

**COMPETITIVE SOLICITATION
FOR
POLICE RADAR/LIDAR SPEED ENFORCEMENT &
ACCIDENT SCENE RECONSTRUCTION**

**ISSUED BY
THE STATE OF WASHINGTON**



Washington State
**DEPARTMENT OF
ENTERPRISE SERVICES**

In collaboration with



COMPETITIVE SOLICITATION NUMBER 24823



COMPETITIVE SOLICITATION No. 24823
FOR
COOPERATIVE PURCHASING AGREEMENTS
FOR
POLICE RADAR/LIDAR SPEED ENFORCEMENT
&
ACCIDENT SCENE RECONSTRUCTION
GOODS & SERVICES

INTRODUCTION

The State of Washington ("*Lead State*"), by and through the Washington State Department of Enterprise Services ("*Enterprise Services*") is issuing this *Competitive Solicitation* pursuant to RCW 39.26. Pursuant to this *Competitive Solicitation*, *Enterprise Services*, in collaboration with the *NASPO ValuePoint* cooperative purchasing program, is conducting a competitive procurement to establish and award one or more *Cooperative Purchasing Agreements* for eligible purchasers (i.e., "*Purchasing Entities*") to purchase specified police radar/lidar speed enforcement and accident scene reconstruction goods and services ("*Goods and/or Services*") used by law enforcement in their daily activities.

A. COMPETITIVE SOLICITATION.

This *Competitive Solicitation* is designed to result in *Cooperative Purchasing Agreements*, awarded by Contract Category and Group that provide cost-effective and efficient procurement solutions for *Purchasing Entities* to purchase included *Goods and/or Services*. The *Competitive Solicitation* includes two (2) Contract Categories, with three (3) Groups in Category One and one (1) Group in Category Two:

Category One. Includes pre-established groupings based on the Standard of Quality (SOQ) expected for each line item in applicable SOQ Manufacturer section. The SOQs can be found in their respective group tabs in Attachment C – Bid Price. Offeror may propose the SOQ for any line item in any Group. ***Alternatively, an equal or better product may be accepted for any line item in any Group.*** Each group will have a different maximum amount of Contracts depending on the number of SOQ Manufacturer Sections or Product Type; see below for detailed award breakdown by Group:

Group A – Speed Enforcement. All products proposed in Category One--Group A, must be shown on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL). This category is for vehicle-mounted and hand-held radar and lidar speed measuring devices and software. Up to two (2) awards per SOQ Manufacturer Section with a total of up to eight (8) awards.

Group B – Speed Advisory Systems. This category is for pole and trailer-mounted radar and lidar speed advisory systems and software. Up to two (2) awards per SOQ Manufacturer Section with a total of up to six (6) awards.



Group C –Accident and Crime Scene Re-Construction. This category is for lidar measuring equipment and software used for crime and accident scene re-construction. Up to two (2) awards per SOQ Manufacturer Section with a total of up to ten (10) awards.

Category Two. Includes Open Submission Products which do not include a SOQ. Offerors may propose any products in any Group that meet the product description and the law enforcement endorsement requirement (see Attachment A-1, Question 30).

Group A – Speed Enforcement. This category is for vehicle-mounted and hand-held radar and lidar speed measuring devices and software. Up to two (2) awards per Product Type with a total of up to ten (10) awards.

Bidders may Bid on any or all Groups and Categories of specified Goods and/or Services.

B. ABOUT NASPO VALUEPOINT.

NASPO ValuePoint is a division of the National Association of State Procurement Officials (NASPO), a non-profit association dedicated to advancing public procurement through leadership, excellence, and integrity. In accordance with *NASPO ValuePoint's* Lead State Model™, the *Lead State* is issuing this *Competitive Solicitation*, evaluating *Bids*, and establishing *Cooperative Purchasing Agreements* with the support and assistance of a Multistate Sourcing Team™ composed of individuals from other member states, representing a broad range of perspectives that ensure the *Competitive Solicitation* incorporates best practices recognized by public entities across the country.

Participation in *NASPO ValuePoint* Cooperative Agreements is convenient and cost-effective for eligible entities—including state departments, institutions, agencies, and political subdivisions, federally recognized tribes, and other eligible public and nonprofit entities in the 50 states, the District of Columbia, and U.S. territories—and contractors, with no membership or registration required.

More information about NASPO, NASPO ValuePoint, and the NASPO ValuePoint Lead State Model can be found at www.naspo.org and www.naspovaluepoint.org.

C. ORGANIZATION OF THIS COMPETITIVE SOLICITATION AND ATTACHMENTS.

This *Competitive Solicitation* is divided into seven (7) sections:

- **Section 1** provides definitions for certain key terms used in this *Competitive Solicitation*. Within the text of the *Competitive Solicitation*, defined terms are identified in italics.
- **Section 2** provides a summary table of relevant deadlines for responding to the *Competitive Solicitation* and identifies contact information for *Enterprise Services'* Procurement Coordinator.
- **Section 3** provides important information about the procurement that is designed to help interested *Bidders* evaluate the potential opportunity, including the purpose of the procurement and *Cooperative Purchasing Agreements*, the form of the resulting *Cooperative Purchasing Agreements*, and potential contract sales.
- **Section 4** identifies how *Enterprise Services* will evaluate the *Bids*.



- [Section 5](#) identifies how to prepare and submit a *Bid* for this *Competitive Solicitation*, including detailed instructions regarding what to submit and how to submit your *Bid*.
- [Section 6](#) details the applicable requirements to file a complaint, request a debrief conference, or file a protest regarding this *Competitive Solicitation*.
- [Section 7](#) provides information pertaining to doing business with the State of Washington.

This *Competitive Solicitation* includes the following Attachments:

- *Attachment A – Required Bidder Information:* These attachments identify information that *Bidders* must provide to *Enterprise Services* to constitute a responsive *Bid*. See Section 5, below.
 - *Attachment A-1 – Bidder’s Certification*
 - *Attachment A-2 – Bidder’s Profile*
- *Attachment B – Performance Requirements:* This attachment outlines the *Competitive Solicitation’s* required specifications/qualifications for the *Good(s) and/or Service(s)*.
- *Attachment C – Bid Price:* This Attachment provides the pricing information that *Bidders* will complete as part of their *Bid* and the price evaluation tool that *Enterprise Services* will use to evaluate and compare *Bids*.
- *Attachment D – Cooperative Purchasing Agreement:* This attachment is a draft of the *Cooperative Purchasing Agreement* that any successful *Bidder* will execute with *Enterprise Services*.
- *Attachment E – Bidder’s Proposed Modifications to Cooperative Purchasing Agreement:* This attachment outlines *Bidder’s* issues, if any, and *Bidder’s* proposed resolution/solution if *Bidder* has any business concerns with the form of *Attachment D – Cooperative Purchasing Agreement* to be awarded. Note, however, that *Enterprise Services* reserves the right not to modify the *Cooperative Purchasing Agreement* and to award the *Cooperative Purchasing Agreement* on the basis of a *Bidder’s* willingness to agree to the *Cooperative Purchasing Agreement*.
- *Attachment F – Participation Information.* This attachment provides a list of states potentially interested in creating a Participating Addendum with *Bidders* awarded a *Cooperative Purchasing Agreement*; states may opt to include some of their Participating Addendum terms and condition for informational purposes only. It also includes some historical sales data and more information about NASPO Valuepoint.
- *Attachment G – Washington Public Records Act & Claims of Business Confidentiality.* This attachment provides an explanation of Washington’s Public Records Act and the process of public records disclosure.



SECTION 1 – DEFINITIONS

This section identifies key definitions used in this *Competitive Solicitation*. Within the text of the *Competitive Solicitation*, defined terms are identified in italics.

- *Award*. The identification of *Bidders* eligible to execute a *Cooperative Purchasing Agreement* following completion of the evaluation process.
- *Bid*. An offer, proposal, or quote for specified *Goods and/or Services* in response to this *Competitive Solicitation*.
- *Bidder*. Any individual or entity who submits a *Bid* in response to this *Competitive Solicitation*.
- *Competitive Solicitation*. This Competitive Solicitation No. 24823, issued by Enterprise Services, pursuant to Washington's Procurement Code for Goods/Services (RCW 39.26) to conduct a competitive procurement process for *Cooperative Purchasing Agreement(s)* for *Goods and/or Services*.
- *Conforming Product List* or *CPL*. A document of the United States Department of Transportation National Highway Traffic Safety Administration (NHTSA) listing which speed measuring devices are eligible for purchase using Federal highway safety grant funds, based on the device having been subjected to and meeting the technical specifications for Radar and Lidar devices maintained by NHTSA.
- *Contractor*. The entity who, pursuant to a competitive solicitation process conducted by the *Lead State*, is awarded a *Cooperative Purchasing Agreement* and, as such, is authorized to enter into a *Participating Addendum* with any *Participating Entity* to enable such *Participating Entity* to authorize *Purchasing Entities* to purchase *Goods and/or Services* from the *Cooperative Purchasing Agreement*, as specified by the applicable *Participating Entity* in the *Participating Addendum*.
- *Cooperative Purchasing Agreement(s)*. The *Cooperative Purchasing Agreement* that is competitively solicited and awarded by the *Lead State* to *Contractor* and which, pursuant to a *Participating Addendum* between *Contractor* and *Participating Entity*, may be utilized by those *Purchasing Entities* specified by the applicable *Participating Entity* to purchase specified *Goods and/or Services*.
- *Enterprise Services*. The Washington State Department of Enterprise Services, a Washington state governmental agency.
- *Goods and/or Services*. The goods and/or services included within the scope of this *Competitive Solicitation* (see applicable Categories and Groups) for the *Cooperative Purchasing Agreement*.
- *Interested State*. Any state that has requested to be identified as a potential *Participating Entity* in this *Competitive Solicitation*.
- *Lead State*. The State of Washington acting by and through *Enterprise Services*.
- *Multistate Sourcing Team*. The team of individuals assisting the *Lead State* with this *Competitive Solicitation*.
- *NASPO ValuePoint*. *NASPO ValuePoint* is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation. *NASPO ValuePoint* facilitates



administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Cooperative as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.

- *National Highway Traffic Safety Administration or NHTSA.* A federal government subdivision of the United States Department of Transportation focused on transportation safety.
- *Participating Addendum.* A bilateral agreement executed by a Contractor and a Participating Entity incorporating this Cooperative Purchasing Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- *Participating Entity(ies).* A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- *Procurement Coordinator.* The individual identified in Section 2.2.
- *Products and Pricing.* All approved *Goods and/or Services* at the price awarded that Contractor is authorized to sell and which are set forth in Attachment B to the awarded Cooperative Purchasing Agreement and posted on the NASPO ValuePoint website.
- *Purchase Order(s).* Any purchase order, sales order, contract or other document or process used by a Purchasing Entity to order the Products.
- *Purchasing Entity(ies).* A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Cooperative Purchasing Agreement and becomes financially committed to the purchase.
- *Washington Statewide Contract.* A contract for Goods and/or Services awarded, at the discretion of Enterprise Services, to a bidder(s) who qualifies as a Washington Small Businesses and/or Certified Veteran-Owned Businesses.
- *WEBS.* The Washington Electronic Business Solutions system administered by Enterprise Services. See RCW 39.26.150.

SECTION 2 – DEADLINES, QUESTIONS, PROCUREMENT COORDINATOR, AND MODIFICATION

This section identifies important deadlines for this *Competitive Solicitation*, where to direct questions regarding the *Competitive Solicitation*, and the process for potential amendments or modifications to the *Competitive Solicitation*.

- 2.1. **COMPETITIVE SOLICITATION DEADLINES.** The following table identifies important dates for this *Competitive Solicitation*:



COMPETITIVE SOLICITATION DEADLINES		
ITEM		DATE
<i>Competitive Solicitation Posting Date:</i>		January 22, 2024
Pre-Bid Conference:		February 7, 2024 at 11:00 AM (Pacific Time) <i>Virtual Pre-Bid Conference</i> <i>Attend via Insert Platform</i> Weblink: Click here to join the meeting Meeting ID: 264 099 343 751 Passcode: exnYcp Or call in (audio only) +1 564-999-2000,632951182# United States, Olympia (833) 322-1218,632951182# United States (Toll-free) Phone Conference ID: 632 951 182#
Question & Answer Period:	Deadline for Submitting Questions	March 15, 2024
	Anticipated Deadline for Answers	March 20, 2024
Deadline for Submitting <i>Bids</i> :		March 22, 2024
Anticipated Announcement of Apparent Successful Bidder(s):		July 10, 2024
Anticipated Award of <i>Cooperative Purchasing Agreement(s)</i> :		July 26, 2024
Anticipated Award of <i>Washington Statewide Contract(s)</i> :		August 16, 2024

- 2.2. **COMPETITIVE SOLICITATION QUESTIONS.** Questions or concerns regarding this *Competitive Solicitation* must be directed to the following Procurement Coordinator:

Procurement Coordinator	
Name:	Brad Stringfellow Washington State Department of Enterprise Services



Email:	DESContractsTeamFir@des.wa.gov
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Questions raised at the pre-bid conference and during the Q&A period will be answered and responses posted to Washington's Electronic Business Solution (*WEBS*).

- 2.3. **COMPLAINTS, DEBRIEFS, & PROTESTS.** The *Competitive Solicitation* (and award of any *Cooperative Purchasing Agreement* and any *Washington Statewide Contract*) is subject to complaints, debriefs, and protests as explained in Section 6, which may impact the dates set forth above.
- 2.4. **COMPETITIVE SOLICITATION – AMENDMENT & MODIFICATION.** *Enterprise Services* reserves the right to amend and modify this *Competitive Solicitation*. Only *bidders* who have properly registered and downloaded the original *Competitive Solicitation* directly via *WEBS* will receive notifications of amendments and other correspondence pertinent to this *Competitive Solicitation*. *Bidders* must be registered in *WEBS* to be awarded a *Cooperative Purchasing Agreement* or a *Washington Statewide Contract*. Visit [WEBS](#) to register. For assistance with technical issues associated with *WEBS*, contact WEBSCustomerServices@des.wa.gov.
- 2.5. **WEBS – BIDDERS MUST REGISTER.** *Bidders* are required to create an account in *WEBS* with *Bidder* profile information and attach appropriate commodity codes to *Bidder's* profile. Notifications are sent to registered bidders based on the commodity codes applicable to the procurement. This *Competitive Solicitation* is posted under the following commodity codes:
- 220-48 – Radar Instruments (Marine Type), and Accessories: Magnetrons, etc.
 - 220-43 – Position Measuring Devices (X-Y Coordinates)
 - 680-77 – Radar Instruments, Traffic Enforcement Type (Including Laser Speed Measuring, Ranging Devices and Radar Instruments equipped w/Cameras)
 - 550-88 – Traffic Signals and Equipment, Electric Systems
 - 550-85 – Traffic Signal Poles, Standards, and Brackets
 - 220-48 – Radar Instruments (Marine Type), and Accessories
 - 680-77 – Radar Instruments, Traffic Enforcement Type (Including Laser Speed Measuring, Ranging Devices, Radar Instruments Equipped w/Cameras and Lidar Equipment (Laser)
 - 035-15 – Aircraft Radar

SECTION 3 – INFORMATION ABOUT THE PROCUREMENT

This section describes the purpose of the *Competitive Solicitation* and provides information about this procurement, including the potential scope of the opportunity.

3.1. PURPOSE OF THE PROCUREMENT.

- a. **AWARD COOPERATIVE PURCHASING AGREEMENTS.** The purpose of this *Competitive Solicitation* is to receive competitive *Bids* to evaluate and, as appropriate, award *Cooperative Purchasing Agreements*, by Category and Group, as set forth above, for *Goods and/or Services*.
- b. **AWARD WASHINGTON STATEWIDE CONTRACT(S).** Additionally, to facilitate Washington state agency purchases of *Goods and/or Services* from Washington Small Business and Certified Veteran-



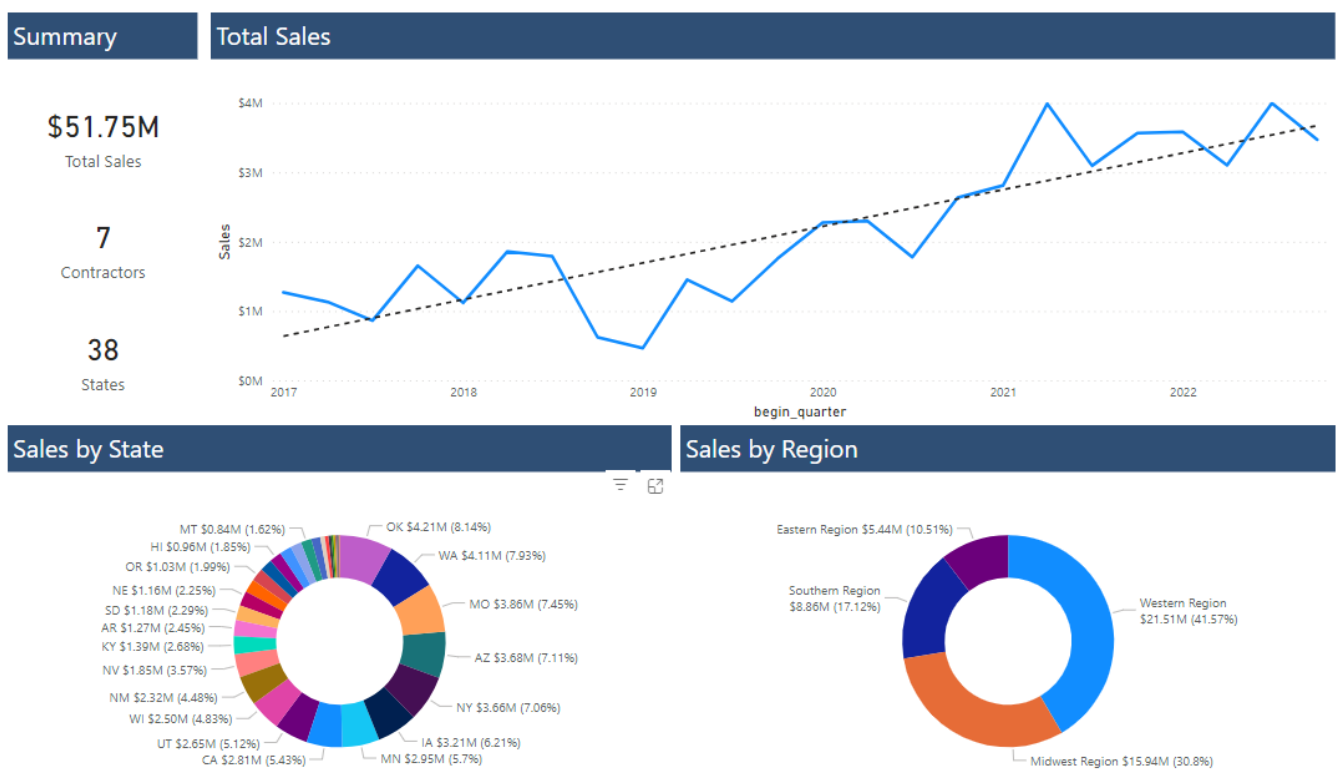
Owned Business *Enterprise Services* will utilize this *Competitive Solicitation* to receive competitive *Bids* from Washington Small Businesses and/or Certified Veteran-Owned Businesses to evaluate and, as appropriate, award (on a reserved award basis) *Washington Statewide Contract(s)*, by Category and Group, as set forth above, *for Goods and/or Services*. In the event *Enterprise Services* receives qualifying *Bids* and awards *Washington Statewide Contract(s)*, the terms and conditions of such *Washington Statewide Contract(s)* shall be substantially similar to the *Cooperative Purchasing Agreement* except that a *Washington Statewide Contracts*:

- Shall include a Vendor Management Fee of 1.25% on all *Goods and/or Services* sold and include sales reporting requirements to *Enterprise Services* (and delete the NASPO ValuePoint administrative Fee and NASPO ValuePoint reporting requirements); and
- Shall be limited to the following purchasers:
 - WASHINGTON STATE AGENCIES. All Washington State agencies, departments, offices, divisions, boards, and commissions.
 - WASHINGTON STATE INSTITUTIONS OF HIGHER EDUCATION (COLLEGES). Any of the following specific institutions of higher education in Washington:
 - State universities – i.e., University of Washington & Washington State University;
 - Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University
 - Evergreen State College;
 - Community colleges; and
 - Technical colleges.
 - CONTRACT USAGE AGREEMENT PARTIES. Any resulting Contract also may be utilized by any of the following types of entities that have executed a Contract Usage Agreement with *Enterprise Services*:
 - Political subdivisions (e.g., counties, cities, school districts, public utility districts, ports) in the State of Washington;
 - Federal governmental agencies or entities;
 - Certain public-benefit nonprofit corporations (i.e., public benefit nonprofit corporations as defined in RCW 24.03A.245 that receive federal, state, or local funding); and
 - Federally recognized Indian Tribes located in the State of Washington.

Enterprise Services maintains a list of eligible Contract Usage Agreement parties on the [MCUA Listing website](#).

- 3.2. **COOPERATIVE PURCHASING AGREEMENT.** The form of the *Cooperative Purchasing Agreement* that will be awarded as a result of this *Competitive Solicitation* is included as **Attachment D – Cooperative Purchasing Agreement**.

- 3.3. **COOPERATIVE PURCHASING AGREEMENT TERM.** As set forth in the attached *Cooperative Purchasing Agreement* for this *Competitive Solicitation*, the term is up to sixty (60) months. *Bidders* are to specify prices for the first twelve (12) months of the *Cooperative Purchasing Agreement* term. The *Cooperative Purchasing Agreement* is subject to earlier termination.
- 3.4. **ESTIMATED SALES.** Currently, thirty (30) states use an existing, but expiring, cooperative agreement for certain of the *Goods and/or Services* that are specified in this *Competitive Solicitation*. The top twenty (20) states, by spend, equal 90.26% of the total sales through 2022. Awarded contractors reported total combined sales through the existing cooperative purchasing agreements of \$51,746,096.71 from 2017 to 2022.



- 3.5. **WASHINGTON STATE PROCUREMENT PRIORITIES & PREFERENCES.** *Enterprise Services* will apply the following Washington State procurement priorities and preferences to this *Competitive Solicitation* which, as set forth in Section 4.5, will impact the evaluation of bids for this *Competitive Solicitation*:

- Executive Order 18-03: 10 points

SECTION 4 – BID EVALUATION

This section identifies how *Enterprise Services* will evaluate *Bids* for this *Competitive Solicitation*.

- 4.1. **OVERVIEW.** *Enterprise Services*, assisted by the *Multistate Sourcing Team*, will evaluate bids for this *Competitive Solicitation* as described below.



- *Bidder* responsiveness, performance requirements, price factors, and responsibility, will be evaluated based on the process described herein.
- Any *Bidder* whose bid is determined to be non-responsive will be rejected and will be notified of the reason(s) for this rejection.
- *Enterprise Services* reserves the right to: (1) Request clarification regarding any *Bid*; (2) Waive any informality; (3) Reject any or all *Bids*, or portions thereof; (4) Accept any portion of the *Bid* unless the bidder stipulates all or nothing in their *Bid*; (5) Cancel the *Competitive Solicitation* and, if desired, re-solicit bids; and/or (6) Negotiate with the highest scored responsive and responsible *Bidder(s)* to determine if such *Bid* can be improved.
- *Enterprise Services* will use the following process and evaluation criteria to determine eligibility for an award of a *Cooperative Purchasing Agreement*:

STAGE	ITEM	CATEGORY 1	CATEGORY 2
		POINTS	POINTS
Bid Responsiveness			
1	Bid Responsiveness Evaluation	Pass/Fail	Pass/Fail
2	Mandatory Minimum Requirements Evaluation <i>Attachment B – Performance Requirements (stage 2)</i>	Pass/Fail	Pass/Fail
Bid Evaluation			
3	Technical Evaluation: Technical Factors <i>Attachment B – Performance Requirements (stage 3)</i>	500	500
4	Cost Evaluation: Cost Factors <i>Attachment C – Bid Price</i> – per group	500	300
Subtotal:		1,000	800
State Procurement Priorities			
5	Executive Order 18-03	10	10
Total:		1,010	810
Responsible Bidder			
6	Bidder Responsibility Analysis	Pass/Fail	Pass/Fail
Contract Negotiations			
7	Contract Negotiations	N/A	N/A

- 4.2. **BID RESPONSIVENESS (STAGE 1 – INITIAL RESPONSIVENESS EVALUATION).** *Enterprise Services* will review *Bids* – on a pass/fail basis – to determine whether the *Bid* is ‘responsive’ to this *Competitive Solicitation*. This means that *Enterprise Services* will review each *Bid* to determine whether the *Bid* is complete – i.e., does the *Bid* include each of the required *Bid* submittals, are the submittals complete, signed, legible. *Enterprise Services* reserves the right – in its sole discretion – to determine whether a *Bid* is responsive – i.e., to determine a *Bidder’s* compliance with the requirements specified in this *Competitive Solicitation* and to waive informalities in a *Bid*. An informality is an immaterial variation from the exact requirements of the



Competitive Solicitation, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the goods or the quality, capability, or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial, to *Bidders*. Responsive *Bids* will be evaluated as set forth herein.

- 4.3. **PERFORMANCE REQUIREMENTS EVALUATION (STAGE 2 – MANDATORY MINIMUM REQUIREMENTS).** *Enterprise Services* will evaluate each *Bid* on a pass/fail basis to ensure that each Bidder's *Goods and/or Services* meet the specifications and/or performance requirements set forth in **Attachment B – Performance Requirements STAGE 2 – MANDATORY MINIMUM REQUIREMENTS**. *Enterprise Services* reserves the right to request additional information or perform tests and measurements before selecting the Apparent Successful Bidder. A Bidder's failure to provide requested information to *Enterprise Services* within ten (10) business days may result in disqualification.
- 4.4. **TECHNICAL EVALUATION (STAGE 3 – TECHNICAL CRITERIA).** *Bids* meeting or exceeding the Stage 2 – Mandatory Minimum Requirements will be evaluated on a scored basis in Stage 3 of **Attachment B – Performance Requirements**. With a potential total of five hundred (500) points for this stage, each question has a listed point value where Bidder's response will be scored against the expectations laid out in the question prompt. Each evaluators' score, per question, will be averaged. The averaged score per question will be summed for a Technical Evaluation Score. The Technical Evaluation Score will be added as a subtotal to the overall score.
- 4.5. **BID PRICING EVALUATION (STAGE 4 – COST PROPOSALS).** *Bids* successfully passing Stages 1 through 3 will advance to the Cost proposal evaluation in **Attachment C – Bid Price**. *Enterprise Services* will evaluate bid pricing by reviewing and comparing the submitted *Bid* prices as provided in **Attachment C – Bid Price**. Each Category and Group will be evaluated and scored separately and Bidders may bid on one, many, or all Categories and Groups.

Category One bids have a potential total of five hundred (500) points per group, with each Bidder being evaluated against other bids only from the same Category, Group, and SOQ Manufacturer section (Category One) or Product Type (Category Two). For example, Category One—Group A has four (4) distinct SOQ Manufacturer sections. If Bidder X submits a bid for Manufacturer Section A.1 Applied Concepts SOQ or Equal, they will not be evaluated against Bidder Y submitting a bid for Manufacturer Section A.2 Kustom Signals SOQ or Equal.

Category Two bids have a potential total of three hundred (300) points per group, with each Bidder being evaluated against other bids only from the same Category Group and Product Type.

The scoring per Category and Group, respectively are outlined below:

- **CATEGORY ONE, GROUPS A & B SCORING.** Each line item will be evaluated independently. The lowest evaluated price per line item after % MSRP Discount for each SOQ or equal will receive the maximum weighted points available. Others will receive proportionately fewer based on the formula below:
 - **Lowest Line-Item Price / Higher Line-Item Price * Total Points Available Per Line Item = Bidder Line-Item Points**



- All line-item points are combined for each SOQ Manufacturer Section and equal Bidder's total points for applicable SOQ Manufacturer section (A.1-A.4; B.1-B.3). Bidder is not required to bid on all items within a SOQ Manufacturer section, but may be competing against other bidders who have bid on all items within the same SOQ Manufacturer section. Incomplete bids across multiple SOQ Manufacturer sections will be evaluated as separate bids for each respective SOQ Manufacturer section.
- **CATEGORY ONE, GROUP C SCORING.** Each line item will be evaluated independently. The lowest evaluated price per line item after % MSRP discount per line item will receive the maximum points available. Others will receive proportionately fewer based on the formula below:
 - **Lowest Line-Item Price / Higher Line-Item Price * Total Points Available Per Line Item = Bidder Line-Item Points**
 - All line-item points are combined for each SOQ and equal Bidder's total points for applicable SOQ Manufacturer section (C.1-C.5). Bidder is not required to bid on all items within a SOQ Manufacturer section, but may be competing against other bidders who have bid on all items within the same SOQ Manufacturer section. Incomplete bids across multiple SOQ Manufacturer sections will be evaluated as separate bids for each respective SOQ Manufacturer section.
- **CATEGORY TWO, GROUP A SCORING.** The highest average percentage off MSRP for all proposed products in applicable group by product type will receive the maximum points available. Others will receive proportionately fewer based on the formula below:
 - **Lower Average % Discount / Highest % Discount * Total Points Available = Bidder Line-Item Points**

4.6. **WASHINGTON STATE PROCUREMENT PRIORITIES & PREFERENCES (STAGE 5 – STATE PROCUREMENT PRIORITIES).** *Enterprise Services* will apply the following Washington State procurement priorities and preferences, as set forth below, to this *Competitive Solicitation*:

- **PROCUREMENT PREFERENCE FOR EXECUTIVE ORDER 18-03** (Firms without Mandatory Individual Arbitration for Employees). Pursuant to RCW 39.26.160(3) (best value criteria) and consistent with [Executive Order 18-03 – Supporting Workers’ Rights to Effectively Address Workplace Violations](#) (dated June 12, 2018), *Enterprise Services* will evaluate bids for best value and will provide a bid preference in the amount of ten (10) points to any bidder who certifies, pursuant to **Attachment A-1 – Bidder’s Certification**, that their firm does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

4.7. **BIDDER RESPONSIBILITY ANALYSIS (STAGE 6 – RESPONSIBILITY EVALUATION).** For responsive *Bids*, *Enterprise Services* must determine whether the *Bidder* is a ‘responsible *Bidder*.’ Accordingly, *Enterprise Services* will make reasonable inquiry to determine *Bidder* responsibility on a pass/fail basis. In determining *Bidder* responsibility, *Enterprise Services* will consider the following statutory elements:

- *Bidder’s* ability, capacity, and skill to perform the *Cooperative Purchasing Agreement* and provide the *Goods and/or Services*;



- *Bidder's* character, integrity, reputation, judgment, experience, and efficiency;
- *Bidder's* ability to perform the *Cooperative Purchasing Agreement* within the time specified;
- *Bidder's* performance quality pertaining to previous contracts or services;
- *Bidder's* compliance with laws relating to the *Cooperative Purchasing Agreement* or the *Goods and/or Services*;
- Whether, within the three-year period immediately preceding the date of the *Competitive Solicitation*, *Bidder* has been determined by a final and binding citation and notice of assessment issued by the Washington State Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW; and
- Such other information as may be secured having a bearing on the decision to award a *Cooperative Purchasing Agreement*.

See RCW 39.26.160(2)(a)-(g). In addition, *Enterprise Services* may consider the following:

- Financial Information: *Enterprise Services* may request financial statements, credit ratings, references, record of past performance, clarification of *Bidder's Bid*, on-site inspection of *Bidder's* or subcontractor's facilities, or other information as necessary to determine *Bidder's* capacity to perform and the enforceability of *Bidder's* contractual commitments. Failure to respond to these requests may result in a *Bid* being rejected as non-responsive.
- References: *Enterprise Services* reserves the right to use references to confirm satisfactory customer service, performance, satisfaction with service/product, knowledge of products/service/industry and timeliness. Any negative or unsatisfactory reference can be reason for rejecting a *Bidder* as non-responsible.

4.8. **CONTRACT NEGOTIATIONS (STAGE 7 – CONTRACT NEGOTIATION).** *Enterprise Services* may negotiate with the highest scored responsive, responsible *Bidder(s)* (Top Bidder) to finalize the *Cooperative Purchasing Agreement* and to determine if the bid may be improved. If, after a reasonable period of time, *Enterprise Services*, in its sole judgement, cannot reach agreement on acceptable *Cooperative Purchasing Agreement* terms with the Top Bidder, *Enterprise Services* may suspend negotiations and undertake negotiations with the next highest scored responsive, responsible *Bidder* as determined by the evaluations.

4.9. **ANNOUNCEMENT OF APPARENT SUCCESSFUL BIDDER.** *Enterprise Services* will determine the Apparent Successful Bidder(s) ("ASB(s)"). The ASBs will be the responsive and responsible *Bidder(s)* who best meet the *Competitive Solicitation* requirements and presents the best total value, including price, as calculated consistent with the instructions set forth in **Attachment C – Bid Price**, and other factors as set forth in this *Competitive Solicitation* including any applicable state procurement priority or preference.

- Designation as an ASB does not imply that *Enterprise Services* will issue an award for a *Cooperative Purchasing Agreement*. Rather, this designation allows *Enterprise Services* to perform further analysis and ask for additional documentation. *Bidders* must not construe ASB designation as an award, impending award, attempt to



negotiate, etc. If a *Bidder* acts or fails to act as a result of such notification or designation, it does so at its own risk and expense.

- Upon ASB announcement, bidders may request a debrief conference as specified in Section 6.

4.10. WASHINGTON RESERVED AWARDS FOR SMALL BUSINESSES AND/OR CERTIFIED VETERAN-OWNED BUSINESSES.

Following the ASB announcement, *Enterprise Services* will determine if the opportunity to include Small and/or Certified Veteran-Owned Businesses is an option and, if so, proceed to negotiating and entering into a *Washington Statewide Contract* in a process substantially similar to the process set forth herein for *Cooperative Purchasing Agreements*.

- 4.11. COOPERATIVE PURCHASING AGREEMENT AWARDS.** Subject to protests, if any, *Enterprise Services* and the ASB will enter into a *Cooperative Purchasing Agreement* as set forth in **Attachment D – Cooperative Purchasing Agreement**. An award is made and a contract formed by signature of *Enterprise Services* and awarded *Bidder* on the *Cooperative Purchasing Agreement*. Following the *Cooperative Purchasing Agreement* award, all *Bidders* registered in *WEBS* will receive a notice of award delivered to the *Bidder's* email address provided in the bidder's profile in *WEBS*. An award of a *Cooperative Purchasing Agreement* does NOT authorize the awarded *Contractor* to make sales of *Goods and/or Services* to any State; Rather, for this cooperative procurement, a *Cooperative Purchasing Agreement* award is a necessary precondition for a State to enter into a *Participating Addendum* with an awarded *Contractor* to utilize a *Cooperative Purchasing Agreement* for such State (i.e., *Participating Entity*).

- 4.12. BID INFORMATION AVAILABILITY.** Upon *Enterprise Services'* announcement of ASB, all bid submissions and all *bid* evaluations are subject to public disclosure pursuant to Washington's Public Records Act. See RCW 39.26.030(2). Upon *Enterprise Services'* announcement of ASB, *Enterprise Services* will post all *bid* evaluations to *Enterprise Services'* website. In addition, *Enterprise Services* intends to post all winning *Bid* submissions to its contract portal webpage after award of the *Cooperative Purchasing Agreement(s)*.

- 4.13. ADDITIONAL COOPERATIVE PURCHASING AGREEMENT AWARDS.** *Enterprise Services* reserves the right, during the resulting *Cooperative Purchasing Agreement* term, to make additional *Cooperative Purchasing Agreement* awards to responsive, responsible *Bidders* who provided a bid but who were not awarded a *Cooperative Purchasing Agreement*. Such awards would be on the same or substantially similar terms and conditions and would be designed to address an awarded *Contractor* vacancy (e.g., an awarded contractor is terminated or goes out of business), respond to Purchasing Entity needs, or be in the best interest of the State of Washington.



SECTION 5 – HOW TO PREPARE AND SUBMIT A BID FOR THIS COMPETITIVE SOLICITATION

This section identifies how to prepare and submit your *Bid* to *Enterprise Services* for this *Competitive Solicitation*. In addition, *Bidders* will need to review and follow the *Competitive Solicitation* requirements including those set forth in the attachments, which identifies the information that *Bidders* must provide to *Enterprise Services* to constitute a responsive *Bid*. By responding to this *Competitive Solicitation* and submitting a *Bid*, *Bidders* acknowledge having read and understood the entire *Competitive Solicitation* and accept all information contained within this *Competitive Solicitation*.

- 5.1. **PRE-BID CONFERENCE.** *Enterprise Services* will host a *Competitive Solicitation* pre-bid conference at the time set forth in Section 2.1 of this *Competitive Solicitation*. Attendance is not mandatory. *Bidders*, however, are encouraged to attend and participate. The purpose of the pre-bid conference is to clarify the *Competitive Solicitation* as needed and raise any issues or concerns that *Bidders* may have. If changes to the *Competitive Solicitation* are required as a result of the pre-bid conference, the *Procurement Coordinator* will post an amendment to this *Competitive Solicitation* to *WEBS*. Assistance for disabled, blind, or hearing-impaired persons who wish to attend the pre-bid conference is available with prior arrangement by contacting the *Procurement Coordinator*.
- 5.2. **BIDDER COMMUNICATIONS REGARDING THIS COMPETITIVE SOLICITATION.** During the *Competitive Solicitation* process, all *Bidder* communications regarding this *Competitive Solicitation* must be directed to the *Procurement Coordinator*. *Bidders* should rely only on this *Competitive Solicitation* and written amendments to this *Competitive Solicitation* issued by the *Procurement Coordinator*. In no event will oral communications regarding this *Competitive Solicitation* be binding.
 - *Bidders* are encouraged to make any inquiry regarding the *Competitive Solicitation* as early in the process as possible to allow *Enterprise Services* to consider and, if warranted, respond to the inquiry. If a *Bidder* does not notify *Enterprise Services* of an issue, exception, addition, or omission, *Enterprise Services* may consider the matter waived by the *Bidder* for protest purposes.
 - If *Bidder* inquiries result in changes to the *Competitive Solicitation*, written amendments will be issued and posted on *WEBS*.
 - Unauthorized contact regarding this *Competitive Solicitation* with other state employees involved with the *Competitive Solicitation* may result in *Bidder* disqualification.
- 5.3. **PRICING.** *Bid* prices must include all cost components needed for the delivery of the *Goods and/or Services* as described in this *Competitive Solicitation*. See **Attachment C – Bid Price**. A *Bidder's* failure to identify all costs in a manner consistent with the instructions in this *Competitive Solicitation* is sufficient grounds for disqualification.
 - **Inclusive Pricing:** *Bidders* must identify and include all cost elements in their pricing. In the event that *Bidder* is awarded a *Cooperative Purchasing Agreement*, the total price for the *Goods and/or Services* shall be *Bidder's* price as submitted. Except as provided in the *Cooperative Purchasing Agreement*, there shall be no additional costs of any kind.
 - **Credit Cards (P-Cards):** In the event that *Bidder* is awarded a *Cooperative Purchasing Agreement*, the total price for the *Goods and/or Services* shall be the same regardless of whether *Purchasing Entities* make payment by cash, credit card, or electronic payment.



Bidder shall bear, in full, any processing or surcharge fees associated with the use of credit cards or electronic payment.

- NASPO ValuePoint Fees: The resulting *Cooperative Purchasing Agreement* from this *Competitive Solicitation* will include NASPO ValuePoint fees as specified in the *Cooperative Purchasing Agreement* included as **Attachment D – Cooperative Purchasing Agreement**.

5.4. **BID SUBMITTAL CHECKLIST – REQUIRED BID SUBMITTALS.** This section identifies the *Bid* submittals that must be provided to *Enterprise Services* to constitute a responsive *Bid*. The submittals must be delivered as set forth below. *Bids* that do not include the submittals identified below may be rejected as nonresponsive. In addition, a *Bidder's* failure to complete any submittal as instructed may result in the *Bid* being rejected. *Bidders* may not provide unsolicited materials. For any supplemental materials expressly required by *Enterprise Services* in writing, *Bidders* must identify such supplemental materials with the *Bidder's* name.

☐ **ATTACHMENT A-1 – BIDDER'S CERTIFICATION**

This document is the Bidder's Certification.

Complete the certification, along with any exceptions or required explanations, and submit it with the *Bid* to Enterprise Services.

Note: the Certification must be complete. Where there are choices, *Bidder* **must** check a box. The certification must be signed and submitted by a duly authorized representative for the *Bidder*.

☐ **ATTACHMENT A-2 – BIDDER'S PROFILE**

This document is required *Bidder* information for *Enterprise Services'* contract administration purposes.

Complete as instructed and submit it with the *Bid* to *Enterprise Services*.

☐ **ATTACHMENT B – PERFORMANCE REQUIREMENTS**

Bidder will need to confirm that *Bidder's Goods and/or Services* and/or *Bidder's* performance meets or exceeds the detailed specifications/qualifications set forth in **Attachment B – Performance Requirements** and submit it with the *Bid* to *Enterprise Services*.

☐ **ATTACHMENT C – BID PRICE**

Bidder will need to complete the price worksheet tool as instructed in **Attachment C – Bid Price** and submit it with the *Bid* to *Enterprise Services*.

☐ **ATTACHMENT E – BIDDER'S PROPOSED MODIFICATIONS TO COOPERATIVE PURCHASING AGREEMENT (if any)**

This document is a required *Bid* submittal **IF** bidder has business issues with the *Cooperative Purchasing Agreement* found in **Attachment D – Cooperative Purchasing Agreement**. If so, Bidder must complete **Attachment E – Bidder's Proposed Modifications to Cooperative Purchasing Agreement** as instructed therein and submit it with the *Bid* to *Enterprise Services*.

☐ **CURRENT INSURANCE CERTIFICATE**

Bidder will need to submit their current Insurance Certificate.



☐ **MANUFACTURER AUTHORIZATION (ONLY REQUIRED FOR DISTRIBUTORS)**

If Bidder is a distributor, they will need to submit a letter from the manufacturer confirming their status as an authorized distributor.

☐ **DARFUR CONTRACTING ACT FORM (ONLY REQUIRED FOR INTERNATIONAL BUSINESS)**

If your firm has conducted business outside the United States in the last three (3) years, please submit.

5.5. **BID FORMAT.** *Bids must be complete, legible, signed, and follow all instructions stated in the Competitive Solicitation (including the attachments). Unless otherwise specified in writing by Enterprise Services, documents included with an electronic Bid must be prepared in MS Word, MS Excel, or Adobe PDF. Where required to do so, Bidders may sign using either a physical or electronic signature.*

5.6. **SUBMITTING BIDS.** *Bidder's electronic Bid must be emailed to DESContractsTeamFir@des.wa.gov. Enterprise Services' email only can accept emails (including attachments) that total less than 30MB in size. Bidders are cautioned to keep email sizes to less than 25MB to ease delivery. Zipped files cannot be accepted.*

SECTION 6 – COMPLAINT, DEBRIEF, & PROTEST REQUIREMENTS

This section details the applicable requirements for complaints, debriefs, and protests.

6.1. **COMPLAINTS.** *This Competitive Solicitation offers a complaint period for Bidders wishing to voice objections to this Competitive Solicitation. The complaint period ends five (5) business days before the Bid due date. The complaint period is an opportunity to voice objections, raise concerns, or suggest changes that were not addressed during the Question & Answer Period or, if applicable, at the Pre-Bid Conference. Failure by the Bidder to raise a complaint at this stage may waive its right for later consideration. Enterprise Services will consider all complaints, but is not required to adopt a complaint, in part or in full. If Bidder complaints result in changes to the Competitive Solicitation, written amendments will be issued and posted on WEBS.*

- a. **CRITERIA FOR COMPLAINT.** *A complaint may be based only on one or more of the following grounds: (a) The Competitive Solicitation unnecessarily restricts competition; (b) The Competitive Solicitation evaluation or scoring process is unfair or flawed; or (c) The Competitive Solicitation requirements are inadequate or insufficient to prepare a response.*
- b. **INITIATING A COMPLAINT.** *A complaint must: (a) Be submitted to and received by the Procurement Coordinator no less than five (5) business days prior to the deadline for Bid submittal; and (b) Be in writing (see Form and Substance, and Other below). A complaint should clearly articulate the basis of the complaint and include a proposed remedy.*
- c. **RESPONSE.** *When a complaint is received, the Procurement Coordinator (or designee) will consider all the facts available and respond in writing prior to the deadline for Bid submittals, unless more time is needed. Enterprise Services is required to promptly post the response to a complaint on WEBS.*
- d. **RESPONSE IS FINAL.** *The Procurement Coordinator's response to the complaint is final and not subject to administrative appeal. Issues raised in a complaint may not be raised again during the protest period. Furthermore, any issue, exception, addition, or omission not brought to the*



attention of the *Procurement Coordinator* prior to *Bid* submittal may be deemed to be waived for protest purposes.

6.2. **DEBRIEF CONFERENCES.** A Debrief Conference is an opportunity for a *Bidder* and *Enterprise Services*, through its *Procurement Coordinator*, to meet and discuss the *Bidder's Bid* (and, as further explained below, is a necessary prerequisite to filing a protest). Following *Bid* evaluation, *Enterprise Services* will issue an ASB announcement. The ASB announcement may be made by any means, but *Enterprise Services* likely will use email to the *Bidder's* email address provided in the *Bidder's Profile*. *Bidders* will have three (3) business days to request a Debrief Conference, if desired. If a Debrief Conference is timely requested, *Enterprise Services* will offer the requesting *Bidder* one meeting opportunity and notify the *Bidder* of the Debrief Conference place, date, and time. Please note, because the debrief process must occur before making an award, *Enterprise Services* likely will schedule the Debrief Conference shortly after the ASB announcement and the *Bidder's* request for a Debrief Conference. *Enterprise Services* will not allow the debrief process to delay the *Cooperative Purchasing Agreement* award(s). Accordingly, *Bidders* should plan for contingencies and alternate representatives. ***Bidders who wish to protest must first participate in a Debrief Conference. Bidders who are unwilling or unable to attend the Debrief Conference will lose the opportunity to protest. A Debrief Conference is a required prerequisite for a Bidder to file a protest.***

- a. **TIMING.** A Debrief Conference may be requested by a bidder following the Apparent Successful Bidder (ASB) announcement.
- b. **PURPOSE OF DEBRIEF CONFERENCE.** Any *Bidder* who has submitted a timely *Bid* may request a Debrief Conference (see also Section 6.4, below). A Debrief Conference provides an opportunity for the *Bidder* to meet with *Enterprise Services* to discuss *Bidder's* bid and evaluation. It does not provide an opportunity to discuss other *Bids* and evaluations.
- c. **REQUESTING A DEBRIEF CONFERENCE.** The request for a Debrief Conference must be made in writing via email to the *Procurement Coordinator* and received within three (3) business days after ASB announcement. Debrief conferences may be conducted either in person at the *Enterprise Services* offices in Olympia, Washington, or virtually (e.g., by telephone or web-based virtual meeting such as MS Teams), as determined by *Enterprise Services*, and may be limited by *Enterprise Services* to a specified period of time. A *Bidder's* failure to request a Debrief Conference within the specified time and attend the Debrief Conference constitutes a waiver of the right to submit a protest. Any issue, exception, addition, or omission not brought to the attention of the *Procurement Coordinator* before or during the Debrief Conference may be deemed waived for protest purposes.

6.3. **PROTESTS.** Following a Debrief Conference, a *Bidder* may protest the award of a *Cooperative Purchasing Agreement*.

- a. **CRITERIA FOR A PROTEST.** A protest may be based only on one or more of the following: (a) Bias, discrimination, or conflict of interest on the part of an evaluator; (b) Error in computing evaluation scores; or (c) Non-compliance with any procedures described in the *Competitive Solicitation*.
- b. **INITIATING A PROTEST.** Any *Bidder* may protest an award to the ASB. A protest must: (a) Be submitted to and received by the Protest Officer specified below, within five (5) business days after the protesting *Bidder's* Debrief Conference (see also Section 6.4, below); (b) Be in writing; (c) Include a specific and complete statement of facts forming the basis of the protest; and (d) Include a description of the relief or corrective action requested.



- c. **PROTEST RESPONSE.** After reviewing the protest and available facts, *Enterprise Services'* Protest Officer will issue a written response within ten (10) business days from receipt of the protest, unless additional time is needed.
- d. **DECISION IS FINAL.** The protest decision is final and not subject to administrative appeal. If the protesting *Bidder* does not accept Enterprise Services' protest response, the *Bidder* may seek relief in Thurston County Superior Court.

6.4. COMMUNICATION DURING COMPLAINTS, DEBRIEFS, AND PROTESTS. With the exception of protests, all communications about this *Competitive Solicitation*, including complaints and debriefs, must be addressed to the *Procurement Coordinator* unless otherwise directed. Protests must be addressed to the Protest Officer.

- a. **FORM, SUBSTANCE, & OTHER.** All complaints, debrief conference requests, and protests must:
 - i. Be in writing;
 - ii. Be signed by the complaining, requesting, or protesting *Bidder* or an authorized agent;
 - iii. Be delivered within the time frame(s) outlined herein;
 - iv. Identify the Competitive Solicitation number;
 - v. Conspicuously state "Complaint," "Debrief," or "Protest" in any subject line of any correspondence or email; and
 - vi. Be sent to the address identified below.
- b. **COMPLAINTS & PROTESTS.** All complaints and protests must (a) State all facts and arguments on which the complaining or protesting *Bidder* is relying as the basis for its action; and (b) Include any relevant documentation or other supporting evidence.

6.5. HOW TO CONTACT ENTERPRISE SERVICES.

- a. **TO SUBMIT A COMPLAINT.** Send an email message to the *Procurement Coordinator*. The email message must include "Complaint" in the subject line of the email message.
- b. **TO REQUEST A DEBRIEF CONFERENCE.** Send an email message to the *Procurement Coordinator*. The email message must include "Debrief" in the subject line of the email message.
- c. **TO SUBMIT A PROTEST.** Send an email message to the Protest Officer at the following email address: DESDLProcurementProtest@des.wa.gov. The email message must include "Protest" in the subject line of the email message.



SECTION 7 – DOING BUSINESS WITH THE STATE OF WASHINGTON

This section provides additional information regarding Washington's Public Records Act and doing business with the State of Washington, including *Enterprise Services'* efforts to enable Washington's small, diverse, and veteran-owned businesses to compete for and participate in state procurements for goods/services.

7.1. WASHINGTON'S PUBLIC RECORDS ACT – PUBLIC RECORDS DISCLOSURE REQUESTS.

- All documents (written and electronic) submitted to *Enterprise Services* as part of this procurement are public records. Unless statutorily exempt from disclosure, such records are subject to disclosure *if* requested. See RCW 42.56, Public Records Act. *Enterprise Services* strongly discourages *Bidders* from unnecessarily submitting sensitive information (e.g., information that you might categorize as 'confidential,' 'proprietary,' 'sensitive,' 'trade secret,' etc.).
 - If, in *Bidder's* judgment, Washington's Public Records Act provides an applicable statutory exemption from disclosure for certain portions of *Bidder's Bid*, please mark the precise portion(s) of the relevant page(s) of the *bid* that bidder believes are statutorily exempt from disclosure and identify the precise statutory basis for exemption from disclosure.
 - In addition, if, in *Bidder's* judgment, certain portions of *Bidder's Bid* are not statutorily exempt from disclosure but are sensitive because these particular portions of *Bidder's Bid* (NOT including pricing) include highly confidential, proprietary, or trade secret information (or the equivalent) that *Bidder* protects through the regular use of confidentiality or similar agreements and routine enforcements through court enforcement actions, please mark the precise portion(s) of the relevant page(s) of *Bidder's Bid* that include such sensitive information.
- In the event that *Enterprise Services* receives a public records disclosure request pertaining to information that *Bidder* has submitted and marked either as (a) statutorily exempt from disclosure; or (b) sensitive, *Enterprise Services*, prior to disclosure, will do the following:
 - *Enterprise Services'* Public Records Officer will review any records marked by *Bidder* as statutorily exempt from disclosure. In those situations, where the designation comports with the stated statutory exemption from disclosure, *Enterprise Services* will redact or withhold the document(s) as appropriate.
 - For documents marked 'sensitive' or for documents where *Enterprise Services* either determines that no statutory exemption to disclosure applies or is unable to determine whether the stated statutory exemption to disclosure properly applies, *Enterprise Services* will notify the *Bidder*, at the address provided in the *Bid* submittal, of the public records disclosure request and identify the date that *Enterprise Services* intends to release the document(s) (including documents marked 'sensitive' or exempt from disclosure) to the requester unless the *Bidder*, at *Bidder's* sole expense, timely obtains a court order enjoining *Enterprise Services* from such disclosure. In the event bidder fails to timely file a motion for a court order enjoining such disclosure, *Enterprise Services* will release the requested document(s) on the date specified. *Bidder's* failure properly to identify exempted or sensitive information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by *Bidder* of any claim that such materials are exempt or protected from disclosure.



7.2. **SMALL & DIVERSE BUSINESSES.** *Enterprise Services*, in accordance with Washington law, encourages small and diverse businesses to compete for and participate in state procurements as contractors and as subcontractors to awarded *Bidders*. See, e.g., [RCW 39.19](#) (OMWBE certified businesses); [RCW 43.60A.200](#) (WDVA Certified Veteran-Owned Businesses); and [RCW 39.26.005](#) (Washington Small Businesses). In support of the state's economic goals and to support a diverse supplier pool, *Enterprise Services* has established the following voluntary numerical goals for *Enterprise Services' Competitive Solicitations*:

- Ten percent (10%) Minority-Owned Businesses certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE);
- Six percent (6%) Women-Owned Businesses certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE);
- Five percent (5%) Veteran-Owned Businesses certified by the Washington State Department of Veterans Affairs (WDVA); and
- Twenty-five percent (25%) Washington Small Businesses, five percent (5%) of which are microbusinesses or minibusinesses as defined in RCW 39.26.010(16) and (17).

Achievement of these goals is encouraged whether directly or through subcontractors.

- **OMWBE CERTIFICATION.** *Bidders* may contact the Washington State [Office of Minority and Women's Business Enterprises](#) (OMWBE) regarding information on Minority-Owned and Women-Owned certified firms, state and federal certification programs, or to become certified. OMWBE can be reached by telephone, 866-208-1064, or through their website at [OMWBE](#). OMWBE-Certified firms may provide their certification information to *Enterprise Service* through **Attachment A-2 – Bidder's Profile**.
- **WDVA CERTIFICATION.** *Bidders* may contact the [Washington State Department of Veterans' Affairs](#) (WDVA) for information regarding Certified Veteran-Owned Businesses or to become a Certified Veteran-Owned Business. The WDVA can be reached by telephone, (360) 725-2169, or through their website at [WDVA](#). The qualification requirements to be a Certified Veteran-Owned Business are set forth in **Attachment A-1 – Bidder's Certification**.
- **WASHINGTON SMALL BUSINESSES.** *Bidders* may contact *Enterprise Services* about small and diverse business inclusion and qualification as a Washington Small Business. If *Bidder* qualifies as a Washington Small Business, identify bidder as such in *WEBS*. Call *WEBS* Customer Service at 360-902-7400. The qualification requirements to self-certify as a Washington Small Business are set forth in **Attachment A-1 – Bidder's Certification**.

7.3. **WEBS REGISTRATION.** Individuals and firms interested in state contracting opportunities with *Enterprise Services* or any Washington state agency should register for competitive solicitation notices at the Washington Electronic Business Solution ([WEBS](#)) [WEBS Registration](#). Note: There is no cost to register in *WEBS*.

7.4. **POLYCHLORINATED BIPHENYLS (PCBs) NOTICE.** Polychlorinated biphenyls, commonly known as PCBs, have adverse effects on human health and the environment. Accordingly, the State of Washington, through its procurements of goods/services, is trying to minimize the purchase of products with PCBs and to incentivize its contractual vendors to sell products and products-in-packaging without PCBs.



**ATTACHMENT A-1
BIDDER'S CERTIFICATION**

Competitive Solicitation:	No. 24823 – Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction
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Contract Categories and Groups for which Bidder is submitting a Bid: Check appropriate box(es)	☐ Category 1 – Standard of Quality-approved products (including the National Highway Safety Administration's (NHTSA) Conforming Product List (CPL)) ☐ Group A – Speed Enforcement ☐ Group B – Speed Advisory Systems ☐ Group C – Accident & Crime Scene Reconstruction ☐ Category 2 – Open Submission Products ☐ Group A – Speed Enforcement		
Bidder:	_____ Type/print full legal name of Bidder		
Bidder's Address:	_____ Type/print Bidder's Address		
Bidder Organization Type: Check appropriate box	Corporation:	☐ Domestic	☐ Foreign
	Limited Liability Company (LLC):	☐ Domestic	☐ Foreign
	Partnership:	☐ Domestic	☐ Foreign
	Sole Proprietorship:	☐	
	* Note: A sole proprietorship is an unincorporated business owned and run by an individual with no distinction between the business and the owner. It is not a legal entity. It simply refers to a person who owns the business and is personally responsible for its debts and who pays personal income taxes on profits earned from the business. If you are a bidder who operates a business on your own, you automatically are a sole proprietor unless you have adopted a business structure (e.g., corporation, LLC, partnership).		
State of Formation for Corp./LLC/Partnership :	_____ Type/print the state where the corporation, LLC, or partnership is formed – e.g., 'Washington' if domestic and the name of the state if 'Foreign' (i.e., not Washington)		



Doing Business Under Another Name: Check appropriate box	State whether Bidder has been doing business under another name during the past five years: ☐ Bidder has NOT done business under another name ☐ Bidder HAS done business under another name If Bidder HAS done business under another name, provide the name(s) and addresses: Name: _____ Address: _____
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Bidder, through the duly authorized undersigned, makes this certification as a required element of submitting a responsive bid. Bidder certifies, to the best of its knowledge and belief that the following are true, complete, correct, and made in good faith:

1. **UNDERSTANDING.** Bidder certifies that Bidder has read, thoroughly examined, and fully understands all of the provisions in the Competitive Solicitation (including all attachments) and the terms and conditions of the Cooperative Purchasing Agreement and any amendments or clarifications to the Competitive Solicitation, and agrees to abide by the same.
2. **ACCURACY.** Bidder certifies that Bidder has carefully prepared and reviewed its bid and fully supports the accuracy of the same. Bidder further understands and acknowledges that Enterprise Services shall not be responsible for any errors or omission on the part of Bidder in preparing its bid. Bidder further certifies that the facts declared here are true and accurate. Bidder further understands and acknowledges that the continuing compliance with these statements and all requirements of the Competitive Solicitation are conditions precedent to the award or continuation of the resulting Cooperative Purchasing Agreement.
3. **NO COLLUSION, ANTI-COMPETITIVE PRACTICES, OR SHARING BID INFORMATION.** Bidder certifies that Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this Competitive Solicitation. Bidder further certifies that Bidder's bid prices have been arrived at independently, without engaging in collusion, bid rigging, or any other illegal activity, and without for the purpose of restricting competition any consultation, communication, or agreement with any other bidder or competitor relating to (a) those prices, (b) the intention to submit a bid, or (c) the methods or factors used to calculate the prices offered. Bidder further certifies that Bidder has not been and will not knowingly disclose its bid prices, directly or indirectly, to any other bidder or competitor before award of a Cooperative Purchasing Agreement, unless otherwise required by law. Bidder further certifies that Bidder has made no attempt and shall not make any attempt to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition. Bidder, however, freely may join with other persons or organizations for the purpose of presenting a joint bid. Whether done directly or indirectly, communicating bid information with other bidders, collusion, or anti-competitive actions among bidders are prohibited. If there is evidence of such communication, collusion, or anti-competitive activities among bidders, Enterprise Services reserves the right to disqualify such bidders.
4. **FIRM OFFER.** Bidder certifies that its bid pertaining to the above-referenced Competitive Solicitation is a firm offer which cannot be withdrawn for a time period of ninety (90) days from and after the bid due date specified in the Competitive Solicitation. Enterprise Services may accept such bid, with or without further negotiation, at any time within such period. In the event of a protest, Bidder's bid shall remain valid for such time period or until the protest and any related court action is resolved, whichever is later.



5. CONFLICT OF INTEREST. Bidder certifies that, in preparing its bid, Bidder has not been assisted by any current or former employee of the State of Washington whose duties relate (or did relate) to this Competitive Solicitation or prospective Cooperative Purchasing Agreement and who was assisting in other than the employee's official, public capacity. Bidder further certifies that no such current or former public employee nor any member of such person's immediate family have any financial interest in the outcome of Bidder's bid.
6. NO REIMBURSEMENT. Bidder certifies that Bidder understands that the State of Washington will not reimburse Bidder for any costs incurred in the preparation of Bidder's bid. All bids become the property of the State of Washington, and Bidder claims no proprietary right to the ideas, writings, items, or samples unless so stated in the bid.
7. PERFORMANCE. Bidder certifies that Bidder understands that its submittal of a bid and execution of this Bidder's Certification certifies Bidder's willingness to comply with the Cooperative Purchasing Agreement, if awarded such. By submitting this bid, Bidder hereby offers to furnish the goods and/or services solicited pursuant to this Competitive Solicitation in compliance with all terms, conditions, and performance requirements contained in this Competitive Solicitation and the resulting Cooperative Purchasing Agreement or, if applicable, as detailed on a Proposed Modifications to Cooperative Purchasing Agreement, if permitted, in this Competitive Solicitation.
8. Insurance. Bidder certifies that, if designated as an apparent successful bidder, awarded a Cooperative Purchasing Agreement, Bidder, prior to award of a Cooperative Purchasing Agreement, shall obtain and provide a certificate of insurance to Enterprise Services confirming the insurance coverages set forth in *Attachment D – Cooperative Purchasing Agreement*. Bidder further certifies that, Bidder will provide to Enterprise Services and the Participating Entity for any Participating Addendum, prior to conducting any sales thereunder, a certificate of insurance confirming the insurance coverages set forth in *Attachment D – Cooperative Purchasing Agreement*. **Note: To provide a responsive bid, Bidder must include its current Insurance Certificate with its bid.**
9. ☐ DEBARMENT. Bidder certifies as follows (*must check one*):

☐ *NO DEBARMENT*. Bidder and/or its principals are not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from contracting with any federal, state, or local governmental entity within the United States.
OR
☐ *DEBARRED*. As detailed on the attached explanation (Bidder to provide), Bidder and/or its principals presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from contracting with a federal, state, or local governmental entity within the United States.
10. CRIMINAL OFFENCE. Bidder (including Bidder's officers) certifies as follows (*must check one*):

☐ *NO CRIMINAL OFFENSE*. Bidder has not, within the three (3) year period preceding the date of this Competitive Solicitation, been convicted or had a civil judgment rendered against Bidder for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a governmental contract; violation of any federal or state antitrust statute; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. Bidder further certifies that it is not presently indicted or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in this paragraph.



OR

- ☐ *CRIMINAL OFFENSE.* As detailed on the attached explanation (Bidder to provide), within the three (3) year period preceding the date of this Competitive Solicitation, Bidder has been convicted or had a civil judgment rendered against Bidder for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a governmental contract; violation of any federal or state antitrust statute; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

11. WAGE THEFT PREVENTION. Bidder certifies as follows (*must check one*):

- ☐ *NO WAGE VIOLATIONS.* Bidder has NOT been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of RCW chapters 49.46, 49.48, or 49.52 within three (3) years prior to the date of the above-referenced Competitive Solicitation date.

OR

- ☐ *VIOLATIONS OF WAGE LAWS.* Bidder has been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, a provision of RCW chapters 49.46, 49.48, or 49.52 within three (3) years prior to the date of the above-referenced Competitive Solicitation date.

12. CIVIL RIGHTS. Bidder certifies as follows (*must check one*):

- ☐ *COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS.* Bidder complies with all applicable requirements regarding civil rights. Such requirements prohibit discrimination against individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.

OR

- ☐ *NON-COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS.* Bidder does not comply with all applicable requirements regarding civil rights.

13. STATUTORY NONDISCRIMINATION CLAUSES FOR STATE CONTRACTS. Bidder certifies as follows (*must check one*):

- ☐ *COMPLIANCE WITH STATUTORY NONDISCRIMINATION CLAUSES FOR STATE CONTRACTS.* During the term of an awarded Contract, Bidder, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). Bidder, including any subcontractor, also shall give written notice of this nondiscrimination requirement to any labor organizations with which Bidder, or subcontractor, has a collective bargaining or other agreement. In addition, Bidder, including any subcontractor, shall cooperate with any Washington state agency investigation regarding any allegation that Bidder, including any subcontractor, engaged in prohibited discrimination set forth in RCW 49.60.530(3).

OR



- ☐ *NON-COMPLIANCE WITH STATUTORY NONDISCRIMINATION CLAUSES FOR STATE CONTRACTS.* Bidder does not comply with RCW 49.60.530.

14. WORKERS' RIGHTS ([EXECUTIVE ORDER 18-03](#)). Bidder certifies as follows (*must check one*):

- ☐ *NO MANDATORY INDIVIDUAL ARBITRATION CLAUSES AND CLASS OR COLLECTIVE ACTION WAIVERS FOR EMPLOYEES.* Bidder does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

OR

- ☐ *MANDATORY INDIVIDUAL ARBITRATION CLAUSES AND CLASS OR COLLECTIVE ACTION WAIVERS FOR EMPLOYEES.* Bidder requires its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

15. TERMINATION FOR DEFAULT OR CAUSE. Bidder certifies as follows (*must check one*):

- ☐ *NO TERMINATION FOR DEFAULT OR CAUSE.* Bidder has not, within the three (3) year period preceding the date of this Competitive Solicitation, had one (1) or more federal, state, or local governmental contracts terminated for cause or default.

OR

- ☐ *TERMINATION FOR DEFAULT OR CAUSE.* As detailed on the attached explanation (Bidder to provide), within the three (3) year period preceding the date of this Competitive Solicitation, Bidder has had one (1) or more federal, state, or local governmental contracts terminated for cause or default.

16. TAXES. Bidder certifies as follows (*must check one*):

- ☐ *TAXES PAID.* Except as validly contested, Bidder is not delinquent and has paid or has arranged for payment of all taxes due to the State of Washington and has filed all required returns and reports as applicable.

OR

- ☐ *DELINQUENT TAXES.* As detailed on the attached explanation (Bidder to provide), Bidder has not paid or arranged for payment of all taxes due to the State of Washington and/or has not timely filed all required returns and reports as applicable.

17. FINANCIALLY SOLVENT. Bidder certifies as follows (*must check one*):

- ☐ *FINANCIALLY SOLVENT.* Bidder is financially stable and solvent, has adequate cash reserves to meet all financial obligations, has not commenced bankruptcy proceedings voluntarily or otherwise, and is not subject to any judgments, liens, or encumbrances of any kind affecting title to any Goods or Services that are the subject of this Competitive Solicitation.

OR

- ☐ *NOT FINANCIALLY SOLVENT.* As detailed on the attached explanation (Bidder to provide), Bidder is not financially stable and solvent – i.e., Bidder does not have adequate cash reserves to meet all financial obligations, has commenced bankruptcy proceedings voluntarily or otherwise, or is subject to a judgment, lien, or encumbrance that affects title to the Goods or Services that are the subject of this Competitive Solicitation.

18. LAWFUL REGISTRATION. Bidder, if conducting business other than as a sole proprietorship certifies as follows (*must check one*):



- ☐ *CURRENT LAWFUL REGISTRATION.* Bidder is in good standing in the State of Washington and the jurisdiction where Bidder is organized, including having timely filed all required annual reports.

OR

- ☐ *DELINQUENT REGISTRATION.* As detailed on the attached explanation (Bidder to provide), Bidder currently is not in good standing in the State of Washington and/or the jurisdiction where Bidder is organized.

NOTE: This certification applies only to bidders that are organized as separate legal entities (e.g., a corporation, partnership, limited liability company). If bidder is a sole proprietor, this certification should not be answered and Bidder should check the following:

- ☐ *SOLE PROPRIETOR.* Bidder is a sole proprietor.

19. REGISTRATION WITH WASHINGTON SECRETARY OF STATE. Bidder certifies as follows (*must check one*):

- ☐ *BIDDER IS REGISTERED WITH WASHINGTON SECRETARY OF STATE.* Bidder is registered with the Washington Secretary of State, is in good standing, and has the following Unified Business Identifier (UBI) number: _____.

OR

- ☐ *BIDDER WILL REGISTER WITH WASHINGTON SECRETARY OF STATE.* Bidder is not registered with the Washington Secretary of State but, if designated as the/an Apparent Successful Bidder, Bidder will register with the Washington Secretary of State to obtain a UBI number and provide proof of such registration satisfactory to Enterprise Services within twenty-four (24) hours of such designation or notification by Enterprise Services or be deemed a nonresponsive bid.

OR

- ☐ *BIDDER IS NOT REGISTERED WITH WASHINGTON SECRETARY OF STATE.* Bidder is not registered with the Washington Secretary of State and Bidder declines to register with the Washington Secretary of State. Note: Enterprise Services requires all awarded bidders (including Washington firms and out of state firms) to be registered with the Washington Secretary of State. Bidders who are not registered will not be awarded a Cooperative Purchasing Agreement.

NOTE This certification applies only to bidders that are organized as separate legal entities (e.g., a corporation, partnership, limited liability company). If bidder is a sole proprietor, this certification should not be answered and Bidder should check the following:

- ☐ *SOLE PROPRIETOR.* Bidder is a sole proprietor.

20. REGISTRATION WITH WASHINGTON STATE DEPARTMENT OF REVENUE. Bidder certifies as follows (*must check one*):

- ☐ *BIDDER IS REGISTERED WITH WASHINGTON STATE DEPARTMENT OF REVENUE.* Bidder is registered with the Washington State Department of Revenue, has a business license to do business in Washington, and has the following Unified Business Identifier (UBI) number: _____.

OR

- ☐ *BIDDER WILL REGISTER WITH WASHINGTON STATE DEPARTMENT OF REVENUE.* Bidder is not registered with the Washington State Department of Revenue but, if designated as the/an Apparent Successful Bidder, Bidder will register with the Washington State Department of Revenue for a business license and provide proof of such registration satisfactory to Enterprise Services



within twenty-four (24) hours of such designation or notification by Enterprise Services or be deemed a nonresponsive bid.

OR

- ☐ *BIDDER IS NOT REGISTERED WITH WASHINGTON STATE DEPARTMENT OF REVENUE.* Bidder is not registered with the Washington State Department of Revenue and Bidder declines to register with the Washington State Department of Revenue. Note: Enterprise Services requires all awarded bidders (including Washington firms and out of state firms) to be registered with the Washington State Department of Revenue. Bidders who are not registered will not be awarded a Cooperative Purchasing Agreement.

21. SUBCONTRACTORS. Bidder certifies as follows (*must check one*):

- ☐ NO SUBCONTRACTORS. If awarded a Cooperative Purchasing Agreement, Bidder will not utilize subcontractors to provide the goods and/or services subject to this Competitive Solicitation.

OR

- ☐ SUBCONTRACTORS. As detailed on the attached explanation (Bidder to provide), if awarded a Cooperative Purchasing Agreement, Bidder will utilize subcontractors to provide the goods and/or services subject to this Competitive Solicitation. In such event, Bidder further certifies that, as to the State of Washington, Bidder shall retain responsibility for its subcontractors, including, without limitation, liability for any subcontractor's acts or omissions. Note: Bidder must provide the precise legal name (including state of organization), business address, and federal tax identification number (TIN) for each subcontractor. Note: If the TIN is a SSN, do not provide the SSN.

22. WASHINGTON SMALL BUSINESS. Bidder certifies as follows (*must check appropriate boxes*):

- ☐ *WASHINGTON SMALL BUSINESS.* Bidder is a Washington Small Business as defined in RCW 39.26.010. To qualify as a Washington Small Business, Bidder must meet three (3) requirements:
- ☐ *Location.* Bidder's principal office/place of business must be located in and identified as being in the State of Washington. A principal office or principal place of business is a firm's headquarters where business decisions are made and the location for the firm's books and records as well as the firm's senior management personnel.
 - ☐ *Size.* Bidder must be owned and operated independently from all other businesses and qualify as one of the following:
 - ☐ Bidder Qualifies as a Small Business – i.e.,
 - ☐ Bidder has fifty (50) or fewer employees; or
 - ☐ Bidder has an annual gross revenue of less than \$7,000,000 as reported on Bidder's federal income tax return or its return filed with the Washington State Department of Revenue over the previous three (3) consecutive years.
 - ☐ Bidder Qualifies as a Minibusiness – i.e., Bidder has an annual gross revenue of less than \$3,000,000, but \$1,000,000 or more, as reported on Bidder's federal income tax return or



its return filed with the Washington State Department of Revenue.

- ☐ Bidder Qualifies as a Microbusiness – i.e., Bidder has an annual gross revenue of less than \$1,000,000 as reported on Bidder's federal income tax return or its return filed with the Washington State Department of Revenue.
- ☐ *WEBS Certification.* Bidder must have certified its Washington Small Business status in Washington's Electronic Business Solution (WEBS).

OR

- ☐ *NOT WASHINGTON SMALL BUSINESS.* Bidder does not qualify as a Washington Small Business as set forth above.

23. CERTIFIED VETERAN-OWNED BUSINESS. Bidder certifies as follows (*must check one*):

- ☐ CERTIFIED VETERAN-OWNED BUSINESS. Bidder is a Certified Veteran-Owned Business under RCW 43.60A.190. To qualify as a Certified Veteran-Owned Business, Bidder must meet four (4) requirements:
 - *51% Ownership.* Bidder must be at least fifty-one percent (51%) owned and controlled by:
 - (a) A veteran as defined as every person who at the time he or she seeks certification has received a discharge with an honorable characterization or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the capacities listed in RCW 41.04.007;
 - (b) A person who is in receipt of disability compensation or pension from the department of veterans affairs; or
 - (c) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.
 - *Washington Incorporation/Location.* Bidder must be either an entity that is incorporated in the state of Washington as a Washington domestic corporation or, if not incorporated, an entity whose principal place of business is located within the State of Washington.
 - *WEBS Certification.* Bidder must have certified its Veteran-Owned Business status in Washington's Electronic Business Solution (WEBS).
 - *WDVA Certification.* Bidder must have provided certification documentation to the Washington Department of Veterans' Affairs (WDVA) and be certified by WDVA and listed as such on WDVA's website (WDVA – Veteran-Owned Businesses).

OR

- ☐ NOT A CERTIFIED VETERAN-OWNED BUSINESS. Bidder does not qualify as a Certified Veteran-Owned Business as set forth above.



24. REFERENCES. Bidder certifies that the references provided to Enterprise Services have worked with Bidder and that such individuals and firms have full permission, without any additional requirement or release, to provide such references and information to Enterprise Services. Bidder hereby authorizes Enterprise Services (or its agent) to contact Bidder's references and others who may have pertinent information regarding Bidder's prior experience and ability to perform the Cooperative Purchasing Agreement, if awarded. Bidder hereby authorizes such individuals and firms to provide such references and release to Enterprise Services information pertaining to the same.
25. DATA DISCLOSURE TO FOREIGN GOVERNMENTS AND PROHIBITED TECHNOLOGY. Bidder certifies as follows (*must check one*):
- ☐ Bidder is not an entity subject to laws, rules, or policies potentially requiring disclosure of, or provision of access to, customer data to foreign governments or entities controlled by foreign governments, and Bidder's offerings do not contain, include, or utilize components or services supplied by any entity subject to the same. Bidder's offerings also do not contain, include, or utilize covered technology prohibited under Section 889 of the National Defense Authorization Act, as amended.
- OR
- ☐ Bidder cannot certify all statements above, and Bidder will affix a written explanation to this attachment for review by the Lead State. If after reviewing Bidder's written explanation the Lead State determines it is not in the best interest of the Lead State, Participating Entities, or Purchasing Entities to award Bidder a Cooperative Purchasing Agreement, the Lead State may reject Bidder's bid.
26. DELIVERY REQUIREMENTS. Bidder certifies as follows (*must check one*):
- ☐ Bidder agrees to the delivery days After Receipt of Order (ARO) identified in Attachment C – Bid Price Category One Instructions, and Category Two Instructions tabs, respectively. Delivery days shall not exceed one-hundred eighty (180) days ARO.
- ☐ Bidder does not agree to the aforementioned delivery day After Receipt of Order (ARO) requirements.
27. SHIPPING COSTS. Bidder certifies as follows (*must check one*):
- ☐ Bidder agrees to the following shipping costs for each category:
- Group A Speed Enforcement, Handheld or Vehicle Mounted shall be delivered Free on Board (FOB) to Purchasing Entity specified destination.
 - Group B Speed Advisory Systems shipping charges shall be mutually agreed in writing between the Purchasing Entity and the Contractor prior to order placement.
 - Group C Accident Scene Re-Construction products shall be delivered Free on Board (FOB) to Purchasing Entity specified destination.
- ☐ Bidder does not agree to the aforementioned shipping cost requirements.
28. WARRANTY REQUIREMENTS. Bidder certifies as follows (*must check one*):
- ☐ Contractor agrees to all quality, warranty, and remedy requirements as described in Section 6 of Attachment D – Cooperative Purchasing Agreement.
- ☐ Bidder does not agree to the aforementioned warranty requirements.



29. FACTORY TESTING REQUIREMENTS. Bidder certifies as follows (*must check one*):
- ☐ If applicable, Bidder confirms that factory testing requirements are met. Bidder may be required to provide supporting documentation to all Purchasing Entities, if requested, verifying Factory Testing Requirements are met. Any products not meeting the Factory Testing Requirements will be removed from the Cooperative Agreement Products and Pricing document posted on the NASPO ValuePoint website..
 - ☐ Bidder does not agree to the aforementioned factory testing requirements.
30. CATEGORY TWO REQUIREMENTS. Bidder certifies as follows (*must check one*):
- ☐ Bidder agrees, if applicable, that all Category Two products can demonstrate an endorsement for law enforcement use. This includes, but is not limited to, evidence of product holding up in court to enforce a citation, a written endorsement of product by a law enforcement official or organization, or evidence of use by a law enforcement organization.
 - ☐ Bidder does not agree to the aforementioned Category Two requirements.
 - ☐ *Not Applicable*. Bidder is not submitting a bid in Category Two.
31. CUSTOMER SERVICE REQUIREMENTS. Bidder certifies as follows (*must check one*):
- ☐ Bidder agrees to be available by phone or email during regular business hours of operation between 8:00 a.m. to 5:00 p.m. in each time zone of the United States. Bidder agrees to provide customer service representatives familiar with all products Bidder sells. Bidder agrees to provide contact(s) available 24/7 in the event of an emergency.
 - ☐ Bidder does not agree to the aforementioned Customer Service requirements.
32. PRODUCT SUBSTITUTION REQUIREMENTS. Bidder certifies as follows (*must check one*):
- ☐ Bidder agrees that substitutions for out-of-stock items or items no longer available will be mutually agreed between the Contractor and the Purchasing Entity prior to order placement.
 - ☐ Bidder does not agree to the aforementioned product substitution requirements.
33. SUBCONTRACTORS. Bidder certifies as follows (*must check one*):
- ☐ NO SUBCONTRACTORS. If awarded a Cooperative Purchasing Agreement, Bidder will not utilize subcontractors to provide the goods and/or services subject to this Competitive Solicitation.
- OR
- ☐ SUBCONTRACTORS. As detailed on the attached explanation (Bidder to provide), if awarded a Cooperative Purchasing Agreement, Bidder will utilize subcontractors to provide the goods
34. NASPO VALUEPOINT ADMINISTRATIVE FEE. Bidder certifies that, if awarded Cooperative Purchasing Agreement, Bidder shall pay an administrative fee and submit summary and detailed sales reports to NASPO ValuePoint in accordance with *Attachment D – Cooperative Purchasing Agreement*. Bidder further certifies that Bidder's bid costs/prices are inclusive of the NASPO ValuePoint administrative fee.
35. MARKETING PLAN. Bidder certifies that, if awarded Cooperative Purchasing Agreement, within thirty (30) days of execution of the Cooperative Purchasing Agreement, Bidder shall meet with NASPO ValuePoint marketing personnel to review and track progress on the marketing plan described by Bidder in *Attachment B – Performance Requirements*.



Bidder further certifies that it shall provide immediate written notice to Enterprise Services if, at any time prior to a Cooperative Purchasing Agreement award, Bidder learns that any of its certifications set forth herein were erroneous when submitted or have become erroneous by reason of changed circumstances.

I hereby certify, under penalty of perjury under the laws of the State of Washington, that the certifications herein are true and correct and that I am duly authorized to make these certifications on behalf of the Bidder listed herein.

BIDDER NAME: _____
Print Name of Bidder – Print full legal entity name of the firm submitting the Bid If Bidder is a sole proprietor, print the full legal name of the individual who is the Bidder submitting the Bid

By: _____
Signature of Bidder's authorized person Print Name of person making certifications for Bidder

Title: _____ Place: _____
Title of person signing certificate Print city and state where signed

Date: _____

Return this Bidder's Certification to Procurement Coordinator at:
DESContractsTeamFir@des.wa.gov

- A. NASPO ValuePoint Administrative Fee.** Offeror agrees to pay an administrative fee and submit summary and detailed sales reports to NASPO ValuePoint in accordance with *Attachment D – Cooperative Purchasing Agreement*. All costs proposed by Offeror must be inclusive of the NASPO ValuePoint administrative fee. Offeror understands that the requirements in this section are mandatory and will not be negotiated by the Lead State.
- B. Marketing Plan.** If awarded a Cooperative Agreement resulting from this RFP, within thirty (30) days of execution of the Cooperative Agreement, Offeror will meet with NASPO ValuePoint marketing personnel to review and track progress on the marketing plan described by Offeror in *Attachment B – Performance Requirements*.



**ATTACHMENT A-2
BIDDER'S PROFILE**

Competitive Solicitation:	No. 24823 – Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction
Bidder:	_____ Type/print full legal name of bidder

BIDDER INFORMATION	
Legal name of Bidder: Address of Bidder: <i>Note:</i> This information must match the information from Bidder's Business License.	Business Name Address City, State, Zip Code
Bidder's Washington State Department of Revenue Registration Number/Unified Business Identifier (UBI) Number: <i>Note:</i> A nine digit UBI number is assigned to each registered businesses in Washington.	_____
Taxpayer Identification No. (TIN): <i>Note:</i> Your TIN will be either a number issued by the IRS (e.g., Employer Identification Number, Federal Tax Identification Number) or a number issued by the Social Security Administration (i.e., your Social Security Number). Do Not provide a Social Security Number.	_____
Is your firm certified as a minority or woman owned business with the Washington State Office of Minority & Women's Business Enterprises (OMWBE)?	Yes ☐ No ☐ If yes, provide Bidder's MWBE certification no.: _____
Is your firm a self-certified Washington State Small Business? <i>Note:</i> See Attachment A-1 – Bidder's Certification for criteria to qualify as a Washington State Small Business. <i>Note:</i> Regardless of size, a qualifying business must be owned and operated independently from all other businesses. In regard to size, the gross revenue thresholds, as reported on Bidder's tax returns, are as follows: ▪ Microbusiness: Annual gross revenue of less than one million dollars.	Yes ☐ No ☐ If yes, provide the location for Bidder's principal place of business: Street Address City, State, Zip Code If yes, what is your business size (based on annual gross revenue)?



BIDDER INFORMATION	
- Minibusiness: Annual gross revenue of more than one million dollars, but less than three million dollars. - Small Business: Annual gross revenue of less than seven million dollars over each of the three prior consecutive years.	Microbusiness ☐ Minibusiness ☐ Small Business ☐
Is your firm certified as a Veteran-Owned Business with the Washington State Department of Veteran Affairs? <i>Note: See Attachment A-1 – Bidder's Certification for criteria to qualify as a Certified Veteran-Owned Business.</i>	Yes ☐ No ☐ If yes, provide Bidder's WDVA certification no.: _____

COOPERATIVE PURCHASING AGREEMENT MANAGEMENT POINTS OF CONTACT FOR BIDDER	
Authorized Representative Name: _____ Email: _____ Phone: _____	Cooperative Purchasing Agreement Administrator Name: _____ Email: _____ Phone: _____
Sales Reporting Representative for reporting sales to NASPO ValuePoint Name: _____ Email: _____ Phone: _____	Sales Reporting Alternate for reporting sales to NASPO ValuePoint Name: _____ Email: _____ Phone: _____
Administrative Fee Representative for reporting sales to NASPO ValuePoint Name: _____ Email: _____ Phone: _____	Administrative Fee Contact Alternate for reporting sales to NASPO ValuePoint Name: _____ Email: _____ Phone: _____
Address for Enterprise Services to send legal notices: Company name: _____ Attn: _____ Address: _____ City/State/Zip: _____	
Signature Authority (if awarded a Cooperative Purchasing Agreement) Name: _____ Title: _____	



ORDERING/SALES POINTS OF CONTACT (expand as necessary)			
Name	Phone Number	E-mail	Area of Responsibility

REFERENCES

Provide a minimum of three (3) commercial or government references for which bidder has delivered goods and/or services similar in scope as described in the Competitive Solicitation.

REFERENCE 1	
Company Name:	_____
Contact:	_____
Phone:	_____
Email:	_____
REFERENCE 2	
Company Name:	_____
Contact:	_____
Phone:	_____
Email:	_____
REFERENCE 3	
Company Name:	_____
Contact:	_____
Phone:	_____
Email:	_____

PURCHASE CARDS (I.E., CREDIT CARDS)

Please indicate which types of purchasing (credit) cards are accepted (note: any card fees must be included in the unit price of the bid):

☐ Visa ☐ Master Card ☐ American Express ☐ Discover ☐ Other: _____

Return this Bidder's Profile to Procurement Coordinator at:

DESContractsTeamFir@des.wa.gov

Competitive Solicitation Number 24283 Police Radar/Lidar Speed Enforcement & Accident Scene Re-Construction

Attachment B - PERFORMANCE REQUIREMENTS

Bidder Name:

Instructions: Bidder must provide complete and succinct responses to each item below. Bidder must provide a written response, in the space provided for each item in every section. Please carefully read each question to identify the limited response questions. Supplementary marketing materials are neither requested nor desired. **Response to Attachment B must be submitted to DESContractsTeamFir@des.wa.gov as part of a complete bid response .**

I. Response to Mandatory Minimum Requirements (STAGE 2)		Bidder's Written Response	Max Points Available	Evaluator Score
1	Complete Proposal. Bidder is to submit a complete proposal in compliance with the requirements of this Competitive Solicitation. Have you submitted a complete proposal?		Pass / Fail	Not Applicable
3	Work Outside the U.S. Has your firm conducted business outside the United States in the last three (3) years? <i>If "yes", a Darfur Contracting Act form must be submitted with bid.</i> Please describe, in the space provided, if your firm has conducted business outside the United States in the last three (3) years and if so, confirm that a Darfur Contracting Act form is submitted.		Pass/Fail	Not Applicable
4	Manufacturer Authorization. Bidder, if other than the product manufacturer of the Police Radar/Lidar Products, certifies that it is an authorized distributor, dealer, or service representative of the product manufacturer and has provided signed and dated authorization for each manufacturer bid. Please describe, in the space, provided, if your firm is the manufacturer or an authorized reseller (Not OEM). If authorized reseller, indicate if a manufacturer authorization is submitted.		Pass / Fail	Not Applicable
5	Non-NHTSA Requirements. If Bidder is submitting a bid for Category 2, Group A Speed Enforcement (non-NHTSA approved radar/lidar equipment), confirm with a Yes or No response only that Bidder can perform and fulfill the following requirements: a. Calibration process, including frequency of re-calibration; b. A demonstration of law enforcement endorsement, such as, but not limited to: b1. Proof that equipment was used to uphold a citation in court, or b2. Letter from a law enforcement entity attesting that equipment performed as expected and met expectations; c. Provide an example of when equipment met a law enforcement entity's expectation; and d. Provide documentation available upon request. If Bidder is not bidding in Category 2, Group A Speed Enforcement, simply write N/A.		Pass / Fail	Not Applicable

II. Response to Technical Criteria (STAGE 3)

A. Experience and Qualifications		Bidder's Written Response	Max Points Available	Evaluator Score
1	Firm History. Please describe, in the space provided, the consecutive number of years Bidder has operated selling Bid products. For Scoring: up to 20 points for at least ten (10) years in operation and a two (2) point deduction for every year in business less than ten (10) years (18 points for 9 years, 16 points for 8 years, etc.).		20	

2	<u>Customer Support</u>. Please answer, in the space provided, only with Yes, No, or Partially Yes. Does Bidder have dedicated customer service available during regular business hours of operation between 8:00 a.m. to 5:00 p.m. in each time zone of the United States. Bidder agrees to provide customer service representatives familiar with all products Bidder sells. Bidder agrees to provide contact(s) available 24/7 in the event of an emergency. For Scoring: Full points awarded for answering Yes, if Bidder meets some of the requirements but does not fully meet the above description, answer Partially Yes for half credit. Answering No will award zero (0) points.	60	
3	<u>Customer Support Response Time</u>. Please answer, in number of hours. If a customer submits a customer service inquiry, will they receive assistance, on average, within 24 hours of their response? For Scoring: Full points awarded for 0-24 hours, 25 points for 25-36 hours, 15 points for 37-48 hours, 5 points for 49-72, and zero (0) points for answers greater than 72.	40	

B. Ability to Meet Scope of Work		Bidder's Written Response	Max Points Available	Evaluator Score
1	<u>Delivery</u>. Please answer, in the space provided, only with Yes, No, or Partially Yes. Can Bidder meet the requirement for all orders to be delivered within 180 days After Receipt of Order (ARO)? For Scoring: Full points awarded for answering Yes, if Bidder meets some of the requirements but does not fully meet the above description, answer Partially Yes for half credit. Answering No will award zero (0) points.		30	
4	<u>Products Substitutions</u>. Please answer, in the space provided, only with Yes, No, or Partially Yes. Does Bidder have a product substitution process implemented for faulty products, substitution suggestions for unavailable/obsolete products, or other circumstances where a substitution would be needed? For Scoring: Full points awarded for answering Yes, if Bidder meets some of the requirements but does not fully meet the above description, answer Partially Yes for half credit. Answering No will award zero (0) points.		50	

C. Quality Assurance and Distribution		Bidder's Written Response	Max Points Available	Evaluator Score
1	<u>Quality and Success</u>. Please answer, in the space provided, only with Yes, No, or Partially Yes. Does Bidder have a process implemented to receive customer feedback, process it, and incorporate changes to improve the ordering process and increase customer satisfaction? For Scoring: Full points awarded for answering Yes, if Bidder meets some of the requirements but does not fully meet the above description, answer Partially Yes for half credit. Answering No will award zero (0) points.		50	
2	<u>Distribution Plan</u>. Please answer, in the space provided, only with Yes or No. Can the Bidder distribute and deliver orders nationwide (including Hawaii and Alaska)? For Scoring: Full points awarded for answering Yes. Answering No will award zero (0) points.		50	

<u>Distribution Volume.</u> Please answer, in the space provided, only with Yes or No. Does the Bidder have processes in place to be prepared to supply the volume of products necessary for a national contract? For Scoring: Full points awarded for answering Yes. Answering No will award zero (0) points.		50	
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D. Promotion of the NASPO ValuePoint Cooperative Agreement		Bidder's Written Response	Max Points Available	Evaluator Score
2	<u>Participating Addendum Negotiation.</u> Please answer, in the space provided, only with Yes or No. If awarded, Bidder will then be required to negotiate individual Participating Addendums with participating states or sub-entities within a state. Confirm that Bidder has the capacity and resources to timely negotiate and finalize multiple Participating Addendums. For Scoring: Full points awarded for answering Yes. Answering No will award zero (0) points.		50	
	<u>Participating Addendum Flexibility.</u> Please answer, in the space provided, only with Yes or No. Some entities wishing to sign a Participating Addendum will require the Bidder's flexibility to adopt entity-specific language and/or further requirements. Is the Bidder willing to adapt new terms and meet additional requirements? For Scoring: Full points awarded for answering Yes. Answering No will award zero (0) points.		50	

E. Business Profile		Bidder's Written Response	Max Points Available	Evaluator Score
1	Quality and Success. Please answer, in the space provided, only with Yes, No, or Partially Yes. Does Bidder have a process implemented in the event of a recall that insures Customers will have products quickly repaired or replaced? For Scoring: Full points awarded for answering Yes, if Bidder meets some of the requirements but does not fully meet the above description, answer Partially Yes for half credit. Answering No will award zero (0) points.		50	

Instructions for Informational/Unscored Section: The following questions are unscored and will be used for informational purposes only to better understand Bidder's operations. Please provide complete and succinct responses to each item below. While supplementary marketing materials are neither requested nor desired, responses that address each question are appreciated. **Response to Attachment B must be submitted to DESContractsTeamFir@des.wa.gov as part of a complete bid response .**

Informational/Unscored Questions		Bidder's Written Response	Max Points Available	Evaluator Score
1	If Bidder is submitting a bid for Category 2, Group A Speed Enforcement (non-NHTSA approved radar/lidar equipment), and responded yes to Question #5 in the Pass/Fail Section at the top, describe Bidder's plan to meet the following requirements for Category 2, Group A: a. Calibration process, including frequency of re-calibration; b. A demonstration of law enforcement endorsement, such as, but not limited to: b1. Proof that equipment was used to uphold a citation in court, or b2. Letter from a law enforcement entity attesting that equipment performed as expected and met expectations; c. Provide an example of when equipment met a law enforcement entity's expectation; and d. Provide documentation available upon request If Bidder is not bidding in Category 2, Group A Speed Enforcement, please write N/A.		0	Not Applicable

<u>Delivery</u>. Please describe, in the space provided, Bidder's plan to meet the minimum delivery requirements in Attachment B Scope of Work including: a. Process for ensuring delivery is made to Purchasing Entity's specified destination; b. Ability to meet the maximum one hundred eighty days (180) days ARO requirement or less; and c. Any additional expedited or overnight delivery options.		0	Not Applicable
<u>Customer Service/Hours of Operation</u>. Please describe, in the space provided: a. Hours of operation (including time zones); b. Communication options (i.e. email, phone, text); c. Describe any training/certifications customer service representatives receive to provide expert product consultation services, and d. Describe Bidder's escalation process and point of contact for any customer service issue that cannot be resolved.		0	Not Applicable
<u>Shipping</u>. Please describe, in the space provide, Bidder's plan to meet the shipping requirements: a. How shipments are coordinated between the Bidder or authorized representative and Purchasing Entity; b. Communication between the Bidder or authorized representative and Purchasing Entity; c. Additional shipping alternatives beyond the minimum requirements; and 4. Any restrictions attached to the shipping alternatives.		0	Not Applicable
<u>Factory Testing</u>. Please describe, in the space provided, Bidder's plan to meet the factory testing requirements of Attachment B Scope of Work. To receive the maximum points available, Bidder's response must include the following: a. Factory testing requirements for category/group Bidder is submitting a proposal; b. Certifications, if required for category/group submitting a proposal; and c. Process for Participating Entity receiving any testing or certification documentation support testing and/or certification(s).		0	Not Applicable
<u>Products Substitutions</u>. Please describe, in the space provided, Bidder's plan to meet the product substitution requirement in Attachment B Scope of Work. To receive the maximum points available, Bidder's response must include the following: a. Circumstances when product substitutions may be necessary; b. Timeline for notifying Purchasing Entity; c. Process for notifying the Lead state when products are no longer available; and d. Identifying appropriate substitutions for items no longer available or out of stock.		0	Not Applicable
<u>Quality and Success</u>. Please describe, in the space provided, Bidder's quality assurance measures. How does your firm measure success? Please include: a. Process for seeking customer feedback; b. Frequency feedback is requested; c. Success rate for receiving feedback i.e. percentage of requests received vs number requested; and d. How feedback is used to improve quality, and customer satisfaction		0	Not Applicable
<u>Cooperative Experience</u>. Please describe, in the space provided, Bidder's experience working with contracting cooperatives: a. The number of current cooperatives currently holding a contract; b. A list all cooperatives your firm currently holds a contract; c. Number of previously held cooperative contracts and term date; and d. A description of how cooperative contracts have been promoted.		0	Not Applicable
<u>Product Recall</u>. Please describe, in the space provided, Bidder's process when products recalls occur. To receive the maximum points available, Bidder's response must include the following: a. How Bidder is notified of the recall and the details associated with the recall; b. How Bidder communicates the recall to the Lead State; c. How Bidder communicates recall to Purchasing Entity; and d. How Bidder is impacted by the recall.		0	Not Applicable

	Move original question to unscored/informational	0	Not Applicable
	Does Bidder have a product substitution process implemented for faulty products, substitution suggestions for unavailable/obsolete products, or other circumstances where a substitution would be needed? move to unscored/informational	0	Not Applicable
		0	Not Applicable



Washington State
DEPARTMENT OF
ENTERPRISE SERVICES



COOPERATIVE PURCHASING AGREEMENT

No. 24823

**POLICE RADAR LIDAR SPEED ENFORCEMENT
&
ACCIDENT SCENE RECONSTRUCTION**

For Use by Eligible Purchasing Entities

By and Between

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

and

[Contractor]

February 20, 2024

COOPERATIVE PURCHASING AGREEMENT

No. 24823

POLICE RADAR/LIDAR SPEED ENFORCEMENT & ACCIDENT SCENE RECONSTRUCTION

FOR

(CONTRACT CATEGORY, GROUP)

This Cooperative Purchasing Agreement (“Cooperative Purchasing Agreement”) is made and entered into by and between Enterprise Services acting by and through the State of Washington (“Enterprise Services”) and (“Contractor”) and is dated and effective as of February 20, 2024.

RECITALS

- A. **CONTRACTS FOR GOODS AND/OR SERVICES.** Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish contracts for goods and services to support Washington state agencies. See RCW 39.26.050(1). The Washington State Legislature has authorized Enterprise Services to make these contracts available, pursuant to agreement in which Enterprise Services ensures full cost recovery, to other local or federal government agency or entity, certain public benefit nonprofit organizations, or any tribes located in the State of Washington. See RCW 39.26.050(1) & (2).
- B. **COOPERATIVE PURCHASING.** The Washington State Legislature also has authorized Enterprise Services, on behalf of the State of Washington, to participate in, sponsor, conduct, or administer certain cooperative purchasing agreements. See RCW 39.26.060(1). Such cooperative purchasing agreements are designed to function as cost-effective and efficient enterprise procurement solutions for Washington state agencies and other specified eligible purchasers, authorized by Enterprise Services, to procure goods and/or services from awarded contractors pursuant to a competitive solicitation process. See RCW 39.26.060(2).
- C. **COOPERATIVE PURCHASING – ENTERPRISE SERVICES’ ROLE.** In regard to cooperative purchasing, Enterprise Services’ role and responsibility differs depending on whether Enterprise Services, on behalf of the State of Washington, is exercising its authority to participate in an established cooperative purchasing agreement (e.g., join an existing cooperative purchasing agreement and specify the scope of such joinder and eligible purchasers) or is exercising its authority to collaborate, for example, with one or more other states to develop, solicit, and award a cooperative purchasing agreement. See RCW 39.26.060(1).
- D. **COOPERATIVE PURCHASING – ENTERPRISE SERVICES’ MULTI-STATE PROCUREMENT COLLABORATION THROUGH NASPO VALUEPOINT.** One of the approaches that Enterprise Services utilizes to collaborate with other states to develop, solicit, and award a cooperative purchasing agreement, is NASPO ValuePoint. NASPO Cooperative Organization LLC, doing business as NASPO ValuePoint, is a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO). The NASPO ValuePoint cooperative program is led by state procurement officers from member states. NASPO ValuePoint does not solicit, evaluate, or award cooperative purchasing agreements; rather, NASPO ValuePoint assists

states, for an administrative fee, in their multi-state procurement collaboration to design and implement competitively solicited and awarded cooperative purchasing agreements.

- E. COOPERATIVE PURCHASING – NASPO VALUEPOINT COOPERATIVE MODEL. Pursuant to the NASPO ValuePoint cooperative model, a designated state serves as the ‘lead state’ to conduct a competitive procurement in compliance with the lead state’s procurement laws and award a cooperative purchasing agreement with a contractor for the specified goods and/or services. States (including the District of Columbia and the organized territories of the United States), including the lead state, then may participate in the awarded cooperative purchasing agreement(s) by executing a participating addendum with the awarded contractor. Until a participating addendum is executed by the applicable state (a ‘participating entity’), no agency or other eligible organization (a ‘purchasing entity’) may purchase any goods and/or services pursuant to the cooperative purchasing agreement. Under Washington law, at the time of the competitive solicitation, states may provide supplemental terms and conditions to inform such state’s use of the resulting cooperative purchasing agreement. In addition, pursuant to their participating addendum, states may require certain administrative terms and conditions (e.g., a vendor management fee for sales within the state, state registration and reporting). Awarded contractors, however, have no obligation to condition execution of a participating addendum on substantive terms and conditions that were not competitively procured.
- F. COMPETITIVE SOLICITATION FOR COOPERATIVE PURCHASING AGREEMENT(S). Enterprise Services, with administrative support from NASPO ValuePoint, issued Competitive Solicitation No. 24823 dated (Posting Date) to solicit bids, by Contract Category and Group, for specified *Goods and/or Services* collectively referred to as Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction or Police Radar/Lidar. Pursuant to the Competitive Solicitation, bidders were able to bid for some or all of the specified Contract Categories and Groups that comprised the solicited *Goods and/or Services*. Sixteen (16) states indicated an intent to utilize the resulting cooperative purchasing agreement.
- G. AWARDED CONTRACTOR FOR COOPERATIVE PURCHASING AGREEMENT. Enterprise Services and a multi-state stakeholder team consisting of representatives from Washington, California, Nevada, Oklahoma, and South Carolina, evaluated all responsive bids to the Competitive Solicitation and identified *Contractor* as an apparent successful bidder for the specified Contract Category(ies) and Group(s) identified above.
- H. COOPERATIVE PURCHASING AGREEMENT. The purpose of this *Cooperative Purchasing Agreement* is to establish commercially reasonable contractual terms and conditions for authorized *Purchasing Entities* to purchase specified *Goods and/or Services* from *Contractor*, as set forth herein.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the *Parties* agree as follows:

1. DEFINITIONS.

- 1.1. *COMPETITIVE SOLICITATION*. Competitive Solicitation No. 24823, issued by Enterprise Services, pursuant to Washington’s Procurement Code for Goods/Services

(RCW 39.26) to conduct a competitive procurement process for *Cooperative Purchasing Agreement(s)* for *Goods and/or Services*.

- 1.2. *CONTRACTOR*. The entity identified above who, pursuant to a competitive solicitation process conducted by the *Lead State*, was awarded a *Cooperative Purchasing Agreement* and, as such, is authorized to enter into a *Participating Addendum* with any *Participating Entity* to enable such *Participating Entity* to authorize *Purchasing Entities* to purchase *Goods and/or Services* from this *Cooperative Purchasing Agreement*, as specified by the applicable *Participating Entity* in the *Participating Addendum*.
- 1.3. *COOPERATIVE PURCHASING AGREEMENT(S)*. This *Cooperative Purchasing Agreement* that was competitively solicited and awarded by the *Lead State* to *Contractor* and which, pursuant to a *Participating Addendum* between *Contractor* and *Participating Entity*, may be utilized by those *Purchasing Entities* specified by the applicable *Participating Entity* to purchase specified *Goods and/or Services*.
- 1.4. *ENTERPRISE SERVICES*. The Washington State Department of Enterprise Services, a Washington state governmental agency.
- 1.5. *GOODS AND/OR SERVICES*. The goods and/or services included within the scope of this *Cooperative Purchasing Agreement* and set forth in attached ***Exhibit B – Included Goods and/or Services & Pricing***.
- 1.6. *LEAD STATE*. The State of Washington acting by and through *Enterprise Services*.
- 1.7. *NASPO VALUEPOINT*. NASPO ValuePoint is a division of the National Association of State Procurement Officials (“NASPO”), a 501(c)(3) corporation. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the *Cooperative Purchasing Agreement* as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the *Lead State*.
- 1.8. *PARTICIPATING ADDENDUM*. A bilateral agreement executed by a *Contractor* and a *Participating Entity* incorporating this *Cooperative Purchasing Agreement* and any additional *Participating Entity*-specific language or other requirements (e.g., ordering procedures specific to the *Participating Entity*, entity-specific terms and conditions, etc.).
- 1.9. *PARTICIPATING ENTITY(IES)*. A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a *Participating Addendum*, that has executed a *Participating Addendum*.
- 1.10. *PARTIES*. *Contractor* and the State of Washington acting by and through *Enterprise Services*.
- 1.11. *PURCHASE ORDER(S)*. Any purchase order, sales order, contract or other document used by a *Purchasing Entity* to order the *Products*.

- 1.12. *PURCHASING ENTITY(IES)*). A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Cooperative Purchasing Agreement and becomes financially committed to the purchase.
- 1.13. *WEBS*. The Washington Electronic Business Solutions system administered by *Enterprise Services*. See RCW 39.26.150.

2. **TERM.** The term of this *Cooperative Purchasing Agreement* is up to sixty (60) months. Initially, the term of this *Cooperative Purchasing Agreement* is thirty-six (36) months, commencing February 20, 2024 and ending February 19, 2027; *Provided*, however that, if *Contractor* is not in default and if, by October 1, 2026, in *Enterprise Services'* reasonable judgment, *Contractor* satisfactorily has met the performance-based metrics for extension, *Enterprise Services* shall extend the term of this *Cooperative Purchasing Agreement*, by written amendment, for up to twenty-four (24) additional months. Such term extension, if any, shall be on the same terms and conditions as set forth in this *Cooperative Purchasing Agreement*. To earn the performance-based term extension, *Contractor* must achieve the following performance-based metrics:

PERFORMANCE METRIC	PERFORMANCE REQUIREMENT FOR TERM EXTENSION
Insurance Endorsements:	<i>Contractor</i> timely provides at the designated address, without exception, annual insurance endorsements for the insurance coverages required by this <i>Cooperative Purchasing Agreement</i> . See Exhibit A – Insurance Requirements at § 15.
Administrative Fee Payments:	<i>Contractor</i> provides timely and accurate Administrative Fee payments as detailed in this <i>Cooperative Purchasing Agreement</i> and <i>Participating Addendums</i> . See § 12.
Reports:	<i>Contractor</i> provides timely and accurate reports as detailed in this <i>Cooperative Purchasing Agreement</i> and <i>Participating Addendums</i> . See § 12, 13.3, 14, and 16.

3. **PARTICIPANTS AND SCOPE OF PARTICIPATION.** This *Cooperative Purchasing Agreement* may be utilized pursuant to the following conditions:

- 3.1. **PARTICIPATING ENTITIES.** *Contractor* may not sell *Goods and/or Services* to a *Purchasing Entity* pursuant to this *Cooperative Purchasing Agreement* until the applicable *Participating Entity* for such *Purchasing Entity* has executed a *Participating Addendum* acceptable to *Participating Entity* and *Contractor* that authorizes purchases of such *Goods and/or Services* by *Purchasing Entity*. The terms and conditions set forth in this *Cooperative Purchasing Agreement* are applicable to any *Purchase Order* by any *Purchasing Entity*, except to the extent altered, modified, supplemented, or amended by a *Participating Addendum*; *Provided*, however, that no *Participating Addendum* shall be construed to diminish, modify, or otherwise derogate any provisions in this *Cooperative Purchasing Agreement* between the Lead State and *Contractor*, which terms and conditions were publicly solicited and procured pursuant to an open, transparent, fair, and competitive procurement process. By way of illustration and not limitation, *Participating Entities* may include in their applicable *Participating Addendum* unique administrative, delivery, and invoicing *Participating Entity* requirements, as well as *Participating Entity*-specific confidentiality requirements and similar *Participating Entity*-

specific administrative requirements in *Purchase Orders* utilizing this *Cooperative Purchasing Agreement*.

- 3.2. PARTICIPATING ADDENDUM. Obligations under this *Cooperative Purchasing Agreement* are limited to those *Participating Entities* who have signed a *Participating Addendum* and *Purchasing Entities* within the scope of those *Participating Addenda*. States or other entities permitted to participate may use an informal competitive or other process to determine which *Cooperative Purchasing Agreements* to participate in through execution of a *Participating Addendum*. *Participating Entities* incur no financial obligations on behalf of other *Purchasing Entities*. *Contractor* shall email a fully executed PDF copy of each *Participating Addendum* as instructed by the *Lead State* to support documentation of participation and posting in appropriate databases.
- 3.3. ENTITY RIGHTS. Except to the extent modified by a *Participating Addendum* in accordance with this *Cooperative Purchasing Agreement*, each *Participating Entity* (and their authorized *Purchasing Entities*) shall follow the terms and conditions of this *Cooperative Purchasing Agreement* and applicable *Participating Addendum* and shall have the same rights and responsibilities for their purchases as the *Lead State* has in this *Cooperative Purchasing Agreement*. Each *Purchasing Entity* shall be responsible for its own charges, fees, and liabilities. *Contractor* shall apply the charges and invoice to each *Purchasing Entity* individually.
- 3.4. PARTICIPATING ADDENDUM APPROVAL. Entities who are not states may, under some circumstances, sign their own *Participating Addendum* as a *Participating Entity*, subject to participation approval by the Chief Procurement Official of the state where such entity is located; Provided, however, that such entities shall, at a minimum, confirm in writing to the applicable Chief Procurement Official of the state where such entity is located that such entity has procurement authority to execute a *Participating Addendum*. Such entities shall coordinate participation requests through NASPO ValuePoint.

4. SCOPE OF COOPERATIVE PURCHASING AGREEMENT – INCLUDED GOODS AND/OR SERVICES & PRICE.

- 4.1. SCOPE. Pursuant to this *Cooperative Purchasing Agreement*, *Contractor* is authorized to sell only those *Goods and/or Services* in the Contract Category(ies) and group(s) stated above and specified in ***Exhibit B – Included Goods and/or Services and Pricing***. *Contractor* shall not represent to any *Participating Entity* or *Purchasing Entity* under this *Cooperative Purchasing Agreement* that *Contractor* has contractual authority to sell any goods and/or services beyond those *Goods and/or Services* in the Contract Category(ies) and group(s) stated above and specified in ***Exhibit B – Included Goods and/or Services and Pricing*** and posted on the NASPO ValuePoint website.
 - (a) *Goods*. For purposes of this *Cooperative Purchasing Agreement*, “Goods” means all equipment, materials, supplies, ancillary parts, accessories, components and other items purchased by *Purchasing Entity* pursuant to this *Cooperative Purchasing Agreement* and specified in ***Exhibit B – Included Goods and/or Services and Pricing*** and as identified in the *Purchase Order*.
 - (b) *Services*. For purposes of this *Cooperative Purchasing Agreement*, “Services” means all services of any nature ordered by *Purchasing Entity* pursuant to this *Cooperative Purchasing Agreement* and specified in

Exhibit B – Included Goods and/or Services and Pricing and as identified in the *Purchase Order*.

- (c) *Specifications*. Where applicable, specifications for *Goods and/or Services* are detailed in this *Cooperative Purchasing Agreement* and the *Purchase Order*. Unless otherwise specified in the *Purchase Order*, all *Goods and/or Services* provided shall be new and unused of the latest model or design.

4.2. ABILITY TO MODIFY SCOPE OF COOPERATIVE PURCHASING AGREEMENT. Subject to mutual agreement of the *Parties*, *Enterprise Services*, acting as the *Lead State*, reserves the right to modify the *Goods and/or Services* included in this *Cooperative Purchasing Agreement*; Provided, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and Provided further, that any such modification must be within the scope of the *Competitive Solicitation* for this competitively procured *Cooperative Purchasing Agreement*.

4.3. GOODS AND/OR SERVICES – PRODUCT UPDATES. Upon approval by *Enterprise Services*, *Contractor* may update, on a semi-annual basis a set forth below, their products included as *Goods and/or Services* specified in ***Exhibit B – Included Goods and/or Services and Pricing***. *Contractor* timely must submit to the *Enterprise Services’ Contract Administrator* a proposed updated product list using Excel with each tab containing products per category/group separately as described below:

- All discontinued products must be struck through and highlighted;
- All product additions must include the MSRP, percentage discount, and contract price;
- All product changes must include an effective date of the change;
- A separate tab labeled “changes” may be created to show all changes;
- At no time during the term of the *Cooperative Purchasing Agreement* shall products be deleted from the products list;
- Product updates must be submitted for review and approval to the *Enterprise Services’ Contract Administrator* thirty (30) days prior to the effective date of the change;
- All products shall be posted on the NASPO ValuePoint website for the entire term of the *Cooperative Purchasing Agreement*; and
- Product updates must be submitted, as described above, according to the Products and Pricing Update Schedule table below:

PRODUCTS AND PRICING UPDATE SCHEDULE		
SEMI-ANNUAL	SUBMITTED BY	EFFECTIVE DATE
January 1 – June 30	June 1	July 1
July 1 – December 31	December 1	January 1

4.4. PRICING CHANGES. All goods, services and related software are based on a percentage off Manufacturer Suggested Retail Price (MSRP). MSRP may be adjusted semi-annually, *Provided further*, that percentage discount remains the same for the entire contract term. The first

MSRP adjustment must be received by March 1, 2024, for an effective date of July 1, 2024, and semi-annually thereafter according to the Product/Pricing Update Schedule table above. Enterprise Services will review for accuracy to ensure the percentage discount remains unchanged prior to posting to the NASPO ValuePoint website.

- 4.5. PRICE CEILING. Although *Contractor* may offer lower prices, including volume discounts, to *Purchasing Entities*, during the term of this *Cooperative Purchasing Agreement*, *Contractor* guarantees to provide the *Goods and/or Services* at no greater than the prices set forth in ***Exhibit B – Included Goods and/or Services and Pricing*** (subject to adjustment as set forth above).
- 4.6. COOPERATIVE PURCHASING AGREEMENT INFORMATION. *Enterprise Services* shall maintain and provide to *Purchasing Entities* information regarding this *Cooperative Purchasing Agreement*, including scope, pricing, and lowest responsive, responsible bidder designation. In addition, *Enterprise Services* identifies awarded contractors who qualify as Washington Small Businesses, Certified Veteran-Owned Businesses, or that, pursuant to the *Cooperative Purchasing Agreement* provide *Goods and/or Services* that meet specified state procurement priorities as set forth in the Competitive Solicitation.

5. CONTRACTOR REPRESENTATIONS AND WARRANTIES. *Contractor* makes each of the following representations and warranties as of the effective date of this *Cooperative Purchasing Agreement* and at the time any *Purchase Order* is placed pursuant to this *Cooperative Purchasing Agreement*. If, at the time of any such *Purchase Order*, *Contractor* cannot make such representations and warranties, *Contractor* shall not process any *Purchase Orders* and shall, within three (3) business days notify *Enterprise Services*, in writing, of such breach.

- 5.1. QUALIFIED TO DO BUSINESS. *Contractor* represents and warrants that *Contractor* is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue and the Washington Secretary of State. *Contractor* further represents and warrants that, within fifteen (15) days of executing any *Participating Addendum* and prior to making any sales pursuant to such *Participating Addendum*, *Contractor* shall (a) be in good standing; (b) qualified to do business in such state; and (c) properly shall have registered to do business in such state.
- 5.2. QUALIFIED TO DO BUSINESS. *Contractor* represents and warrants that *Contractor* is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue and the Washington Secretary of State. *Contractor* further represents and warrants that, within fifteen (15) days of executing any *Participating Addendum* and prior to making any sales pursuant to such *Participating Addendum*, *Contractor* shall (a) be in good standing; (b) qualified to do business in such state; and (c) properly shall have registered to do business in such state.
- 5.3. TAXES. *Contractor* represents and warrants that *Contractor* is current, in full compliance, and has paid all applicable taxes owed to the State of Washington. *Contractor* further represents and warrants that, within fifteen (15) days of executing any *Participating Addendum* and prior to making any sales pursuant to such *Participating Addendum*, *Contractor* shall be current, in full compliance, and have paid all applicable taxes owed to such state.
- 5.4. LICENSES; CERTIFICATIONS; AUTHORIZATIONS; & APPROVALS. *Contractor* represents and warrants that *Contractor* possesses and shall keep current during the term of this *Cooperative Purchasing Agreement* all required licenses, certifications, permits, authorizations, and

approvals necessary for *Contractor's* proper performance of this *Cooperative Purchasing Agreement*.

- 5.5. **SUSPENSION & DEBARMENT.** *Contractor* represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.
- 5.6. **WAGE VIOLATIONS.** *Contractor* represents and warrants as previously certified in *Contractor's* Bidder's Certification, that during the term of this *Cooperative Purchasing Agreement* and the three (3) year period immediately preceding the award of this *Cooperative Purchasing Agreement*, *Contractor* has not been determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW 49.46, 49.48, or 49.52.
- 5.7. **CIVIL RIGHTS.** *Contractor* represents and warrants that *Contractor* complies with all applicable requirements regarding civil rights. Such requirements prohibit discrimination against individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 5.8. **EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS.** *Contractor* represents and warrants, as previously certified in *Contractor's* Bidder's Certification, that *Contractor* does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. *Contractor* further represents and warrants that, during the term of this *Cooperative Purchasing Agreement*, *Contractor* shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.
- 5.9. **WASHINGTON SMALL BUSINESS.** *Contractor* represents and warrants, as previously certified in *Contractor's* Bidder's Certification, that *Contractor* qualifies as a Washington Small Business as defined and set forth in *Contractor's* Bidder's Certification.
- 5.10. **CERTIFIED VETERAN-OWNED BUSINESS.** *Contractor* represents and warrants, as previously certified in *Contractor's* Bidder's Certification, that *Contractor* qualifies as a Certified Veteran-Owned Business as defined and set forth in *Contractor's* Bidder's Certification.
- 5.11. **PUBLIC CONTRACTS AND PROCUREMENT FRAUD.** *Contractor* represents and warrants that, within the three (3) year period prior to this *Cooperative Purchasing Agreement*, neither *Contractor* nor its principals or affiliates: (a) have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, local, or tribal) contract or purchase order under a public contract; (b) have been in violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) have been indicted for or otherwise criminally or civilly charged by a government entity (federal, state, local, or tribal) with commission of any of the offense enumerated in subsection (b) of this provision; or (d) had one or more public contracts (federal, state, local, or tribal) terminated for cause or default.

- 5.12. **PROCUREMENT ETHICS & PROHIBITION ON GIFTS.** *Contractor* represents and warrants that *Contractor* complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against *Contractor* providing gifts or anything of economic value, directly or indirectly, to *Purchasing Entities*' employees.
- 5.13. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS).** *Contractor* represents and warrants that *Contractor* is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of *Contractor*'s information therein is current and accurate and that throughout the term of this *Cooperative Purchasing Agreement*, *Contractor* shall maintain an accurate profile in WEBS. Washington's Electronic Business Solution (WEBS).
- 5.14. **COOPERATIVE PURCHASING AGREEMENT PROMOTION; ADVERTISING AND ENDORSEMENT.** *Contractor* represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this *Cooperative Purchasing Agreement* with eligible *Purchasing Entities* and to ensure that those entities that utilize this *Cooperative Purchasing Agreement* are eligible *Purchasing Entities*. *Contractor* understands and acknowledges that neither *Enterprise Services* nor *Purchasing Entities* are endorsing *Contractor's Goods and/or Services* or suggesting that such *Goods and/or Services* are the best or only solution to their needs. Accordingly, *Contractor* represents and warrants that it shall make no reference to *Enterprise Services*, any *Purchasing Entity*, or the State of Washington in any promotional material without the prior written consent of *Enterprise Services*.
- 5.15. **CONTINGENT FEES.** *Contractor* represents and warrants that no person or selling agent has been employed or retained to solicit or secure this *Cooperative Purchasing Agreement* upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agents as defined in the Federal Acquisition Regulations.
- 5.16. **FINANCIALLY SOLVENT.** *Contractor* represents and warrants that *Contractor* has not commenced bankruptcy proceedings and that there are no judgment, liens, or encumbrances of any kind affecting title to any *Goods and/or Services* that are the subject of this *Cooperative Purchasing Agreement*.
- 5.17. **OPERATIONAL CAPABILITY.** *Contractor* represents and warrants, as previously certified in *Contractor's Bidder's Certification*, that *Contractor* has the operational and financial capability to perform this *Cooperative Purchasing Agreement*.
- 5.18. **COOPERATIVE PURCHASING AGREEMENT TRANSITION.** *Contractor* represents and warrants that, in the event this *Cooperative Purchasing Agreement* is transitioned to another contractor (e.g., *Cooperative Purchasing Agreement* expiration or termination), *Contractor* shall use commercially reasonable efforts to assist *Enterprise Services* and *Purchasing Entities* hereunder for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington and such *Purchasing Entities*; Provided, however, that, if costs are incurred, *Contractor* shall be compensated for such costs consistent with the terms and conditions pertaining to this *Cooperative Purchasing Agreement* for the sixty (60) day period immediately before such transition.

6. QUALITY; WARRANTY; REMEDIES.

- 6.1. **GOODS WARRANTY.** *Contractor* warrants that, for a period of twelve (12) months from the date when the Goods are put into use, or eighteen (18) months after delivery of the Goods,

whichever is later (“Goods Warranty Period”), the Goods: (a) are free from defects in design, material, and workmanship; (b) are fit and safe for the intended purposes and appropriate for the specified application(s) (if any); (c) are consistent with recognized industry quality standards; (d) comply with the requirements, specifications, drawings, standards, and descriptions included in this Contract; and (e) are produced and delivered in full compliance with applicable law (“Goods Warranty”). *Contractor* further warrants that it has good and marketable title to the Goods and shall keep *Purchasing Entity’s* property free of liens. If *Purchasing Entity* receives notice of a lien caused by *Contractor*, *Purchasing Entity* may withhold any payment otherwise due *Contractor* until *Contractor* submits proof, in a form satisfactory to *Purchasing Entity*, that all lienable claims have been fully paid or waived.

- 6.2. **GOODS REMEDY.** If Goods do not comply with the Goods Warranty or any defects develop during the Goods Warranty Period under normal use, at *Purchasing Entity’s* election, *Contractor* promptly shall remedy the defect by replacing any defective Goods. *Contractor’s* Goods Warranty support shall include, at *Contractor’s* sole expense, all technical support, parts, materials and equipment, and labor, including freight and “in/out” costs required to address the defect. If, in *Purchasing Entity’s*, replacement is inadequate, or fails of its essential purpose, *Contractor* shall refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys’ fees and costs.
- 6.3. **SERVICES WARRANTY.** *Contractor* warrants that: (a) Services shall be performed in a timely, efficient, and professional manner; (b) all *Contractor* personnel assigned to perform Services shall have the necessary skill and training; and (c) Services shall be performed in a manner consistent with the standard of care in the industry (“Services Warranty”). The Services Warranty shall survive for a period of twelve (12) months after the date when Services are completed (“Services Warranty Period”).
- 6.4. **SERVICES REMEDY.** If Services do not comply with the Services Warranty or are in any manner found to be nonconforming during the Services Warranty Period, *Contractor* promptly shall remedy the non-conformance, or at *Purchasing Entity’s* election, *Contractor* shall re-perform or correct the nonconforming Services at no additional cost to *Purchasing Entity* or refund the amounts paid for the Services.
- 6.5. **IT WARRANTY.** *Contractor* warrants, that all hardware, software, and firmware associated with *Goods and/or Services* (“IT Goods” and “IT Services”, respectively) shall not: (a) contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (i) damage, destroy, or alter any software or hardware; (ii) reveal, damage, destroy, or alter any data; (iii) disable any computer program automatically; or (iv) permit unauthorized access to any software or hardware; (b) contain any third party software (including software that may be considered free software or open source software) that (i) may require any software to be published, accessed, or otherwise made available without the consent of *Purchasing Entity*, or (ii) may require distribution, copying, or modification of any software free of charge; and (c) infringe on any patent, copyright, trademark, or other proprietary or intellectual property right of any third party or misappropriate any trade secret of any third party (“IT Warranty”). The IT Warranty shall expire twelve (12) months after the date IT Goods are delivered or IT Services are complete, as applicable.

- 6.6. IT REMEDY. If IT Goods or IT Services do not comply with the IT Warranty, or if any defect or non-conformance develops during the IT Warranty Period, *Contractor*, at *Purchasing Entity's* election, promptly shall: (a) remedy the defect by removing, repairing, correcting or replacing, and/or reinstalling any defective IT Goods; (b) re-perform or correct the non-conforming IT Services at no additional cost to *Purchasing Entity's*; or (c) refund the amounts paid for IT Services and IT Goods.
- 6.7. FAILURE TO REMEDY. If *Contractor* does not remedy a defect or nonconformity within ten (10) calendar days after receipt of written notice from *Purchasing Entity*, or if an emergency exists rendering it impossible or impractical for *Purchasing Entity* to have *Contractor* provide a remedy, *Purchasing Entity* may, without prejudice to any other rights or remedies available to it, make or cause to be made required modifications, adjustments, or repairs, or may replace Goods, Services, IT Goods, or IT Services, in which case *Contractor* shall reimburse *Purchasing Entity* for its actual costs or, at *Purchasing Entity's* option, *Purchasing Entity* shall offset the costs incurred from amounts owing to *Contractor*.
- 6.8. TECHNICAL SUPPORT. During any applicable warranty period, *Contractor* shall provide all warranty service and telephone support, including after-hour technical support, at its own cost. *Contractor* shall maintain a technical support hotline to address breakdowns and safety incidents.
- 6.9. ADDITIONAL WARRANTY OPTIONS. *Contractor* may offer warranty terms beyond the minimum warranties set forth above. Such additional warranty options, if any, shall be as mutually agreed between *Contractor* and *Purchasing Entity* and consistent with the additional warranty options, if any, set forth in **Exhibit B – Included Goods and/or Services and Pricing** and *Contractor's* Products & Price list on the NASPO ValuePoint website.
- 7. SAFETY; SECURITY; CONTRACTOR REQUIREMENTS WHILE ON PURCHASING ENTITY'S PREMISES.** *Contractor's* failure to comply with any of the requirements in this Section shall be cause for termination.
- 7.1. REGULATORY REQUIREMENTS/SAFETY. *Goods and/or Services* supplied by *Contractor* shall meet all applicable health and safety-related federal, state, and/or local regulatory requirements applicable to the *Goods and/or Services*.
- 7.2. MATERIAL SAFETY DATA SHEETS. As applicable, *Contractor* shall provide *Purchasing Entities* with all appropriate current Material Safety Data Sheets ("MSDS") at the time of delivery of each shipment of *Goods and/or Services* that requires such compliance and/or and for materials used by *Contractor* while, on *Purchasing Entity's* premises, performing this *Cooperative Purchasing Agreement*.
- 7.3. CLEAN-UP. If *Contractor*, its agents, employees, or subcontractors perform on-site services, *Contractor*, at its cost, shall remove all excess materials, equipment, packaging, and garbage within the scope of its performance of services and leave that portion of the premises in which the work was performed in a clean condition. Should *Contractor* fail to clean up a site after completion of work, *Purchasing Entity* shall have the right to remove the materials and set off the cost of clean up against amounts owed to *Contractor*.
- 7.4. ACCIDENT AND INJURY REPORTING. If *Contractor*, its agents, employees, or subcontractors are present at *Purchasing Entity's* premises, *Contractor* promptly shall report in writing all injuries, accidents, property damage, near-miss incidents, or any claims regarding damages or injury involving *Contractor*, its agents, employees, or subcontractors occurring at such premises. *Contractor* agrees to cooperate and assist *Purchasing Entity* in any investigation of incidents.

- 7.5. ON-SITE REQUIREMENTS. While on *Purchasing Entity's* premises, *Contractor*, its agents, employees, or subcontractors shall comply, in all respects, with *Purchasing Entity's* physical, fire, access, safety, health, and security requirements and not interfere with *Purchasing Entity's* operations.
- 7.6. CONFIDENTIALITY; SAFEGUARDING OF INFORMATION. *Contractor* shall not use or disclose any information concerning *Enterprise Services*, the State of Washington or *Purchasing Entity's* which may be classified as confidential, for any purpose not directly connected with the administration of this *Cooperative Purchasing Agreement*, except with prior written consent of *Enterprise Services* (or the applicable *Purchasing Entity*), or as may be required by law.
- 7.7. CONFIDENTIAL INFORMATION; DATA SECURITY; NETWORK ACCESS
- (a) CONFIDENTIAL INFORMATION. For purposes of this Cooperative Purchasing Agreement, "Confidential Information" includes, but is not limited to, information that is deemed confidential under federal or state law, personal information as defined in [RCW 42.56.590](#), as well as any information identified, in writing, by Purchasing Entity as confidential or protected.
 - (b) PROTECTION OF CONFIDENTIAL INFORMATION. Notwithstanding any provision to the contrary, Contractor's use of Confidential Information will be in compliance with all applicable state and federal law. At a minimum, Contractor shall maintain records documenting: (i) the Confidential Information received pertaining to this Cooperative Purchasing Agreement; (ii) the purpose(s) for which the Confidential Information was received; (iii) who received and maintained the Confidential Information; and (iv) final disposition of the Confidential Information. Purchasing Entity reserves the right to monitor, audit, and/or investigate Contractor's use of Confidential Information used, collected, or acquired by Supplier pursuant to this Cooperative Purchasing Agreement.
 - (c) CONTRACTOR OBLIGATION – CONFIDENTIAL INFORMATION. If Confidential Information is collected, stored, or transmitted, Contractor shall: (i) hold Confidential Information in strictest confidence and not make use of Confidential Information for any purpose other than the performance of this Cooperative Purchasing Agreement; (ii) release Confidential Information only to authorized employees or agents requiring such information for the purpose of performing this Cooperative Purchasing Agreement and who have executed an appropriate nondisclosure agreement or data sharing agreement as approved by Purchasing Entity; (iii) implement and maintain physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information including, but not limited to, storing Confidential Information on secure servers with access to the data strictly controlled and limited to staff with appropriate training and clearance; and (iv) ensure that all Confidential Information is encrypted in transmission from and to Contractor, at rest in the data base or other data facility maintained or used by Contractor, and when transmitted to authorized recipients.
 - (d) CONTRACTOR OBLIGATION – DATA SECURITY. If the Cooperative Purchasing Agreement involves Purchasing Entity's Data and/or access to Purchasing Entity's IT network, Contractor, at its expense, will comply with the data security requirements set forth in *Attachment C – Data Security Requirements*.
 - (e) CONTRACTOR OBLIGATION – EXPIRATION OR TERMINATION. Upon expiration or termination of this Purchase Order, Contractor, at Purchasing Entity's direction, timely will: (i) Certify to Purchasing Entity that all Confidential Information has been destroyed; or (ii) return all

Confidential Information to Purchasing Entity; or (iii) take whatever other actions Purchasing Entity requires of Contractor to protect such Confidential Information.

- 7.8. NETWORK ACCESS. During its performance of this Cooperative Purchasing Agreement, Contractor may be granted access to Purchasing Entity's computer and telecommunication networks ("Networks"). As a condition of Network use, Contractor shall: (a) use the Networks in compliance with all applicable laws, rules, and regulations; (b) use software, protocols, and procedures as directed by Purchasing Entity to access and use the Networks; (c) only access Network locations made available to Contractor by Purchasing Entity; (d) not interfere with or disrupt other users of the Networks; (e) assure the transmissions over the Networks by Contractor (i) do not contain any libelous, defamatory, profane, offensive, obscene, pornographic, or unlawful material, and (ii) are not used to perform any illegal activities, including but not limited to, encouraging, selling, or soliciting illegal drugs, gambling, pornography, prostitution, robbery, spreading computer worms or viruses, hacking into computer systems, or trafficking credit card codes; and (f) upon termination or expiration of the Cooperative Purchasing Agreement, relinquish all IP addresses or address blocks assigned to them on the Networks. Additionally, Contractor shall comply with Purchasing Entity's IT policies.
- 7.9. TREATMENT OF ASSETS. Title to all property furnished by any *Participating Entity* and/or *Purchasing Entity* shall remain with such *Participating State* and/or *Purchasing Entity*, as applicable. Any property of any *Participating Entity* and/or *Purchasing Entity* furnished to *Contractor* shall, unless otherwise provided herein or approved by such *Participating Entity* and/or *Purchasing Entity*, be used only for the performance of this *Cooperative Purchasing Agreement*. *Contractor* shall be responsible for damages as a result of any loss or damage to property of any *Participating Entity* and/or *Purchasing Entity* to the extent it results from the negligence of *Contractor* or to the extent it results from the failure on the part of *Contractor* to maintain, administer, and protect that property in a reasonable manner and to the extent practicable in all instances. If any such *Participating Entity* and/or *Purchasing Entity* property is lost, destroyed, or damaged, *Contractor* immediately shall notify such *Participating Entity* and/or *Purchasing Entity* and shall take all reasonable steps to protect the property from further damage. *Contractor* shall surrender to such *Participating Entity* and/or *Purchasing Entity* all property of such *Participating Entity* and/or *Purchasing Entity* prior to settlement upon completion or termination of the applicable *Purchase Order*. Title to all property furnished by *Contractor*, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this *Cooperative Purchasing Agreement*, shall pass to and vest in the *Purchasing Entity* upon delivery of such property by *Contractor* and acceptance by the *Purchasing Entity*. Title to other property, the cost of which is reimbursable to *Contractor* under this *Cooperative Purchasing Agreement*, shall pass to and vest in the *Purchasing Entity* upon: (a) issuance for use of such property in the performance of this *Cooperative Purchasing Agreement*; (b) commencement of use of such property in the performance of this *Cooperative Purchasing Agreement*; or (c) reimbursement of the cost thereof by the *Purchasing Entity* in whole or in part, whichever first occurs. Title to software shall not pass to *Purchasing Entity* but shall be licensed.

8. SUBCONTRACTORS & CONTRACTOR RESPONSIBILITIES.

- 8.1. CONTRACTOR RESPONSIBILITY. Notwithstanding any provision to the contrary, in the event *Contractor* elects to utilize subcontractors to perform this *Cooperative Purchasing Agreement*, Contractor shall: (a) incorporate *Contractor's* responsibilities under this *Cooperative*

Purchasing Agreement into its subcontracts; (b) be fully responsible for the performance of any such subcontractors (regardless of tier) and ensure that subcontractors comply with each and every *Contractor* obligation set forth in this *Cooperative Purchasing Agreement*; (c) be the sole point of contact for *Enterprise Services* and any *Purchasing Entities* regarding all contractual matters; (d) ensure that such subcontractors are registered in WEBS; and (e) defend, indemnify, and hold *Enterprise Services* and *Purchasing Entities* harmless in case of negligence, other tortious fault, or intentional misconduct by any such subcontractors (regardless of tier). Prior to utilizing any subcontractor to perform this *Cooperative Purchasing Agreement*, *Contractor* shall provide written notice to *Enterprise Services*' contract administrator. Such notice shall confirm that the subcontractor is registered in WEBS and provide the necessary information for *Enterprise Services*' contract administrator to include such subcontractor(s) in Washington's Purchasing Contract Management System (PCMS).

- 8.2. REPORTING. If *Contractor* is required to report to *Purchasing Entities* and/or *Enterprise Services*, such report(s) shall include subcontractor data, by subcontractor, for any data that *Contractor* is required to report as well as a consolidated 'rollup' report combining *Contractor* and subcontractor data.
- 8.3. SUBCONTRACTOR REPRESENTATIONS AND CERTIFICATIONS. Any *Contractor* representations or certifications set forth in this *Cooperative Purchasing Agreement* shall apply to subcontractors (at any tier) and *Contractor* shall not utilize any subcontractors (at any tier) who cannot provide such representations or certifications, excepting the certification to be registered with Washington's Statewide Payee Desk, unless *Purchasing Entities* shall pay such subcontractor directly.
- 8.4. CONTRACTOR RESPONSIBILITIES. *Contractor* shall be responsible for successful performance of the *Cooperative Purchasing Agreement* and for the successful performance of any and all of *Contractor's* partners. *Contractor* shall be the sole point of contact as applicable by *Cooperative Purchasing Agreement* with regard to contractual matters, payment of any and all charges resulting from the purchase of *Goods and/or Services* (including applicable warranties) for the term of the *Cooperative Purchasing Agreement*, unless otherwise specified by a *Participating Entity*, in a *Participating Addendum*, or the *Cooperative Purchasing Agreement*. *Contractor* shall be able to receive, process, and invoice Purchase Orders unless the *Participating Entity* has agreed to assign these functions to a partner. *Contractor* shall be responsible for compliance with requirements under the *Cooperative Purchasing Agreement*, even if requirements are delegated to partners. *Contractor* and its partners shall not in any way represent themselves in the name of the *Lead State*, NASPO ValuePoint or *Participating Entities*.

9. USING THE COOPERATIVE PURCHASING AGREEMENT – PURCHASES.

- 9.1. ORDERING REQUIREMENTS. *Purchasing Entities* shall order *Goods and/or Services* from this *Cooperative Purchasing Agreement*, consistent with the terms hereof and by using any ordering mechanism agreeable both to *Contractor* and *Purchasing Entity* but, at a minimum, including the use of a *Purchase Order*. The terms of this *Cooperative Purchasing Agreement* shall apply to any *Purchase Order*, and, in the event of any conflict, the terms of this *Cooperative Purchasing Agreement* shall prevail. Notwithstanding any provision to the contrary, in no event shall any 'click-agreement,' software or web-based application terms and conditions, or other agreement modify the terms and conditions of this *Cooperative Purchasing Agreement*.

- (a) All Purchase Orders must, at a minimum, reference
 - This *Cooperative Purchasing Agreement* number;
 - The place and requested time of delivery;
 - A billing address;
 - The name, phone number, and address of the *Participating Entity* representative;
- (b) All communications concerning a *Purchasing Entity's Purchase Order(s)* shall be furnished solely to *Purchasing Entity's* authorized purchasing agent or to such other individual identified in writing in the *Purchase Order*.
- (c) *Purchase Orders* shall be placed pursuant to this *Cooperative Purchasing Agreement* prior to expiration or termination of this *Cooperative Purchasing Agreement*; but such *Purchase Orders* may have a delivery date or performance period up to 120 days after expiration of this *Cooperative Purchasing Agreement* and, in such event, *Contractor* shall perform in accordance with the terms of such *Purchase Orders*.
- (d) *Contractor* shall not honor any *Purchase Orders* that are: (1) placed after the expiration or termination of this *Cooperative Purchasing Agreement*; or (2) inconsistent with this *Cooperative Purchasing Agreement*. *Purchase Orders* from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this *Cooperative Purchasing Agreement* may not be placed after the expiration or termination of this *Cooperative Purchasing Agreement*, notwithstanding the term of any such indefinite delivery order agreement.

9.2. DELIVERY REQUIREMENTS. *Contractor* must ensure that delivery of *goods and/or services* will be made as required by this *Cooperative Purchasing Agreement*, the *Purchase Order* used by *Purchasing Entities*, or as otherwise mutually agreed in writing between the *Purchasing Entity* and *Contractor*. The following apply to all deliveries:

- (a) *Contractor* shall make all deliveries to the applicable delivery location specified in the *Purchase Order*. Such deliveries shall occur during *Purchasing Entity's* normal work hours and within the time period mutually agreed in writing between *Purchasing Entity* and *Contractor* at the time of *Purchase Order* placement. Deliveries to be off-loaded at *Purchasing Entity's* receiving dock or designated job site by *Contractor*.

With the exception of Group B Speed Advisory Systems (if included within the *Goods and/or Services*), *Contractor* shall ship all goods purchased pursuant to this *Cooperative Purchasing Agreement* freight charges prepaid by *Contractor*, FOB *Purchasing Entity's* specified destination, with all transportation and handling charges included. Freight charges for Group B Speed Advisory Systems (if included within the *Goods and/or Services*) must be mutually agreed in writing and set forth in the *Purchase Order*. *Contractor* shall bear all risk of loss, damage, or destruction of any *Goods and/or Services* ordered hereunder that occurs prior to delivery,

except loss or damage attributable to *Purchasing Entity's* fault or negligence.

- (b) *Contractor* must deliver *Goods and/or Services* according to the ARO (After Receipt of Order) delivery days as indicated in *Contractor's* Products and Price list. Delivery days ARO must not exceed one-hundred eighty (180) days.
- (c) All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the *Purchasing Entity's Purchase Order* number.
- (d) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this *Cooperative Purchasing Agreement* shall be identified by the *Cooperative Purchasing Agreement* number set forth on the cover of this *Cooperative Purchasing Agreement* and the applicable *Purchase Order* number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.
- (e) *Purchasing Entities* may return unopened or unused *Goods and/or Services* within thirty (30) days of receipt for full credit, minus any freight or reasonable restocking fee. *Contractor*, however, is responsible for shipping costs pertaining to *Purchasing Entity's* return of any defective *Goods and/or Services*.

9.3. RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES. *Goods and/or Services* purchased under this *Cooperative Purchasing Agreement* are subject to *Purchasing Entity's* reasonable inspection, testing, and approval at *Purchasing Entity's* destination. Such inspection and approval shall be determined within thirty (30) days of delivery. *Purchasing Entity* reserves the right to reject and refuse acceptance of *Goods and/or Services* that are not in accordance with this *Cooperative Purchasing Agreement* and *Purchasing Entity's Purchase Order*. *Purchasing Entity* may charge *Contractor* for the cost of inspecting rejected non-conforming *Goods and/or Services*. If there are any apparent defects in the *Goods and/or Services* at the time of delivery, *Purchasing Entity* shall notify *Contractor* within five (5) business days. At *Purchasing Entity's* option, and without limiting any other rights, *Purchasing Entity* may require *Contractor*, consistent with the warranty terms, to replace any non-conforming *Goods and/or Services*, at *Contractor's* expense or, at *Purchasing Entity's* option, *Purchasing Entity* may note any damage to the *Goods and/or Services* on the receiving report, decline acceptance, and deduct the cost of rejected *Goods and/or Services* from payment. Payment for any *Goods and/or Services* under such *Purchase Order* shall not be deemed acceptance of the *Goods and/or Services*.

- (a) All *Goods and/or Services* are subject to inspection at reasonable times and places before acceptance. *Contractor* shall provide right of access to the *Lead State*, or to any other authorized agent or official of the *Lead State* or *Participating Entity* or *Purchasing Entity*, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this *Cooperative Purchasing Agreement*.

Any *Goods and/or Services* that do not meet specifications or requirements herein, may be rejected. Failure to reject upon receipt, however, does not relieve *Contractor* of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when the *Goods and/or Services* are put to use. Acceptance of such *Goods and/or Services* may be revoked in accordance with the provisions of the applicable commercial code, and *Contractor* shall be liable for any resulting expense incurred by *Purchasing Entity* related to the preparation and shipping of any *Goods and/or Services* rejected and returned.

- (b) If any *Goods and/or Services* do not conform to the specifications or requirements herein, *Purchasing Entity* may require *Contractor* to replace such non-conforming *Goods and/or Services*.

- 9.4. INSTALLATION. *Good and/or Services* requiring installation shall be performed by *Contractor* in a professional manner in accordance with industry standard best practices. *Purchasing Entity* reserves the right to require *Contractor* to repair any damage caused during installation or provide full compensation for such damage as determined by *Purchasing Entity*.
- 9.5. SOFTWARE LICENSE AGREEMENT. If any *Goods and/or Services* purchased pursuant to this *Cooperative Purchasing Agreement* require software or firmware to operate, *Contractor's* software license shall apply to such transaction. *Contractor's* software license agreement shall not conflict with the terms and conditions of this *Cooperative Purchasing Agreement* or specific security requirements of *Participating Entity*.
- 9.6. SUBSCRIPTION SERVICES AGREEMENT. If any *Goods and/or Services* purchased pursuant to this *Cooperative Purchasing Agreement* require subscription services to operate, *Contractor's* Subscription Services Agreement shall apply to such transaction. *Contractor's* Subscription Services Agreement shall not conflict with the terms and conditions of this *Cooperative Purchasing Agreement* or the specific security requirements of *Participating Entity*.
- 9.7. PRODUCT SUBSTITUTIONS. All product substitutions for *Goods and/or Services* must be mutually agreed between *Contractor* and *Purchasing Entity* prior to order delivery and must be for products included as *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement*.
- 9.8. CUSTOMER SERVICE. *Contractor* shall be available by telephone or email during regular business hours of operation between 8:00 a.m. to 5:00 p.m. in each time zone of the United States for which *Contractor* has executed a *Participating Addendum* with a *Participating Entity*. *Contractor* shall provide customer service representatives familiar with all products that *Contractor* sells that are included as *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement*. *Contractor* shall provide contact(s) available 24/7 in the event of an emergency.

10. INVOICING & PAYMENT.

- 10.1. CONTRACTOR INVOICE. *Contractor* shall submit to *Purchasing Entity's* designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:
 - *Cooperative Purchasing Agreement* No. 24823

- *Contractor* name, address, telephone number, and email address for billing issues (i.e., *Contractor* Customer Service Representative)
- *Contractor's* Federal Tax Identification Number
- Date(s) of delivery
- Applicable *Goods and/or Services*;
- Invoice amount; and
- Payment terms, including any available prompt payment discounts.

Contractor's invoices for payment shall reflect accurate *Cooperative Purchasing Agreement* prices, less discounts or lower negotiated costs. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.

- 10.2. PAYMENT. Payment is the sole responsibility of, and will be made by, the *Purchasing Entity*. Payment is due within thirty (30) days of invoice. If *Purchasing Entity* fails to make timely payment(s), *Contractor* may invoice *Purchasing Entity* in the amount of one percent (1%) per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified.
- 10.3. OVERPAYMENTS. *Contractor* promptly shall refund to *Purchasing Entity* the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to *Contractor*; Provided, however, that *Purchasing Entity* shall have the right to elect to have either direct payments or written credit memos issued. If *Contractor* fails to make timely payment(s) or issuance of such credit memos, *Purchasing Entity* may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the *Contractor*.
- 10.4. ADVANCE PAYMENT PROHIBITED. Except as authorized by law, *Contractor* shall not request or receive advance payment for any *Goods and/or Services* supplied by *Contractor* pursuant to this *Cooperative Purchasing Agreement*; Provided, however, that the Parties agree that maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.
- 10.5. NO ADDITIONAL CHARGES. Unless otherwise specified herein, *Contractor* shall not include or impose any additional charges including, but not limited to, handling, or payment processing.
- 10.6. TAXES/FEES. *Contractor* promptly shall pay all applicable taxes on its operations and activities pertaining to this *Cooperative Purchasing Agreement*. Failure to do so shall constitute breach of this *Cooperative Purchasing Agreement*. Unless otherwise agreed, *Purchasing Entity* shall pay applicable governmental sales tax on purchased *Goods and/or Services*. In regard to federal excise taxes, *Contractor* shall include federal excise taxes only if, after thirty (30) calendar days written notice to *Purchasing Entity*, *Purchasing Entity* has not provided *Contractor* with a valid exemption certificate from such federal excise taxes.

11. CONTRACT MANAGEMENT.

- 11.1. CONTRACT ADMINISTRATION & NOTICES. Except for legal notices, the *Parties* designate the following contract administrators as the respective single points of contact for purposes of this *Cooperative Purchasing Agreement*. *Enterprise Services'* contract administrator shall provide *Cooperative Purchasing Agreement* oversight. *Contractor's* contract administrator shall be *Contractor's* principal contact for business activities under this *Cooperative*

Purchasing Agreement. The *Parties* may change contractor administrators by written notice as set forth below.

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

Enterprise Services

Washington Dept. of Enterprise Services
Attn: Contract Administrator 24823
PO Box 41411
Olympia, WA 98504-1411
Tel: (360) 407-2218
Email: DESContractsTeamFir@des.wa.gov

[Contractor]

Attn:
Tel:
Email:

Notices shall be deemed effective upon date received, if mailed, or, if emailed, upon date of transmission to the designated email address.

- 11.2. CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE. *Contractor* shall designate a customer service representative (and notify *Enterprise Services* of the same) who shall be responsible for addressing *Purchasing Entity* issues pertaining to this *Cooperative Purchasing Agreement*. *Contractor* shall notify *Enterprise Services*, as soon as practicable, regarding any changes to the designated *Contractor* customer service representative.

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

Enterprise Services

Washington Dept. of Enterprise Services
Attn: Legal Services Manager
PO Box 41411
Olympia, WA 98504-1411
Email: greg.tolbert@des.wa.gov

[Contractor]

Attn:
Address:
Email:

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

- 12. NASPO VALUEPOINT PROVISIONS.** *NASPO ValuePoint* is not a party to this *Cooperative Purchasing Agreement*. The terms set forth in this section are for the benefit of *NASPO ValuePoint* as a third-party beneficiary of this *Cooperative Purchasing Agreement*.

12.1. ADMINISTRATIVE FEES

- (a) NASPO VALUEPOINT FEE. *Contractor* shall pay to *NASPO ValuePoint*, or its assignee, a *NASPO ValuePoint* Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The *NASPO ValuePoint* Administrative Fee must be submitted quarterly and is based on all sales of *Goods and/or Services* under this *Cooperative Purchasing Agreement* (less any charges for taxes or shipping). The *NASPO ValuePoint* Administrative Fee is not

negotiable. This fee is included as part of Contractor's pricing submitted with its bid in response to the *Lead State's Competitive Solicitation*.

- (b) STATE IMPOSED FEES. Some states may require an additional fee (e.g., administrative fee or contract management fee) be paid by *Contractor* directly to such state on purchases of *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement* made by *Purchasing Entities* within such state. For all such requests, the fee rate or amount, payment method, and schedule for such fee payments and reports shall be incorporated into the applicable *Participating Addendum* by the *Participating Entity*. Unless agreed to in writing by the *Participating Entity*, *Contractor* may not adjust the *Cooperative Purchasing Agreement* pricing to include such state fee for purchases of *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement* made by *Purchasing Entities* within the jurisdiction of such state. No such agreement shall affect the *NASPO ValuePoint* Administrative Fee percentage or the prices paid by *Purchasing Entities* outside the jurisdiction of such state requesting the additional fee.

12.2. NASPO VALUEPOINT REPORTING REQUIREMENTS

- (a) SALES DATA REPORTING. In accordance with this section, *Contractor* shall report to *NASPO ValuePoint* all *Purchase Orders* under this *Cooperative Purchasing Agreement* for which *Contractor* has invoiced a *Purchasing Entity* ("Sales Data"). Timely and complete reporting of Sales Data is a material requirement of this *Cooperative Purchasing Agreement*. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by *NASPO ValuePoint* with reasonable notice to *Contractor* and without amendment to this *Cooperative Purchasing Agreement*. *NASPO ValuePoint* shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.
- (b) SUMMARY SALES DATA. "Summary Sales Data" is Sales Data reported as cumulative totals by state. *Contractor* shall, using the reporting tool or template provided by *NASPO ValuePoint*, report Summary Sales Data to *NASPO ValuePoint* for each calendar quarter no later than thirty (30) days following the end of the quarter. If *Contractor* has no reportable Sales Data for the quarter, *Contractor* shall submit a zero-sales report.
- (c) DETAILED SALES DATA. "Detailed Sales Data" is Sales Data that includes for each *Purchase Order* all information required by this *Cooperative Purchasing Agreement* or by *NASPO ValuePoint*, including *Purchasing Entity* information, *Purchase Order* information, and line-item details. *Contractor* shall, using the reporting tool or template provided by *NASPO ValuePoint*, report Detailed Sales Data to *NASPO ValuePoint* for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in this *Cooperative Purchasing Agreement* or provided by *NASPO*

ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

- (d) **SALES DATA CROSSWALKS.** Upon request by *NASPO ValuePoint*, *Contractor* shall provide to *NASPO ValuePoint* tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data (“Crosswalks”). Customer Crosswalks must include a list of existing and potential *Purchasing Entities* and identify for each the appropriate customer type as defined by *NASPO ValuePoint*. Product Crosswalks must include *Contractor’s* part number or SKU for each Product in *Contractor’s* catalog and identify for each the appropriate *Cooperative Purchasing Agreement* category (and subcategory/group, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by *NASPO ValuePoint* with reasonable notice to *Contractor* and without amendment to this *Cooperative Purchasing Agreement*. *Contractor* shall work in good faith with *NASPO ValuePoint* to keep Crosswalks updated as *Contractor’s* customer lists and product catalog change.
- (e) **NASPO VALUEPOINT EXECUTIVE SUMMARY.** *Contractor* shall, upon request by *NASPO ValuePoint*, provide *NASPO ValuePoint* with an executive summary that includes but is not limited to a list of states with an active *Participating Addendum*, states with which *Contractor* is in negotiations, and any *Participating Addendum* roll-out or implementation activities and issues. *NASPO ValuePoint* and *Contractor* will determine the format and content of the executive summary.
- (f) **REPORT OWNERSHIP.** Timely submission of these reports is a material requirement of this *Cooperative Purchasing Agreement*. *Enterprise Services* and *NASPO ValuePoint* shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

13. NASPO VALUEPOINT COOPERATIVE PROGRAM MARKETING AND PERFORMANCE REVIEW

- 13.1. **STAFF EDUCATION.** *Contractor* shall work cooperatively with *NASPO ValuePoint* personnel. *Contractor* shall present plans to *NASPO ValuePoint* for the education of *Contractor’s* contract administrator(s) and sales/marketing workforce regarding this *Cooperative Purchasing Agreement*, including the competitive nature of *NASPO ValuePoint* procurements, the cooperative purchasing agreement and participating addendum process, and the manner in which eligible entities can participate in this *Cooperative Purchasing Agreement*.
- 13.2. **ONBOARDING PLAN.** Upon request by *NASPO ValuePoint*, *Contractor* shall, as *Participating Addendums* are executed, provide plans to launch the program for the *Participating Entity*. Plans will include time frames to launch the agreement and confirmation that the *Contractor’s* website has been updated to properly reflect the scope and terms of this *Cooperative Purchasing Agreement* as available to the *Participating Entity* and eligible *Purchasing Entities*.

- 13.3. ANNUAL SUPPLIER BUSINESS REVIEW. *Contractor* shall participate in an annual contract performance review with the *Lead State* and *NASPO ValuePoint*, which may at the discretion of the *Lead State* be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, *Contractor* reporting, and timeliness of payment of administration fees.
- 13.4. LOGOS. The NASPO ValuePoint logos may not be used by *Contractor* in sales and marketing until a separate logo use agreement is executed with *NASPO ValuePoint*.
- 13.5. MOST FAVORED CUSTOMER. *Contractor* shall, within thirty (30) days of their effective date, notify the *Lead State* and *NASPO ValuePoint* of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this *Cooperative Purchasing Agreement* or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or *Purchase Orders* from this *Cooperative Purchasing Agreement*. Upon request of the *Lead State* or *NASPO ValuePoint*, *Contractor* shall provide a copy of any such provisions.
- 13.6. CANCELLATION. In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Cooperative Purchasing Agreement or not exercise an option to renew, when utilization of Contractor's Cooperative Purchasing Agreement does not warrant further administration of the Cooperative Purchasing Agreement. The Lead State may also exercise its right to not renew the Cooperative Purchasing Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after execution of the Cooperative Purchasing Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Cooperative Purchasing Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Cooperative Purchasing Agreement under applicable laws.
- 13.7. ADDITIONAL AGREEMENT WITH NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Cooperative Purchasing Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Cooperative Purchasing Agreement.

14. RECORDS RETENTION & AUDITS.

- 14.1. RECORDS RETENTION. *Contractor* shall maintain books, records, documents, and other evidence pertaining to this *Cooperative Purchasing Agreement* and *Purchase Orders* placed by *Purchasing Entities* under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. *Contractor* shall retain such records for a period of six (6) years following expiration or termination of this *Cooperative Purchasing Agreement* or final payment for any *Purchase Order* placed by a *Purchasing Entity* against this *Cooperative Purchasing Agreement*, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 14.2. AUDIT. Upon reasonable advance written notice, *Enterprise Services* reserves the right to audit, or have a designated third-party audit, applicable records to ensure that *Contractor* has properly invoiced *Purchasing Entities* and that *Contractor* has paid all applicable fees

pertaining to this *Cooperative Purchasing Agreement*. Accordingly, *Contractor* shall permit *Enterprise Services*, any *Purchasing Entity*, and any other duly authorized agent of a governmental agency, to audit, inspect examine, copy and/or transcribe *Contractor's* books, documents, papers and records directly pertinent to this *Cooperative Purchasing Agreement* or *Purchase Orders* placed by a *Purchasing Entity* under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this *Cooperative Purchasing Agreement* or final payment for any *Purchase Order* placed by a *Purchasing Entity* against this *Cooperative Purchasing Agreement*, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

- 14.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any *Purchasing Entity*, *Contractor* shall reimburse *Purchasing Entities* for any overpayments inconsistent with the terms of this *Cooperative Agreement* or *Purchase Orders*, at a rate of 125% of such overpayments, found as a result of the examination of the *Contractor's* records.

15. INSURANCE.

- 15.1. REQUIRED INSURANCE. During the term of this *Cooperative Purchasing Agreement*, *Contractor*, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit A – Insurance Requirements*. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for *Goods and/or Services* and no additional payment shall be made.
- 15.2. WORKERS COMPENSATION. *Contractor* shall comply with applicable workers compensation statutes and regulations (e.g., Title 51 RCW, Industrial Insurance). If *Contractor* fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, *Enterprise Services* may terminate this *Cooperative Purchasing Agreement*. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from *Contractor*. If *Contractor* performs services on behalf of a *Purchasing Entity* in the State of Washington, and only to the extent of claims against *Contractor* by *Purchasing Entity* under the Indemnity obligations in this *Cooperative Purchasing Agreement*, *Contractor* expressly waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. *Contractor's* indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third-party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The parties expressly acknowledge and certify that the waiver of immunity under Title 51 RCW was mutually negotiated and agreed upon.
- 15.3. INSURANCE CERTIFICATE. Prior to commencement of performance, *Contractor* shall provide to *Enterprise Services* a written endorsement to the *Contractor's* general liability insurance policy or other documentary evidence acceptable to *Enterprise Services* that: (a) names the State of Washington and *Enterprise Services* as additional insureds; (b) provides for written notice of cancellation delivered in accordance with the policy provisions; and (c) provides that the *Contractor's* liability insurance policy shall be primary, with any liability insurance of any *Participating Entity* as secondary and noncontributory. Unless otherwise agreed in any *Participating Addendum*, other state *Participating Entities'* rights and *Contractor's* obligations

are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

16. PUBLIC INFORMATION & PUBLIC RECORDS DISCLOSURE REQUESTS.

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

17. CLAIMS.

- 17.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. *Contractor* assumes sole responsibility and all risks of personal injury or property damage to itself and its employees and agents to the extent caused by its operations under this *Cooperative Purchasing Agreement*. *Enterprise Services* has made no representations regarding any factor affecting *Contractor's* risks. *Contractor* shall pay for all damage to any *Purchasing Entity's* property resulting directly or indirectly from *Contractor's* acts or omissions under this *Cooperative Purchasing Agreement*, to the extent attributable to negligence by *Contractor* or its agents.
- 17.2. THIRD-PARTY CLAIMS; INDEMNITY. To the fullest extent permitted by law, *Contractor* shall defend, indemnify, and hold *Enterprise Services*, any *Purchasing Entity*, and *NASPO ValuePoint* and their respective employees and agents harmless from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities, or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "Claims") to the extent arising out of *Contractor's* or its successors', agents', and/or subcontractors' negligence, other tortious fault, or intentional misconduct under this *Cooperative Purchasing Agreement*. *Contractor* shall take all steps needed to keep *Purchasing Entity's* property free of liens arising from *Contractor's* activities, and promptly obtain or bond the release of any such liens that may be filed. The *Parties* agree that this section is not subject to any limitations of liability in this *Cooperative Purchasing Agreement* or in any other document executed in conjunction with this *Cooperative Purchasing Agreement*.
- 17.3. INDEMNIFICATION – INTELLECTUAL PROPERTY. To the fullest extent permitted by law, *Contractor* shall defend, indemnify, and hold *Enterprise Services*, any *Purchasing Entity*, and *NASPO ValuePoint* and their employees and agents harmless from against any and all Claims resulting from allegations of infringement of any patents, copyrights, trade secret, or similar intellectual property rights covering the *Goods and/or Services* provided, or the use of the *Goods and/or Services* under this *Cooperative Purchasing Agreement*. If *Purchasing Entity's* use of *Goods and/or Services* provided by *Contractor* is enjoined based on an intellectual property infringement Claim, *Contractor* shall, at its own expense, either procure for *Purchasing Entity* the right to continue using the *Goods and/or Services* or, after consulting with *Purchasing Entity* and obtaining *Purchasing Entity's* consent, replace or modify the *Goods and/or Services* with substantially similar and functionally equivalent non-infringing *Goods and/or Services*.

18. DISPUTE RESOLUTION. The *Parties* shall cooperate to resolve any dispute pertaining to this *Cooperative Purchasing Agreement* efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the *Parties* cannot then agree on a resolution of the dispute, the *Parties* shall schedule a conference between the respective senior managers of each organization to attempt to resolve the dispute. In the event the *Parties* cannot agree, either party may resort to court to resolve the dispute.

19. TERMINATION; EXPIRATION; SUSPENSION; & REMEDIES.

- 19.1. TERMINATION. This *Cooperative Purchasing Agreement* may be terminated:
- (a) Upon the mutual written agreement of the *Parties*;
 - (b) By the non-breaching party where the breach is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in this *Cooperative Purchasing Agreement*; and
 - (c) As otherwise expressly provided for in this *Cooperative Purchasing Agreement*.

This *Cooperative Purchasing Agreement* shall terminate automatically and without further action if a party becomes insolvent or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate this *Cooperative Purchasing Agreement* as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach will not affect rights or obligations accrued or owed before the effective date of the termination notice.

- 19.2. TERMINATION FOR WITHDRAWAL OF AUTHORITY. *Enterprise Services* may suspend or terminate this *Cooperative Purchasing Agreement* if, during the term hereof, *Enterprise Services'* procurement authority is withdrawn, reduced, or limited such that *Enterprise Services*, in its judgment, would lack authority to enter into this *Cooperative Purchasing Agreement*; Provided, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and Provided further, that such suspension or termination for withdrawal of authority shall not relieve any *Participating Entity* or *Purchasing Entity* from payment for *Goods and/or Services* already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither *Enterprise Services* nor any *Participating Entity* or *Purchasing Entity* shall have any obligation or liability to *Contractor*. *Contractor* shall be entitled to seek compensation to the extent *Contractor* provides documentary evidence that *Contractor* has incurred additional costs as a result of the suspension.
- 19.3. TERMINATION FOR PUBLIC CONVENIENCE. *Enterprise Services*, for public convenience, may terminate this *Cooperative Purchasing Agreement*; Provided, however, that such termination for public convenience must, in *Enterprise Services'* judgment, be in the best interest of the State of Washington; and Provided further, that such termination for public convenience shall only be effective upon sixty (60) days prior written notice; and Provided further, that such termination for public convenience shall not relieve any *Participating Entity* or *Purchasing Entity* from payment for *Goods and/or Services* already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, neither *Enterprise Services* nor any *Participating Entity* or *Purchasing Entity* shall have any obligation or liability to *Contractor*.
- 19.4. PURCHASING ENTITY OBLIGATIONS – EXPIRATION. Upon expiration of this *Cooperative Purchasing Agreement*, *Purchasing Entity* shall accept and take delivery of all outstanding and not yet fulfilled *Purchase Orders* and pay *Contractor* the price as set out in this *Cooperative Purchasing Agreement*. Notwithstanding any provision to the contrary, in no event shall a *Purchasing Entity's Purchase Order* pursuant to this *Cooperative Purchasing Agreement* that is executed prior to expiration of this *Cooperative Purchasing Agreement* allow for *Contractor*

to provide *Goods and/or Services* more than twelve (12) months beyond the expiration date of the *Cooperative Purchasing Agreement*.

- 19.5. CONTRACTOR OBLIGATIONS – EXPIRATION OR TERMINATION. Upon expiration or termination of this *Cooperative Purchasing Agreement*, *Contractor* shall: (a) continue to fulfill its warranty obligations with respect to any *Goods and/or Services* sold hereunder and all provisions of the *Cooperative Purchasing Agreement* that, by their nature, would continue beyond the expiration, termination, or cancellation of the *Cooperative Purchasing Agreement* shall so continue and survive; and (b) promptly return to *Purchasing Entity* all keys, badges, and other materials supplied by *Purchasing Entity* for the performance of any *Purchase Order* entered into pursuant to this *Cooperative Purchasing Agreement*.
- 19.6. DEFAULT. Any of the following events shall constitute cause for *Enterprise Services* to declare *Contractor* in default of this *Cooperative Purchasing Agreement*:
- (a) *Contractor* fails to perform or comply with any of the terms or conditions of this *Cooperative Purchasing Agreement*;
 - (b) *Contractor* fails to timely report sales required by this *Cooperative Purchasing Agreement* when due;
 - (c) *Contractor* fails to timely pay fees required by this *Cooperative Purchasing Agreement* when due;
 - (d) *Contractor* fails to maintain the insurance coverages specified herein or timely provide to *Enterprise Services* the Certificate of Insurance and updates thereto specified herein;
 - (e) *Contractor* breaches any representation or warranty provided herein; or
 - (f) *Contractor* enters into proceedings relating to bankruptcy, whether voluntary or involuntary.
- 19.7. SUSPENSION & TERMINATION FOR DEFAULT. *Enterprise Services* may suspend *Contractor's* operations under this *Cooperative Purchasing Agreement* immediately by written cure notice of any default. *Contractor* may be required to submit a written cure plan within five (5) business days of such suspension notification. Suspension shall continue until the default is remedied to *Enterprise Services'* reasonable satisfaction; Provided, however, that, if after thirty (30) days from such a suspension notice if *Contractor* has not completed all of the actions set forth in the written cure plan within the timeframe identified in the written cure plan, *Enterprise Services* may terminate *Contractor's* rights under this *Cooperative Purchasing Agreement*. All of *Contractor's* obligations to *Enterprise Services* and *Purchasing Entities* survive termination of *Contractor's* rights under this *Cooperative Agreement*, until such obligations have been fulfilled.
- 19.8. REMEDIES FOR DEFAULT.
- (a) *Enterprise Services'* rights to suspend and terminate *Contractor's* rights under this *Cooperative Purchasing Agreement* are in addition to all other available remedies.
 - (b) In the event of termination for default, *Enterprise Services* may exercise any remedy provided by law including, without limitation, the right to procure for all *Purchasing Entities* replacement *Goods and/or Services*. In such event, *Contractor* shall be liable to *Enterprise Services* for damages as authorized by

law including, but not limited to, any price difference between the *Cooperative Purchasing Agreement* price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement. *Enterprise Services* and *Purchasing Entities* shall mitigate damages and provide *Contractor* with detailed invoices substantiating the charges.

- (c) Unless otherwise specified in the *Participating Addendum*, in the event of a default under a *Participating Addendum*, a *Participating Entity* shall provide a written notice of default as described in this section and have all of the rights and remedies under this section regarding its participation in the *Cooperative Purchasing Agreement*, in addition to those set forth in its *Participating Addendum*. Unless otherwise specified in a *Purchase Order*, a *Purchasing Entity* shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable *Participating Addendum* with respect to a *Purchase Order* placed by the *Purchasing Entity*. Nothing in this *Cooperative Purchasing Agreement* shall be construed to limit the rights and remedies available to *Purchasing Entity* under the applicable commercial code.

19.9. **LIMITATION ON DAMAGES.** Notwithstanding any provision to the contrary, the *Parties* agree that in no event shall any party or *Purchasing Entity* be liable to the other for exemplary or punitive damages and that each party's liability shall not exceed \$2,000,000 per occurrence; Provided, however, that nothing contained in this section shall in any way exclude or limit: (a) a party's liability for all damages arising out of that party's intentional acts or omissions; (b) the operation of any *Goods and/or Services* warranty provided in this *Cooperative Purchasing Agreement*; or (c) damages subject to the Intellectual Property Indemnity section of this *Cooperative Purchasing Agreement*. Any limitation of either party's obligations under this *Cooperative Purchasing Agreement*, by delivery slips or other documentation is void.

19.10. **SUSPENSION/TERMINATION PROCEDURE.** Regardless of basis, in the event of suspension or termination (in full or in part), the *Parties* shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, *Contractor* shall deliver to *Purchasing Entities* all *Goods and/or Services* that are complete (or with approval from *Enterprise Services*, substantially complete) and *Purchasing Entities* shall inspect, accept, and pay for the same in accordance with this *Cooperative Purchasing Agreement* and the applicable *Purchase Order*. Unless directed by *Enterprise Services* to the contrary, *Contractor* shall not process any *Purchase Orders* after notice of suspension or termination inconsistent therewith.

20. PURCHASE ORDER TERMINATION. *Purchase Orders* between *Purchasing Entities* and *Contractor* may be terminated as follows:

- (a) upon the mutual written agreement of the parties to the *Purchase Order*;
- (b) by the non-breaching party where the breach of the *Purchase Order* is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in the applicable *Purchase Order*; and
- (c) as otherwise expressly provided for in the applicable *Purchase Order*.

Purchase Orders shall terminate automatically and without further action if a party to such *Purchase Order* becomes insolvent or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate the *Purchase Order* as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach shall not affect rights or obligations accrued or owed before the effective date of the termination notice.

21. GENERAL PROVISIONS.

- 21.1. TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this *Cooperative Purchasing Agreement*.
- 21.2. COMPLIANCE WITH LAW. *Contractor* shall comply with all applicable laws. *Contractor* shall obtain all necessary permits and approvals and give all stipulations, certifications, and representations that may be required for it to perform this *Cooperative Purchasing Agreement*.
- 21.3. NONDISCRIMINATION.
 - (a) Nondiscrimination Requirement. During the term of this Cooperative Purchasing Agreement, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
 - (b) Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Cooperative Purchasing Agreement pursuant to RCW 49.60.530(3).
 - (c) Default. Notwithstanding any provision to the contrary, Enterprise Services may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Cooperative Purchasing Agreement, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Enterprise Services receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Enterprise Services may terminate this Cooperative Purchasing Agreement in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
 - (d) Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Cooperative Purchasing Agreement termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be

liable for contract damages as authorized by law including, but not limited to, any cost difference between this Cooperative Purchasing Agreement and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Enterprise Services and/or Purchasing Entities shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Enterprise Services and/or Purchasing Entities for default under this provision.

- 21.4. ENTIRE AGREEMENT. This *Cooperative Purchasing Agreement* constitutes the entire agreement and understanding of the *Parties* with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 21.5. AMENDMENT OR MODIFICATION. Except as set forth herein, this *Cooperative Purchasing Agreement* may not be amended or modified except in writing and signed by a duly authorized representative of each party.
- 21.6. AUTHORITY. Each party to this *Cooperative Purchasing Agreement*, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this *Cooperative Purchasing Agreement* and that its execution, delivery, and performance of this *Cooperative Purchasing Agreement* has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- 21.7. NO AGENCY. The *Parties* agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this *Cooperative Purchasing Agreement*. Neither party is an agent of the other party nor authorized to obligate it.
- 21.8. ASSIGNMENT. *Contractor* may not assign its rights under this *Cooperative Purchasing Agreement* without *Enterprise Services'* prior written consent and *Enterprise Services* may consider any attempted assignment without such consent to be void; Provided, however, that, if *Contractor* (a) provides written notice to *Enterprise Services* within thirty (30) days of such event and (b) timely executes *Enterprise Services'* Assignment, Assumption and Consent Agreement. *Contractor* may assign its rights under this *Cooperative Purchasing Agreement* in full to any parent, subsidiary, or affiliate of *Contractor* that controls or is controlled by or under common control with *Contractor*, is merged or consolidated with *Contractor*, or purchases a majority or controlling interest in the ownership or assets of *Contractor*. Unless otherwise agreed, *Contractor* guarantees prompt performance of all obligations under this *Cooperative Purchasing Agreement* notwithstanding any prior assignment of its rights.
- 21.9. BINDING EFFECT; SUCCESSORS & ASSIGNS. This *Cooperative Purchasing Agreement* shall be binding upon and shall inure to the benefit of the *Parties* hereto and their respective successors and assigns.
- 21.10. ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES. *Contractor* irrevocably assigns to *Enterprise Services*, on behalf of the State of Washington, any claim for relief or cause of action which the *Contractor* now has or which may accrue to the *Contractor* in the future by reason of any violation of state or federal antitrust laws in connection with any *Goods and/or Services* provided to *Purchasing Entities* in Washington for the purpose of carrying out *Contractor's* obligations under this *Cooperative Purchasing Agreement*, including,

at *Enterprise Services'* option, the right to control any such litigation on such claim for relief or cause of action.

- 21.11. **FEDERAL FUNDS.** To the extent that any *Purchasing Entity* uses federal funds to purchase *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement*, such *Purchasing Entity* shall specify, with its *Purchase Order*, any applicable requirement or certification that must be satisfied by *Contractor* at the time the order is placed or upon delivery of such *Goods and/or Services* to *Purchasing Entity*.
- 21.12. **SEVERABILITY.** If any provision of this *Cooperative Purchasing Agreement* is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this *Cooperative Purchasing Agreement*, and to this end the provisions of this *Cooperative Purchasing Agreement* are declared to be severable. If such invalidity becomes known or apparent to the *Parties*, the *Parties* agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this *Cooperative Purchasing Agreement*.
- 21.13. **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this *Cooperative Purchasing Agreement*, nor shall any purported oral modification or rescission of this *Cooperative Purchasing Agreement* by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.
- 21.14. **SURVIVAL.** All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this *Cooperative Purchasing Agreement* shall survive and remain in effect following the expiration or termination of this *Cooperative Purchasing Agreement*, Provided, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 21.15. **GOVERNING LAW.**
- (a) **Cooperative Purchasing Agreement.** The validity, construction, performance, and enforcement of this *Cooperative Purchasing Agreement* shall be governed by and construed in accordance with the laws of the State of Washington, without regard to any choice of law principles that would provide for the application of the laws of another jurisdiction.
 - (b) **Participating Addendum & Purchase Orders.** The validity, construction, and effect of any *Participating Addendum* pertaining to the *Cooperative Purchasing Agreement* or *Purchase Order* placed pursuant to such *Participating Addendum* shall be governed by and construed in accordance with the laws of the *Participating Entity's* or *Purchasing Entity's* state without regard to any choice of law principles that would provide for the application of the laws of another jurisdiction.
- 21.16. **JURISDICTION & VENUE.**

- (a) Cooperative Purchasing Agreement. In the event that any action is brought to enforce any provision of this *Cooperative Purchasing Agreement*, the *Parties* agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
 - (b) Purchase Orders. Venue for any claim, dispute, or action concerning any *Purchase Order* placed against the *Cooperative Purchasing Agreement* or the effect of a *Participating Addendum* shall be in the Purchasing Entity's state.
- 21.17. SOVEREIGN IMMUNITY. In no event shall this *Cooperative Purchasing Agreement*, any *Participating Addendum*, or any *Purchase Order* issued thereunder, or any act of the *Lead State*, a *Participating Entity*, or *Purchasing Entity* be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. This section applies to a claim brought against the *Participating Entities* who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court.
- 21.18. ATTORNEYS' FEES. In the event of litigation or other action brought to enforce this *Cooperative Purchasing Agreement*, each party shall bear its own attorneys' fees and costs.
- 21.19. FAIR CONSTRUCTION & INTERPRETATION. The provisions of this *Cooperative Purchasing Agreement* shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this *Cooperative Purchasing Agreement*. Each party hereto and its counsel has reviewed and revised this *Cooperative Purchasing Agreement* and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this *Cooperative Purchasing Agreement*. Each term and provision of this *Cooperative Purchasing Agreement* to be performed by either party shall be construed to be both a covenant and a condition.
- 21.20. FURTHER ASSURANCES. In addition to the actions specifically mentioned in this *Cooperative Purchasing Agreement*, the Parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this *Cooperative Purchasing Agreement* including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this *Cooperative Purchasing Agreement*.
- 21.21. EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this *Cooperative Purchasing Agreement* in their entirety.
- 21.22. CAPTIONS & HEADINGS. The captions and headings in this *Cooperative Purchasing Agreement* are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this *Cooperative Purchasing Agreement* nor the meaning of any provisions hereof.
- 21.23. ELECTRONIC SIGNATURES. An electronic signature or electronic record of this *Cooperative Purchasing Agreement* or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this *Cooperative Purchasing Agreement* or such other ancillary agreement for all purposes.

21.24. COUNTERPARTS. This *Cooperative Purchasing Agreement* may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this *Cooperative Purchasing Agreement* at different times and places by the *Parties* shall not affect the validity thereof so long as all the *Parties* hereto execute a counterpart of this *Cooperative Purchasing Agreement*.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

[CONTRACTOR]
A [CORPORATION]

By: _____

By: _____

Its:

Its:

INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION.** During the term of this *Cooperative Purchasing Agreement*, *Contractor* shall possess and maintain in full force and effect, at *Contractor's* sole expense, the following insurance coverages:
 - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial general liability insurance (and, if necessary, commercial umbrella liability insurance) covering bodily injury, property damage, products/completed operations, personal injury, and advertising injury liability on an 'occurrence form' that shall be no less comprehensive and no more restrictive than the coverage provided by Insurance Services Office (ISO) under the most recent version of form CG 00 01 in the amount of not less than \$2,000,000 per occurrence and \$4,000,000 general aggregate. This coverage shall include blanket contractual liability coverage. This coverage shall include a cross-liability clause or separation of insured condition.
 - b. **WORKERS' COMPENSATION INSURANCE.** *Contractor* shall comply with applicable Workers' Compensation or Industrial Accident insurance providing benefits as required by law.
 - c. **EMPLOYERS' LIABILITY (STOP GAP) INSURANCE.** Employers' liability insurance (and, if necessary, commercial umbrella liability insurance) with limits not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 bodily injury by disease policy limit.
 - d. **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE** (required if *Contractor* is accessing Purchasing Entity's premises). 'Symbol 1' commercial automobile liability coverage (and, if necessary, commercial umbrella liability insurance) including coverage for all owned, hired, and non-owned vehicles. The combined single limit per accident shall not be less than \$1,000,000.

The insurance coverage limits set forth herein are the minimum. *Contractor's* insurance coverage shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve *Contractor* from liability in excess of such limits. *Contractor* waives all rights against the State of Washington for the recovery of damages to the extent such damages are covered by any insurance required herein.

2. **INSURANCE CARRIER RATING.** Coverages provided by the *Contractor* must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. *Enterprise Services* reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
3. **ADDITIONAL INSURED.** When specified as a required insurance coverage (see § 1 – Insurance Obligation, above) Commercial General Liability, Commercial Automobile Liability, and Pollution Liability Insurance shall include the State of Washington and all authorized *Purchasing Entities* (and their agents, officers, and employees) as Additional Insureds evidenced by copy of the

Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.

4. **CERTIFICATE OF INSURANCE.** Prior to execution of the *Cooperative Purchasing Agreement*, Contractor shall furnish to *Enterprise Services*, as evidence of the insurance coverage required by this *Cooperative Agreement*, a certificate of insurance satisfactory to *Enterprise Services* that insurance, in the above-stated kinds and minimum amounts, has been secured. In addition, no less than ten (10) days prior to coverage expiration, Contractor shall furnish to *Enterprise Services* an updated or renewed certificate of insurance, satisfactory to *Enterprise Services*, that insurance, in the above-stated kinds and minimum amounts, has been secured. Failure to maintain or provide proof of insurance, as required, shall result in termination of this *Cooperative Purchasing Agreement*. **All policies and certificates of insurance shall include the *Cooperative Purchasing Agreement* number stated on the cover of this *Cooperative Purchasing Agreement*.** All certificates of Insurance and any related insurance documents shall be delivered to *Enterprise Services* via email sent to the email address set forth below :

Email: DESContractsTeamFir@des.wa.gov

Note: the Email Subject line must state:

**Insurance Certificate: Cooperative Purchasing Agreement
No. 24283 Police Radar/Lidar**

5. **PRIMARY COVERAGE.** Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any *Purchasing Entity*. All insurance or self-insurance of the State of Washington and/or *Purchasing Entities* shall be excess of any insurance provided by Contractor or subcontractors.
6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies. Alternatively, prior to utilizing any subcontractor, Contractor shall cause any such subcontractor to provide insurance that complies with all applicable requirements of the insurance set forth herein and shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any *Purchasing Entity* for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part without at least thirty (30) days prior written legal notice by Contractor to *Enterprise Services*. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the *Cooperative Purchasing Agreement* number stated on the cover of this *Cooperative Purchasing Agreement*.
9. **EXTENDED REPORTING PERIOD.** If any required insurance coverage is on a claims-made basis (rather than occurrence), Contractor shall maintain such coverage for a period of no less than three (3) years following expiration or termination of the *Cooperative Purchasing Agreement*.

* * * END OF INSURANCE REQUIREMENTS * * *

INCLUDED GOODS AND/OR SERVICES AND PRICING

To be inserted at time of award.

DATA SECURITY REQUIREMENTS

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

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

In the event of the Data Breach, Contractor agrees to comply with all applicable state and federal statutory provisions, including but not limited to RCW 19.255.010 and [RCW 42.56.590](#). Where notifications are required to the public or regulators, Contractor shall coordinate and cooperate with Enterprise Services in the development of a communication plan, and promptly and at no cost, provide advance copies of any notifications for Enterprise Services review before disseminating. If a Data Breach occurs and is found to be the result of Contractor’s acts, omissions or negligence, Contractor shall

assume complete responsibility for notification of affected parties, and be liable for all associated costs incurred by Enterprise Services in responding to or recovering from the Data Breach.

(d) TECHNICAL EXAMINATION AND AUDIT. Upon advance written request, Contractor agrees that Enterprise Services or its designated representative shall have reasonable access to Services purchased by Enterprise Services under this contract, its operational documentation, records and databases, including online inspections. The online inspection shall allow Enterprise Services, its authorized agents, or a mutually acceptable third party hired by Enterprise Services, to test that controls are in place and working as intended. Tests may include, but not be limited to, the following:

- 1) Operating system/network vulnerability scans;
- 2) Web application vulnerability scans;
- 3) Database application vulnerability scans; and
- 4) Any other scans to be performed by Enterprise Services or representatives on behalf of Enterprise Services.

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



ATTACHMENT E
BIDDER'S PROPOSED MODIFICATIONS TO COOPERATIVE PURCHASING AGREEMENT

Competitive Solicitation:	No. 24823 – Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction
Bidder:	Type/print full legal name of bidder

The *Bidder's Proposed Modifications to Cooperative Purchasing Agreement* is designed to frame discussions, if any, between Enterprise Services, on behalf of the State of Washington (Lead State) and Bidders regarding the attached Cooperative Purchasing Agreement terms and conditions. The Lead State may, but is not obligated to, consider proposed modifications to *Attachment D – Cooperative Purchasing Agreement*.

Provisions of the attached Cooperative Purchasing Agreement that are inapplicable to, incompatible with, or unsuitable for the subject of this Competitive Solicitation should be brought to the attention of the Lead State using the process described in this Competitive Solicitation for asking questions and will be addressed only at the sole discretion of the Lead State.

Please be advised. The Cooperative Purchasing Agreement(s) to be awarded is the result of a Competitive Solicitation developed pursuant to Washington's Procurement Code for Goods/Services that is designed to meet governmental needs for eligible purchasers. Enterprise Services endeavors to develop commercially reasonable Cooperative Purchasing Agreements that incentivize performance and equitably allocate risk and return based on stakeholder input from eligible purchasers, vendors, procurement professionals, and others. Accordingly:

- Revisions, if any, may NOT be Bidder-specific, but must apply to all Bidders.
- Redlined Documents Will Not Be Reviewed. Do not provide a redlined Cooperative Purchasing Agreement or redlined sections/subsections. Redlined text may result in Enterprise Services making potentially inaccurate assumptions regarding Bidder's issue(s). Instead, Bidders must follow the instructions set forth herein.
- 'Standard' Bidder Contracts Will Not Be Reviewed. Do not provide a copy of Bidder's (or a third party's) 'standard' contract or contract section. It will not be reviewed.
- No Substantial Changes. Bidders are cautioned that this is a competitive solicitation for a Cooperative Purchasing Agreement and **Enterprise Services cannot and will not accept a Bid or award a Cooperative Purchasing Agreement that substantially changes the material terms and conditions set forth in this Competitive Solicitation and the attached Cooperative Purchasing Agreement.** Bids that are contingent upon Enterprise Services making substantial changes to material terms and conditions set forth in the Competitive Solicitation or the attached Cooperative Purchasing Agreement likely will be determined to be non-responsive.

Enterprise Services will consider the number and nature of the items on *Bidder's Proposed Modifications to Cooperative Purchasing Agreement* in determining the likelihood of completing a Cooperative Purchasing Agreement with such bidder.



Bidder's Proposed Modifications. (*Bidder must check one of the below.*)

- ☐ Bidder has no proposed modifications to *Attachment D – Cooperative Purchasing Agreement*.
- ☐ Bidder proposes the modifications set forth in the table below. **All suggested modifications must be documented in the table below and submitted as Attachment E – Proposed Modifications to Cooperative Purchasing Agreement.** Bidder understands, acknowledges, and agrees to comply with the following:
 - The following will not be considered by the Lead State:
 - Any proposed modification not submitted in this attachment;
 - Any proposed modification not accompanied by an explanation as required in this attachment; and
 - Any proposed modification merely referencing another document or a URL.
 - Bidders may propose additional terms but must include them in this attachment and must clearly identify where any terms conflict with the attached Cooperative Purchasing Agreement.
 - If Bidder is awarded a Cooperative Purchasing Agreement resulting from this Competitive Solicitation, a comparison of *Attachment D – Cooperative Purchasing Agreement* and Bidder's accepted modifications thereto may be posted on the NASPO ValuePoint website for examination by potential Participating Entities and Purchasing Entities.
 - Each of the following fields **must** be completed for each proposed modification to the attached Cooperative Purchasing Agreement:
 - A. **Cooperative Purchasing Agreement Section Reference:** The page, section, or paragraph in the attached Cooperative Purchasing Agreement that is the subject of Bidder's proposed modification;
 - B. **Cooperative Purchasing Agreement Language:** The language in the attached Cooperative Purchasing Agreement that Bidder is proposing to modify;
 - C. **Proposed Changes and Alternate Language:** Bidder's proposed changes to the attached Cooperative Purchasing Agreement language including, if applicable, Bidder's proposed alternate language;
 - D. **Justification for Proposed Change:** Bidder's justification for the proposed change; and
 - E. **Risk and Benefits of Acceptance:** Bidder's analysis of the risk and benefits to the Lead State, Participating Entities, or Purchasing Entities — including quantifiable costs or cost savings — if Bidder's proposed change is accepted by the Lead State.



A	B	C	D	E
COOPERATIVE PURCHASING AGREEMENT SECTION REFERENCE	COOPERATIVE PURCHASING AGREEMENT LANGUAGE	PROPOSED CHANGES AND ALTERNATE LANGUAGE	JUSTIFICATION FOR PROPOSED CHANGE	RISK AND BENEFITS OF ACCEPTANCE

[Note: Add additional rows as needed.]



Attachment F PARTICIPATION INFORMATION

The NASPO ValuePoint Process

The NASPO ValuePoint Lead State Model™ is a collaborative procurement process representing the input and interests of public entities across the nation.

THE LEAD STATE MODEL™

-  Members & Stakeholders Identify Shared Cooperative Contracting Needs
-  NASPO ValuePoint Engages Lead State & Multistate Sourcing Team
-  Members & Stakeholders Provide Input on RFP Specifications & Objectives
-  Lead State Issues RFP in Compliance with Lead State Laws
-  Lead State & Multistate Sourcing Team Evaluate Supplier Proposals
-  Lead State Negotiates & Executes Master Agreements
-  Participating States & Entities Execute Participating Addenda
-  Purchasing Entities Buy Directly from NASPO ValuePoint Contractors

NASPO ValuePoint does not charge fees to Participating Entities or Purchasing Entities—including state departments, institutions, agencies, and political subdivisions, federally recognized tribes, and other eligible public and nonprofit entities in the 50 states, the District of Columbia, and U.S. territories—to use NASPO ValuePoint Master Agreements. Suppliers pay only a nominal administrative fee based on their total sales. By leveraging the collective volume of potential purchases nationwide, NASPO ValuePoint is able to offer customers the best value in cooperative contracting while giving suppliers the opportunity to reach multiple markets through a single solicitation.

Historical Usage

There are currently thirty (30) states using this Cooperative Agreement. The following table identifies total sales reported by NASPO ValuePoint contractors through NASPO ValuePoint Master Agreements over the past six (6) calendar years:

Year	Reported Historical Sales Volume
2017	\$4,921,189.65
2018	\$5,393,138.71
2019	\$4,816,200.76
2020	\$8,992,817.48
2021	\$13,464,119.48
2022	\$14,158,630.11

No minimum or maximum level of sales volume is guaranteed or implied.



Interested States

The states below have requested to be named in this Competitive Solicitation as potential participants in the resulting Cooperative Purchasing Agreement(s). This list neither guarantees execution of a Participating Addendum by an Interested State nor precludes execution of a Participating Addendum by any state or entity not identified as an Interested State.

Interested States	Reported Estimated Annual Volume	Sample Participating Addendum Terms and Conditions
Washington	\$902,500	Available by Request
Nevada	\$300,000	N/A
South Carolina	N/A	N/A
Oklahoma	N/A	N/A
North Dakota	\$290,687	N/A
Missouri	\$1,777,656.05	N/A
South Dakota	\$2,000,000	N/A
Colorado	\$100,000	Available by Request
Oregon	\$550,000	N/A
Connecticut	\$250,000	Available by Request
Virginia	\$200,000	Available by Request
Iowa	N/A	N/A
Louisiana	\$360,000	N/A
Utah	\$728, 112.41	Available by Request
California	\$775,777	Available by Request
Arizona	\$3,600,000	Available by Request
Kansas	\$5,000	N/A
Hawaii	\$200,000	Available by Request
New York	\$1,000,000	Available by Request

TOTAL ESTIMATED ANNUAL VOLUME FROM INTERESTED STATES: \$12,039,732.46

The Reported Estimated Annual Volume above aggregates usage estimates, self-reported by the Interested States, which may be based on any factor considered relevant by each Interested State, including historical usage and anticipated future usage. **No minimum or maximum level of sales volume is guaranteed or implied.**

Some Interested States have also provided state-specific terms and conditions, included in this attachment, that may apply to a Participating Addendum executed with a Bidder awarded a Cooperative Purchasing Agreement through this Competitive Solicitation. These terms and conditions are being provided for informational purposes only and will not be incorporated into the Cooperative Purchasing Agreement or addressed or negotiated by the Lead State. Participation and the terms and conditions applicable to each Participating Entity will be determined by the Participating Entity following negotiation of a Participating Addendum with a Contractor.



ATTACHMENT G
WASHINGTON PUBLIC RECORDS ACT
PUBLIC RECORDS DISCLOSURE REQUESTS REGARDING BID INFORMATION

WASHINGTON PUBLIC RECORDS ACT

All documents (written and electronic) submitted to Enterprise Services as part of this procurement are public records. Unless statutorily exempt from disclosure, such records are subject to disclosure *if* requested. See RCW 42.56, Public Records Act.

Enterprise Services ***strongly discourages*** Bidders from unnecessarily submitting sensitive information (e.g., information that Bidder might categorize as 'confidential,' 'proprietary,' 'sensitive,' 'trade secret,' etc.).

- (a) BID INFORMATION THAT IS STATUTORILY EXEMPT FROM PUBLIC DISCLOSURE UNDER WASHINGTON'S PUBLIC RECORDS ACT. If, in Bidder's judgment, **Washington's Public Records Act** provides an applicable ***statutory exemption from disclosure*** for certain portions of Bidder's bid, please mark the ***precise portion(s)*** of the relevant page(s) of the bid that Bidder believes are ***statutorily exempt from disclosure and identify the precise statutory basis for exemption from disclosure***.
- (b) BID INFORMATION THAT IS SENSITIVE AND THAT BIDDER WILL DEMONSTRATE THAT BIDDER PROTECTS FROM DISCLOSURE BY ROUTINE ENFORCEMENTS THROUGH COURT ENFORCEMENT ACTIONS. In addition, if, in Bidder's judgment, certain portions of Bidder's bid are not statutorily exempt from disclosure but are sensitive because these particular portions of Bidder's bid (**NOT INCLUDING PRICING**) include highly confidential, proprietary, or trade secret information (or the equivalent) ***that Bidder protects through the regular use of confidentiality or similar agreements and routine enforcements through court enforcement actions***, please mark the ***precise portion(s)*** of the relevant page(s) of Bidder's bid that include such sensitive information.

PUBLIC RECORDS DISCLOSURE REQUESTS

In the event that Enterprise Services receives a public records disclosure request pertaining to information that bidder has submitted and marked either as:

- (a) statutorily exempt from disclosure under Washington's Public Records Act (RCW 42.56); or
- (b) sensitive,

Enterprise Services, prior to disclosure, will do the following:

- Enterprise Services' Public Records Officer will review any records marked by Bidder as statutorily exempt from disclosure under Washington's Public Records Act. In those situations, where the designation comports with the stated statutory exemption from disclosure, Enterprise Services will redact or withhold the document(s) as appropriate.
- For documents marked 'sensitive' or for documents where Enterprise Services either determines that no statutory exemption to disclosure applies or is unable to determine whether the stated statutory exemption to disclosure properly applies, Enterprise Services will notify the Bidder, at the address provided in the Bid submittal, of the public records disclosure request and identify the date that Enterprise Services intends to release the document(s) (including documents marked 'sensitive' or exempt from disclosure) to the requester unless the Bidder, at Bidder's sole expense, timely obtains a court order enjoining Enterprise Services from such disclosure. In the event Bidder fails to timely file a motion for a court order enjoining such disclosure, Enterprise



Services shall release the requested document(s) on the date specified. Bidder's failure properly to identify exempted or sensitive information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Bidder of any claim that such materials are exempt or protected from disclosure.