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:
TRAFFIC SAFETY SUPPLY CO INC
2324 SE UMATILLA ST

PORTLAND, OR 97202 United States
Fax: (503) 2355112

CONTRACT

CONTRACT NO.	REVISION	PAGE
5558648	7	1 of 1

CREATION DATE	BUYER
26-MAR-2013	PATRICIA REID
DATE OF REVISION	**BUYER**
28-DEC-2015	PATRICIA REID

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

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

CONTRACTOR NO	PAYMENT TERMS	FREIGHT TERMS	FOB	SHIP VIA	CONFIRM TO
2076	NET30DAYS	Paid	DESTINATION	Best Way	Telephone: (503) 235-8531

DESCRIPTION

Change Order #2 Issued 12/22/15

Change order #2 is issued to extend the contract through December 23, 2016, in line with Washington State #02612.

Authorized Signature

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DESCRIPTION

Change Order #2 **Issued 12/22/15**

Change order #2 is issued to extend the contract through December 23, 2016, in line with Washington State #02612.

Authorized Signature

Reid, Patty

02612

From: ORACLEEBSPROD
Sent: Monday, December 28, 2015 9:46 AM
To: Reid, Patty
Subject: FYI: Contract Purchase Agreement 5558648 has been approved
Attachments: Notification Detail.html; Notification References.html

From **Dodman, Roy**
To **Reid, Patricia**
Sent **28-DEC-2015 09:44:36**
ID **6119345**

Contract Purchase Agreement 5558648 has been approved.

Contract Purchase Agreement 5558648 Amount: USD 150,005.00;
Tax: USD 0.00.
Supplier: TRAFFIC SAFETY SUPPLY CO INC
Supplier Site: TRAFFIC SAFETY
Description: Traffic Safety Products - WA ST #02612

Preparer: Reid, Patricia

Note:

Purchase Order Lines

Line	Item Number	Rev.	Item Description	UOM	Quantity	Unit Price	Line Amount

Approval Sequence

The last 20 Approval History details are summarized below. For information on additional Approval History, if you are logged into the application, please click the Open Document icon.

Sequence	Who	Action	Date	Note
23	Dodman, Roy L.	Approve	28-DEC-2015	
22	Harjo, Janet D	Forward	28-DEC-2015	
21	Jungnitz, Jordan R	No action taken	28-DEC-2015	
20	Reid, Patricia L	Forward	23-DEC-2015	
19	Reid, Patricia L	Submit	23-DEC-2015	
18	Dodman, Roy L.	Approve	22-DEC-2015	
17	Jungnitz, Jordan R	Forward	22-DEC-2015	
16	Reid, Patricia L	Forward	22-DEC-2015	This change order extends the contract through December 23, 2016 in line with WA State contract # 02612
15	Reid, Patricia L	Submit	22-DEC-2015	This change order extends the contract through December 23, 2016 in line with WA State contract # 02612
14	Jackson, Rena L	Approve	22-AUG-2014	
13	Jungnitz, Jordan R	Approve and Forward	21-AUG-2014	
12	Reid, Patricia L	Forward	21-AUG-2014	Increased dollar threshold from $50K to $150K due to length of available term.
11	Reid, Patricia L	Submit	21-AUG-2014	Increased dollar threshold from $50K to $150K due to length of available term.
10	Jungnitz, Jordan R	Approve	04-AUG-2014	Amount Limit increased by $25K.
9	Reid, Patricia L	Forward	04-AUG-2014	
8	Reid, Patricia L	Submit	04-AUG-2014	
7	Brannan, Rocky M	Approve	03-JAN-2014	
6	Reid, Patricia L	Forward	03-JAN-2014	Contract extension through December 23, 2015 per WA State Contract # 02612.
5	Reid, Patricia L	Submit	03-JAN-2014	Contract extension through December 23, 2015 per WA State Contract # 02612.
4	Reid, Patricia L	Approve	03-OCT-2013	Administrative change to control date only.

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SEATTLE, WA 98104

CONTRACTOR NO	PAYMENT TERMS	FREIGHT TERMS	FOB	SHIP VIA	CONFIRM TO
2076	NET30DAYS	Paid	DESTINATION	seller	Telephone: (503) 235-8531

DESCRIPTION

Contract Purchase Agreement

Furnish Traffic Safety Products
as requested by authorized
King County personnel
during the period March 26, 2013
through December 23, 2013.

Individual Standard Purchase orders
with unique Purchase Order numbers
referencing this contract purchase
agreement will be issued by King
County to authorize the purchase
and payment of goods and services.

All invoices must reference the Individual
Standard Purchase Order Number to avoid delay
in payments.

Authorized Signature

Contract Search

Washington State Department of Enterprise Services

Contract Summary

Printable Version

Intelligent Transportation System Equipment 2

Contract#: 02612 **Related Contracts:** 03709

Statewide contract for the as needed purchase of Intelligent Transportation System Equipment. Parts will be purchased for replacement or for system standardization purposes. This is a supplemental contract to 03709.

Current Term Start Date: 01-03-2013 **Award Date:** 12-21-2012 **Est. Annual Worth:** $4,000,000

Current Term Ends On: 12-23-2013 **Final Term Ends On:** 12-23-2015

Diversity: 0% WBE 0% MBE **# of Bids Received:** 22

Contact Info: Master Contracts & Consulting – Nathan Hayes at (360) 407-8236 or nathan.hayes@des.wa.gov or for general information you may contact Customer Service at (360) 902-7400 or csmail@des.wa.gov

Who can use this contract?

Washington State agencies
Qualified Cooperative Members (Political Subdivisions/Non-Profit Organizations)
Participating Colleges, Universities, Community & Technical Colleges
Oregon Coop Members

Contract Documents & Resources

View Current Contract Information (CCI)
Pricing & Ordering Information
Specifications
Solicitation Results Summary (Bid Tab)
Contract Activity
Submit Contractor Feedback
Best-buy Notification

Contractor(s):	Diversity
ADDCO, INC.	
ADVANCED TRAFFIC PRODUCTS INC.	
ASTI TRANSPORTATION SYSTEMS, INC.	
CASCADE SIGNAL CORPORATION	

CONSOLIDATED ELECTRICAL DISTRIBUTORS	
CORAL SALES COMPANY	
DAKTRONICS, INC.	
INTERNATIONAL ROAD DYNAMICS CORP	
IPMOBILENET LLC	
KAR-GOR, INC.	
NORTHWEST SIGNAL SUPPLY, INC.	W
RFI COMMUNICATIONS AND SECURITY	
TRAFFIC SAFETY SUPPLY CO.	
TRAFFIC SYSTEMS AND TECHNOLOGY	
URS ELECTRONICS	
VAISALA, INC.	
WESTERN PACIFIC SIGNAL LLC	
WESTERN SYSTEMS INC.	

M=OMWBE Certified Minority Owned W=OMWBE Certified Women Owned MS=Self Identified Minority Owned WS=Self Identified Women Owned

Information about the number of bids received is included to show:

- Vendors which contracts would benefit from more competition.
- Assure our customers that we sought the best overall value through as many competitive bids as possible.

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APPENDIX C, MODEL CONTRACT

State of Washington

Department of Enterprise Services
DES (DES)

Contract 02612,
Intelligent Transportation System Equipment 2

Under the Authority of
Chapter 43.19 RCW

1 OVERVIEW

1.1 CONTRACT SCOPE

The contract resulting from this Invitation for Bid (IFB) will provide purchasers with a statewide contract for the procurement of Intelligent Transportation System Equipment and related products. This contract will also provide for the purchase of replacement parts and will facilitate purchaser's system standardization efforts. The manufacturer lines specified herein are those product lines found to perform well, and are in compliance with existing industry and regulatory standards and are compatible with current Washington State Department of Transportation replacement equipment requirements.

1.2 CONTRACT SCOPE AND MODIFICATIONS

DES reserves the right to modify this Contract by mutual agreement between DES and the Contractor, so long as such modification is substantially within the scope of the original Contract. 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 Department of Enterprise Services (DES), issued an Invitation for Bid (IFB), for the purpose of purchasing Intelligent Transportation System Equipment and related products in accordance with its authority under Chapter 43.19 RCW.

[Contractor] has submitted a timely Response to DES incorporated by reference.

DES evaluated all properly submitted Responses to the above-referenced IFB and has identified *[Contractor]* as the apparently successful Contractor.

The Purchasing Activity has determined that entering into a Contract with *[Contractor]* will meet Purchaser's needs and will be in Purchaser's best interest.

NOW THEREFORE, DES awards to *[Contractor]* this Contract, the terms and conditions of which shall govern Contractor's furnishing to Purchasers the Intelligent Transportation System Equipment and related products identified 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 and/or projected usage, it is estimated that purchases over the initial two (2) year term of the Contract may approximate $4,000,000 (Washington State Agencies 55% vs. 45% participating political subdivisions). This estimate was 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, and does not guarantee any purchases will be made.

1.5 CONTRACT TERM

The initial term of this contract will be from effective date through December 23, 2013 with the option to extend for additional term(s) or portions thereof. Extension for each additional term shall be offered at the sole discretion of DES upon written notice to the Contractor(s). The total contract term, including the initial term and all subsequent extensions, shall not exceed December 23, 2015 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

This contract is for use by all members of the Washington State Purchasing Cooperative (WSPC) and Oregon's Department of Administrative Services Cooperative Purchasing Program (ORCPP) including where applicable: State Agencies, Institutions of Higher Education, and Political Subdivisions. The primary purchaser is the Washington State Department of Transportation (WSDOT).

While use of the contract by Political Subdivisions and Non-Profit Corporations that are members of the WSPC and ORCPP members is optional, the DES 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. The DES accepts no responsibility for orders or payment by WSPC members.

A list of WSPC members is available at https://fortress.wa.gov/ga/apps/coop/Default.aspx.
A list of current authorized ORCPP members is available at:
http://www.oregon.gov/DAS/EGS/PS/docs/orcpp/MemberList/orcpp-member-list.html

Purchases by Nonprofit Corporations

Legislation allows nonprofit corporations to participate in State Contracts for purchases administered by the DES. By mutual agreement with DES, 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 CONTRACT ADMINISTRATOR

The DES 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. The DES will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

2.2 ADMINISTRATION OF CONTRACT

DES will maintain Contract information and pricing and make it available on DES's website. The Contract prices are the maximum price Contractor can charge. The Contractor may also offer volume discounts to Purchasers.

A Contractor may propose a revision to its offerings to reflect changed Products appropriate to the scope of the Contract, and may propose such new Products with associated prices to the DES Contract Administrator for approval. Contract Administrator has the sole discretion in approval of addition of revised offerings and pricing. New or changed Products proposed by Contractor must meet the requirements established in this solicitation document or subsequent revisions. If approved by DES, the new Products will be added to the Contract by written amendment.

For the term of the Contract, pricing for all Products will be no greater than the prices quoted in the Bidder's Response. If, however, during any term of the Contract lower prices and rates become effective for like quantities of Products under similar terms and conditions, through reduction in Contractor's list prices, promotional discounts, or other circumstances, Purchasers must be given immediate benefit of such lower prices and rates.

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 DES 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;
4. Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination; and,
5. Be bound by all written communications given to or received from the Contractor's Representative.

2.4 POST AWARD CONFERENCE

The 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 CONTRACTOR RESPONSIBILITIES

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 in the following manner, at no additional charge, to make the most cost effective, value based, purchases including, but not limited to:
    a. Visiting the Purchaser's 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. Shall designate a customer 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.

6. 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 by the Contract Administrator of a mutually agreed Contract Amendment. However, administrative changes (such as point of contact information) may be updated without the issuance of a mutually agreed Contract Amendment.

2.8 SALES AND SUBCONTRACTOR REPORTS

The Contractor shall provide a Sales and Subcontractor Report to DES on a quarterly basis in the electronic format provided by DES 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 WASHINGTON'S ELECTRONIC BUSINESS SOLUTIONS (WEBS)

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solutions (WEBS) www.ga.wa.gov/webs, maintained by the Washington State Department of Enterprise Services. 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

3.2 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, containers, reels; or the processing fees associated with the use of credit cards. 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.

3.3 PRICE ADJUSTMENTS

Once a percentage discount off the manufacturer's most current price list has been established, the percent discount shall remain firm (not subject to change). Contractors may offer higher discount levels than specified in the contract to meet a competitive price or in response to a volume purchase.

For Price List items within awarded categories, the manufacturer's price list may be changed during the term of the contract whenever the manufacturer publishes a new price list however, the discount percentage shall remain unchanged.

Contractors shall not make contract extensions contingent on price adjustments.

4 CONTRACTOR REQUIREMENTS

4.1 ESTABLISHED BUSINESS

Prior to commencing performance, or prior to that time if required by DES, 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.

DES 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

The Contractor, if other than the manufacturer, shall provide upon request a current, dated, and signed authorization from the manufacturer that the Contractor is an authorized distributor, dealer or service representative and is authorized to sell the manufacturer's products. Failure to provide manufacturer's authorization upon request will result in Contract cancellation.

4.3 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. 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.

4.4 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.

4.5 MATERIALS AND WORKMANSHIP

The 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 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.

5 DELIVERY REQUIREMENTS

5.1 DELIVERY REQUIREMENTS

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 identifies the manufacturer's charges.

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 DES or the Purchaser, any item is determined not to be an equal, the Purchaser may take any or all of the following actions:

1. the product may be returned at Contractor's expense; or
2. the contract may be terminated without any liability to the State of Washington or Purchaser.

5.3 SHIPPING AND RISK OF LOSS

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 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, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

5.4 FREIGHT CHARGES

Orders less than $400.00 in value will be shipped freight prepaid and the freight charges will be added as a separate line item on the invoice. The purchaser may elect to arrange for shipping under FOB Origin for orders less than $400.00. Orders larger than $400.00 shall be shipped FOB Destination with freight prepaid and freight changes included in the contract price of the items.

For expedited orders at any value, up-charges will be negotiated by the purchaser with the contractor and may be added as separate line items on the invoice. An expedited order is defined as any order where the delivery time frame is shorter than established in the **Appendix G, Price Sheets**. Contractor bears risks of loss, injury or destruction of goods and materials ordered herein which may occur prior to delivery and acceptance. Such loss, injury or destruction shall not release Contractor from any contract obligations.

5.5 DELIVERY

Delivery must be made during Purchaser's normal work hours and within time frames either:

1. required in the Solicitation,
2. if requested in the Solicitation, proposed by Contractor in its Bid and subsequently accepted by the DES 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 times may subject Contractor to liquidated or other damages. 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 DES 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.

The delivery lead-time will be as identified in the **Appendix G, Price Sheets**, or as mutually agreed at the time of order placement. Delivery must be made during Purchaser's normal work hours and within time frames proposed by Bidder herein and subsequently accepted by the state. Failure to comply may subject Contractor to non-delivery assessment charges and/or liquidated damages as appropriate. The purchaser reserves the right to refuse shipment when delivered after normal working hours. Contractor shall verify specific working hours of individual purchaser and so instruct carrier(s) to deliver accordingly. The acceptance by the purchaser of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor.

All shall be packed and loaded for shipping so no damage will occur during shipping and storage. Any damage to the equipment and its related components shall be repaired/replaced within 30 days at no costs to the Purchaser. The Vendor shall notify the Purchaser of delivery a minimum of five (5) working days prior to delivery. Material will not be accepted without the required advance notice. Delivery notification shall be made during Purchaser's normal business hours.

5.6 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 of the Purchasers.

5.7 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 to: (1) repair or replace, at Contractor's expense, 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.

5.8 INSTALLATION

Installation shall be performed in a professional manner in accordance with industry standard best practices. The premises shall be left in a clean condition. The Purchaser reserves the right to

require the Contractor to repair all damages occurring during the installation or provide full compensation for these damages as determined by the Purchaser.

5.9 TITLE TO PRODUCT

Upon delivery Contractor shall convey to Purchaser good title to the Product free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

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.

5.12 SERVICE EXPECTATION

Contractors will review the impact of this award and take the necessary steps to ensure adequate coverage and contract compliance. We expect the State to be designated as a preferred customer as a result of this contract. The Contractor will assist purchasers in making cost effective purchases. This assistance should include, in part, suggesting alternate product and new methods, advance notification when the delivery lead-time increases for typically used contract items, and economic order quantities.

Contractor is encouraged to contact participating purchasers, within the first 90 days and a minimum of annually thereafter. Continual monitoring of their required service expectations is vital to contract success.

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, packages, instruction manuals, correspondence, shipping notices, shipping containers, 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 FOR CABINETS

The following is the payment procedure for controller cabinets. For those cabinets that do not require supplier representative's presence at "turn on", payment of 100% of purchase order price will be made after acceptance. For those cabinets that require supplier representative's presence, 90% partial payment shall be paid 30 days after acceptance. The balance held shall be paid 30 days after cabinet "turn on" with supplier's representative present when specified on the order. If supplier's representative fails to be present during "turn on", the balance being held will be forfeited as liquidated damages.

For all other items listed in the contract, payment will be NET 30 days or as specified for prompt payment discount.

6.4 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.

6.5 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 liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither the DES 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.

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

With each invoice for payment and within thirty (30) days of Purchaser's 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.

6.7 OVERPAYMENTS TO CONTRACTOR

Contractor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' 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.

6.8 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 DES, or any of DES's 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 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.

7.3 PRODUCT WARRANTY

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

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

Warranty and Repair Stations:
Contractor may have factory-authorized warranty and repair stations located in the state of Washington, Oregon, Idaho and Montana, that will honor the warranty of all items on contract.

Warranty:
The Intelligent Transportation System Equipment and related products shall be provided with a minimum one-year on-site full parts and labor warranty initiating upon final acceptance of the material or equipment. The warranty shall be executed in writing and contain the provisions here in

and shall be provided to the purchaser. The final acceptance date shall be established by the date final payment is made by the purchaser. Any warranty document shall denote that the warranty period begins upon acceptance of the system denoted by the final date of payment by the purchaser.

The Purchaser's inspection of all materials and equipment upon delivery is for the sole purpose of identification. Such inspection shall not be construed as final acceptance or as acceptance of the materials or equipment if materials or equipment do not conform to contractual requirements. If there are any apparent defects in the materials or equipment at the time of delivery, the Purchaser will promptly notify the Contractor thereof. Without limiting any other rights, the Purchaser, may require the Contractor to:

1. Repair or replace, at Contractor's expense, 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, without penalty.

Any component that fails to comply with the warranty shall be replaced by the warrantor free of all charges, including return freight and shipping costs and any labor or equipment costs incurred by the warrantor for their role in removing and reinstalling the component(s).

The warrantee shall notify the warrantor, in writing, within a reasonable time after the discovery of any component failure, defect or damage covered by the warranty. Any replacement parts or components shall be new. If the warrantor fails to replace the component(s) within a reasonable time after receipt of notice, the warrantee shall have the right to replace, repair and otherwise remedy the failure, defect or damage at warrantor's expense.

Any warranty work to the component(s) will have a one (1) year warranty from the date the replaced component(s) is reinstalled into the system(s).

7.4 WARRANTIES

Contractor warrants that all materials, supplies, services and/or equipment 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, service and/or equipment, and inspection incidental thereto, by the Purchaser shall not alter or affect the obligations of the Contractor or the rights of the Purchaser.

7.5 MANUFACTURER AUTHORIZED WARRANTY REPAIR PROOF OF CERTIFICATION/AUTHORIZATION

Contractor shall also provide, upon request of the purchaser prior to order placement, documentation demonstrating the qualification of each facility to perform service and repairs for all equipment categories and manufactures identified in **Appendix G, Price Sheets**, including at least the following:

- A letter signed by an authorized representative of the manufacturer certifying that each facility listed is an authorized service and repair facility for materials, supplies, or equipment; and
- Geographic area served by each facility
- Manufacturer authorized service must be available in the geographic area(s)
- Within 48 hours to any location in the State of Washington.

The contractor shall identify a single point of contract for equipment repair and through which the Purchaser can direct all warranty and repair related services. This single point of

contact will be responsible for coordinating any 3rd party services necessary to address warranty and repair related services.

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 DES, personnel duly authorized by DES, 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, DES shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DES 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, DES 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 DES retains Contractor's information in DES 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 DES 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 DES, 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 DES.

8.5 OWNERSHIP/RIGHTS IN DATA

Purchaser and Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser. Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques,

findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings (down to the circuit board and component level), Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

If for any reason the Work Product would not be considered a work made for hire under applicable law, Contractor assigns and transfers to Purchaser the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

Contractor shall execute all documents and perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.

Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of Purchaser. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

Material that is delivered under this Contract, but that does not originate there from ("Preexisting Material"), shall be transferred to Purchaser with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Contractor has a right to grant such a license. Contractor shall exert all reasonable effort to advise Purchaser at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. Purchaser shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract. Purchaser shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.

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

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 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.

9.5 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 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 State and its agencies, officials, agents or employees.

9.6 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.

9.7 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.

9.8 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 DES 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.

9.9 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.

9.10 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 DES 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.

9.11 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.

9.12 WAIVER

Failure or delay of the Department of Enterprise Services, DES 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 DES'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 DES 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 DES 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 DES 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 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 exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

Unless irreparable harm will result, neither the party shall commence litigation against the other before Dispute Resolution Panel has issued its decision on the matter in dispute.

DES, 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 Department of Enterprise Services, DES 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 DES 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 LIQUIDATED DAMAGES

Liquidated Damages – General

The DES and or the Purchasers and the Contractor agree that the liquidated damages provisions in the Contract are a reasonable forecast of the actual damages that would be suffered by the Purchaser in the event of Contractor's nonperformance, that such liquidated damages are not a penalty but represent the reasonable compensation due to the purchaser in the event of a breach, and that such liquidated damages will be assessed as set forth herein.

Any delayed delivery will interfere with the proper implementation of Purchaser's programs and will result in loss and damage to Purchaser.

As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, Purchaser and Contractor agree that in the event of any such failure(s) to perform, the amount of damage that will be sustained will be the amount set forth in the following subsections and the parties agree that Contractor shall pay such amounts as liquidated damages and not as a penalty.

Liquidated damages provided under the terms of this Contract are subject to the same limitations as provided in the section titled Limitation of Liability.

Liquidated Damages – Specific

If Contractor does not have the equipment delivered by the delivery date as established by the delivery time frame identified in the **Appendix G, Price Sheets,** or as agreed upon between purchaser and Contractor at the time of order, the Contractor shall provide a revised delivery date and pay to the purchaser as fixed and agreed liquidated damages, for each business day between the specified delivery date and the date that Contractor actually delivers the equipment. This amount of liquidated damages shall be in lieu of all other damages due to such delay, The amount of this liquidated damage shall be an amount of 1% of the purchase order value per business days or not to exceed a total of 20% as a delivery default to cover the purchaser's anticipated administrative expense caused by late delivery.

If the revised Delivery Date is more than thirty (30) calendar days from the original Delivery Date, then by written notice to Contractor, Purchaser may immediately terminate the right of Contractor to deliver the Equipment and Purchaser may obtain substitute Equipment from another vendor. In this event, Contractor shall be liable for fixed and agreed-upon liquidated damages, in lieu of all

other damages due to such delay, in the amount specified above, until substitute equipment is delivered up to a maximum of 20% of the original invoice total.

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.

10.7 LIMITATION OF LIABILITY

The parties agree that neither Contractor, Department of Enterprise Services, DES 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 liquidated 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 DES, nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, the DES 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 DES 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 DES 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.

10.8 FEDERAL FUNDING

In the event that a federally funded acquisition results from this procurement, the Contractor may be required to provide additional information (free of charge) at the request of the DES or purchaser: Further, the Contractor may be subject to those federal requirements specific to the commodity.

10.9 FEDERAL RESTRICTIONS ON LOBBYING

Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

10.10 FEDERAL DEBARMENT AND SUSPENSION

The 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

Contractor may be Terminated for Cause by the DES, 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; and,
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 DES may issue a written cure notice. The Contractor may have a period of time in which to cure. The DES 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 DES. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other 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 DES 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 liquidated 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 DES 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 DES 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 Department of Enterprise Services, DES, 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 DES 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 DES when it is in the best interest of the State of Washington.

11.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the DES 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 DES may terminate this Contract, in whole or in part, by seven (7) calendar days or other appropriate time period 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, Purchasing Activity may terminate this Contract by seven (7) calendar days or other appropriate time period 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. Purchasing Activity and/or Purchaser agrees 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 Purchasing Activity 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

DES 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 DES 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 DES 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 DES 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 DES 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 DES 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 DES 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 the Department of Enterprise Services, DES, an agency of Washington State government ("DES" or "State") located at 1500 Jefferson Street SE, Olympia WA 98501, and *[Contractor]*, a *[corporation/sole proprietor or other state business forms]* licensed to conduct business in the state of Washington ("Contractor"), located at*[Contractor address]* for the purpose of providing Intelligent Transportation System Equipment.

12.2 ENTIRE AGREEMENT

This Contract document and all subsequently issued amendments comprise the entire agreement between the DES 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 DES's Solicitation document #02612 with all attachments and exhibits, and all amendments thereto;
2. Contractor's response to the Solicitation #02612 dated *[date]*;

The terms and conditions contained on Purchaser's Order Documents, if used; and

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. This Contract, Number 02612 and Award Letter
4. The DES's Solicitation document with all attachments and exhibits, and all amendments thereto
5. Accepted portions of Contractor's response to the Solicitation
6. 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 (except notice of malfunctioning Equipment) 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, or deposited with the United States Postal Service as first-class mail postage prepaid or via facsimile or by electronic mail, to the parties at the addresses and fax numbers, 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.

To Contractor at:	**To DES at:**
[Contractor]	State of Washington Department of Enterprise Services DES
Attn: *[Contractor's Representative]* *[Contractor address]*	**Attn:** Melanie Williams, Contract Administrator 1500 Jefferson Street SE Olympia, WA 98501
[Phone:]	Phone: (360) 407-9399

[Fax:]	Fax: (360) 586-2426
[E-mail:]	E-mail: melanie.williams@des.wa.gov

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 Equipment or Services provided pursuant to this Contract is served upon Contractor or DES, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and DES 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.

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 DES 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.

SIGNATURE AND AWARD PAGE

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

MCC Use Only

This is a Partial award for: <u>See Award Letter for Awarded Categories</u>.

This Contract is effective this _____day of _____, 2012.

Approved
Department of Enterprise Services
1500 Jefferson Street SE
Olympia, Washington 98501

_____
Signature

_____
Melanie Williams Date

_____
Title

Approved

[Contractor]

_____
Signature

_____
Print or Type Name Date

_____
Title

Approved
State of Washington
Michael Maverick, DES, Team 3 Unit Manager

_____
Signature