits provided in this Contract are comparable to or better than the terms presently being offered by Contractor to any other governmental entity purchasing the same quantity under similar terms. If during the term of this Contract, the Contractor shall enter into Contracts with any other governmental entity providing greater benefits or more favorable terms than those provided by this Contract, then the Contractor shall be obligated to provide the same to Purchasers for subsequent purchases, and the state shall be notified of changes in Contract pricing.

During any term of the Contract, if lower prices and rates become effective for like quantities of products under similar terms and conditions, through reduction in Manufacturer's or Contractor's list prices, promotional discounts, or other circumstances, Purchasers must be given immediate benefit of such lower prices and rates, and the state shall be notified of changes in Contract pricing.

The Contract prices are the maximum price Contractor can charge. The Contractor may also offer volume and promotional discounts to Purchasers.

3.2 NO ADDITIONAL CHARGES

Unless otherwise specified in the Solicitation, no additional charges by the Contractor will be allowed including, but not limited to: handling charges such as packing, wrapping, bags, containers, reels. Notwithstanding the foregoing, in the event that market conditions, laws, regulations or other unforeseen factors dictate, at the Contract Administrators sole discretion, additional charges may be allowed.

If Contractor adds a fee to an invoice for the use of a Purchasing Card for payment, the fee amount shall not exceed the processing fee charged by the financial institution to the Contractor. Any Purchasing Card fee shall be a separate line item on the invoice. Contractor shall identify the fee amount in Bid Response (see Bidder Profile Submittal). Contractor shall not change transaction fee without approval by OSP.

3.3 PRICE ADJUSTMENTS

Unless modified by mutual agreement, Contractor requests for adjustments in pricing will be considered at sole discretion of OSP. During Contract period, pricing shall remain firm and fixed for at least 365 calendar days after effective date of Contract. Thereafter, price adjustments will only be on a pass through basis and shall not produce a higher profit margin for the Contractor than that established by the original Contract pricing. Contractor shall not make extensions contingent on price adjustments.

Price increases will not be considered without supporting documentation sufficient to justify the requested increase. Documentation must be based on published indices such as the Producer Price Index or other acceptable indices, and/or the result of increases at the manufacturer's level,

other supportable pricing increases, and incurred after Contract commencement date. Contractor shall provide a detailed breakdown of their costs upon request. A minimum of 90 calendar days advance written notice of price increase is required.

The granting of any price adjustment will be at the sole discretion of OSP. The Contractor shall be notified in writing by the Contract Administrator of any price adjustment granted by OSP, and such price adjustment shall be set forth in a written amendment to the Contract. Price adjustments granted by OSP shall remain unchanged for at least 365 calendar days thereafter, and no request for adjustments in price will be considered during that time period.

3.4 PURCHASE OF UNINSTALLED MATERIALS

The purchase of uninstalled materials will be negotiated on a case-by-case basis. Contact OSP for assistance as needed.

4 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS

4.1 ESTABLISHED BUSINESS

Prior to commencing performance, or prior to that time if required by the state, law or regulation, Contractor must be an established business firm with all required licenses, fees, bonding, facilities, equipment and trained personnel necessary to meet all requirements and perform the work as specified in the Solicitation. Contractor shall maintain compliance with these requirements throughout the life of this Contract.

The state reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

4.2 DEALER AUTHORIZATION

Throughout the effective life of the Contract, the Contractor shall maintain authorization from the manufacturer consistent with the requirements outlined in the original Solicitation.

4.3 USE OF SUBCONTRACTORS

In accordance with IFB requirements, Contractor agrees to take complete responsibility for all actions of such Subcontractors as related to work performed within the scope of this Contract.

Prior to performance, Contractor is to identify primary Subcontractors who will perform services in fulfillment of Contract requirements, including their name, the nature of services to be performed, address, telephone, facsimile, email, federal tax identification number (TIN), MWBE status, and anticipated dollar value of each subcontract.

The state reserves the right to approve or reject any and all Subcontractors that are identified or used by the Contractor for performance under this Contract.

Specific restrictions apply to Contracting with current or former state employees pursuant to Chapter 42.52 RCW.

4.4 SUBCONTRACTS AND ASSIGNMENT

Contractor shall not subcontract, assign, or otherwise transfer its obligations under this Contract without the prior written consent of the Contract Administrator, with the exception of installation Subcontractors. Contractor shall provide a minimum of thirty (30) calendar days advance notification of intent to subcontract, assign, or otherwise transfer its obligations under this

Contract. Violation of this condition may be considered a material breach establishing grounds for Contract termination. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

4.5 CONTRACTOR AUTHORITY AND INFRINGEMENT

Contractor is authorized to sell under this Contract, only those materials, supplies, services and/or equipment as stated herein and allowed for by the provisions of this Contract. Contractor shall not represent to any Purchasers that they have the Contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established state Contracts.

4.6 HOURS OF LABOR AND PREVAILING WAGES

In compliance with Chapter 49.28 RCW, Contractor agrees that no worker, laborer, or mechanic in the employ of the Contractor or Subcontractor shall be permitted or required to work more than eight (8) hours in any one calendar day, or forty (40) hours in any one calendar week, provided that in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, Contracts will not require the payment of overtime rates for the first two hours worked in excess of eight (8) hours per day when the employer has obtained the employee's agreement (as defined in WAC 296-127-022) to work a four-day, ten-hour work week.

The Department of Labor and Industries will publish prevailing wage rates on the first business day of February and August of each year. The wage rates will become effective thirty (30) days following publication. For all Contracts, the prevailing wage rates which are in effect on the Bid opening date or on the effective date of any extension of the Contract are the wage rates that must be paid for the duration of the Contract.

The appropriate labor classifications and prevailing wage rates are identified herein. Questions should be directed to the Industrial Statistician, Department of Labor and Industries, Employment Standards Division, PO Box 44540, Tumwater, WA 98504-4540 (Telephone (360) 902-5334) or the Procurement Coordinator. These wage rates are made part of this Contract as though fully set forth herein. See Appendix C for labor rates.

The Contractor must submit to the Industrial Statistician of the Department of Labor and Industries a "Statement of Intent to Pay Prevailing Wages." A copy of the approved intent statements must be submitted to the Purchaser in order to receive the first progress payment on this Contract. Following final acceptance of the project, Contractor must submit to the Industrial Statistician an "Affidavit of Wages Paid." An approved affidavit must be submitted to the Purchaser before they are authorized to release the retained funds.

Each "Statement of Intent to Pay Prevailing Wages" or "Affidavit of Wages Paid" submitted for approval to the Industrial Statistician must be accompanied with the current filing fee.

A copy of the approved "Statement of Intent to Pay Prevailing Wages" shall be posted at the job site with the address and telephone number of the Industrial Statistician, where a complaint or inquiry concerning prevailing wages may be made. If a dispute arises as to what are the prevailing rates of wages for a specific trade, craft or occupation, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be

referred for arbitration to the Director of the Department of Labor and Industries, and his/her decision shall be final, conclusive and binding on all parties involved in the dispute.

Vocationally handicapped workers, i.e., those individuals whose earning capacity is impaired by physical or mental deficiency or injury, may be employed at wages lower than the established prevailing wage. The Fair Labor Standards Act requires that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor. These certificates are acceptable to the Department of Labor and Industries. Sheltered workshops for the handicapped may submit a request to the Department of Labor and Industries for a special certificate, which would, if approved, entitle them to pay their employees at wages, lower than the established prevailing wage.

Prevailing wage requirements do not apply to:

a) Sole owners and their spouses.

b) Any partner who owns at least 30% of a partnership.

c) The president, vice-president, and treasurer of a corporation if each one owns at least 30% of the corporation.

d) Workers regularly employed on monthly or per diem salary by the state or any political subdivision created by its laws.

4.7 MATERIALS AND WORKMANSHIP

Contractor shall be required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies and workmanship used in the construction of equipment for this Contract shall conform to all applicable federal, state, and local laws, codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies and equipment.

4.8 MERCURY CONTENT AND PREFERENCE

Contractor shall provide mercury-free products when available. Should mercury-free products not exist, Contractors shall provide products with the lowest mercury content available. Contractor shall disclose products that contain added mercury and provide an explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the product.

If a product contains mercury or a mercury compound intentionally added to the product, Contractor shall submit a written statement to that effect including existing technical data pertaining to the addition of mercury or a mercury compound to the Purchaser. Contractor shall maintain compliance with these requirements throughout the life of this Contract.

The state reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

5 DELIVERY REQUIREMENTS

5.1 ORDER FULFILLMENT REQUIREMENTS

Authorized Purchasers may place orders against this Contract either in person, electronically, facsimile or by phone. Once an order is issued, the following shall apply:

1. For purposes of price verification and auditing, upon receipt of a purchase order, the Contractor shall send the Purchaser an order confirmation notification that includes Contract pricing.
2. Upon the request of the Purchaser, the Contractor shall supply Purchaser with manufacturer's list pricing or other documentation needed to verify Contract pricing compliance.
3. Product damaged prior to acceptance will either be replaced or repaired in an expedited manner at Contractor's expense. Alternatively, at the Purchaser's option, any possible damage to the product can be noted on the receiving report and the cost deducted from final payment.
4. The Contractor is responsible to verify delivery conditions/requirements with the Purchaser prior to the delivery.

5.2 STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT

If, in the sole judgment of the state or the Purchaser, any materials determined not to be equal to the specifications of this Contract, the Purchaser may take any or all of the following actions:

1. the materials may be returned at Contractor's expense;
2. the Contractor may be required to remove and replace all non-compliant materials;
3. the purchase/field order may be terminated without any liability to the State of Washington or Purchaser.

5.3 SHIPPING AND RISK OF LOSS

Contractor shall ship all products purchased pursuant to this Contract, freight prepaid and included, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the products and hazards of transportation.

Regardless of FOB point, Contractor agrees to bear all risks of loss, damage, or destruction of the products ordered hereunder that occurs prior to Delivery Date, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Contractor from any obligation hereunder. After Delivery Date, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

5.4 DELIVERY

Delivery must be made during Purchaser's normal work hours, per Purchaser's security and access processes and within time frames either:

1. **required in the Solicitation, or**
2. **if requested in the Solicitation, proposed by Contractor in its Bid and subsequently accepted by the state, or**

3. **as otherwise mutually agreed in writing between the Purchaser and Contractor at the time of order placement.**

Failure to comply with agreed upon delivery schedule, security and access procedures may subject Contractor to damages, including but not limited to Contractor's return of materials and cancellation of services at no charge to Purchaser if Purchaser determines Contractor's failure to deliver as agreed causes the need for cancellation.

The Purchaser may refuse shipment when delivered after normal working hours. The Contractor shall verify specific working hours of individual Purchasers and instruct carrier(s) to deliver accordingly. The acceptance by the Purchaser of late performance, with or without objection or reservation by the Purchaser, shall not waive the right to claim damage for such breach, nor preclude the state or Purchaser from pursuing any other remedy provided herein, including termination, nor shall such acceptance of late performance constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor.

All deliveries are to be made to the applicable delivery location as indicated in the Order Document. When applicable, the Contractor shall take all necessary actions to safeguard items during inclement weather. In no case shall the Contractor initiate performance prior to receipt of written or verbal authorization from authorized Purchasers. Expenses incurred otherwise shall be borne solely by the Contractor.

5.5 SITE SECURITY

While on Purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations prescribed by each Purchaser.

5.6 INSPECTION AND REJECTION

The Purchaser's inspection of all materials, supplies and equipment upon delivery is for the purpose of forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Such inspection shall not be construed as final acceptance, or as acceptance of the materials, supplies or equipment, if the materials, supplies or equipment does not conform to Contractual requirements. If there are any apparent defects in the materials, supplies, or equipment at the time of delivery, the Purchaser will promptly notify the Contractor. Without limiting any other rights, the Purchaser may require the Contractor at Contractor's expense to: (1) repair or replace any or all of the damaged goods; (2) refund the price of any or all of the damaged goods; or (3) accept the return of any or all of the damaged goods.

5.7 INSTALLATION DAMAGES

The state reserves the right to require Contractor to repair all damages to Purchaser's facilities or provide full compensation as determined by the state as pertaining to installation under this Contract.

5.8 TREATMENT OF ASSETS

1. Title to all property furnished by the state and/or Purchaser shall remain in the state and/or Purchaser, as appropriate. Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in the Purchaser upon delivery of such property by the Contractor and Acceptance by the Purchaser. Title to other property, the cost of which is

reimbursable to the Contractor under this Contract, shall pass to and vest in the Purchaser 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 Purchaser in whole or in part, whichever first occurs.

2. Any property of the state and/or Purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by the state and/or Purchaser, be used only for the performance of this Contract.
3. The Contractor shall be responsible for damages as a result of any loss or damage to property of the state and/or Purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.
4. If any state and/or Purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify the state and/or Purchaser and shall take all reasonable steps to protect the property from further damage.
5. The Contractor shall surrender to the state and/or Purchaser all property of the state and/or Purchaser prior to settlement upon completion, termination, or cancellation of this Contract.
6. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

5.9 LABELING

Individual shipping cartons shall be labeled with the name of the ordering agency, order number, Contract number, Contractor, state stock numbers, and where applicable, date of manufacture, batch number, storage requirements, conditions, and recommended shelf life. Contractor is encouraged to offer product packaging with recycled content and recyclable materials.

5.10 RECOVERED AND RECYCLED CONTENT

All materials shall meet the EPA Comprehensive Procurement Guidelines for Recovered and Recycle content.

5.11 HAZARDOUS MATERIALS

"Right to know" legislation requires the Department of Labor and Industries to establish a program to make employers and employees more aware of hazardous substances in their work environment. Implementing Chapter 296-839 WAC requires that all manufacturers and distributors of hazardous substances, including any of the items listed in this Contract, must include a complete material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

1. The identity of the hazardous material,
2. Appropriate hazard warnings, and
3. Name and address of the chemical manufacturer, importer, or other responsible party

Labor and Industries may levy appropriate fines for noncompliance and agencies may withhold payment-pending receipt of a legible copy of MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to "carcinogenic ingredients" and "routes of entry" of the product(s) in question.

6 PAYMENT

6.1 ADVANCE PAYMENT PROHIBITED

No advance payment shall be made for the Products and Services furnished by Contractor pursuant to this Contract.

6.2 IDENTIFICATION

All invoices, packing lists, instruction manuals, correspondence, shipping notices, and other written materials associated with this Contract shall be identified by the Contract number and the applicable Purchaser's order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.

6.3 PAYMENT, INVOICING AND DISCOUNTS

Payment is the sole responsibility of, and will be made by, the Purchaser.

Contractor shall provide a properly completed invoice to Purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice shall be identified by the associated Contract Number; the Contractor's statewide Vendor registration number assigned by Washington State Office of Financial Management (OFM), the applicable Purchaser's order number, and shall be in U.S. dollars. Invoices shall be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the Solicitation. Hard copy credit memos are to be issued when the state has been overcharged.

Invoices for payment will accurately reflect all discounts due the Purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of Contractor has been accepted by the Purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

Under Chapter 39.76 RCW , if Purchaser fails to make timely payment(s), Contractor may invoice for 1% per month on the amount overdue or a minimum of $1.00. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified, net 30 days will automatically apply. Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor. If the Contractor fails to make timely payment(s) or issuance of credit memos, the Purchaser may impose a 1% per month on the amount overdue.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by Purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the Purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

6.4 TAXES, FEES AND LICENSES

Taxes:

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the Purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

Collection of Retail Sales and Use Taxes:

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington State. Examples of such activity include where the Contractor either directly or by an agent or other representative:

1. Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
2. Maintains an in-state inventory or stock of goods for sale;
3. Regularly solicits orders from Purchasers located within the State of Washington via sales representatives entering the State of Washington;
4. Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with Purchasers in an attempt to establish or maintain market(s); or
5. Other factors identified in WAC 458-20.

Department of Revenue Registration for Out-of-State Contractors:

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to WAC 458-20-193, and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit "use tax," Purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

Fees/Licenses:

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

Customs/Brokerage Fees:

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to damages as identified herein and/or to other remedies available by law or Contract. Neither the state nor the Purchaser will incur additional costs related to Contractor's payment of such fees.

Taxes on Invoice:

Contractor shall calculate and enter the appropriate Washington State and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with WAC 458-20-247.

Ferry Vessel Exemption:

Orders for tangible personal property which become a component part of ferry vessels of the State of Washington or local government units in the state of Washington are exempt from use tax under RCW 82.12.0279.

6.5 MINORITY AND WOMEN'S BUSINESS ENTERPRISE (MWBE) PARTICIPATION

With each invoice for payment and within thirty (30) days of Purchasers request, Contractor shall provide Purchaser an *Affidavit of Amounts Paid.* The *Affidavit of Amounts Paid* shall either state that Contractor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE Subcontractor under this Contract. Contractor shall maintain records supporting the *Affidavit of Amounts Paid* in accordance with this Contract's Retention of Records section.

6.6 OVERPAYMENTS TO CONTRACTOR

Contractor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days of a written notice. If Contractor fails to make timely refund, Purchaser may charge Contractor one percent (1%) per month on the amount due, until paid in full.

6.7 AUDITS

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for Contract termination.

7 QUALITY ASSURANCE

7.1 RIGHT OF INSPECTION

Contractor shall provide right of access to its facilities to OSP, or any OSP 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.

7.2 WARRANTIES

Contractor warrants that all materials, supplies and services provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any materials, supplies and services, and inspection incidental thereto, by the Purchaser shall not alter or affect the obligations of the Contractor or the rights of the Purchaser.

7.3 CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall

render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

7.4 PRODUCT AND INSTALLATION WARRANTY

In the event of conflict between Contract terms and conditions and Contractor's submitted warranty, the Contract terms and conditions and those included in the IFB's specifications shall prevail; except, to afford the state maximum benefits, the state may avail itself of the Contractor's warranty if deemed more beneficial to the state.

1. Warranties shall be non-prorated and cover all related costs of replacement including material, freight and labor where carpet and flooring materials have been installed and maintained in accordance with manufacturer's recommended guidelines.

2. Installation warranty shall be for a minimum period of two (2) years from the date of substantial completion as acknowledged by the Purchaser and shall cover repair or replacement due to defects in the workmanship and shall include all material and labor, including, but not limited to, delivery, installation, removal, reclamation and other related services for all projects which fall within the scope of this Contract. See also Technical Specifications Submittal (Part I – Service Requirements, Section 16).

   All materials or equipment provided shall be new, unused, of the latest model or design and of recent manufacture.

3. Material warranty resolution shall include a full room floor surface (tile replacement may not apply to a full room floor surface) or up to 100 times the affected area, which ever results in reasonable appearance and proper installation, to the satisfaction of the Purchaser.

4. Contractor reserves the right to inspect any claim, request photographs and/or samples prior to approving such claim.

5. Warranty support shall be timely and complete within 30 calendar days of initial notification to the Contractor, unless otherwise mutually agreed upon through a written notice to cure from the Purchaser to the Contractor. If resolution is not feasible within 30 calendar days, Contractor shall propose a schedule with bench marks for resolution to the Customer within 30 calendar days of initial notification.

7.5 COST OF REMEDY

Cost of Remedying Defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

7.6 PRODUCT SELECTION/ACCESSIBILITY

Contractor shall maintain the quantity and quality of product selection in accordance with the original Solicitation throughout the Contract term.

Contractor will ultimately need to create and manage a web-based system for Contract customers' ordering, product selection, and pricing needs. The Contractor shall work with the state on finalizing a usable and acceptable process that works for all.

It is imperative that authorized Purchasers are never put in a position to pay the wrong price and that access to order tracking, buying history, etc. is available in an organized fashion as needed.

8 INFORMATION AND COMMUNICATIONS

8.1 ADVERTISING

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from the Contract Administrator.

8.2 RETENTION OF RECORDS

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by the state, personnel duly authorized by the state, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

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

8.3 PROPRIETARY OR CONFIDENTIAL INFORMATION

To the extent consistent with Chapter 42.56 RCW, the Public Disclosure Act, the state shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, the state will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, the state will release the requested information on the date specified.

The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as the state retains Contractor's information in the state records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

8.4 NON-ENDORSEMENT AND PUBLICITY

Neither the state nor the Purchasers are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to the state, any Purchaser or the state of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of the state.

9 GENERAL PROVISIONS

9.1 GOVERNING LAW/VENUE

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

9.2 SEVERABILITY

Severability: If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

9.3 SURVIVORSHIP

All transactions executed for Products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

9.4 INDEPENDENT STATUS OF CONTRACTOR

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent Contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under Chapter 41.06 RCW, or Title 51 RCW.

9.5 GIFTS AND GRATUITIES

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: RCW 43.19.1937 , RCW 43.19.1939, RCW 42.52.150, RCW 42.52.160, and RCW 42.52.170 under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or Contract activities.

Under RCW 43.19.1937 and the Ethics in Public Service Law, Chapter 42.52 RCW state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by RCW 42.52.150) if the officer or employee participates in Contractual matters relating to the purchase of goods or services.

9.6 IMMUNITY AND HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless state, agencies of state and all officials, agents and employees of the state, from and against all claims for injuries, death or damage to property arising out of or resulting from the performance of the Contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any Subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the state for any claim arising out of or incident to Contractor's or any Subcontractor's performance or failure to perform the Contract. Contractor shall be required to indemnify, defend, and hold harmless the state only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

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

9.7 PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

9.8 INSURANCE

General Requirements:

Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

Specific Requirements:

Employers Liability (Stop Gap): The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than $1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under

this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and Contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General Aggregate Limits (other than products-completed operations)	$2,000,000
Products-Completed Operations Aggregate	$2,000,000
Personal and Advertising Injury Aggregate	$1,000,000
Each Occurrence (applies to all of the above)	$1,000,000
Fire Damage Limit (per occurrence)	$ 50,000
Medical Expense Limit (any one person)	$ 5,000

Business Auto Policy (BAP):

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than $1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

Additional Insurance Provisions:

All above insurance policies shall include, but not be limited to, the following provisions:

Additional Insured:

The State of Washington and all authorized Purchasers shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

Notice of Policy(ies) Cancellation/Non-renewal:

For insurers subject to Chapter 48.18 RCW (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee forty-five (45) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Surplus Lines:

For insurers subject to Chapter 48.15 RCW (Surplus Lines) a written notice shall be given to the director of purchasing or designee twenty (20) calendar days prior to cancellation or any material

change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Cancellation for Non-payment to Premium:

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee ten (10) calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

Identification:

Policy(ies) and Certificates of Insurance shall include the affected Contract reference number.

Insurance Carrier Rating:

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A-Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and Chapter 284-15 WAC.

Excess Coverage:

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

Limit Adjustments:

The state reserves the right to increase or decrease limits as appropriate.

9.9 INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of Title 51 RCW Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the state 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 the Contractor.

9.10 NONDISCRIMINATION

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, Chapter 49.60 RCW, Discrimination – Human Rights Commission.

9.11 OSHA AND WISHA REQUIREMENTS

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued there under, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless the state and Purchaser from all damages assessed against Purchaser as a result of Contractor's

failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

9.12 ANTITRUST

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

9.13 WAIVER

Failure or delay of the state or Purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or the state's or Purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the state or Purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by the state or Purchaser of any existing or future right and/or remedy available by law.

10 DISPUTES AND REMEDIES

10.1 PROBLEM RESOLUTION AND DISPUTES

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between the state or the Purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. The state and/or Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between the state or the Purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the Response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

The state, the Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by Purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

10.2 ADMINISTRATIVE SUSPENSION

When it in the best interest of the state, the state may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than thirty (30) calendar days per event by written notice from the Contract Administrator to the Contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30 day suspension period by the Contract Administrator providing the Contractor's Representative with written notice of such demand.

10.3 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.

Exceptions: 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.

Notification: 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.

Rights Reserved: The state reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the state.

10.4 ALTERNATIVE DISPUTE RESOLUTION FEES AND COSTS

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

10.5 NON-EXCLUSIVE REMEDIES

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

10.6 LIMITATION OF LIABILITY

The parties agree that neither Contractor, the state nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

Neither the Contractor, the state nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, the state or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than the state or the Purchaser acting in either its sovereign or Contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, the state or the Purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

10.7 FEDERAL DEBARMENT AND SUSPENSION

Contractor certifies, that neither it nor its "principals" (as defined in 49 CFR. 29.105 (p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

11 CONTRACT TERMINATION

11.1 MATERIAL BREACH

A Contractor may be Terminated for Cause by the state, at the sole discretion of the Contract Administrator, for failing to perform a Contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

1. Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
2. Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the Contract;
3. Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
4. Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
5. Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
6. A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

11.2 OPPORTUNITY TO CURE

In the event that Contractor fails to perform a Contractual requirement or materially breaches any term or condition, the state may issue a written cure notice. The Contractor may have a period of time in which to cure. The state is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of the state. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, or otherwise affects any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, the state may do any one or more of the following:

1. Exercise any remedy provided by law;
2. Terminate this Contract and any related Contracts or portions thereof;
3. Procure replacements and impose damages as set forth elsewhere in this Contract;
4. Impose actual or other damages;
5. Suspend or bar Contractor from receiving future Solicitations or other opportunities;
6. Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

11.3 TERMINATION FOR CAUSE

In the event the Contract Administrator, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, the Contract Administrator has the right to suspend or terminate this Contract, in part or in

whole. The Contract Administrator shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days or as otherwise specified by the Contract Administrator, or if such corrective action is deemed by the Contract Administrator to be insufficient, the Contract may be terminated. The Contract Administrator reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by the Contract Administrator to terminate the Contract.

In the event of termination, the state shall have the right to procure for all Purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive Bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience". The rights and remedies of the state and/or the Purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

11.4 TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, the state, at the sole discretion of the Contract Administrator, may terminate this Contract, in whole or in part by giving thirty (30) calendar days or other appropriate time period written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, Purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and Accepted by the Purchaser prior to the effective date of Contract termination. Neither the state nor the Purchaser shall have any other obligation whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by the state when it is in the best interest of the State of Washington.

11.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the state and/or Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, the state may terminate this Contract, in whole or in part, by seven (7) calendar days written notice to Contractor.

11.6 TERMINATION FOR NON-ALLOCATION OF FUNDS

If funds are not allocated to Purchaser(s) to continue this Contract in any future period, the state may terminate this Contract by seven (7) calendar days written notice to Contractor or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. The state and/or Purchaser agree to notify Contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the Purchaser in the event this section shall be exercised. This section shall not be construed to permit State to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

11.7 TERMINATION FOR CONFLICT OF INTEREST

The state may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated Chapter 42.52 RCW, Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of Contracts. In the event this Contract is so terminated, the state and /or Purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

11.8 TERMINATION BY MUTUAL AGREEMENT

The state and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

11.9 TERMINATION PROCEDURE

In addition to the procedures set forth below, if the state terminates this Contract, Contractor shall follow any procedures the Contract Administrator specifies in the termination notice.

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

The Purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the Purchaser, and the amount agreed upon by the Contractor and the Purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the Purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case the state and the Purchaser shall determine the extent of the liability of the Purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. The Purchaser may withhold from any amounts due the Contractor such sum as the Contract Administrator and Purchaser determine to be necessary to protect the Purchaser against potential loss or liability.

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

After receipt of a termination notice, and except as otherwise expressly directed in writing by the Contract Administrator, the Contractor shall:

1. Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;

3. Complete or fulfill such portion of the Contract that is not terminated in compliance with all Contractual requirements;
4. Assign to the Purchaser, in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator and/or the Purchaser to the extent Contract Administrator and/or the Purchaser may require, which approval or ratification shall be final for all the purposes of this clause;
6. Transfer title to the Purchaser and deliver in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser any property which, if the Contract had been completed, would have been required to be furnished to the Purchaser;
7. Take such action as may be necessary, or as the Contract Administrator and/or the Purchaser may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the state and/or the Purchaser has or may acquire an interest.

12 CONTRACT EXECUTION

12.1 PARTIES

This Contract ("Contract") is entered into by and between the State of Washington, acting by and through GA, an agency of Washington state government located at 210 11th Ave SW Olympia, WA 98504, and the Awarded Contractor, a corporation/sole proprietor or other business form licensed to conduct business in the State of Washington, for the purpose of providing Flooring Materials and Services.

12.2 ENTIRE AGREEMENT

This Contract document and all subsequently issued amendments comprise the entire agreement between the state and the Contractor. No other statements or representations, written or oral, shall be deemed a part of the Contract.

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled Contractor Commitments, Warranties and Representations, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, price, quality or specifications of this Contract will be effective without the written consent of both parties.

12.3 ORDER OF PRECEDENCE, INCORPORATED DOCUMENTS, CONFLICT AND CONFORMITY

Incorporated Documents:

Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

1. The state's Solicitation document for this Contract with all appendices, attachments, and exhibits, and all amendments thereto;
2. Contractor's Response to this Solicitation, including all Submittals;

3. Award Letter (if any)
4. The terms and conditions contained on Purchaser's Order Documents, if used; and
5. All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to affect the sale of the Product to the Purchaser.

Order of Precedence

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and State of Washington statutes and regulations
2. Mutually agreed written amendments to this Contract
3. Award Letter describing the extent of the award or open administrative matters
4. This Contract
5. The state's Solicitation document (IFB) with all appendices, attachments, exhibits, and all amendments thereto
6. Contractor's Response to the Solicitation
7. Any other provision, term, or materials incorporated into the Contract by reference.

Conflict: To the extent possible, the terms of this Contract shall be read consistently.

Conformity: If any provision of this Contract violates any Federal or State of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

12.4 LEGAL NOTICES

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, facsimile, United States Postal Service mail, or by electronic mail to the parties at the addresses, fax numbers, or e-mail addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Materials, Items, Equipment or Services provided pursuant to this Contract is served upon the Contractor or the state, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. The Contractor and the state further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

LEGAL NOTICE CONTACT INFORMATION:

To Contractor at:	To the State of Washington at:
[Contractor] **Attn:** *[Contractor address and contact information]*	**State of Washington** **Department of General Administration** **Office of State Procurement** **Attn: Scott Geist – Legal Notice** **210 11th Ave SW, Room 201 - GA Bldg** **Olympia, WA 98504-1017** **Phone: 360-902-7400/Fax: 360-586-2426** **scott.geist@ga.wa.gov**

12.5 LIENS, CLAIMS AND ENCUMBRANCES

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if the state or the Purchaser requests, a formal release of same shall be delivered to the respective requestor.

12.6 AUTHORITY TO BIND

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

12.7 COUNTERPARTS

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

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CONTRACT SIGNATURES

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all appendices and attachments, do agree in each and every particular and have thus set their hands hereunto.

This Contract is effective this _____day of _____, _____.
Date completed by OSP only

Approved – Contractor	**Approved - State**
Business Name	State of Washington, Department of General Administration, Office of State Procurement
Signature	Signature
Print or Type Name Date	Print or Type Name Date
Title	Title

Additional OSP Approval (if necessary): _____