Request for Proposals
Public Relations/Marketing Consulting Services
12-036-RFP
June 27, 2012

The Port of Longview (Port) is requesting proposals from qualified full service public relations/ marketing agencies to serve as an extension of the Port’s existing Public Affairs department. The selected agency will work directly with the Port to develop outreach plans for different audiences, create tools outlined in the developed plans and work side by side with the Port to implement plans.

Ideal candidates will have demonstrated experience and expertise in branding, public relations, graphic design, creative planning, copywriting and plan development and implementation with a general understanding of such activities within the public sector.

Proposals must be received on or before 5:00 p.m. on July 18, 2012 at the Port’s Purchasing Department, P.O. Box 1258, Longview, WA 98632 or physical address at 10 Port Way, Longview, WA 98632.
# Table of Contents

- GENERAL INFORMATION ........................................................................................................... 3
- PORT DESCRIPTION: ................................................................................................................ 3
- PURPOSE: .................................................................................................................................. 3
- PROPOSED SCHEDULE: .............................................................................................................. 3
- QUALIFICATIONS/ APPLICANTS MUST POSSESS: ............................................................... 3
- SUBMITTAL REQUIREMENTS: ................................................................................................... 3
- SELECTION OF AGENCY: .......................................................................................................... 5
- EXHIBIT A: CERTIFICATIONS & ASSURANCES ..................................................................... 9
- EXHIBIT B: SCOPE OF WORK .................................................................................................. 11
- EXHIBIT C: PROPOSED PROFESSIONAL SERVICES CONTRACT ........................................ 13
GENERAL INFORMATION

PORT DESCRIPTION:
The Port of Longview, a special purpose district established in the 1920’s, is the first full-service operating port with strategic transportation connections on the deep-draft Columbia River shipping channel in southwest Washington State. The Port includes eight marine terminals and waterfront industrial property with direct connections to main-line rail and interstate highway. Cargo handling specialties include all types of bulk cargos and breakbulk commodities such as steel, lumber, logs, pulp, paper, project and heavy-lift cargo.

PURPOSE:
The Port of Longview (Port) is requesting proposals from qualified full service public relations/ marketing agencies to serve as an extension of the Port’s existing Public Affairs department. The selected agency will work directly with the Port to develop outreach plans for different audiences, create tools outlined in the developed plans and work side by side with the Port to implement plans.

The current department is staffed by one employee, the Communications and Public Affairs Manager, responsible for developing outreach plans and tools for community relations, business marketing and other external audiences. All services will be directed by the Communications and Public Affairs Manager who will remain the Port’s Official spokesperson.

Ideal candidates will have demonstrated experience and expertise in branding, public relations, graphic design, creative planning, copywriting and plan development and implementation with a general understanding of such activities within the public sector.

PROPOSED SCHEDULE:
The Port is seeking to reward a one year contract for a full service marketing and public relations agency. The contract may be renewed annually as mutually agreed upon by both the successful agency and Port. Below is a schedule; however it is subject to change as suits the needs of the Port.

<table>
<thead>
<tr>
<th>ACTION</th>
<th>DATE</th>
<th>TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Issued</td>
<td>June 27, 2012</td>
<td>Before 5:00 p.m.</td>
</tr>
<tr>
<td>Written Questions Concerning RFP from Proposers Due</td>
<td>July 6, 2012</td>
<td>5:00 p.m.</td>
</tr>
<tr>
<td>Written Addenda to RFP Issued, if needed</td>
<td></td>
<td>TBD</td>
</tr>
<tr>
<td>RFP Responses Due</td>
<td>July 18, 2012</td>
<td>5:00 p.m.</td>
</tr>
<tr>
<td>Interviews with Public Affairs, Marketing</td>
<td>Week of July 23, 2012</td>
<td></td>
</tr>
<tr>
<td>Agency selected, contract negotiated and signed</td>
<td>Week of August 6, 2012</td>
<td></td>
</tr>
</tbody>
</table>

QUALIFICATIONS/ APPLICANTS MUST POSSESS:
1) Thorough knowledge of the branding process, with demonstrated examples.
2) Understanding of identity standards, as related to writing, design, photography and outreach.
3) Qualified and responsible person(s) with applicable experience.
4) Ability to think “outside the box” and utilize non-traditional communication and outreach tools.
5) Ability to write creatively in a manner that is appropriate for a variety of audiences.
6) Ability to complete projects within the established time frames.
7) In-house creative, graphic design, copywriting, planning and project management capabilities.

SUBMITTAL REQUIREMENTS:
Information Required. Five (5) copies of the proposal should be submitted. All proposals and accompanying documentation will become property of the Port and will not be returned. Late submittals or those delivered by facsimile, electronic mail, or any other format other than paper copies, may not be considered.
The Port will place submittals in three-ring binders for the review panel. Please use three-hole recycled paper, print double-sided to the maximum extent practical, and bind the proposal with a binder clip, rubber band, or single staple, or submit in a three ring binder. Please do not bind your RFP with a spiral binding, glued binding, or anything similar. You must use tabs or other separators within the document to organize submittals in accordance with the content described below.

The length of the submittal document shall not exceed 12 double sided pages (two pages equals one sheet of paper printed on both sides) using 12-point letter font for the main text. Consultants not conforming to the criteria may be considered non-responsive. Supporting documentation attached as appendices is not included in the determination of total page count. See chart below that describes how your proposal should be organized.

The following information is to be submitted as part of the proposal:

1. **Exhibit A:** Completed and signed by the person authorized by the Proposer to attest to the validity of the information provided and who can answer questions relative to this RFP.

2. **Introduction and Executive Summary** (up to 2 pages): Submit a letter of introduction and executive summary of your qualifications and response to this RFP.

3. **Project Approach:** Describe your firm’s approach and any special ideas, techniques or suggestions that you believe will make for a successful partnership. Include an understanding of the consultant’s role in providing services as described in the RFP Scope of Work.

4. **Qualifications & Experience:**
   a. **Firm Qualifications:** Include a brief description of the firm’s size as well as the local organizational structure, and a discussion on the firm’s financial stability, capacity, and resources.
   b. **Team Qualifications & Experience:** Brief resumes of principal-in-charge and key technical/professional personnel to be assigned to this client. Discuss how key staff’s experience in similar projects will be utilized. Additionally, discuss successful project management skills that will be employed. Resumes should be provided as an appendix.
   c. **Previous Work:** Provide examples of the following in an appendix:
      - Branding and identity development;
      - Graphic design, such as brochure or advertisement;
      - Copywriting for an audience, such as editorial or newsletter;
      - Sample press release, and
      - Digital media development, i.e. video, web application, etc.

5. **Cost Proposal:** The proposal shall include a section containing the fee proposal for services. The fee proposal should clearly indicate the services associated with the fees and reflect the full scope of services requested. Prices contained in the proposal are firm for the duration of the Contract. Your response should also explain the benefits of the structure of your proposed fee schedule, both to the Port and to the Consultant.

   Responders may propose fee structures including: retainers, hourly rates, project fees or some combination thereof. All fees proposed should be clear and inclusive of all costs and expenses that may be incurred by the Port under any alternative fee structure.
   a. Specifically, a monthly retainer fee structure to state:
1. the monthly fee;
2. the number of monthly hours covered;
3. the activities and deliverables that are included;
4. exclusions, and
5. out of pocket expenses that could be additional costs to the Port.

b. An hourly fee structure to state:

1. an hourly fee schedule based on position classifications;
2. approximate number of hours, on an average per month, to cover the respondents proposed plan to meet stated Port objectives, and
3. out of pocket expenses that could be additional costs to the Port.

If a combination of a retainer and hourly fee structure is proposed, responders must include the information that is required in sections A and B above as it applies to specific work items.

6. **References:** Provide names and telephone numbers of three references who will attest to your firm’s ability to undertake and complete projects similar to this on time and within budget.

7. **Availability:** A statement of current workload and availability to accommodate scope of work.

8. **Professional Liability Insurance:** Provide evidence of Professional Liability Insurance in an appendix.

9. **Other:** Other information and material as may be relevant, appropriate and helpful to the evaluation team.

Your proposal should be organized in the following way:

<table>
<thead>
<tr>
<th>Section #</th>
<th>Description</th>
<th>Counts Towards Page Limit?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Exhibit A</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Introduction and Executive Summary</td>
<td>Yes</td>
</tr>
<tr>
<td>3</td>
<td>Project Approach</td>
<td>Yes</td>
</tr>
<tr>
<td>4.1</td>
<td>Firm Qualifications</td>
<td>Yes</td>
</tr>
<tr>
<td>4.2</td>
<td>Team Qualifications &amp; Experience (excluding resumes)</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Cost Proposal</td>
<td>Yes</td>
</tr>
<tr>
<td>6</td>
<td>References</td>
<td>Yes</td>
</tr>
<tr>
<td>7</td>
<td>Availability</td>
<td>Yes</td>
</tr>
<tr>
<td>8</td>
<td>Other Information</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section #</th>
<th>Appendixes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Resumes</td>
<td>No</td>
</tr>
<tr>
<td>A-2</td>
<td>Previous Work Examples</td>
<td>No</td>
</tr>
<tr>
<td>A-3</td>
<td>Evidence of Professional Liability</td>
<td>No</td>
</tr>
</tbody>
</table>

**SELECTION OF AGENCY:**
Award will be based upon a review and evaluation by representatives of the Port of Longview. Written submittals and interviews, if necessary, may be utilized in selecting the winning proposal. The following evaluation criteria, not listed in order of significance, will be used:
• General approach and plans to meet the requirements of the RFP.
• Qualifications and experience of personnel.
• Past performance on similar projects.
• Indication of current workload, availability.
• Ability to develop schedules and meet deadlines.
• Merits of structure and competitiveness of fee schedule.

The final selection, if any, will be that proposal which, in the opinion of the Port after review of all submissions, best meets the requirements set forth in the RFP and is in the best interest of the Port.

Final selection will be based on the evaluation of the proposals and interviews, if deemed appropriate by the Port. The Port will begin contract negotiations with the Consultant determined to be best qualified to perform this project based on the evaluation criteria.

A) **Deadline for submission of proposals.**

1) Interested firms should submit proposals not later than **5:00 p.m. on July 18, 2012** to:

   Port of Longview  
   10 Port Way  
   Longview, WA 98632  
   Attn: Kara Metzger, Purchasing Manager

   Oral, telephonic, telegraphic, facsimile or other electronically transmitted proposals will not be accepted.

2) **Proposals should be marked:**

   “12-036-Public Relations & Marketing Consulting”

B) **Questions.** Consultants’ questions regarding the Request for Proposal must be received in writing **no later than 5:00 p.m. on July 6, 2012.** Addenda, including answered questions, will be provided to all interested parties. Questions submitted after the deadline may not receive written addenda responses. Questions should be submitted to Ashley Helenberg at: ahelenberg@portoflongview.com

C) **Other Important Information.**

1) **Complete Responses.** Responses submitted by Consultants that do not comply with all of the requirements of this Request for Proposals may be considered non-responsive.

2) **Ambiguous Statements.** All responses to Proposal Requirements should be stated as concisely as possible. Ambiguous statements, such as “All reasonable effort to provide” and the like, may be grounds to declare the proposal non-responsive.

3) **Contract.** A sample Port contract is provided as Exhibit C. Following consultant selection, the successful consultant shall prepare a final scope of work for review by the Port. Once the Port and Consultant have
reached an agreement on the scope of services, a final contract will be prepared by the Port.

4) **Preparation and Delivery Costs.** The Port will not be liable for any cost incurred in the preparation and delivery of the proposal.

Consultants shall assume full responsibility for timely delivery of proposals at the specified location and time.

Once submitted, all proposals become the property of the Port of Longview.

Proposals may not be modified, withdrawn or cancelled after the time set for opening or before award of a contract unless award is delayed for a period exceeding ninety (90) days from opening the proposals. Prior to the time and date designated for receipt of the proposals, the proposal may be modified or withdrawn by written notice to the Port at the place designated for receipt of proposals. Proposals that are withdrawn may be resubmitted up to the date and time designated for the receipt of proposals, provided the revised proposal is in full conformance with the Request for Proposals.

5) **Limitations.** This Request for Proposals does not commit the Port to award a contract or pay any costs incurred in the preparation of the response to this request.

The Port reserves the right to reject any or parts of any and all proposals, to re-request proposals, to postpone or cancel at any time this Request for Proposals process, or to waive any irregularities in this request or immaterial irregularities in the proposal(s) received as a result of this request. Also, the determination or criteria and process whereby proposals are evaluated, the decision as to which organization(s) shall receive a contract, or whether or not a contract shall ever be made as a result of this request, shall be at the sole discretion of the Port. All decisions of the Port are final.

6) **Background Investigation.** By submitting a proposal in response to this Request for Proposals, you are giving permission to the Port to investigate your company and background with regard to any matter bearing on the desirability of the Port doing business with you. The results of the investigation may be taken into consideration by the Port in making its decision.

7) **No Oral Agreements.** No oral agreement or conversation with the Port or any official, employee, or agent of the Port, either before or after execution of a contract, shall affect, modify, or add to any of the terms or obligations contained in the contract documents. Any such oral agreement or conversation shall be considered unofficial and in no way binding upon the Port of Longview, unless subsequently put in writing.

8) **Clarifications and Oral Presentations.** The Port reserves the right to contact Consultants to clarify responses. Subsequent to the initial evaluation by the Port, a request for an oral presentation may be made. The Port will not be liable for any cost incurred in the preparation and delivery of any oral presentations.

9) **Request for Proposal Preparation.** Due care and diligence has been exercised in the preparation of this request and all information contained herein is believed to be substantially correct. However, the responsibility for determining what is necessary for the full extent of a response to the request rests solely with those making proposals. Neither the Port nor its representatives or agents shall be responsible for any error or omission in this request, nor for the failure on the part of the Consultants to determine the full extent of the requirements.

10) **Independent Contractor.** It is specifically understood and agreed by and between the parties hereto that Consultant is an independent contractor and not an agent or employee of the Port of Longview. The
Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge and compensate all of its employees and subcontractors, and the Port shall have no control of or supervision over the employees of the Consultant or any of the Consultants’ subcontractors.

The Consultant shall have no authority whatsoever to obligate the Port to make any payments to another party or make any promises or representations of any nature on behalf of the Port, without specific written approval of the Port. In the event the Port incurs any liability with regard to the matters set forth in this section, the Consultant shall indemnify the Port and hold it harmless.

Note: Wherever the term “Consultant” is used in this document, it means a person, firm or entity that submits a proposal.
EXHIBIT A: CERTIFICATIONS & ASSURANCES

RESPONSE TO REQUEST FOR PROPOSALS
PORT OF LONGVIEW

Public Relations / Marketing Consulting Services

To: Port of Longview
10 Port Way
Longview, WA 98632

DUE: ON OR BEFORE
July 18, 2012 @ 5:00 p.m.

From: Entity or Individual Submitting Proposal:

Mailing Address:

Response Prepared By:

Title:

Contact Person(s):

Telephone Number:

Email Address of Primary Contact:

The undersigned, as a Consultant, declares that he/she/they/it have carefully examined all terms and conditions of the Request for Proposals and hereby propose to provide the services requested as outlined in the response.

The Consultant, by signature below, further represents as follows:

1) The undersigned declares, that consistent with the proposal submitted with this Response Form, he/she/they/it desires to enter into an agreement with the Port of Longview for services to render.

2) The undersigned is duly authorized to submit the enclosed proposal on behalf of the above named Consultant.

3) That no director, officer, agent, or employee of the Port of Longview is personally interested directly or indirectly in this work or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the Port of Longview, its directors, officers, agents, or employees had induced him to enter into this contract and the papers made a part of hereof by its terms.

4) That this proposal is made without connection with any person, firm or corporation making a bid for the same property, and is in all respects, fair and without collusion or fraud.

5) I, the undersigned on behalf of the Consultant, declare under penalty of perjury under the laws of the
United States and the State of Washington that this Consultant 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 proposal.

(If Sole Proprietor or Partnership)

In witness hereto, the undersigned has set his (its) hand this ______ day of ______________, 2012,

______________________________       ________________________________
Name of Firm                                   Signature of Consultant

(If Corporation)

In witness hereto, the undersigned corporation has caused this instrument to be executed by its duly authorized officers this ___________ day of ________________, 2012,

______________________________       ________________________________
By                                           Title
EXHIBIT B: SCOPE OF WORK

The Port of Longview is seeking the services of a full service marketing/public relations agency to assist with the following, at a minimum:

- Serve as a non-exclusive, full-service advertising, branding, marketing, media and communications agency to promote the Port of Longview.

- Work in conjunction with Port and its key partners, including the local community and domestic/international business partners, to develop an overall strategy to improve the Port of Longview’s outreach and communication efforts.

- Perform research to aid in developing outreach opportunities within both the local community and business community. Identify the Port’s current position and that of other ports. Analyze all relevant research to recommend the best strategies and outreach channels.

- With gathered research, work with the Port staff to develop a community outreach plan to actively disseminate information about the Port and actively engage community activities.

- With gathered research, work with the Port staff to develop a business outreach plan to actively publicize the benefits of doing business at the Port and actively engage with customers.

- Demonstrate an in-depth understanding of branding and identity concepts. Work with the Port to assess current brand and identity and provide recommendations for improvement.

- Demonstrate an understanding for integrated brand elements in all materials to maintain continuity and identification.

- Perform all necessary services related to the successful purchasing, development and execution of advertisements, including, radio, print, direct mail and digital and internet marketing.

- Perform media production services including but not limited to: creative concept, graphic design, photography, copywriting, pre-press and printing.

- Perform all aspects of video, radio, digital and other new media direction, production and post-production including: creative concept, development, copywriting, casting, shooting, editing, dubbing and placement.

- Provide full media planning, buying and creative services related to the production and execution of the most advanced and cutting-edge digital technologies, including but not limited to internet marketing and mobile marketing.

- Perform media-buying services to purchase advertising across all types of media, including but not limited to: pre-buy analysis, media planning, media buying (negotiating best rates and placements), tracking and post-buy analysis. Media targets may include local, state, national and international markets. As requested, the successful contractor will provide demographic information, including analysis of market, station, profiles, times, etc.

- Provide other media information standard to the industry and provide print media plans with buy detail including placement dates, demographic and editorial analysis, circulation/readership figures and proposed added value.
• Seek out nontraditional, value-added media opportunities such as promotions, giveaways and editorial opportunities.

• Develop an earned media strategy for developed outreach programs.

• Provide web site usability and content recommendations, as well as work with staff to perform regular content maintenance and updates.

• Development of collateral, booths and any other special materials requested by the Port to promote itself to the relevant target audience.

• Provide advice, counsel and assistance on matters pertaining to marketing and public relations.

• Monitor, analyze and report on executed advertising campaigns. Provide a written analysis of the campaign, including effectiveness, results and recommendations for improvement.

• Recommend public relations and publicity efforts to supplement paid advertising and assist in the development and placement of such efforts.

• Provide event planning services such as managing invitee lists, designing and distributing event materials, coordinating vendors, developing event program and visuals and event execution.

• Perform such other services as a non-exclusive, full-service advertising agency, as requested.

• The winning bidder may subcontract with other firms, as appropriate, pending the approval of the Port.
THIS AGREEMENT is entered into between PORT OF LONGVIEW, a municipal corporation, organized and existing under the laws of the State of Washington (hereinafter “Port”) and xxx. (hereinafter the “Consultant”).

WHEREAS, the Port desires to contract for consulting services for the purpose of providing public relations and marketing consulting (hereinafter Project), and

WHEREAS, the Port does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a Consultant to provide the necessary services for the Project; and

WHEREAS, the Consultant represents that he/she is in compliance with the Washington State statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the Port.

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

1. Acceptance of Proposal. The Port accepts that individual tasks for recruiting services shall be developed using Exhibit A and shall be agreed to in writing by both parties prior to commencement of work.

2. Consultant to Accomplish Project. Consultant shall do all work and furnish all labor, materials, equipment, tools, services, and incidentals necessary to accomplish the Project in compliance with this Agreement.

3. General Description of Work. The work under this Agreement shall consist of the hereinafter described work and services as defined herein and those necessary to accomplish and complete work for this Project.

   The Executive Director and Board of Commissioners shall administer this Agreement on behalf of the Port, and the Consultant shall perform the required services to the satisfaction of the Executive Director and Board of Commissioners. Determination of satisfaction with the Consultant’s services shall be based on reasonable and objective standards that are not inconsistent with this Agreement.

4. Scope of Work. The Scope of Work and projected level of effort required for this Project is detailed in Exhibit “A” attached hereto and by this reference made a part of this Agreement.

5. Changes of Work. The Consultant shall make changes and revisions in the work as necessary to correct errors appearing therein, when required to do so by the Port, without additional compensation. Should the Port find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the Consultant shall make such revisions as directed by the Port. This work shall be considered as Extra Work and will be paid for as herein provided under Section 6.


(a) The Port and Consultant may at any time mutually agree to make changes within the general scope of the Agreement in the services to be performed.
(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this Agreement, that affects any other terms and conditions of the Agreement, the parties shall negotiate an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the Agreement accordingly.

(c) The consultant shall not be required to complete any work for which the parties are unable to agree.

(d) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the maximum amount payable for this Agreement, shall not be increased or considered to be increased except by specific written amendment to this Agreement, signed by both parties.

7. Coordination of Work. Contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the Port, or Port’s designee. The Consultant shall attend coordination, progress and presentation meetings with the Port and/or such Federal, State, Community, City or County officials, groups or individuals as shown in Exhibit A.

8. Access to Information. The Port agrees and will accept responsibility to facilitate reasonable and timely access to the Port’s facilities, employees and information required for the completion of the Project.

9. Subcontracting and Assignments. The Consultant shall not subcontract any other portion of the required services without the Port’s prior written consent. The Consultant likewise shall not assign all or any portion of this Agreement without the Port’s prior written consent. Any purported assignment without this consent shall be void. Any consent granted by the Port under this paragraph may be subject to such conditions, as the Port deems appropriate.

10. Copyright and Ownership of Material. Except for Consultant’s pre-existing materials, the rights and ownership of materials produced specifically for the Port under the Scope of Work of this Agreement shall be vested in the Port upon satisfactory completion of the project and payment in full of all fees for services.

If this Agreement results in any copyrightable material or inventions, the Port reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

Except for Consultant’s pre-existing materials, all designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the Consultant prior to completion or termination of this Agreement are instruments of service for this Project, and are the property of the Port. Reuse by the Port or by others, acting through or on behalf of the Port of any such instruments of service, not occurring as a part of this Project, shall be without liability or legal exposure to the Consultant.

11. Progress Reports. If requested, the Consultant shall prepare a monthly progress report, in a form approved by the Port, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

12. Payment Provisions. The Port shall pay Consultant for completed work and services rendered under this Agreement as provided in Exhibit “B” attached hereto, and by reference made part of this Agreement. The total contract amount for the Project shall not exceed $xxx, including sales taxes.

13. Termination. The right is reserved by the Port to terminate this Agreement at any time upon ten (10) days written notice to the Consultant. In the event this Agreement is terminated by the Port other than for default on the part of the Consultant, a final payment shall be made to the Consultant for work completed up to the date of termination. No payment shall be made for any work completed after ten (10) days following receipt by the
Consultant of the Notice to Terminate.

If the services of the Consultant are terminated by the Port for default on the part of the Consultant, the amount to be paid shall be determined by the Port with consideration given to the actual costs incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable by the Port at the time of termination, the cost to the Port of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the Port of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made as set forth above in paragraph 12 above.

If it is determined for any reason that the Consultant was not in default or that the Consultant’s failure to perform is without the Consultant’s or its employee’s default or negligence, the termination shall be deemed to be a termination for the convenience of the Port. In such an event, the Consultant will be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the Consultant or any of its supervisory personnel assigned to the Project, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the Consultant hereby agree to complete the work under the terms of this Agreement, if requested to do so by the Port. This subsection shall not be a bar to renegotiation of the Agreement between the surviving members of the Consultant and the Port, if the Port so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the Consultant, with the Port’s concurrence, desire to terminate this Agreement payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the Port shall not constitute a waiver by the Port of any remedies of any type it may have against the Consultant for any breach of this Agreement by the Consultant, or for failure of the Consultant to perform work required of it by the Port. Forbearance of any rights under the Agreement will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the Consultant.

14. Time. The project must be completed by the project completion date as listed in the schedule detailed in the Scope of Work (Exhibit A). The term of this contract will expire XXX.


(a) The parties' Agreement consists of the following documents, which are referred to as the "contract documents": Agreement and Addenda (if any). All of the contract documents are incorporated herein by this reference.

(b) The contract documents are complementary, and what is called for by one shall be as binding as if it were called for by all. Unless the context requires otherwise, any conflict between contract documents that is not resolved by the preceding sentence shall be resolved by construing the documents according to the following descending order of precedence:

(i) Addenda (if any)
(ii) Agreement
(c) The contract documents constitute the parties' entire and integrated Agreement concerning the Project, and supersede all prior and contemporaneous negotiations, representations, or Agreements, both written and oral.

16. Interpretation of Contract Documents. The Consultant shall provide any work or materials clearly implied in the Agreement even if the contract documents do not mention it specifically. If the contract documents use words that are not defined therein but have a commonly accepted technical or trade meaning, the words shall be understood in accordance with that meaning. If any part of the contract requires work to be performed without describing how it is to be performed, the work shall be performed in accordance with standard trade practices. A "standard trade practice" is one having such regularity of observance in the trade as to justify an expectation that it will be observed by the Consultant in doing the work. On any plans, drawings, or figured dimensions shall take precedence over scaled dimensions. In case of any ambiguity or dispute over interpreting the contract, the Port's decision will be final.

17. Additional Directions from Department. If the Port determines that the provisions in the contract documents are not sufficiently clear to permit the Consultant to proceed with the work, the Port shall, either on its own or upon written request from the Consultant, furnish such additional written directions as it deems appropriate. When the Consultant makes such a request, it must do so in writing and must allow ample time to permit the Port to review the request and prepare any additional directions before the Consultant begins any work affected by the request. Any additional directions issued by the Port shall not be inconsistent with the contract documents, and shall have the same force and effect as if contained in the contract documents.

18. No Oral Agreements. No oral Agreement or conversation with the Department or any official, employee, or agent of the Port, either before or after execution of the Agreement, shall affect, modify, or add to any of the terms or obligations contained in the contract documents. Any such oral agreement or conversation shall be considered as unofficial information and in no way binding upon the Port, unless subsequently put in writing.

19. Independent Contractor. The Consultant is an independent contractor of the Port, and as such is not subject to the Port's immediate control or direction in the performance of the required services. Neither the Consultant nor any of the Consultant’s employees or agents shall be deemed to be an official, employee, or agent of the Port. The Consultant is solely responsible for his or her acts and for the acts of his or her officers, employees, agents, and sub-consultants. Additionally, the Consultant makes the following assurances:

(a) The Consultant is engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in this Agreement.

(b) The Consultant has a principal place of business that is eligible for a business deduction for federal income tax purposes. The Consultant is responsible for the costs of such principal place of business.

(c) The Consultant is responsible for filing with the Internal Revenue Service, at the next applicable filing period, a schedule of expenses for the business the Consultant is conducting.

(d) The Consultant has established, or shall promptly establish, an account for the business with the Washington Department of Revenue, and with other state agencies as the circumstances may require. The Consultant shall pay all required state taxes normally paid by employers and businesses. The Consultant has registered for and received a unified business identifier number from the State of Washington.

(e) The Consultant maintains a separate set of books or records that reflect all items of income and expenses of the business the Consultant is conducting.
20. **Indemnification.** Consultant’s duty to indemnify the Port under this Agreement varies, as more particularly set forth below, depending on the circumstances that give rise to the obligation to indemnify. However, Consultant’s indemnity obligation shall extend — under any and all such circumstances — to all liability, claims, damages, losses and expenses incurred by the Port, whether direct, indirect, consequential, and specifically including (but not limited to) attorney’s and consultants’ fees and other expenses of litigation (for convenience, these are collectively referred to as “losses”) that arise from the particular act or omission giving rise to the indemnity obligation.

(a) **GENERAL INDEMNITY.** Except to the extent subject to one of the more specific indemnity obligations set forth below, Consultant shall defend, indemnify, and hold the Port harmless from all losses which are caused, or alleged to be caused, in whole, or in part, by any act or omission of Consultant. This obligation of indemnity includes negligent acts, which are concurrent, contributory, or both by the Port. The obligation of indemnity under this subparagraph does not, however, extend to losses caused by the sole negligence of the Port.

(b) **PROFESSIONAL LIABILITY (ERRORS & OMISSIONS).** For any losses that arise from error, omission, or other malpractice in the exercise of Consultant’s professional judgment, Consultant shall indemnify, and hold the Port harmless from losses to the extent caused by any negligent act or omission of the Consultant. The obligation of indemnity under this subparagraph does, however, not extend to losses caused the by the negligence (whether sole, concurrent, or contributory) of the Port.

21. **Insurance.** The Consultant shall obtain and keep in force during the term of the Agreement, or as otherwise required, the following insurance with companies or through sources approved by the Washington State Insurance Commissioner pursuant to Title 48 RCW. Insurance Coverage

(a) Worker’s compensation and employer’s liability insurance as required by law.

(b) Commercial general liability and property damage insurance in an aggregate amount of two million dollars ($2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall be one million dollars ($1,000,000).

(c) Vehicle liability insurance for any automobile used in an amount of a one million dollar ($1,000,000) combined single limit.

The Port will be named as an additional insured on Consultant’s Commercial General Liability and Vehicle Liability policies. The Consultant shall furnish the Port with verification of insurance and endorsements required by the Agreement. In the event of a claim, the Port reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The Consultant shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this Agreement to the Port.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the Port.

The Consultant’s professional liability to the Port shall be limited to the amount payable under this Agreement or one million ($1,000,000) dollars, whichever is the greater. In no case shall the Consultant’s professional liability to third parties be limited in any way.

(a) The Consultant shall obtain insurance coverage of the kinds and in the amounts specified in Article 20 to this Agreement. The Consultant shall maintain such insurance throughout the term of the contract. All insurance shall be issued by one or more insurers authorized to transact insurance in the State of Washington. The coverage shall
meet all terms and conditions of this agreement and will meet the minimum Best A- rating standard. Consultant shall provide suitable proof of such coverage to the Port. If during the term of the contract the Port determines that the insurer or the coverage is inadequate, the Consultant shall immediately and at its expense obtain replacement and/or additional coverage, as specified by the Port.

(b) At or before the time the Consultant delivers the signed Agreement to the Port, it shall provide the Port with a certificate of insurance establishing compliance with the requirements of this paragraph.

(c) Notwithstanding any other provision of the contract documents, any failure by the Consultant to comply with any provision of this paragraph shall constitute a material breach of contract, entitling the Port to immediately suspend or terminate the contract, without any liability to the Consultant.

(d) Maintaining coverage in the amounts required by this paragraph shall not relieve the Consultant from liability in excess of such coverage. If it appears to the Port that judgments, claims, or potential claims against the Consultant may exceed the amount of available insurance, the Port may withhold from payments due the Consultant such amounts as the Port deems necessary to protect itself from liability.

(e) Exhibits to this Agreement are attached hereto and by this reference incorporated herein.

22. Compliance with Laws. The Consultant shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this Agreement.

23. Entire Agreement. This document and referenced attachments contain all covenants, stipulations and provisions agreed upon by the parties and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

24. Amendments. No provision of this Agreement may be amended or modified except by a further written document signed by the Port and the Consultant.

25. Severability. If a court of law determines any provision of the Agreement to be unenforceable or invalid, the parties hereto agree that all other portions of this Agreement shall remain valid and enforceable.

26. Notices. All communications, notices and demands of any kind which any party requires or desires to give to any of the other parties shall be in writing and either served on the following individual or deposited in the U.S. Mail, certified mail, postage prepaid, return receipt requested, and addressed as follows:

If to the Consultant: Consultant Name/Address
If to the Port: Port of Longview
Kara Metzger, Purchasing Manager, or Successor
10 Port Way
Longview, WA  98632

27. Applicable Law and Venue. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties hereto agree that any such action shall be initiated in the Cowlitz County Superior Court. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The Consultant hereby consents to the personal jurisdiction of the Cowlitz County Superior Court.

28. Effective Date. This Contract shall be effective on the last signature date set forth below.
PORT OF LONGVIEW

Kenneth B. O’Hollaren, Executive Director

ATTEST:

Robin Johnson
Executive Assistant/Deputy Auditor

CONSULTANT

Name

Title

ATTEST:

Name/Title

Date