

**PRELIMINARY AGENDA**  
**MARYSVILLE FIRE DISTRICT BOARD OF DIRECTORS**  
**WORKSHOP**  
**December 6, 2023, 6 pm**  
**Station 62 / Zoom**

- 1. Call to Order/Flag Salute**
- 2. Discussion Item**
  - A. SOC/CRA Update
- 3. New Business**
  - A. Agenda Bill: Everett Community College ILA – JATC Training Services
- 4. Call on Board**
- 5. Adjournment**

**\*\*PLEASE NOTE:**

To listen to the meeting without providing public comment:

Join Zoom Meeting

<https://us02web.zoom.us/j/85835398287?pwd=UU1XUXV2bldJalJ3MTBhdlFHSgHdDdz09>

Meeting ID: 858 3539 8287

Passcode: 741724

**MARYSVILLE FIRE DISTRICT**

**Regional Fire Authority**

**AGENDA BILL**

**BOARD MEETING DATE: December 6, 2023**

AGENDA ITEM: Everett Community College ILA – WSFF JATC Training	AGENDA SECTION: New Business
PREPARED BY: Ned Vander Pol, Fire Chief	
ATTACHMENTS: Everett Community College ILA – WSFF JATC Training	
BUDGET CODE: N/A	AMOUNT: N/A
SUMMARY:  This interlocal agreement (ILA) is for the provision of relevant training experiences via Everett Community College (“EVCC”) for full-time firefighter recruits enrolled in the Washington State Firefighters Joint-Apprenticeship Training (“WSFF JATC”) program. Participating agencies to this agreement include WSFF JATC, EVCC, Marysville Fire, Everett Fire, North County Fire. The ILA defines the scope of services and compensation structure. Duration is from September 1, 2023 through June 30, 2025, unless otherwise extended.	

**RECOMMENDED ACTION:**

Motion to approve the Everett Community College ILA for WSFF JATC Training services and authorization for the Fire Chief to execute such agreement.

## CLIENT SERVICE CONTRACT

This Contract is made and entered into by and between:

- State of Washington, Everett Community College, hereinafter referred to as “EvCC” or “COLLEGE;”
- The following Snohomish County Agencies, current and participating members of the Washington State Firefighters Joint-Apprenticeship Training Commission, hereinafter referred to as “PARTICIPATING AGENCIES”
  - City of Everett (“Everett Fire”)
  - Marysville Fire District Regional Fire Authority (“Marysville Fire”)
  - North County Fire and EMS Regional Fire Authority (“NCRFA”)
- In collaboration with said Washington State Firefighters Joint-Apprenticeship Training Commission, hereinafter referred to as “WSFF JATC” or “JATC.”

### Purpose

The purpose of this contract is to provide relevant training experiences for full-time firefighter recruits and to establish a process to compensate PARTICIPATING AGENCIES for Related Instruction and facility use at the rates established by the State Board for Community and Technical Colleges.

### SPECIAL TERMS AND CONDITIONS

#### Scope of Work

A. PARTICIPATING AGENCIES will provide services, facilities, and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

- Deliver Related Supplemental Instruction (RSI) classes
- Secure instructors who meet or surpass [the College’s minimum requirements](#) (see Exhibit B); selected instructors who perform services under this contract are contractors of PARTICIPATING AGENCIES and will not by virtue of this employment attain any right to tenure or continued employment by the College
- Provide instructional materials as required for courses offered under this agreement

- Send class rosters with final grades for each enrolled student within one calendar week of the end of each class

B. Exhibit A contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between COLLEGE and PARTICIPATING AGENCIES, and specific obligations of both parties. Any provision in the General Terms and Conditions regarding confidentiality obligations of a PARTICIPATING AGENCY is subject to that PARTICIPATING AGENCY'S obligations under the Washington Public Records Act.

PARTICIPATING AGENCIES shall maintain records and produce the following written documents upon the request of COLLEGE:

- Instructor names and professional qualifications/resumes
- Course syllabi that detail student outcomes/competencies, course outline/calendar, assignments, materials/textbooks, and student evaluation criteria
- Class rosters, final grades, and student evaluations of the classes/instructors

### **Period of Performance**

Subject to other contract provisions, the period of performance under this contract will be from: **September 1, 2023 through June 30, 2025**

### **Compensation/Payment**

College shall pay an amount for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. PARTICIPATING AGENCIES' compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Compensation is based on the FTE rate set by the Washington State Board of Community and Technical Colleges (SBCTC) for each academic year, and shall be subject to change as per SBCTC updates to these rates.

Rate for Academic Year 2022–2023: \$3,384

<https://www.sbctc.edu/colleges-staff/programs-services/apprenticeship/apprenticeship-fees-registration>

### **Instruction**

Maximum value for 1 allocated FTE for 2022–2023: \$3,384 - TBD for 2023–2024

WSFF JATC Provided Apprenticeship Instruction – Contract Payment

FTE Credits	Tuition rate @ \$59/credit + any fees paid from WSFF JATC to college	Per FTE Rate	Per FTE difference paid to the WSFF JATC, forwarded to the each member agency of the PARTICIPATING AGENCIES
45	\$2,665	\$3,384	\$719

**Billing Procedures**

1. COLLEGE will invoice the Washington State Board for Community and Technical Colleges (SBCTC) for tuition at the conclusion of grading each academic quarter. Tuition and fees will be assessed for each apprentice’s successful completion of each course taken, viz apprentice is awarded a grade of: Satisfactory **or** minimum of 2.0 grade point **or** C grade. SBCTC will pay College full state FTE for number of participants and hours.
2. WSFF JATC will invoice College for FTE funds less tuition and fees, and will forward the remainder of FTE payment to each member agency of the PARTICIPATING AGENCIES.
3. NCRFA, as the owner and operator of the training facility used, will then invoice COLLEGE for 60% of all tuition paid (not college fees) to be paid toward facility rental upon completion of a class. The invoices shall describe and document, to the COLLEGE'S satisfaction, the work performed, the progress of the project, and fees.
4. Payment shall be considered timely if made by the payee within sixty (60) days after receipt of properly completed invoices. Payment shall be sent to the contacts designated in this agreement and updated as appropriate.

The COLLEGE may, in its sole discretion, terminate this Contract or withhold payments claimed by PARTICIPATING AGENCIES for services rendered if PARTICIPATING AGENCIES fail to materially comply with any term or condition of this contract. The COLLEGE shall notify PARTICIPATING AGENCIES in writing of any material noncompliance.

Any PARTICIPATING AGENCY may terminate its participation as a party under this Contract for an academic year by providing written notice to the COLLEGE and the other PARTICIPATING AGENCIES no later than ninety (90) days before the start of the academic year.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the COLLEGE.

The COLLEGE shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.

DUPLICATION OF BILLED COSTS: PARTICIPATING AGENCIES shall not bill COLLEGE for services performed under this contract, and the COLLEGE shall not pay PARTICIPATING AGENCIES, if the PARTICIPATING AGENCIES are entitled to payment or has been or will be paid by any other source, including grants, for that service.

DISALLOWED COSTS: PARTICIPATING AGENCIES are responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

**CONTRACT MANAGEMENT**

The Contract Manager for each of the parties shall be the contact person for all communications regarding the performance of this Contract.

<b>Contract Manager for WSFF JATC</b>	<b>Contract Manager for COLLEGE</b>
<p>David Meyers                      Executive Director                      1405 SW 312th St                      Federal Way, WA 98023                      Phone: 253-946-7331                      Email: <a href="mailto:dmyers@wsffjatc.org">dmyers@wsffjatc.org</a>                      Washington State UBI No.: 603 259 491                      Federal EIN: 16-1717264</p> <p>Billing/Payment Contact CC:  <b>Kim Freyberg</b> <a href="mailto:Kfreyberg@wsffjatc.org">Kfreyberg@wsffjatc.org</a></p>	<p>Papken O’Farrell                      Director of Operations, Professional and                      Technical Education                      2000 Tower St, M/S 32                      Everett, WA 98201                      Phone: 425-388-9591                      Email: <a href="mailto:firescience@everettcc.edu">firescience@everettcc.edu</a>                      EIN: Federal EIN: 91-0759103</p> <p>Billing/Payment Contact CC:                      EvCC Accounts Payable  <a href="mailto:EvCCAP@everettcc.edu">EvCCAP@everettcc.edu</a></p>

Contract Manager for Everett Fire	Contract Manager for Marysville Fire
<p><b>Dave DeMarco</b>                      Fire Chief                      City of Everett Fire Department                      2801 Oakes Ave                      Everett, WA 98201                      Phone: 425-257-8100                      Email: <a href="mailto:DDemarco@everettwa.gov">DDemarco@everettwa.gov</a>                      Washington State UBI: 313-000-656                      Federal EIN: 916001248</p> <p>Billing/Payment Contact CC:                      Val Manuel <a href="mailto:VManuel@everettwa.gov">VManuel@everettwa.gov</a></p>	<p><b>Ned Van Der Pol</b>                      Fire Chief                      Marysville Fire District Regional Fire Authority                      1635 Grove Street                      Marysville, WA 98270                      Phone: 360-363-8500                      Email: <a href="mailto:nvanderpol@mfdrra.org">nvanderpol@mfdrra.org</a>                      Washington State UBI: 604-447-968                      Federal EIN: 35-2293045</p> <p>Billing/Payment Contact CC:                      Chelsie McInnis <a href="mailto:cmcinnis@mfdrra.org">cmcinnis@mfdrra.org</a></p>
Contract Manager for NCRFA	
<p>Randy Krumm, Finance Manager                      Station #99                      8117 267th St NW                      Stanwood, WA 98292                      Phone: 360.629.2184                      E-mail: <a href="mailto:rkrumm@northcountyfireems.com">rkrumm@northcountyfireems.com</a>                      Washington State UBI: 601-308-589                      Federal EIN: 26-0804770</p>	

**INSURANCE**

[This entire section "INSURANCE" does not apply to the City of Everett ("Everett Fire") as the City of Everett is self-insured.]

PARTICIPATING AGENCIES shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the PARTICIPATING AGENCIES or subcontractor, or agents of either, while performing under the terms of this contract.

The insurance required shall be issued by an insurance company(s) authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy(s). All policies shall be primary to

any other valid and collectable insurance. PARTICIPATING AGENCIES shall instruct the insurers to give COLLEGE 30 days advance notice of any insurance cancellation.

Each PARTICIPATING AGENCY shall each submit to COLLEGE within 30 days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. Each PARTICIPATING AGENCY shall submit renewal certificates as appropriate during the term of this Contract.

Each PARTICIPATING AGENCY shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

**Commercial General Liability Insurance Policy:** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, Each PARTICIPATING AGENCY is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

**Automobile Liability:** In the event that services delivered pursuant to this contract involve the use of vehicles, owned or operated by PARTICIPATING AGENCIES, automobile liability insurance shall be required. The minimum limit for automobile liability is: \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage

**Professional Liability, Errors and Omissions Insurance:** Each PARTICIPATING AGENCY shall maintain Professional Liability or Errors and Omissions Insurance. Each PARTICIPATING AGENCY shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all program activities by such PARTICIPATING AGENCY and licensed staff employed or under contract to such PARTICIPATING AGENCY. The state of Washington, its agents and employees need not be named as additional insureds under this policy.

The required insurance shall be issued by an insurance company(s) authorized to do business within the state of Washington, and except for Professional Liability or Errors and Omissions Insurance, shall name the state of Washington, its agents and employees as additional insureds under the insurance policy(s). All policies shall be primary to any other valid and collectable insurance. Each PARTICIPATING AGENCY shall instruct its insurers to give the College 30 days advance notice of any insurance cancellation.

**NON-DISCRIMINATION**

No person shall on the basis of race, color, national origin, citizenship, ethnicity, language, culture, age, sex, gender identity or expression, sexual orientation, pregnancy or parental status, marital status, actual or perceived disability, use of service animal, economic status, military or veteran status, spirituality or religion, or genetic information, be excluded from participation in, or be denied the benefits of, or otherwise be subjected to discrimination under

any activity performed pursuant to this agreement, as described in the Joint Apprenticeship Training Committee Standards and/or the policies and regulations of COLLEGE.

**ASSURANCES**

COLLEGE and PARTICIPATING AGENCIES agree that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

**ORDER OF PRECEDENCE**

Each of the Exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

Applicable Federal and State of Washington statutes and regulations  
Special Terms and Conditions as contained in this basic contract instrument  
Exhibit A – General Terms and Conditions

**ENTIRE AGREEMENT**

This contract including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

**CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

**APPROVAL**

This contract shall be subject to the written approval of the COLLEGE'S authorized representative and each PARTICIPATING AGENCY and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties. This contract may be signed in counterparts. Each party may sign this contract ink, by PDF scan, or by electronic signature (such as DocuSign or AdobeSign) and all such signatures are fully binding.

**THIS CONTRACT**, consisting of 8 pages and 2 attachments, is executed by the persons signing below who warrant that they have the authority to execute the contract.

WSFF JATC Signator	Everett Community College Signator
Name:	Name:
Title:	Title:
Signature:	Signature:

City of Everett Signator	Marysville Fire Signator
Name:	Name:
Title:	Title:
Signature:	Signator:

NCRFA Signator
Name:
Title:
Signature:

Assistant Attorney General	
Name:	
Designation:	
Signature:	

**APPROVED AS TO FORM:**  
Assistant Attorney General

**EXHIBIT A**

**GENERAL TERMS AND CONDITIONS**

**DEFINITIONS** – As used throughout this contract, the following terms shall have the meanings set forth below:

- (a) "Client" shall mean an individual receiving services under this contract.
- (b) "Cognizant State Agency" shall mean the state agency from whom the sub-recipient receives federal financial assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency who contributes the largest portion of federal financial assistance to the sub-recipient.
- (c) "Contractor" shall mean that agency, firm, provider, organization, individual or other entity performing services under this contract. It shall include any subcontractor retained by the prime Contractor as permitted under the terms of this agreement.
- (d) "Contracting Officer" shall mean that individual authorized to execute this agreement on behalf of the department.
- (e) "Department" shall mean the Everett Community College of the State of Washington, any division, section, office, unit or other entity of the department, or any of the officers or other officials lawfully representing that department.
- (f) "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- (g) "Subcontractor" shall mean one not an employee of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- (h) "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a

beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.

(i) A "Vendor" is an entity that agrees to provide the amount and kind of services requested by the Department; provides services under the contract only to those beneficiaries individually determined to be eligible by the Department and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35 -- The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

**ASSIGNMENT** – Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Contractor without prior written consent of the Department.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY** – If federal funds are the basis for this contract, the Contractor certifies that neither it nor its principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions by any federal department or agency.

**CHANGE IN STATUS** – In the event of substantive change in the legal status, organizational structure, or fiscal reporting responsibility of the Contractor, Contractor agrees to notify the Department of the change. Contractor shall provide notice as soon as practicable, but no later than thirty days after such a change takes effect.

**CHANGES AND MODIFICATIONS** – The Contracting Officer may, at any time, by written notification to the Contractor, and without notice to any known guarantor or surety, make changes within the general scope of the services to be performed under the contract. If the Contractor agrees to such changes, a written contract amendment reflecting such change shall be executed by the parties. An equitable adjustment in cost or period of performance or both may be made if required by the change. Any claim for adjustment in price or period of performance must be received within thirty (30) days of the Contractor's receipt of the change notice.

The Contracting Officer may, however, receive and act upon any such claim at any time prior to final payment under the contract at his/her discretion.

Failure to agree to any adjustment made under this section shall be an issue and may be reviewed as provided in the "Disputes" section of this agreement. Nothing in this section shall excuse the Contractor from proceeding with the contract as changed.

**CONFLICT OF INTEREST** – The Department may, in its sole discretion, by written notice to the Contractor terminate this contract if it finds after due notice and examination by the Contracting Officer that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or performance under, this contract.

**COVENANT AGAINST CONTINGENT FEES** – The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agent maintained by the Contractor for the purpose of securing business. The Department shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fees.

In the event this contract is terminated as provided above, the Department shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the department provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Contracting Officer makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

**DISPUTES –**

**Option 1 Dispute Resolution Board**

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, any party may request a dispute resolution board (DRB). A request for a DRB must be in writing, state the disputed issue(s), state the relative positions of the parties and be sent to all parties. Parties must provide a response within 14 days. Once a party requests a DRB, each party shall designate a representative. The representatives shall mutually select a third member (or an additional member for disputes involving more than 2 parties). The DRB shall evaluate the facts, contract terms and applicable

statutes and rules and make a determination by majority vote. The decision is binding on all parties.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

### **Option 2 Dispute Hearing**

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the [Agency/ Director of Agency or his or her designee].

1. The request for a dispute hearing must:
  - a. be in writing;
  - b. state the disputed issues;
  - c. state the relative positions of the parties;
  - d. state the Contractor's name, address, and contract number; and
  - e. be mailed to the agent and the other party's (respondent's) Contract Manager within 3 working days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requestor's statement to both the agent and the requestor within 5 working days.
3. The agent shall review the written statements and reply in writing to both parties within 10 working days. The agent may extend this period if necessary by notifying the parties.
4. The decision shall be admissible in any succeeding judicial or quasi-judicial proceeding.
5. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

### **Option 3 Mediation**

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in a mediation in good faith. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service that selects the mediator for the parties. The parties agree that mediation shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternative resolution method such as a disputes hearing, a dispute resolution board, or arbitration.

**GOVERNING LAW** – This contract shall be construed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought hereunder shall be in Superior Court for Snohomish County.

**INDEMNIFICATION** – Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees, and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement.

**INDEPENDENT CAPACITY** – The parties intend that an independent Contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of the Department. The Contractor will not hold himself/herself out as nor claim to be an officer or employee of the Department or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

**INDUSTRIAL INSURANCE COVERAGE** – The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the Department may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Department may

- deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by Department under this contract, and
- transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.

This provision does not waive any of L&I's rights to collect from the Contractor.

**LICENSING AND ACCREDITATION STANDARDS** - The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary in the performance of this contract.

**LIMITATION OF AUTHORITY** - Only the Contracting Officer or his/her delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Contracting Officer.

**NONDISCRIMINATION** – During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy this contract may be rescinded, canceled, or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Department. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**OVERPAYMENTS AND ASSERTION OF LIEN** - In the event that the department establishes overpayments or erroneous payments made to the Contractor under this contract, the department may secure repayment, plus interest, if any, through the filing of a lien against the Contractor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

**PRIVACY** - Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the department for any damages related to the Contractor's unauthorized use of personal information.

For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

**RECORDS, DOCUMENTS, AND REPORTS** – The Contractor shall maintain all books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials

generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by the Department, personnel duly authorized by the Department, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

**REGISTRATION WITH DEPARTMENT OF REVENUE** – The Contractor shall complete registration with the Department of Revenue, General Administration Building, Olympia WA 98504, and be responsible for payment of all taxes due on payments made under this contract.

**RIGHT OF INSPECTION** - The Contractor shall provide right of access to its facilities to the Department or any of its officers at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract on behalf of the department. All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the Contractor's business or work hereunder.

**RIGHTS IN DATA** - Unless otherwise provided, data which originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the department. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

Data which is delivered under the contract, but which does not originate there from, shall be transferred to the department with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; Provided, that such license shall be limited to the extent which the Contractor has a right to grant such a license. The Contractor shall exert all reasonable effort to advise the department, at the time of delivery of data furnished under this agreement, of all known or potential invasions of privacy contained therein and of any portion of such document, which was not produced in the performance of this agreement. The department shall receive prompt written notice of each notice or claim or copyright infringement received by the Contractor with respect to any data delivered under this agreement. The department shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

**SAFEGUARDING OF INFORMATION –**

The Contractor shall not use or disclose any Personal Information gained by reason of this contract, or information which may be classified as confidential, for any purpose not directly connected with the administration of this contract except (1) with prior written consent of the Department, or (2) as may be required by law. The Contractor shall safeguard such information and shall return or certify destruction of the information upon contract expiration or termination.

**SAVINGS** - In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the department may terminate the contract under the "Termination for Convenience" clause, without advance notice, subject to renegotiation at the Department's discretion under those new funding limitations and conditions.

**SEVERABILITY** – If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this contract, and to this end the provisions of this contract are declared to be severable.

**SINGLE AUDIT ACT REQUIREMENTS** – If the Contractor is a subrecipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133, the Contractor shall maintain records that identify all federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance Numbers. The Contractor shall make the Contractor's records available for review or audit by officials of the federal awarding agency, the General Accounting Office, DSHS, and the Washington State Auditor's Office. The Contractor shall incorporate OMB Circular A-133 audit requirements into all contracts between the Contractor and its Subcontractors who are subrecipients. The Contractor shall comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation.

If the Contractor expends \$300,000 or more in federal awards from any and/or all sources in any fiscal year beginning after June 30, 1996, the Contractor shall procure and pay for a single or program-specific audit for that year. Upon completion of each audit, the Contractor shall submit to the Contracting Officer named in this contract the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable).

NOTE: The single audit requirements above do not apply to "vendors" (as defined in this contract) who provide goods or services.

**SUBCONTRACTING** – Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Department. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to the Department for any breach in the performance of the Contractor's duties. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this contract.

**TERMINATION FOR CONVENIENCE** – Except as otherwise provided in this contract, the Contracting Officer may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part. If this contract is so terminated, the department shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

**TERMINATION FOR DEFAULT** – The Contracting Officer may terminate this contract for default, in whole or in part, by written notice to the Contractor if the department has a reasonable basis to believe that the Contractor has:

- Failed to meet or maintain any requirement for contracting with the department;
- Failed to ensure the health or safety of any client for whom services are being provided under this contract;
- Failed to perform under, or otherwise breached, any term or condition of this contract; and/or
- Violated any applicable law or regulation.

If it is later determined that the Contractor was not in default, the termination shall be considered a termination for convenience.

**TERMINATION PROCEDURE** – Upon termination of this contract the department, in addition to any other rights provided in this contract, may require the Contractor to deliver to the department any property specifically produced or acquired for the performance of such part of this agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The department shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the department and the amount agreed upon by the Contractor and the Contracting Officer for (a) completed work and services for which no

separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by the department, and (d) the protection and preservation of the property, unless the termination is for default, in which case the Contracting Officer shall determine the extent of the liability of the department. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this agreement.

The department may withhold from any amounts due the Contractor for such completed work or services such sum as the Contracting Officer determines to be necessary to protect the department against potential loss or liability.

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

After receipt of a notice of termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

1. Stop work under the agreement on the date and to the extent specified in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as necessary to complete such portion of the work not terminated;
3. Assign to the department, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the rights, titles, and interest of the Contractor under the orders and subcontracts in which case the department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer to the extent he/she may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the department and deliver, in the manner, at the times and to the extent as directed by the Contracting Officer, any property which, if the contract had been completed, would have been required to be furnished to the department;
6. Complete performance of such part of the work not terminated by the Contracting Officer; and,
7. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this agreement which is in the possession of the Contractor and in which the department has or may acquire an interest.

**TREATMENT OF ASSETS –**

(a) Title to all property financed or furnished by the department shall remain in the department. Title to all property purchased by the Contractor, for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the department upon delivery of such property to the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under the contract, shall pass to and vest in the department upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the department in whole or in part, whichever first occurs.

(b) Any property of the department furnished to the Contractor shall, unless otherwise provided herein, or approved by the Department, be used only for the performance of this contract.

(c) The Contractor shall be responsible for any loss or damage to property of the department which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

(d) If any department property is lost, destroyed, or damaged, the Contractor shall notify the Department and shall take all reasonable steps to protect the property from further damage.

(e) The Contractor shall surrender to the department all property of the department prior to settlement upon completion, termination or cancellation of this agreement.

(f) All reference to the Contractor under this clause shall include Contractor's employees, agents or subcontractors.

**WAIVER OF DEFAULT –** Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver shall not be construed to be a modification of the terms of the contract unless stated to be such in writing, signed by the Contracting Officer of the department.