



**Department of Finance, Purchasing
Division
3628 S. 35th Street, Tacoma,
Washington 98409**

**REQUEST FOR QUALIFICATIONS
AND
SUBMISSION OF PROPOSALS**

**Qualifications and Proposals for
Management and Operation of
Performing Arts Facilities
(Pantages Theater, Rialto Theater,
Theatre on the Square, and the Jones Building)**

**October 11, 2005
Specification No. ED05-0808F**

**Advertised: October 11, 2005
Statement of Qualifications/Proposals Due: 11:00 a.m., Pacific
Standard Time, November 30, 2005**

REQUEST FOR QUALIFICATIONS

AND

SUBMISSION OF PROPOSALS

**SEALED STATEMENT OF QUALIFICATIONS AND SUBMISSION OF PROPOSALS FOR:
Specification No. ED05-0808F**

Submittal of Qualifications and Proposals for Management and Operation of Performing Arts Facilities

will be received at the Purchasing Division, Tacoma Public Utilities (TPU), 3628 South 35th Street, Tacoma, WA 98409.

STATEMENTS OF QUALIFICATIONS AND SUBMISSIONS OF PROPOSALS WILL BE RECEIVED UNTIL: 11:00 a.m., Pacific Standard Time, Wednesday, November 30, 2005 at which time they will be recorded and forwarded to a Selection Panel for evaluation. Requests for Qualifications are not typically opened and read aloud.

Requests for Qualifications/Proposals (RFQ/P) documents may be obtained at the Purchasing Division, Tacoma Public Utilities, Main Floor, 3628 South 35th Street, Tacoma, WA 98409, or fax your request to 253-502-8372 and a copy will be mailed to you, or at the City's website at: <http://www.cityoftacoma.org/PerformingArtsManagement.html>.

Your attention is directed to the following items which are included in the packet and apply to all responses submitted: 1) Non-Collusion Affidavit (this document must be fully completed and submitted with your response); and 2) General Requirements to Proposers which include reference to the City's equal opportunity standards.

A list of firms responding to this RFQ/P (Respondents) may be obtained after 1:00 p.m., November 30, 2005, by accessing the City's website at: <http://www.cityoftacoma.org/45bids>.

Additional information regarding the technical specifications may be obtained by contacting Mike Combs at 253-593-7612, or general purchasing provisions, contact Marie Holm at 253-502-8139.



CITY OF TACOMA
Helen Small
Purchasing Manager

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1. Introduction:

The City of Tacoma owns three performing arts facilities, the Rialto Theater, the Pantages Theater (together with the adjoining Jones Office Building), and the Theater on the Square (hereinafter collectively referred to as the “Performing Arts Facilities” or “Theaters”). The Theaters are the homes of Tacoma’s resident arts organizations. The producing organizations include: The Tacoma City Ballet, The Tacoma Opera, The Tacoma Symphony, Tacoma Actors Guild, Northwest Sinfonetta, The Revels, Tacoma Concert Band and Tacoma Youth Symphony. Two presenting organizations are also residents of the Theaters: the Tacoma Philharmonic and the Broadway Center for the Performing Arts. All of the theaters are located within a one block downtown area known as the Theater District. They serve as economic stimulators to the downtown and attract audiences throughout the region.

The historic Pantages Theater originally opened in 1918 as a vaudeville house. It has 1,169 seats and can accommodate modest road productions. Attached to the Pantages is the Jones building, built at the same time as an office building. Today it houses the offices of many of the City’s resident performing arts organizations.

With its excellent acoustics, the Rialto is the preferred venue for the Northwest Sinfonietta, the Revels, and smaller productions of the Tacoma Opera. It, too, opened in 1918. The 742-seat theater was built to resemble Vienna’s 1916 Redoutensaal, the first “shoe box” shaped orchestra hall.

The 302-seat Theater on the Square opened in 1993 to be the home of Tacoma Actors Guild (“TAG”). With the 2005-2006 season, TAG is no longer the sole resident of this facility and it is available for other productions. During the 2005-2006 season, TAG will produce plays. The facility has full production capabilities including a rehearsal room, scene shop, costume shop, and storage space.

All three theaters are conveniently located next to Tacoma’s Link Light Rail stop and a municipal parking garage, Park Place North. The Theaters are the central entertainment hub for the area, although a smaller not-for-profit art house film theater and the Landmark Convention Center are located nearby.

The Theaters are cherished by the Tacoma community. Private fundraising activities have occurred over and over to purchase, build, and renovate the buildings. The resident arts organizations, the funding community, members of the various arts organization boards, community leaders, and arts patrons recognize the Theaters as a center of downtown. The active use of the Theaters has helped to create a vibrant City center bringing thousands of people downtown on an annual basis.

All of the facilities, including the Jones Building, have been managed by the non-profit organization, the Broadway Center for the Performing Arts (the “BCPA”) since 1982. The rental attendance summary for the 2004-2005 season is available by accessing the City’s website at: <http://www.cityoftacoma.org/PerformingArtsManagement.html>.

2. Current Management:

The interim management agreement between the City of Tacoma and the BCPA expires December 31, 2005, and will be extended until June 30, 2006. It is available by accessing the City of Tacoma website at the following location:

<http://www.cityoftacoma.org/PerformingArtsManagement.html>.

Historically, the City has annually contributed to the BCPA approximately \$400,000 for management and operation of the Theaters and more recently an additional amount of between \$450,000 to \$650,000 for maintenance and improvements. A summary of presenting and operating revenues and expenses by accessing the City's website at:

<http://www.cityoftacoma.org/PerformingArtsManagement.html>.

The City Manager has formed a steering committee and related subcommittees to ascertain the condition of the Theaters and examine the current structure for management and operation of the Theaters. This process has resulted in the formulation of the City's goals for the use and for the management and operation of the Theaters and the decision to seek proposals from qualified entities for the management and operation of the Theaters in a manner consistent with and in furtherance of these goals.

3. City of Tacoma Goals for Theaters and Operation and Management of the Theaters:

- A. **Support and Maximize the positive economic impact of the Theaters on Tacoma.** The Performing Arts Facilities are significant structures in Tacoma's downtown core. The Rialto and Pantages theaters are recognized important historic buildings and are listed on the Tacoma Register of Historic Places, the Washington State Register of Historic Places, and the National Register of Historic Places. Because of their special nature, they have a major influence on the local and national reputation of the City of Tacoma as a performing arts center. Tacoma citizens regard the Tacoma Theater District as a unique attribute to the community and credit the District with stimulating healthy bustling nighttime activity. When active, the Performing Arts Facilities are enormous generators of economic activity in the City. During nights, when there are productions and performances in the Theaters, the surrounding businesses benefit. The successful Respondent (hereafter the "Operator") must assure that theater usage is as active and diverse as feasible to enable the City to fully realize the economic development potential of these Performing Arts Facilities.
- B. **Preserve the Theaters as a long-term legacy for future generations.** Since the two historic theaters were acquired by the City and the Theatre on the Square was constructed, the City, patrons, and the community have made significant investments in these Performing Arts Facilities. The City should take steps to preserve these facilities for future generations of Tacoma citizens. To ensure

that these Theaters are preserved, they should be operated in a stable, long-term structure. The organization's mission should embrace the resident arts organizations as the core users of the Theaters, conduct joint marketing efforts with these organizations, and actively pursue community outreach for diversity and to build future audiences.

- C. **Ensure accountability in the operation of the Theaters while minimizing City involvement in day-to-day operations.** The Department of Public Assembly Facilities will manage the agreement with the successful Respondent. It is recognized that the booking and operation of the Theaters are an integral part of a complex and dynamic business. As a result, operational involvement in the Theaters by the City should be minimized to support streamlined, flexible, and rapid decision-making. The entity charged with the care and operation of the Theaters should be free to develop relationships that facilitate its ability to achieve accountability to the City. The entity should demonstrate the capacity of long-term, stable management, and be subject to the City's consent to any change or assignment of controlling interest in the Theaters. Periodic reporting and business plan accountabilities will be established to ensure that the Theaters are actively booked and adequately financed and maintained in a manner consistent with these City goals.
- D. **Continued development of the Tacoma Theater District.** The Theaters are the underpinning of the Tacoma Theater District, which is a recognized destination. It is extremely important that this district be promoted through a wide range of marketing activities. It is expected that the Operator of the Theaters will be actively engaged with the Downtown Merchants Associations, be a leader for the promotion of the Tacoma Theater District, be willing to partner with Tacoma Theater District Merchants, be engaged with the Greater Tacoma Convention and Trade Center, and be active with the Tacoma Regional Convention and Visitors Bureau.
- E. **Support and encourage private sector fundraising to meet the capital improvements needs of the Theaters.** The long-term operation of the Theaters should provide for the ongoing and increasing capital improvements needs of the Theaters. An on-going privately-lead fundraising campaign by the theater Operator to support the theaters will be necessary. It is expected that the Operator will actively engage and cultivate the funding community, as well as stakeholders, to embrace the fundraising mission and to ensure the long-term viability of the Theaters as Tacoma treasures.

4. Scope of Service:

The City of Tacoma is seeking submission of qualifications and proposals for the management and operation of the Performing Arts Facilities. The City will consider proposals that include a broad range of business, financial, legal, and organizational structures; provided that, the City shall retain ownership of the Theaters. Proposals shall provide for the

continued management and operation of the Theaters primarily as performing arts facilities in furtherance of the goals of the City as outlined in the previous sections. Respondents should clearly delineate how the proposal addresses each of these goals.

The Operator will exclusively manage the day-to-day operations of the Theaters and will be responsible for all costs associated with such management and operation, subject to a negotiated management/operations fee and/or incentives from the City. The proposal should, therefore, identify the initial and long-term financial support needed from the City for the ongoing management and operation of the Theaters and further should include a plan for minimizing, over time, the City's role in providing such financial support. This should include a reasonable proposal for maximizing use of the Theaters to develop capacity for long-term, stable management of the Theaters and independence from City financial assistance.

The resident not-for-profit arts organizations are embedded in the community and should remain the core users of the Theaters. The Operator is expected to fulfill the remaining obligations of the existing agreements with the resident arts groups for the use of the Theaters and enter into agreements for their future use of the Theaters. Rents, policies, and procedures for the use of the Theaters should be published by the Operator and equitably based for all users of the Theaters. The current agreements are available by contacting the RFQ/P Coordinator.

The proposal should also identify the proposed structure for the presenting functions, which may, but is not required to, include a presenting function for the Respondent or one or more of its partners or affiliates.

The Respondent shall include in its proposal a plan for how it would partner with the resident arts organizations to maximize use of the Theaters, provide educational programs for the community, and recognize Tacoma's diverse community to build a stronger audience base.

It is recognized that the Operator will require funding beyond earned revenue to finance capital projects, equipment replacement, extraordinary maintenance, and other needs of the Operator and the Theaters. It is, therefore, expected that the Operator will include, in its proposal, a plan for embracing public and private community fundraising to provide such financial support.

The Respondent will propose a structure for its participation in a small stakeholder committee consisting of a representative from the funding community, the City, and resident arts organizations to ensure ongoing communications and to address issues pertinent to the management, maintenance, and operations of the Performing Arts Facilities. While the City embraces this distinctive public/private partnership structure, the Respondent is encouraged to propose incentives to reduce the City's obligation in the long term. It is expected that the Respondent will expand concession revenue opportunities and retain the revenues from concessions to be used for management and operation of the Theaters.

The Respondent shall include in the proposal a statement of recognition, understanding, and commitment to the nature of managing, maintaining, and operating two significant historic theaters.

Finally, the Respondent should include its plan for maintenance of the Performing Arts Facilities, in accordance with the criteria set forth at Section 5 herein.

5. Maintenance:

- A. Building Structure.** The City will retain responsibility for maintenance of the building structure. “Building Structure” shall mean and include any part of the Performing Arts Facilities constructed or erected to withstand the forces, stresses, and loads, the function of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including any part of the supporting members, such as footings, bearing walls, columns, beams or girders. The “Building Structure” shall also mean any part constructed or erected to protect from wind and moisture penetration, such as roofing, copings, flashings, fenestration and cladding, at exterior walls. It does not include, nonstructural components of the buildings, such as non-load-bearing walls, partitions, lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and coverings, light fixtures, shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, doors, windows and any other materials constituting any part of the finished surfaces, electrical systems, elevators systems, plumbing systems, fire protection systems, heating and air conditioning systems, or performance-related components.
- B. House Keeping/Janitorial Services.** The Operator will be responsible for all housekeeping and janitorial services necessary for operation of the Performing Arts Facilities. Such services shall mean and include performance of the following tasks and provision of all related supplies: sweeping; washing; vacuuming floors and carpeting; washing windows; cleaning and stocking restrooms; maintaining lighting fixtures; keeping walks, fire escapes, exit corridors and egress corridors free of snow and ice; and disposing of trash, refuse, and the like.
- C. On-going Maintenance.** The Submittal shall include a plan for identifying, evaluating, prioritizing and completing ongoing day-to-day maintenance of the Performing Arts Facilities, including maintenance of the non-structural components, electrical systems, elevators systems, plumbing systems, fire protection systems, heating and air conditioning systems, and performance-related components. The plan should also identify the proposed roles, responsibilities, and obligations (including financial, reporting and inspection) of the Operator and the City to ensure that such maintenance is performed.

- D. Deferred/Planned Maintenance.** Recently, the City commissioned five analysis reports on the condition of the Theater facilities: (1) a systems analysis by McKinstry; (2) a structural analysis by AHBL Engineers; (3) a theater equipment analysis by Stagecraft; (4) an envelope analysis by Wiss, Janney, Elstner Associates; and (5) the interior finishes report by City staff. Copies of these reports are available by contacting the RFQ/P Coordinator or by going to the City's website at: <http://www.cityoftacoma.org/PerformingArtsManagement.html>.

The City has, further, internally identified in an internal report, the deferred maintenance, planned maintenance, and tenant improvements to be accomplished through the year 2012. This report identifies approximately \$3 million in deferred maintenance that is recommended to be performed within the next three years. Copies of this internal report are available by contacting the RFQ/P Coordinator or by going to the City's website at: <http://www.cityoftacoma.org/PerformingArtsManagement.html>.

The City recognizes that addressing the needs to complete the deferred maintenance, planned maintenance, and tenant improvements is a joint private/public task; however, it also recognizes that the Operator will be in the best position to assess and plan for completing this work. The Respondent should, therefore, submit a plan for identifying, evaluating, prioritizing, financing, and completing deferred maintenance, planned maintenance, and tenant improvements and replacement of Theater equipment. Such plan should identify the financial and other support needed to perform the work, and what contributions will be necessary from the Operator, the private sector, and the public sector, including the City of Tacoma. It should be noted that the Theaters are widely supported by the community and its elected officials serving on the Council and that there are, to date, unsought private resources.

6. Capital Campaign:

The Pantages Theater is one of Tacoma's historical landmarks and the centerpiece of the City's Theater District. Our region has grown in the years since the last improvements were made to this flagship venue, and so have our audiences. With larger crowds enjoying performances at the Pantages, the need to meet contemporary standards of patron comfort, access and safety has become critical.

With the support of the City of Tacoma, which pledged \$1.3 million toward the project, and an early \$1 million anonymous challenge grant, the BCPA launched a capital campaign to fund renovation and expansion of the Pantages Theater.

Renovation of the Pantages will promote increased public access to and use of one of Tacoma's architectural and cultural treasures. It will eliminate barriers to participation in the performing arts, nearly double the size of the lobby, increase the number and accessibility of restrooms and provide other amenities to enhance the theater-going experience. The

improvements will also attract greater numbers of arts and community organizations to use the Pantages lobby for receptions and small ensemble performances.

Since the public announcement of the campaign in October 2004, the campaign has raised more than \$4.1 million and momentum builds as the BCPA works toward achieving the \$5.4 million project goal.

The lobby will be expanded to nearly twice its current size by moving the exterior wall outward. The additional interior space will provide for more efficient delivery of patron services, significantly improve traffic flow and meet mandated space and accessibility requirements. The new building facade will feature additional doors and a canopy to shelter theater-goers during inclement weather.

A new, relocated grand staircase will lead from the lobby to the mezzanine. Skylights will add to ambience and increase the appeal of the lobby for private receptions and small performances. In contrast to the lobby as it is today, patrons will be able to enter the theater and move easily to their seats as well as mingle comfortably during intermission.

There will be a new indoor ticket office and a permanent concessions stand. Elevator access will be extended to the mezzanine. Lobbies on the balcony and mezzanine levels will be upgraded and new restrooms will be built on each level as well.

Korth Sunseri Hagey Architects, a San Francisco firm noted for its award-winning renovation and restoration of other historic theaters was selected through a competitive process to design the project to maintain the theater's original beauty and elegance and meet the needs of modern audiences. Tacoma-based members of the project team include Grulich Architecture and Planning Services, Tres West Engineers and Putnam Collins Scott Associates.

The City has entered into a Design and Construction Agreement with the BCPA and pursuant to this agreement, has contracted for conceptual, schematic and design development architectural services. The Design and Construction Agreement further provides that the City will contract for construction services if the BCPA has been successful in raising sufficient funds for the project. The City will manage the project and contribute a total of \$1,300,000.

Phase I construction is anticipated to take approximately four and one-half months and is currently scheduled to begin in June 2006 with completion in October 2006, although it is possible that construction will be delayed until the summer of 2007. A copy of the Design and Construction Agreement with the BCPA is available by contacting the RFQ/P Coordinator.

7. The Theaters:

Real estate tax parcel information, including ownership, dimensions, area, and maps for each of the facilities, may be accessed at the Pierce County Assessor's website:

www.piercecountywa.org/atr

The parcel identification numbers for each facility are as follows:

Pantages: 2009050010
Jones Building: 2009050020
Rialto: 2009070010
Theater on the Square: 2009050034

The Theaters are currently exempt from real estate taxes but may be subject to leasehold excise tax. Respondent is responsible for determining any change in the tax status of the facilities due to the structuring of its proposal.

8. Existing Labor Agreements:

The BCPA currently has existing labor agreements with the following:

IATSE Stagehands Local 15 expires July 1, 2006
Wardrobe Local 887 expires June 30, 2006

9. Other Existing Agreements:

Other contracts with the BCPA include various contracts with renters and performers through 2005-2006 season. These agreements are available by contacting the RFQ/P Coordinator or by accessing the City's website at:

<http://www.cityoftacoma.org/PerformingArtsManagement.html>.

10. Proposal Submission and Required Material:

Respondent must submit copies of its proposals as follows: one unbound copy, ten bound copies, and one electronic version in Microsoft compatible or PDF format on CD. Proposals must be on standard 8.5"x11" paper. All supporting documentation must be on paper no larger than 11"x17". Proposals and supporting documentation (collectively "Submittals") must be submitted in a sealed envelope labeled "Performing Arts Facilities Request for Proposals, Due November 30, 2005, at 11:00 a.m., Pacific Standard Time. Telecopied, facsimiled or e-mailed proposals will not be accepted. Respondent may choose to provide additional sets if and when invited to do so for presentation purposes. Submittals will not be returned.

Proposals shall be delivered to:

the Purchasing Division, Tacoma Public Utilities (TPU), 3628 South 35th Street, Tacoma, WA 98409.

Proposals must be received by: Wednesday, November 30, 2005, at 11:00 a.m., Pacific Standard Time.

SUBMITTALS MAY BE SENT IN BY MAIL OR TURNED IN PERSONALLY; HOWEVER, IF SENT BY MAIL, THE RESPONSIBILITY OF THEIR DELIVERY ON TIME IS WHOLLY UPON THE ENTITY SUBMITTING THE PROPOSAL.

No Submittals will be considered which are received after the time mentioned, and any submittals so received after the scheduled closing time shall be returned unopened.

The RFQ/P Coordinator is the point of contact for the City of Tacoma for this procurement. All communication between the Respondent and the City of Tacoma upon receipt of this RFQ/P shall be with the RFQ/P Coordinator, who is identified as follows:

Mike Combs
Public Assembly Facilities Manager
2727 East D Street
Tacoma, WA 98421
Email: mcombs@cityoftacoma.org
Phone: 253-593-7612
Fax: 253-593-7620

All questions are due no later than November 8, 2005. Questions will be answered in writing by November 15, 2005.

11. Pre-proposal Conference and Tour:

A pre-proposal conference and walk-through tour of the Theaters will be held on October 31, 2005, at 1:00 p.m. (subject to change), in the Pantages Theater, 901 Broadway, Tacoma, WA 98402. Respondent is strongly encouraged to attend. City representatives and Theater management staff will be available to respond to questions regarding this RFQ/P, the physical facilities, and the operating aspects of the Theaters.

If a Respondent who has attended the tour desires additional inspection and investigation of the theaters, the Theaters will be made available for that purpose. Respondents must register their intent to conduct such inspection by email or fax with contact staff by November 14, 2005. Other than providing access to the facilities, neither Theater management nor City staff will respond to questions during these inspections.

12. Proposal Contents:

Proposals must include the following:

- A. A cover page that indicates the following information:
 1. Responding entity's name and mailing address.
 2. Respondent's current legal status: corporation, partnership, sole proprietor, etc.
 3. Federal ID number or Social Security number

4. State ID number.
 5. Contact person's name, title, phone number, fax number, and email address.
 6. Signature of authorized corporate officer for each entity proposing individually or as a partnership or team.
-
- B. A narrative summary of the nature and structure of the proposed management and presenting arrangement (e.g. lease/license agreement, management and/or presenting contract) and how the proposal addresses each of the goals as stated herein. Proposals must address all Performing Arts Facilities. The narrative should address how the Respondent intends to divide its priorities between facility maintenance, facility management, and operation, and, if it chooses, presenting.
 - C. A narrative which clearly outlines the qualifications of the board of directors and the organization's expertise in managing community-based performing arts facilities. The narrative shall illustrate the Respondent's knowledge and abilities to work with other non-profit organizations, the broader arts community, community groups, labor unions, and create and facilitate public/private partnerships.
 - D. A term sheet ("Term Sheet") that outlines proposed contract terms and conditions and any exceptions.
 - E. A preliminary operating pro forma showing the methodology for maintenance and operations of the facilities.
 - F. A staffing plan that includes an organizational chart showing key management personnel and identification of onsite management personnel. Indicate whether key staff has been selected and if so, include resumes and references.
 - G. A box office and ticket sales plan including responsibilities for group and subscription sales and the methodology for incorporating activities of the resident arts organizations.
 - H. A facility utilization and marketing plan describing the mix of event types to maximize utilization of the facilities and the strategies, resources, and experience to achieve those goals.
 - I. A transition plan for the assumption of booking and management from the current management.
 - J. A plan to establish, implement, and comply with customer service standards.
 - K. A minimum of four references.

- L. Any other information that would help the evaluation panel understand and evaluate the proposal.

13. Selection Process:

The first part of the selection process is intended to identify and select qualified Respondents that wish to manage and operate the Theaters. Only Respondents that have submitted a complete response to this RFQ/P will be identified as “Applicants.” Initial screening and evaluation of qualifications will be conducted by a panel of City staff and the co-chairs of the Performing Arts Facilities Task Force (Arts Forever), and a minimum of two other stakeholders from the community. The panel will evaluate and determine the numerical ranking of each Applicant’s qualifications, in accordance with the criteria set forth at Section 14 herein. Based upon the numerical ranking, the highest ranked Applicants, at the determination by the City, will be identified as “Finalists,” and so notified.

14. Evaluation Criteria – Qualifications:

Written responses will be reviewed and ranked by weighing the Respondent’s qualifications against those described below as presented in the narrative and sample materials, as submitted by the Respondent. The following point structure will be assigned to each area, with a perfect score being 100 points:

- A. Demonstrated knowledge and ability to maintain, manage, and operate multiple performing art facilities. 15 points
- B. General knowledge of not-for-profit performing arts business, including booking, scheduling, box office, marketing, and collaborations. 15 points.
- C. History, stability, and organizational management capacity of organization. 15 points
- D. Demonstrated knowledge of community outreach, marketing, and audience development. 15 points
- E. Demonstrated understanding of developing, implementing, and executing fundraising strategies, including the ability to create, foster, and lead public/private partnerships with funders, government, and not-for-profit arts organizations. 15 points
- F. Demonstrated knowledge of labor management. 15 points.
- G. Demonstrated understanding of volunteer coordination and management. 10 points

When the evaluation of the qualifications by the panel produces numerical ratings that are substantially equivalent of the total available points, the City of Tacoma reserves the right to select a Respondent whose response is deemed in the City of Tacoma's best interest.

15. Evaluation Criteria – Proposal:

Upon selection of the Finalists, invitations for oral presentations will be extended at the discretion of the committee. The proposed time period for oral presentations is the week of December 12, 2005. The RFQ/P Coordinator will contact the Respondent(s) to schedule a date, time, and location for such presentation. Commitments made by the Respondent at the oral interview, if any, will be considered binding. The City Manager will have the final approval of the successful Respondent, as recommended by the panel. The evaluation process is designed to award the contract not necessarily to the Respondent of least cost, but, rather, to the Respondent whose proposal and qualifications best meet the requirements of goals set forth herein and any other criteria that may be established by the City Manager or City Council.

The Respondents' proposals will, therefore, be evaluated in terms of whether or not and how it will:

- A. Support a diversity and frequency of programming in the Theaters in order to maximize the economic impact and vitality of Tacoma's Theater District to the City of Tacoma;
- B. Demonstrate a focus on preservation of the Theaters as a long-term legacy for future generations of Tacoma citizens;
- C. Seek to minimize the operational involvement of the City in the Theaters, while remaining accountable to the City regarding booking activity, long-term maintenance, and governance;
- D. Provide active leadership for the continued development of the Theaters and the Tacoma Theater District;
- E. Establish the capability to meet the Theaters' current and longer-term maintenance and capital improvement needs through operating and presenting profits, user fees, and other private funding;
- F. Propose a strategy for a community arts education and outreach program; and
- G. Establish a sound fiscal plan for current and future management, operation, and maintenance of the Theaters.

Other evaluation criteria will include:

- A. The experience and the financial and organizational capacity of the Respondent in successfully managing and promoting similar theaters;
- B. The terms and conditions of the Term Sheet, including the proposed fee structure (if applicable); and
- C. The financial capacity to perform Respondent's duties and obligations, including, to the extent applicable, collateralization of ticket proceeds, presentation guarantees, debt service reserves, and capital improvement reserves.

The panel will evaluate the proposals and submit a recommendation to the City Manager for his approval. The City may, in its sole discretion, expand or reduce the criteria upon which it bases its final decisions regarding selection of an Operator. The final selection, if any, will be that proposal which, in the sole judgment of City of Tacoma after review of all finalists' submissions, best meets the requirements set by the City.

THE CITY OF TACOMA RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO (A) REJECT ANY AND ALL PROPOSALS RECEIVED, WITHOUT PENALTY AND NOT TO ISSUE A CONTRACT AS A RESULT OF THIS RFQ/P, OR, IF THE CITY OF TACOMA DETERMINES THAT IT IS APPROPRIATE TO DO SO; (B) NEGOTIATE MODIFICATIONS OF PROPOSALS SUBMITTED; (C) NEGOTIATE SPECIFIC PROPOSAL ELEMENTS WITH A RESPONDENT; OR (D) REQUEST RE-SUBMISSION OF ALL FINALIST PROPOSALS BASED UPON REFINED OR CHANGED ELEMENTS ACHIEVED THROUGH THIS RFQ/P PROCESS OR OTHER SOURCES.

16. Contract Award:

A negotiation between the selected finalist and the City will ensue, based upon that top ranked finalist's RFQ/P proposal and qualifications. A successful negotiation will result in issuance of a contract and any other documents necessary to effectuate the agreement reached.

Proposals must provide a minimum of 60 days for acceptance by City of Tacoma from the due date, for receipt of proposals. The final contract is subject to Tacoma City Council approval.

Upon selection of the top ranked finalist, the City of Tacoma and the top ranked finalist will enter into negotiations for an agreement, based primarily upon the needs and goals of the City, the term sheet submitted by the Respondent, the general requirements (Attachment B), and the contents of the Submittal and the RFP. The general requirements contained in Attachment B are the terms and conditions that the City will require to be included in the final agreement with the Operator. By submitting a proposal, the Respondent agrees to be bound by these terms and conditions, unless otherwise noted in the Submittal. The Respondent may suggest alternative language to any term or condition.

The agreement shall contain various measurement and performance standards, which will be reviewed minimally once a year, and provisions for submittal and review of an annual operating plan budget and capital budget for all functions performed by the Operator.

In the event that, after reasonable and diligent efforts, the selected top ranked finalist and City are unable to agree upon mutually acceptable terms and conditions for the contract, the City shall give such notice to the top ranked finalist and may, thereupon, commence negotiations with the second ranked finalist or the City may reject all proposals and not issue a contract.

17. Proprietary Information/Public Disclosure:

Materials submitted in response to this RFQ/P shall become the property of the City of Tacoma. All proposals shall be deemed public records, as defined in RCW 42.17.250 to .340, "Public Records."

Any information in the Submittal that the Respondent desires to claim as exempt from disclosure under the provisions of RCW 42.17.250 to .340, or the Washington Trade Secrets Act, must be clearly designated. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page, and the particular exception from disclosure, upon which the Respondent is making the claim, must be stated on the page. Marking the entire proposal exempt from disclosure will not be honored. The Respondent must be reasonable in designating information as confidential.

In the event that the City receives a request for disclosure of information that a Respondent has designated as confidential, the City will give the Respondent notice and a reasonable amount of time for the Respondent, at its own expense, to take legal action to obtain a protective order.

All requests for information should be directed to the RFQ/P Coordinator.

18. Revisions to and Extension of the RFQ/P:

All revisions to this RFQ/P, including any extension of the deadline for submission of proposals, will be in the form of a written addenda and no oral revision should be relied on by any Respondent for any purpose. The City reserves the right to extend the timeline for submitting responses, if, in the City's reasonable judgment, a potential qualified Respondent has demonstrated a need to do so. All revisions to or extensions of the RFQ/P will be posted on the City website at <http://www.cityoftacoma.org/PerformingArtsManagement.html>. Persons wishing to receive revisions to the RFQ/P should leave their contact information when accessing the website or when requesting a copy of the RFQ/P.

19. Responsiveness:

All proposals will be reviewed by the City to determine compliance with the requirements and instructions specified in this RFQ/P. The Respondent is specifically notified that failure to comply with any part of the RFQ/P may result in rejection of the proposal as non-responsive. The City of Tacoma also reserves the right, in its sole discretion, to waive irregularities deemed by the City of Tacoma, in its sole judgment, to be immaterial.

20. Cost to Propose:

The City of Tacoma will not be liable for any costs incurred by the Respondent in preparation of a proposal submitted in response to this RFQ/P, in conduct of a presentation, or any other activities related to responding to this RFQ/P.

21. No Obligation to Contract:

This RFQ/P does not obligate the City of Tacoma to contract for services specified herein.

22. Special Reminder to All Applicants:

It is the policy of the City of Tacoma that all citizens be afforded an equal opportunity for full participation in our free enterprise system. In order to implement this policy, the City is committed to ensuring equitable participation. The Personnel Inventory Form (Attached hereto as Exhibit C) must be accurately completed and returned at the time of the submission of proposals. Failure to do so may result in the proposal being considered non-responsive. This form is necessary to determine if the Applicant is in compliance with Chapter 1.50 of the Tacoma Municipal Code and applicable state laws relating to non-discrimination and equal employment opportunity. Contact the HUB and LEAP Office at 253-591-5830 or 591-5825 if you have questions.

23. Commitment of Funds:

The Tacoma City Council is the only entity that may legally commit the City of Tacoma to the expenditures of funds for an agreement resulting from this RFQ/P. No costs chargeable for work under the proposed agreement may be incurred before receipt of either a fully executed agreement or specific written authorization from the Tacoma City Council.

24. Legal Disputes:

Respondent agrees and stipulates that, in the event any litigation should occur concerning or arising out of this RFQ/P, the sole venue of any such legal action shall be the Pierce County Superior Court of the State of Washington and the interpretation of the RFQ/P shall be subject to and under the laws of the state of Washington.

ATTACHMENT B

GENERAL REQUIREMENTS -Management and Operations

Part A. Proposal

1. Taxes: Section 6.68.225 of the Tacoma Municipal Code provides that all transactions with the City of Tacoma, wherever consummated, are subject to the City of Tacoma's Business and Occupation Tax. It is the responsibility of the Respondent awarded the contract to register with the City of Tacoma's Finance, Tax and License Division, 733 Market Street, Room 21, Tacoma, WA 98402-3768, telephone 253-591-5252. The City's Business and Occupation Tax amount shall not be shown separately but shall be included in the unit and/or lump sum prices proposal.
2. Compliance with Regulations: The entity submitting its statement of qualifications agrees to abide by all laws, rules and regulations promulgated by the United States of America, the State of Washington, or any agencies or subdivisions thereof, specifically including WISHA and OSHA regulations in effect at the time of the opening of the Submittal. The successful firm shall be solely responsible for all violations of the law from any cause in connection with work performed under a Contract entered into.
3. Non-Collusion Affidavit: The successful Proposer is required to execute the noncollusion affidavit on the City form which is attached to this Proposal and submit it at the time of proposal. The Proposer represents by the submission of the Proposal that any prices in this Proposal are neither directly nor indirectly the result of any formal or informal agreement with another Proposer.
4. Code of Ethics: The successful entity also agrees that its violation of the City's Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code, shall constitute a breach of the contract arising out of this request for statements of qualifications subjecting the resulting contract to termination.
5. Interest of Members of Governmental Owner: No officer, employee, or agent of the City of Tacoma, nor any member of the immediate family of any such officer, employee, or agent, as defined by City of Tacoma ordinance, shall have any personal financial interest, direct or indirect, in any agreement arising out of this request for qualifications, either in fact or in appearance. The successful entity shall comply with all federal, state, and City conflict of interest laws, statutes, and regulations. The firm submitting its proposal represents that it presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this request for statement of proposals pertains, which would conflict in any manner or degree with the performance of the successful entity's services and obligations agreed to thereafter. The successful entity further covenants that, in performance of any agreement arising out of this request for statements of proposal, no person having any such interest shall be employed.

Part B – General Contract Terms and Conditions

1. Controlling Law: This agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the state of Washington (without reference to conflict of law principles).

2. Venue: The Operator and the City hereby consent and agree that venue of any action brought under this agreement shall be in Pierce County, Washington; provided, however, that venue of such action is legally proper.

3. Time of Essence: Time is of the essence of this agreement and each provision hereof.

4. Liens: The Operator shall promptly pay and discharge any and all liens arising out of any construction, alterations, or repairs done, suffered or permitted to be done by the Operator on any part of the Performing Arts Facilities. The City is hereby authorized to post any notices, or take any other action upon, or with respect to, any part of the Performing Arts Facilities that is, or may be permitted by law, to prevent the attachment of any such liens to the Performing Arts Facilities; provided, however, that failure of the City to take any such action shall not relieve Operator of any obligation or liability under this Section 4 or any other section of this agreement.

5. Interest on Amounts Owed: All invoices are due 45 days after the date of invoice, or sooner if required by law. In the event that a party shall fail to pay any monies to another party, as and when due hereunder, then such party shall pay interest on such unpaid sum from 45 days after the date due at an annual rate equal to (a) the greater of (i) for the period January 1 through June 30, the prime rate last published in *The Wall Street Journal* in the preceding December plus 2-1/2 percent, and for the period July 1 through December 31, the prime rate last published in *The Wall Street Journal* in the preceding June plus 2-1/2 percent, or (ii) 12 percent; or (b) the maximum rate permitted by law, whichever is less. Invoices shall be directed to the addresses identified in Section 13 herein.

6. Assignment: The Operator may transfer or assign this agreement and all rights, duties, and obligations hereunder, but no transfer or assignment shall be effective, except after prior written notice to the City and transferee/assignee's written commitment delivered to City, that transferee/assignees shall thereafter be responsible for all obligations under the agreement. Such a transfer/assignment shall relieve the Operator of any further obligations under the agreement, including any obligations not fulfilled by the Operator's transferee/assignee; provided that, the transfer/assignment shall not, in any respect, relieve the Operator, or any of its successors in interest, of responsibility for acts or omissions, known or unknown, or the consequences thereof, which acts or omissions occur prior to the time of the transfer/assignment.

7. Waiver: The parties agree that neither the failure nor the delay of any party to exercise any right, remedy, power, or privilege under this agreement shall operate as a waiver of such right, remedy, power, or privilege, nor shall any single or partial exercise of any right, remedy, power, or privilege preclude any other, or further, exercise of the same or of any other right, remedy, power, or privilege, nor shall any waiver of any right, remedy, power, or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective, unless it is in writing and is signed by the Party asserted to have granted such waiver.

8. Attorney's Fees: In the event of commencement of a legal action at law, or in equity, in an appropriate forum by a Party to enforce any covenant or any of such party's rights or remedies under this agreement, including any action for declaratory, injunctive, or equitable relief, the substantially prevailing party in any such action shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including, but not limited to, its costs of expert witnesses; transportation, lodging, and meal costs of the parties and witnesses; costs of transcript preparation; and other reasonable and necessary direct and incidental costs of such dispute, in addition to any other relief to which such party or parties may be entitled.

9. Business Days: If the last day of any time period stated in this agreement or the date on which any obligation to be performed under this agreement shall fall on a Saturday, Sunday, or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day, which is not a Saturday, Sunday, or legal holiday.

LEGAL HOLIDAYS: of the City of Tacoma are:

New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday of November
Day after Thanksgiving	4th Friday of November
Christmas Day	December 25

When any of these holidays occur on Saturday or Sunday, the preceding Friday or the following Monday, respectively, is a legal holiday for the City of Tacoma.

10. Amendment: This agreement may be amended only by a written contract signed by authorized representatives of the City and the Operator. The City Manager is authorized to, without prior approval of the governing body of the City, execute amendments to this agreement that do not increase the term of the agreement or the compensation to be paid by

the City to the Operator and do not otherwise materially increased the monetary obligations of the City.

11. Limited Severability: The City and the Operator each believes that the execution, delivery, and performance of this agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this agreement is declared illegal, invalid, void, or unenforceable, under present or future laws (or is construed as requiring the City to do any act in violation of any applicable laws, constitutional provision, law, regulation, City Code or City Charter), such provision shall be deemed severed from this agreement and this agreement shall otherwise remain in full force and effect; provided that, this agreement shall retroactively be deemed reformed to the extent reasonably possible, in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the parties, as if such severance and reformation were not required. The parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this agreement, as reformed.

12. Joint and Several Liabilities: The Operator acknowledges that, in any case in which the Operator and the Operator's contractors are responsible, under the terms of this agreement, such responsibility is joint and several, as between the Operator and any such Operator's Contractors; provided that, the Operator is not prohibited from allocating such liability as a matter of contract.

13. Notices:

13.1 Except as otherwise required by law, any notice, demand, or other communication given hereunder, shall be in writing and shall be given by personal delivery or be sent by certified or registered U.S. Mail, return receipt requested, addressed to the parties at their respective addresses set forth below, or at such other address as a party may designate in writing, pursuant to the terms of this paragraph, or by telecopy, facsimile machine or by any recognized national express or overnight delivery service (e.g., Federal Express or UPS), with all postage and other delivery charges prepaid:

To: City of Tacoma
** Department
Attn: **
747 Market Street, Rm **
Tacoma, WA 98402
Fax: (253) 591-****

And To: City Attorney
747 Market Street, Rm. 1120
Tacoma, WA 98402
Fax: (253) 591-5755

To: Operator
Attn: **

Fax: (253) ***_****

The address specified herein for either party may be changed by providing notice to the other party no less than 30 days' advance written notice of such change in address.

13.2 Effective Date of Notices. All such notices, demands, or other communications will (a) if delivered personally or delivered through a same day delivery/courier service, be deemed effective upon delivery or refusal to accept delivery by the addressee; and (b) if delivered by U.S. mail, in the manner described above be deemed effective upon the earlier of receipt or three business days after deposit in a post office operated by the United States or with a United States postal officer (in each case regardless of whether such notice, demand, or other communication is received by any other person to whom a copy of such notice, demand, or other communication is to be delivered, pursuant to this paragraph). Any notice sent by a recognized national overnight delivery service shall be deemed effective one business day after deposit with such service. Any notice sent by telecopy or facsimile machine shall be deemed effective upon confirmation of the successful transmission by the sender's telecopy or facsimile machine. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee.

14. Force Majeure: Neither party hereto shall be liable to the other party for any failure to perform an obligation set forth herein to the extent such failure is caused by war, act of terrorism, or an act of God; provided that, such party has made and is making all reasonable efforts to perform such obligation and minimize any and all resulting loss or damage.

15. Annual Review: Commencing on the first anniversary of the agreement and on or about each one-year anniversary of this agreement thereafter, the Operator and the City shall, except as may be otherwise agreed to by the parties, meet face-to-face to discuss implementation of this agreement and any changes that either party believes should be made. The parties shall negotiate any proposed amendments to this agreement in good faith. This section shall not affect the Operator's right to reasonably modify the insurance coverage required under this agreement as set forth herein.

16. Performance Monitoring: The City will monitor the performance of the Operator against the goals and performance standards required herein. Substandard performance, as determine by the City, will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Operator with a reasonable period of time after being notified by the City, contract termination procedures will be initiated.

17. Subsequent Action: In the event that after this agreement becomes effective, (a) there is a change in the law, which requires the City or the Operator to perform any act or

cease performing any act which is inconsistent with this Agreement; (b) there is a change in the law, which broadens the authority of the City or the Operator with respect to any act permitted or authorized under this Agreement; or (c) the City or the Operator believe that amendments to this agreement are necessary or appropriate, then the City and the Operator agree to enter into good faith negotiations to amend this agreement, so as to enable the parties to address, in a manner reasonably acceptable to all parties, such change or other development, which formed the basis for the negotiations. The parties recognize that the purpose of the negotiations would be to preserve, to the maximum extent consistent with law, the scope and purpose of this agreement.

18. Good Faith and Reasonableness: The parties intend that the obligations of good faith and fair dealing apply to this agreement, generally, and that no negative inference be drawn by the absence of an explicit obligation to be reasonable in any portion of this agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of a party being given “sole discretion” or being allowed to make a decision in its “sole judgment.”

19. Section Headings: The section headings contained in this agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this agreement.

20. Construction: The terms and provisions of this agreement represent the results of negotiations between the parties, each of which has been, or has had the opportunity to be, represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this agreement shall be interpreted and construed in accordance with their usual and customary meanings. The parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed agreement or any earlier draft of the same.

21. Third-Party Beneficiaries: No person or entity shall be a third-party beneficiary to this agreement, except for permitted transferees or assignees, to the extent that they assume or succeed to the rights and/or obligations of the Operator under this agreement, and except that the indemnified parties referred to in the indemnification provisions of this agreement shall be third-party beneficiaries of such indemnification provisions.

22. Independent Contractor: Nothing contained in this agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Operator shall, at all times, remain an independent contractor with respect to the services to be performed under this agreement. Any and all employees of Operator, or other persons engaged in the performance of any work or services required by Operator under this agreement, shall be considered employees or subcontractors of the Operator only and not of the City; and any and all claims that might arise, including worker’s compensation claims under the Worker’s Compensation laws of the

state of Washington or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Operator.

23. Conflict and Priority: In the event that a conflict is found between provisions in this agreement, the Operator's Submittal or the City's request for statement of proposal, the provisions in the following rank order shall take precedence: (a) the negotiated agreement entered into by and between the parties; (b) the Submittal; and (c) the request for statement of proposal.

24. Nonliability of City Officials, Etc., and of Employees, Members and Partners, Etc. of the Operator: No Tacoma City Council member, official, representative, agent, attorney, or employee of the City shall be personally liable to any of the other parties hereto, or to any successor in interest to any of the other parties, in the event of any default or breach by the City or for any amount which may become due to any of the other parties or their successors, or with respect to any obligation of the City under the terms of this agreement. Notwithstanding anything contained in this agreement to the contrary, the liability of the Operator under this agreement shall be limited solely to the assets of the Operator and shall not extend to or be enforceable against: (a) the individual assets of any of the individuals or entities who are shareholders, members, managers, constituent partners, officers, or directors of the general partners or members of the Operator; (b) the shareholders, members or managers, or constituent partners of the Operator; or (c) officers of the Operator.

25. Survival: All obligations to release, hold harmless, defend, and indemnify contained in this agreement shall survive the execution and delivery of this agreement; the closing of any transaction contemplated herein; and the rescission, cancellation, expiration, or termination of this Agreement, upon the terms and for the period set forth in each respective section.

26. Exhibits: The parties agree that all references to this agreement include all exhibits designated in and attached to this agreement, such exhibits being incorporated into and made an integral part of this agreement for all purposes.

27. Entire Agreement: This agreement is the full and complete agreement of the City and the Operator, with respect to all matters covered herein, and all prior and contemporaneous agreements, representations, negotiations, and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect the validity of any instruments executed by the parties in the form of the exhibits attached to this agreement.

28. Representations of Parties:

28.1 The City's Representations. The City hereby represents and warrants to the Operator that it has full statutory right, power, and authority to enter into this agreement and perform in accordance with its terms and provisions; that the parties signing this agreement on behalf of the City have the authority to bind the City and to enter into this

transaction; and that the City has taken all requisite action and steps to legally authorize the execution, delivery, and performance of this agreement.

28.2 Operator's Representations and Warranties. The Operator hereby represents and warrants to the City that it has full power and authority to enter into this agreement and perform in accordance with its terms and provisions; that the parties signing this agreement on behalf of the Operator have the authority to bind the Operator and to enter into this transaction; and that the Operator has taken all requisite action and steps to legally authorize the execution, delivery, and performance of this agreement.

30. Conflict of Interest: No member, official, or employee of the City shall have any personal interest, direct or indirect, in this agreement, nor shall any such member, official, or employee participate in any decision relating to this agreement, which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested.

30. Discrimination: The Operator, for itself and its successors and assigns, agrees that, during the term of this agreement, the Operator will not discriminate in any employment action because of race, creed, color, national origin, marital status, sex, sexual orientation, age, or the presence of any sensory, mental, or physical handicap. In the event of noncompliance by the Operator with any of the non-discrimination provisions of this agreement, the City shall be deemed to have cause to terminate this agreement, in whole or in part.

31. Counterparts: This agreement may be executed in two or more counterparts, each of which shall be deemed an original and all so executed shall constitute one agreement, binding on the parties.

Part C – Specific Terms and Conditions

1. Indemnification:

1.1 To the fullest extent permitted by law, the Operator shall indemnify, defend, and save harmless City, agencies of the City, and all officers and employees of the City, from and against any and all claims for injuries or death or damage to persons or property, including claims by the Operator’s employees, or for damages arising out of, resulting from, or incident to Operator’s performance or failure to perform the contract.

1.2 THE OPERATOR SPECIFICALLY ASSUMES POTENTIAL LIABILITY FOR ACTIONS BROUGHT BY THE OPERATOR’S OWN EMPLOYEES AGAINST THE CITY AND, SOLELY FOR THE PURPOSE OF THIS INDEMNIFICATION AND DEFENSE, THE OPERATOR SPECIFICALLY WAIVES ANY IMMUNITY UNDER THE STATE INDUSTRIAL INSURANCE LAW, TITLE 51 RCW.

2. Determination of Responsibility:

2.1 During proposal evaluation, the City reserves the right to make reasonable inquiry to determine the responsibility of any Respondent. Requests may include, but not be limited to, financial statements, credit ratings, references, record of past performance, on-site inspection of Respondent’s or facilities. Failure to respond to said request(s) will be sufficient reason to consider the proposal non-responsive.

2.2 During the contract term, should the Operator be determined to be in violation of federal, state, or local laws or regulations, the City reserves the right to modify its initial determination of responsibility at the time of award and to take other action as determined appropriate, including, but not limited to, termination of the contract.

3. Treatment of Assets:

3.1 Title to all property furnished by the City shall remain to the City. Title to all property furnished by the Operator, for the cost of which the Operator is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the City, upon delivery of such property by the Operator. Title to other property, the cost of which is reimbursable to the Operator under this contract, shall pass to and vest in the City upon: (a) issuance for use of such property in the performance of this contract; (b) commencement of use of such property in the performance of this contract; or (c) reimbursement of the cost thereof by the City, in whole or in part, whichever first occurs.

3.2 Any property of the City furnished to the Operator shall, unless otherwise provided herein or approved by the City, be used only for the performance of this contract.

3.4 The Operator shall be responsible for any loss or damage to property of the City, which results from the negligence of the Operator or which results from the failure on

the part of the Operator to maintain and administer that property, in accordance with sound management practices.

3.5 Upon loss or destruction of, or damage to, any City property, the Operator shall notify the City thereof and shall take all reasonable steps to protect that property from further damage.

3.6 The Operator shall surrender to the City all property of the City prior to settlement upon completion, termination, or cancellation of this contract.

3.7 All reference to the Operator under this clause shall also include Operator's employees, agents, or subcontractors.

4. Records, Documents, and Reports:

The Operator shall maintain books, records, documents, and other evidence of accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. These records shall be subject, at all reasonable times, to inspection, review, or audit by personnel duly authorized by the City. The Operator will retain all books, records, documents, and other materials relevant to this Contract for six years after settlement, and make them available for inspection by persons authorized under this provision.

5. Right of Inspection:

The Operator shall provide a right of access to the Theaters to the City or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance compliance and/or quality assurance, under this contract.

EXHIBIT C



City of Tacoma
Finance Department
HUB and LEAP Office
 747 Market Street, Room 132
 Tacoma, WA 98402
 Telephone (253) 591-5825
 Fax (253) 591-5757

PERSONNEL INVENTORY FORM

The Personnel Inventory Form (PIF) is a required form, please submit with bid documents. This form should be completed and signed by a responsible official of the company.

Company Name _____ Date _____

Street Address/City/State/Zip _____

Telephone _____ Fax _____

Job Categories (Specify)	Total Employees		Non Minority		Total Minorities		Black		Asian		American Indian		Hispanic	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
1. Officials & Managers														
2.														
3.														
4.														
5.														
6.														
7.														
8.														
9.														
10.														
TOTALS														

Signature of Responsible Official

Print or Type Name of Responsible Official

Comments:

INSTRUCTIONS FOR COMPLETING PERSONNEL INVENTORY FORM

1. "Heading" the company name and address should reflect the unit actually doing business with the City of Tacoma. If this address is different from that of the Equal Employment Opportunity Officer that administers the EEO programs of the company, the Equal Employment Opportunity Officer's address should be noted in the "Comments" section at the bottom of the form. "Telephone" should contain the area code, telephone number and extension (if any) for the Equal Employment Officer or the responsible official.
2. "Job Categories" at the extreme left hand column of the form specifying "Job Categories" lists "Officials & Managers." You are to list in addition to Officials & Managers any appropriate job titles such as Sales Workers, Office/Clerical, Professionals, Technical, etc., as they apply to your own company.
3. The "M" and "F" headings at the top of each column refer to "Male" and "Female."
4. The "Total Employees" column should list the total number of male employees under "M" and the total female number of female employees under "F" for each job category listed. They should be listed in a similar manner in the "Total" category at the bottom of the form. The "Total Employees" column should include all those employees listed under "Non-Minority" and "Total Minorities." "Non-Minority" should include all employees not listed in the minority columns.
5. "Total Minorities" should include all employees listed under the "Black," "Asian," "American Indian," and "Hispanic" columns. These columns should include only employees who are members of that particular minority group. Designation and definitions of ethnic/national origin status follow the instructions and definitions of the Federal EEO-1 Form of the U. S. Equal Employment Opportunity Commission.
6. "Totals" this line should reflect the total of all lines in each of the above columns.
7. The signature of your company's designated responsible official or similar official responsible for equal employment opportunity must appear in the designated space at the bottom of the form. Please PRINT OR TYPE the person's name on the top line across from the signature. This is required since some signatures are difficult to read.
8. "Comments" this section is to be used as needed for explanations to under utilization rate or lack of turnover, proposed expansion or reduction of staff or any other pertinent information you believe will help clarify or explain the data presented on the form. If you need additional space, please explain on a separate sheet of paper.
9. If you need assistance or have any questions regarding the completion of this form, please call the City of Tacoma HUB and LEAP Office at (253) 591-5825.