

MASTER CONTRACT

No. 05718

MARINE REFUELING SERVICES AND FUELS

For Use by Eligible Purchasers

By and Between

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

and

RAINIER PETROLEUM CORPORATION

Dated December 14, 2018

MASTER CONTRACT

No. 05718

MARINE REFUELING SERVICES AND FUELS

This Master Contract ("Master Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services"), and Rainier Petroleum Corporation, a Washington corporation ("Contractor") and is dated and effective as of December 16, 2018.

RECITALS

- A.** Pursuant to Legislative direction codified in RCW chapter 39.26, Enterprise Services, on behalf of the State of Washington, is authorized to develop and establish master contracts for goods and/or services for general use by Washington state agencies and certain other entities (eligible purchasers).
- B.** Washington state agencies (especially the Washington State Ferries) and other eligible purchasers require marine refueling services and fuel products to operate their vessels. Enterprise Services desires to establish a master contract for all eligible purchasers to access Marine Refueling Services and Fuel Products in a cost-effective and efficient manner.
- C.** Washington state agencies and other eligible purchasers increasingly desire access to cleaner, lower carbon intensity fuel products, including biodiesel and renewable hydrocarbon diesel fuels to reduce carbon dioxide emissions (aka greenhouse gases) and develop domestic energy security through energy diversity, at competitive prices with optimized customer support.
- D.** Washington State Ferries (WSF) functions as part of the State of Washington's highway system (RCW 47.60.17) and, as a result, having a reliable, redundant Marine Refueling Service strategy helps enable Washington State Ferries to provide reliable service. WSF's current fleet consists of twenty three (23) vessels and WSF desires access to a Master Contract to facilitate the cost-effective, efficient, value-added procurement of Marine Refueling Services and Fuels to meet their operational needs. Because WSF and other eligible purchasers have a variety of different fuel and fuel related product and service requirements and infrastructure, this Master Contract will enable Purchasers to purchase Marine Refueling Services and Fuels and related products and services pursuant to the purchasing solution(s) that meets their specific needs.
- E.** Decreasing the number of limited capacity Truck-to-Vessel marine refueling trips will decrease traffic congestion and associated greenhouse gases as well as decrease transaction costs and fuel spill risks for Washington State Ferries. In addition, establishing a redundant, reliable Marine Refueling Services and Fuels contract with Truck-to-Vessel, Pier-to-Vessel, and Vessel-to-Vessel Marine Refueling Services will enable eligible purchasers to better meet their operational needs.

- F. Contractor has invested in Marine Refueling Services including operating a Truck-to-Vessel fleet of fuel transport vehicles, operating fuel distribution Pier-to-Vessel rack refueling at Pier 15 in Seattle, Washington, and a modern US Coast Guard certified approximately 150,000 gallon bulk fuel tanker vessel (the *Global Provider*) for Vessel-to-Vessel Marine Refueling Services.
- G. Given the unique requirements for redundant, reliable Marine Refueling Services and the special facilities, services, and market conditions, Enterprise Services exercised its statutory authority set forth in RCW 39.26.125(4) to undertake direct negotiations to negotiate, develop, and establish this Master Contract No. 05718 for the following Fuel Products categories delivered through a redundant, reliable Marine Refueling Services contract including Truck-to-Vessel, Pier-to-Vessel, and Vessel-to-Vessel Marine Refueling Services:
1. Gasoline
 2. Ultra Low Sulfur Diesel Dyed (ULSD) Fuels
 3. Biodiesel Dyed – B5 – B99
 4. Renewable Hydrocarbon Diesel (RHD)
 5. Diesel Exhaust Fluid (DEF)

All Marine Refueling Services are completed directly onboard the vessels (to maintain fuel tanks at or above a specified amount or for Purchaser initiated orders as needed).

- H. Enterprise Services has determined that entering into this Master Contract will be in the best interest of the State of Washington, including WSF and other eligible purchasers.
- I. The purpose of this Master Contract is to enable eligible purchasers to purchase Marine Refueling Services and Fuel Products as set forth herein.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. **TERM.** The term of this Master Contract is twenty-four (24) months, commencing December 16, 2018 and ending December 15, 2020, *Provided*, however, the contract automatically will renew for successive one (1) one year terms, if the performance goals for contract extension are met, up to a total maximum contract term of ten (10) years (RCW 43.19.646). The Master Contract is subject to earlier termination.
 - 1.1. **PERFORMANCE GOALS FOR CONTRACT EXTENSION.** The term of this Master Contract shall be extended if, Contractor is not then in default, the parties have agreed on contract pricing for the subsequent term at least ninety (90) days prior to the end of the current term, and if, in Enterprise Services' reasonable judgment, Contractor satisfactorily has met the following performance goals for contract extension:
 - **Greenhouse Gas Reduction.** Contractor documents a sustained fifty percent (50%) or greater reduction in truck to vessel refueling over the 2017 baseline – i.e., Contractor's dock to vessel and vessel to vessel refueling is available for purchaser utilization.
 - **Service Level.** Contractor, during the term of the Master Contract, satisfactorily meets the service level commitments set forth herein.

- Purchaser Engagement. Contractor has developed and implemented a program to increase visibility of the Master Contract to eligible Purchasers and documents purchaser engagement pertaining to the Master Contract including the availability of biofuels and renewables.
- Contract Sales Reporting. Contractor timely has reported quarterly contract sales in at least eight (8) reporting quarters.

2. ELIGIBLE PURCHASERS. This Master Contract may be utilized by any of the following types of entities in the State of Washington (“Purchaser”):

2.1. WASHINGTON STATE AGENCIES. This Master Contract may be utilized by:

- Washington state agencies, departments, offices, divisions, boards, and commission; and
- Any the following institutions of higher education: state universities, regional universities, state college, community colleges, and technical colleges.

2.2. MCUA PARTIES. This Master Contract also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement with Enterprise Services:

- Political subdivisions (e.g., counties, cities, school districts, public utility districts);
- Federal governmental agencies or entities;
- Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
- Federally-recognized Indian Tribes located in the State of Washington.

The parties understand and agree that, presently, the largest anticipated purchaser will be Washington State Ferries. Contractor, however, is obligated to provide Marine Refueling Services and Fuels to any eligible Purchaser pursuant to this Contract.

3. SCOPE – INCLUDED FUEL PRODUCTS AND PRICE.

3.1. CONTRACT SCOPE. Pursuant to this Master Contract, Contractor is authorized to provide Marine Refueling Services and sell only those Fuel Products set forth in *Exhibit A – Included Fuel Products* for the prices set forth in *Exhibit B – Fuel Products Prices*. Contractor shall not represent to any Purchaser under this Master Contract that Contractor has contractual authority to provide Marine Refueling Services or sell any Fuel Products beyond those set forth in *Exhibit A – Included Fuel Products*.

3.2. STATE’S ABILITY TO MODIFY SCOPE OF MASTER CONTRACT. Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the Fuel Products included in this Master Contract; *Provided*, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and *Provided further*, that any such modification must be within the scope of this Master Contract.

3.3. PRICE CEILING. Although Contractor may offer lower prices to Purchasers, during the term of this Master Contract, Contractor guarantees to provide the Fuel Products at no greater than the prices set forth in *Exhibit B – Fuel Products Prices*.

3.4. FINANCIAL PROTECTION – WASHINGTON. . Contractor will make best efforts to ensure that the Fuel Products Prices applicable to purchases under this Master Contract are consistent

with Contractor's customary price offered to public bodies in the State of Washington purchasing the same Fuel Products and engaged in the same business activity as Purchaser.

- 3.5. MASTER CONTRACT INFORMATION. Enterprise Services shall maintain and provide information regarding this Master Contract, including scope and pricing, to eligible Purchasers.
4. CONTRACTOR REPRESENTATIONS AND WARRANTIES. Contractor makes each of the following representations and warranties as of the effective date of this Master Contract and at the time any order is placed pursuant to this Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.
- 4.1. QUALIFIED TO DO BUSINESS. Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it is registered with the Washington State Department of Revenue and the Washington Secretary of State, that it possesses and shall keep current all required licenses and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.
- 4.2. SUSPENSION & DEBARMENT. Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.
- 4.3. QUALITY OF FUEL PRODUCTS. Contractor represents and warrants that any Fuel Products sold pursuant to this Master Contract shall be merchantable, shall conform to this Master Contract and Purchaser's Purchase Order, shall be fit and safe for the intended purposes, shall be free from defects, and shall be produced and delivered in full compliance with applicable law *Exhibit A – Included Fuel Products*. Contractor further represents and warrants it has clear title to the Fuel Products and that the same shall be delivered free of liens and encumbrances and that the same do not infringe any third party patent. Upon breach of warranty, Contractor will repair or replace (at no charge to Purchaser) any Fuel Products whose nonconformance is discovered and made known to the Contractor. If, in Purchaser's judgment, repair or replacement is inadequate, or fails of its essential purpose, Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 4.4. FEDERAL CLAUSES/FTA CLAUSES. Contractor represents and warrants that for any Purchase Order for Fuel Products pertaining to any eligible Purchaser that is subject to the Federal Transportation Authority provisions (e.g., the Purchaser is using FTA funds in whole or in part to pay for the Fuel Products), the Purchase Order also shall be subject to the FTA Clauses set forth in *Exhibit G – FTA Clauses for Fuel Products*.
- 4.5. WAGE VIOLATIONS. Contractor represents and warrants that, during the term of this Master Contract and the three (3) year period immediately preceding the award of the Master Contract, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered

by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.

- 4.6. **PAY EQUALITY.** Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 147), during the term of this Master Contract for the time period of July 1, 2017 through June 30, 2019, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Master Contract and any Purchaser hereunder similarly may suspend or terminate its use of the Master Contract and/or any agreement entered into pursuant to the Master Contract.
- 4.7. **EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS (MANDATORY INDIVIDUAL ARBITRATION).** Contractor represents and warrants that, Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Participating Addendum and Master Contract, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.
- 4.8. **PROCUREMENT ETHICS & PROHIBITION ON GIFTS.** Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Purchasers' employees.
- 4.9. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS).** Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that throughout the term of this Master Contract, Contractor shall maintain an accurate profile in WEBS.
- 4.10. **STATEWIDE PAYEE DESK.** Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.
- 4.11. **MASTER CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT.** Contractor represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this Master Contract with eligible Purchasers and to ensure that those entities that utilize this Master Contract are eligible Purchasers. Contractor understands and

acknowledges that neither Enterprise Services nor Purchasers are endorsing Contractor's Fuel Products or suggesting that such Fuel Products are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to Enterprise Services, any Purchaser, or the State of Washington in any promotional material without the prior written consent of the Purchaser and Enterprise Services.

- 4.12. MASTER CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Master Contract or a similar contract is transitioned to another contractor (e.g., Master Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services for a period of ninety (90) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

5. USING THE MASTER CONTRACT – PURCHASES OF FUEL PRODUCTS.

- 5.1. GENERAL. Contractor shall furnish all labor, goods, equipment, materials and services necessary to provide the Marine Refueling Services and Fuel Products to any eligible Purchaser consistent with the terms set forth in this Master Contract. Contractor shall collaborate with refineries, fuel terminals, and carriers to ensure reliable supplies, high quality customer service, and consistent and prompt delivery of the Fuel Products to Purchasers. On occasion, Contractor's industry experiences product supply interruptions due to rack outages, shutdowns, allocation cutbacks, or other unforeseeable market circumstances. Under these circumstances, Contractor will continue to provide Fuel Products from available sources; however, temporary freight or margin adder shall be applicable to prevent fuel and service interruption consistent with Section 5.2 of this Master Contract.

- 5.2. RELIABLE MARINE REFUELING SERVICES & FUEL PRODUCTS. Reliable Marine Refueling Services and delivery of Fuel Products shall mean the delivery of Fuel Products in a manner that meets or exceeds the requirements stated herein, during times of:

- Scheduled Fuelings /business operations;
- Spikes in Purchaser demand;
- Regional or industry wide Fuel Products shortages;
- Times of urgent need – i.e., times during which a Purchaser is preparing for and/or responding to events, including but not limited to inclement weather, that may adversely affect the ability of the Purchaser's to undertake their normal daily activities;
- Governor proclaimed state of emergency; and,
- Catastrophe – i.e., times during which the United States federal government declares a state of emergency within and/or outside of the State of Washington and during which the supply of Fuel Products, its underlying ingredients, and/or the industry's manufacturing capability, is adversely affected. Catastrophes also shall include worldwide events, including but not limited to, weather events, acts of war, and cartel decisions that adversely affect the supply of Fuel Products, its underlying ingredients, and/or the industry's manufacturing capability.

- 5.3. FUEL PRODUCTS QUALITY REQUIREMENTS. Contractor shall provide Fuel Products as set forth in *Exhibit A – Included Fuel Products* that conform to the applicable federal, state, and local laws of each eligible Purchaser. Such laws and codes include, but are not limited to, the American Society for Testing and Materials (ASTM), Environmental Protection Agency (EPA), National

Biodiesel Accreditation Commission (NBAC), American National Standards Institute (ANSI), and Occupational Safety and Health Administration (OSHA) requirements, regulations and guidelines applicable to regular, reformulated, diesel, biodiesel or any other types of Fuel Products. If the applicable laws and codes are modified during the term of the Master Contract, Contractor must deliver Fuel Products that comply with the modified laws and codes. Contractor shall provide Material Safety Data Sheets (MSDS) to any Purchaser upon their request;

- Product Quality. Contractor shall ensure all delivered Fuel Products are of a high quality and do not contain any foreign substance, sediment, water or any other contamination that may damage any Purchaser's fuel storage tanks or vessels. Foreign substances include, but are not limited to, the group of bacteria, fungi, and other contaminants commonly referred to as the "diesel bug."
- Diesel Exhaust Fluid (DEF). Handling and distribution of DEF requires specific equipment. Due to Tier IV EPA requirements this product maybe required in different amounts for different applications.
- New Technology and New Products. Should Contractor want to offer new technology fuels that are not specifically detailed as Fuel Products, such technology Fuel must be submitted to the procurement coordinator for review. All additional items must meet Contract specifications, terms and conditions
- Product Testing. Contractor's deliveries of Fuel Products shall be subject to testing to ensure compliance with the applicable laws and other product quality requirements described herein. All tests shall be made as per methods specified by the ASTM, unless otherwise agreed to in writing by Enterprise Services and Contractor. Contractor must allow Purchasers to take test samples from delivery trucks. Samples will be sent to an independent lab or to any Washington state agency with authority and capability to perform the testing. (Sample bottles will be sealed and numbers recorded by each bill of lading. If sample numbers are not recorded by each bill of lading, the sample is invalid.) When the test analysis shows the Fuel Product is in compliance with requirements, Purchaser shall pay for the test. When the test analysis shows the Fuel Product does not meet the requirements, Contractor shall pay for the test.
- Product Return. Fuel Products that do not meet the product quality requirements stated herein and are determined by Purchasers or Enterprise Services to be unacceptable may be rejected. In such cases, Contractor shall remove such fuel and replace it at no additional cost to the Purchaser. In addition, Contractor shall be liable for all charges, labor, and/or materials, which includes, but may not be limited to, tank cleaning necessary to bring contaminated tanks back to their pre-contaminated condition. Evidence of fuel that does not meet the product quality requirements stated herein may include, but is not limited to, tank gauge and/or stick readings, as well as product testing. Pursuant to such evidence and upon determination of Contractor responsibility for delivering the fuel, Contractor shall: (1) Remove the fuel from the tank; (2) Provide tank cleaning to bring the tank back to its prior condition; (3) Replace the fuel at no additional cost to the Purchaser; (4) Reimburse Purchaser for the repairs to their vessels, if the Purchaser's vessels (and/or equipment) are damaged by the contaminated fuel; and, (5) Provide a report, within sixty (60) days of the incident to Purchaser and Enterprise Services on

the resolution of the issue and the preventative measures to be put in place to reduce the possibility of any future incident.

- 5.4. **PURCHASER ACCOUNT SET UP & TRAINING.** Contractor shall set up Purchaser accounts.
- **Purchaser Account Set Up.** Contractor shall contact each Purchaser within one (1) business day of receiving their contact information in order to obtain the Purchaser's account set up details. After receipt of this information, Contractor shall set up the account within two (2) business days. Contractor then shall contact the Purchaser to review the account set up and coordinate account training, access, and placement of orders. At approximately thirty (30) days and ninety (90) days after account set up, Contractor's account onboarding team shall follow up with the Purchaser's primary contact to review the account and ensure that the Purchaser's needs are being met.
 - **Purchaser Account Training.** Contractor's account onboarding team shall provide training to Purchaser at the time of account set up. Such training shall include, but is not limited to, the following: (1) Overview of available Fuel Products under the Master Contract; (2) Delivery order request procedures; and (3) Contractor's contact information. Training may be onsite, web-based, or via manuals that can be sent to Purchaser electronically.
- 5.5. **ORDERS.** Contractor shall receive and process purchase orders in a way that is administratively efficient for Purchasers and insures that orders are fulfilled accurately. Contractor, at a minimum, shall allow for Purchasers to place orders for Fuel Products via toll free telephone and email. Purchaser shall provide orders in compliance with CFR.156.118 Advance Notice of Transfer requirement of four (4) hour notice before a marine fuel delivery commences.
- 5.6. **DELIVERY OVERVIEW OF FUEL PRODUCTS.** Marine Refueling Services will be initiated on an as needed basis but may include on-going regularly scheduled deliveries. The following shall apply to all deliveries:
- Deliveries are to be made in a professional manner and in accordance with industry standard best practices. The Contractor shall comply with all applicable laws, ordinances, permits, and not unreasonably encumber the premises with equipment, materials and personnel. Delivery terminal sites or vessels are to be kept free of the accumulation of waste, spillage or other debris caused by the delivery and the unloading of the fuel.
 - Vessel tanks are to be filled in accordance with industry standard best practices consistent with Purchaser's instructions.
 - Contractor has the responsibility to verify delivery hours of each Purchaser placing orders. If Contractor arrives outside the scheduled delivery hours and is unable to or denied access to making the delivery, Purchaser shall incur no expense and Contractor assumes all liabilities and responsibility for that attempted delivery.
 - If Purchaser and Contractor arrange a mutually agreeable delivery date and time and the Contractor is unable to fulfill the delivery because no Purchaser representative was available (within ½ hour of the agreed upon time) Contractor may bill Purchaser the service fee and then reschedule the delivery.
 - All Marine Refueling Services must comply with CFR title 33 section 156.113 - 120.

5.7. DELIVERIES

- **MINIMUM ORDER QUANTITIES.** Minimum order and delivery quantities via Global Provider, or other Contractor controlled fueling vessel, shall be 40,000 usg and 3,500 usg via Truck and Trailer deliveries. Purchaser's shall make an effort to order reasonable volumes based on vessel scheduling and fuel consumption rate.
- **DELIVERY COMPLETION.** Delivery will be completed when the Fuel Product has been placed into the vessel's tank header.
- **FUEL SAMPLES.** A fuel sample shall be provided to the Person In Charge (PIC) upon request. Samples shall be taken mid-stream during delivery and they shall be in Contractor provided one-quart containers with a seal label and numbered. The seal number shall be reentered on the bill of lading/delivery ticket. Contractor shall ask the PIC prior to filling if a mid-stream sample is required from this delivery.
- **EMERGENCY DELIVERY FEE.** In the event of an emergency, Contractor will be required to fulfill an emergency bulk delivery within four (4) hours of a verbal, electronic, written or faxed order. Emergency orders are to be top priority and Contractor must be equipped and prepared to successfully fulfill an emergency delivery 7-days a week, 24-hours a day. Therefore, Contractor shall furnish Purchaser with emergency order contact information and shall keep current emergency telephone numbers and always be poised to receive and respond to an emergency order. Contractor may charge their standard emergency fee charged to other customers that will appear on the invoice in place of the standard delivery service fee. If no standard emergency fee exists then a reasonable emergency premium that is to be added to the invoice (as a separate line item) in addition to normal contract service fees
- **AN EMERGENCY SITUATION.** Shall be as determined by the PIC.
- **INFORMATION REQUIRED TO BE SUPPLIED TO VESSEL.** Upon request, Contractor must supply to the PIC of vessel fueling the following documentation:
 1. The temperature corrected volume calculations and the method.
 2. The flash point of the diesel fuel being delivered.
 3. A representative sample of the diesel fuel being delivered to the vessel as described above.

5.8. VESSEL-TO-VESSEL MARINE REFUELING SERVICES. Marine Refueling Services completed via vessel-to-vessel refueling through Contractor's Global Provider vessel shall be capable of the following:

1. Routine Fueling Operation.

- Purchaser is responsible for attaching the eye of the mooring lines from the fueling vessel to the Purchaser's vessel's cleats.
- The fueling vessel will utilize its hose-handling crane to transfer the 4 inch diameter hose over to the Purchaser's vessel.
- The Purchaser's crew and the Contractor's fueling vessel tanker crews will communicate verbally face to face or establish communications via handheld radio to a mutually agreed upon VHF channel. These communications will remain in effect for the duration of the pre and post fueling.

- The Contractor’s fueling vessel crew are to be USCG licensed Masters and Tanker-men.

2. The Contractor’s fueling vessel shall maintain complete spill response capabilities onboard the vessel and its crews shall be trained to use them:
 - 600 feet of spill boom.
 - 4 each cargo totes full of absorbent pads, boom and other cleanup gear.
 - A super-stable 14 feet, center console, aluminum chambered response skiff with a 60hp outboard.
 - Hull magnets that allow containment boom to be attached to the Purchaser’s vessel hull.
 - Full access to National Response Corp. Environmental Services (NRCES) inventory of spill response equipment and personnel. To be consistent with all Truck-to-Vessel deliveries.
3. Contractor’s fueling vessel shall be subject to:
 - Annual USCG Inspections and preparations for unannounced spot USCG visits
 - Unannounced Washington State Department of Ecology (WADOE) Transfer Inspections
 - Annual ABS Group Inspections
 - Annual Major Oil Companies (Big Oil) vetting Inspections (SIRE; Ship Inspection Report Program)
 - Annual American Waterways Operators Association (AWO) audits

5.9. MARINE FUEL TERMINAL OPERATIONS. The minimum criteria for Contractor’s marine fuel (Pier-to-Vessel) terminal operations are as follows:

- a) Fender Pilings: Contractor’s terminal must have adequate fender piles or other dock protection to prevent damage to Purchaser’s vessel hulls in all tidal and weather conditions. Fender piles must reach a minimum of twenty-four (24) inches above the vessel’s car deck for state ferry vessels. The maximum freeboard of the vessel is:

Issaquah Class	9’9”
Jumbo Class Mark I	9’5”
Jumbo Class Mark II	9’10”
Kwa-di Tabil Class	9’1”
Super Class	8’4”
Evergreen State Class	9’3”
Olympic Class	9’3”-9’6” (estimated)

- b) Governmental Approvals and Certification Requirements: Contractor's terminal must have the required approvals and certifications from the following governmental agencies.
1. U.S. Environmental Protection Agency
 2. U.S. Coast Guard OPA 90 compliance
 3. Washington State Department of Ecology facility Oil Spill Contingency plan approval (WAC 173-180C)
 4. Washington State Department of Ecology Facility Personnel Oil Handling Training and Certification (WAC 173-180C)
 5. Seattle Fire Department Master Transfer Permit
- c) Hose Sizes and Fuel Pumping Rates: There are variable costs and scheduling issues associated with fuel pumping rates. Therefore, the minimum pumping rate of 900 gallons per minute through a four (4) inch fuel line with female camlock coupling is required to accommodate large ferries with a variable rate of flow to accommodate the request of each vessel's PIC is required.
- d) Fueling Times and Staffing Requirements: Contractor's terminal operations must be on a twenty-four (24) hour basis and operations staff should be HAZWOPPER trained. Based on 2017 fueling records, approximately 5% of vessel fuelings occurred during normal business hours (0600 to 1800 hours) and about 95% of the fuelings occurred at other hours of the day. All vessels will require two terminal employees to ensure operation safety during fuel operations. Future fueling times and staffing levels should be consistent with these schedules.
- e) Scheduling and Fuel Requirements: Estimated weekly schedules showing vessel docking dates, times, vessel class, and approximate delivery quantity are listed below:

Seattle/Bainbridge Run		
Vessel #1: Jumbo Mark II Class	Every other Sunday at 0640	70,000 to 80,000 gallons
Vessel #2: Jumbo Mark II Class	Alternate Sundays from Vessel #1 at 0640	70,000 to 80,000 gallons

When one of these vessels is in lay-up, it is normally replaced by a Jumbo Mark I Class vessel and the same fueling schedule is used and approximately the same gallons are loaded.

Edmonds/Kingstone Run		
Vessel #1: Jumbo Mark II Class	Every other Saturday at 0230	65,000 to 70,000 gallons
Vessel #2: Jumbo Mark I Class	Alternate Saturdays from Vessel #1 at 0230	50,000 to 55,000 gallons

When one of these vessels is in lay-up, it is normally replaced by a Jumbo Mark I Class vessel.

Extras:

Other vessels on other routes are normally fueled by Truck-to-Vessel, or Vessel-to-Vessel; but may occasionally need to fuel at the Contractor's Pier-to-Vessel fuel terminal.

- 5.10. PURCHASER'S CANCELLATION NOTICES. Any order placed against this Master Contract is subject to the following two (2) types of cancellations
- Standard cancellation. The cancellation of an order forty-eight (48) hours prior to the set delivery time and location. There will be no fee charged against this cancellation
 - Emergency cancellation. The cancellation of an order up to three (3) hours prior to the set delivery time and location. This cancellation is subject to a cancellation fee that will be determined by the Contractor and agreed upon by the purchaser.
- 5.11. DELIVERY DEFAULT. In the event that Contractor fails to fulfill delivery terms the Purchaser may purchase fuel from another supplier and Contractor will be responsible for paying any additional acquisition costs. Non-compliance to delivery terms shall be grounds for suspension and/or contract termination and recovery of damages.
- 5.12. BILL OF LADING. Contractor shall issue a bill of lading (also referred to herein as a "Delivery Ticket") to the Purchaser after the Fuel Product has been delivered to Purchaser. Contractor shall not include any other terms and conditions applicable to Enterprise Services or any Purchaser on the bill of lading, and if they are so included, they shall be deemed null and void by Contractor. The delivery ticket must minimally include the account information of the Purchaser, the order number, the type of Fuel Product delivered, the location and vessel to which the fuel was delivered, and the volume ordered and delivered. For those deliveries made by Truck-to-Vessel, Contractor shall also include the terminal from which the fuel is pulled from as well as the total volume delivered in both gross and net gallons.
- 5.13. SAFETY STANDARDS. The handling of the fuel shall comply with all applicable safety laws and standards of the State of Washington and standards established by the United States Department of Homeland Security, United States Department of Transportation, the United States Department of Labor's Occupational Safety and Health Act (OSHA), accepted industry practices, and City/County requirements.
- 5.14. SECURITY. Some delivery sites may have security restrictions requiring delivery personnel to pass a criminal background check before access is granted. In such cases, all on-site service personnel used to service these accounts must comply with Purchaser's security requirements and complete the necessary paperwork in order to perform the criminal background check. The Purchaser is to coordinate this activity and provide Contractor sufficient advance notification of this requirement. Contractor shall comply with Purchaser's security requirements within thirty (30) days of commencement.
- 5.15. WSF REQUIREMENTS FOR ACCESS CONTROL. Consistent with applicable federal regulations and the Coast Guard approved WSF security plan, all WSF delivery sites are considered restricted areas for security purposes. Contractor is considered a WSF vendor and would need to follow established protocols for vendor security. All delivery personnel would either have to make application for, and obtain, a Transportation Worker's Identification Credential (TWIC) from

the Federal Transportation Security Administration, which involves a criminal background check before access can be granted or would have to be fully escorted by a person holding a TWIC throughout the delivery process. During periods of elevated maritime security threat levels, as determined by the U.S. Coast Guard, additional operational restrictions may be imposed. WSF is to coordinate security activities and provide the contractor sufficient advance notification of changes.

- 5.16. **CONTRACTOR EMPLOYEE IDENTIFICATION LISTS.** Contractor shall submit and maintain an accurate list of all employees who will be delivering fuel to WSF sites. The list must also contain the name of the company contact persons, and contact phone numbers are good for any time period when one of their employees may be working at a WSF facility. Such information must be sent to:

Mr. George C. Hattell
Washington State Ferries/ Company Security Officer
2901 3rd Ave Suite 500
Seattle, WA 98121-1080
Or emailed to: hattelg@wsdot.wa.gov

- 5.17. **CONTRACTOR EMPLOYEE I.D. CARDS.** Contractor's employees are to present picture identification to a WSF Terminal Seller every time they seek entry onto WSF property (NOTE: Most states' drivers' licenses fulfill U.S.C.G. identification requirements and are therefore acceptable means of identification at WSF). The identification must comply with U.S. Coast Guard I.D. requirements, in that it must:

- Contain the full name of the individual;
- Contain a photograph clearly depicting the person's current facial features;
- Contain the name of the issuing organization; and
- Be laminated, or constructed of some other material so as to be tamper resistant.

- 5.18. **CONTRACTOR PARKING PASS.** Should Contractor's services require parking on a WSF terminal, the Terminal Seller will issue Contractor a disposable parking pass that, when displayed, allows the vehicle to be parked at the terminal on the day of issue for the time duration services are being provided. A pass must be obtained each time Contractor's vehicle enters the facility. Any vehicle not displaying a parking pass is subject to tow at Contractor's risk and expense. NOTE: All vehicles entering a WSF facility are subject to security screening by Washington State Patrol personnel.

- 5.19. **RESTRICTED AREAS.** All areas on WSF terminals and vessels that are not considered public access areas shall be designated with conspicuous signs as restricted areas. Restricted areas will be locked, barricaded or otherwise physically delineated. Contractor's employees needing to enter a restricted area to provide services will need to be granted access by a WSF employee. Contractor's employees may be asked to present picture identification prior to entering a restricted area even if they previously showed identification upon entrance to the terminal. Contractor's employees should not attempt to enter a restricted area without the permission/direction of a WSF employee. An unauthorized person in a restricted area constitutes a reportable breach of security that must be communicated to the U.S. Coast Guard. NOTE: When the vehicle traffic arm at the head of the vehicle transfer span is in the down position the transfer span is a

restricted area. Access to the vessel past the traffic arm is only allowed with permission from a WSF representative.

6. WSDOT SECURITY REQUIREMENTS FOR FUEL DELIVERY. WSDOT/WSF's security measures require all fuel deliveries to be checked against the order request form to ensure the fuel was legitimately ordered for that particular vessel. Fuel deliveries may be according to a prearranged schedule. Upon arrival of the Truck-to-Vessel transport at the terminal, WSDOT/WSF shall personally verify the driver's identity, using the approved photo identification to ensure that it matches the expected driver on the schedule. Upon verification of the driver's identity, and with the approval of the PIC the truck will be allowed to access the vessel. If the driver's identity does not match any of the company employees in the vendor data base, the delivery will be denied until such time that Contractor appropriately can verify the driver's identity. If fuel has not been ordered, the PIC shall refuse acceptance until appropriate verification can be established. At higher Marine Security (MARSEC) Levels additional restrictions may be imposed including the need for two pieces of identification. Although the US Coast Guard and Transportation Security Administration have issued regulations requiring persons having unescorted access to the secure areas of marine facilities and vessels to have a Transportation Workers Identity Credential (TWIC), WSDOT/WSF does not anticipate Contractor's personnel will need a TWIC since they will be escorted throughout the delivery process.

6.1. NEGLIGENCE. Contractor assumes all liability and responsibilities for the handling and transportation of the fuel to the Purchaser's vessel's fuel header and Contractor has vacated the delivery site. Contractor shall be responsible for any and all damage caused by Contractor's operations, operating personnel and damages or services necessitated by the failure to deliver fuel or the delivery of faulty product and equipment. Any repair or clean up services shall be made at Contractor's expense and to the satisfaction of the Purchaser. If Contractor fails to comply with these requirements within a reasonable time, Purchaser may deem it expedient to repair damages and perform the necessary services at the expense of Contractor. Should the fuel be negligently unloaded into the wrong tank (i.e. diesel fuel into a gasoline storage tank), Contractor is responsible for the immediate removal, cleaning, and replacement of both products and liable for any resulting damage.

6.2. SPILL CONTAINMENT BOOM AND SPILL RESPONSIBILITIES. Contractor is solely responsible for any and all spills, leaks or releases, which occur as a result of, or are contributed to by, the actions or omissions of its agents, employees, or subcontractors. Therefore, Contractor is expected to take all measures as required by law to prevent fuel spills (which includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into or onto any land or water). In the event of a fuel spill, leak, or release, Contractor shall be responsible for the required notifications, containment, clean up, and disposal of the oil spilled and agrees to take the following actions:

- If warranted, evacuate and warn those persons who may be affected by the spill.
- Immediately contact the appropriate Emergency Response Agencies as required.
- Notify the appropriate Purchaser representative of the spill.
- Clean up the spill in a manner that complies with federal, state and local laws, regulations, rules and standards.

- For spills, that occur other than on a Purchaser's owned or leased property; provide all notifications and reports as specified by federal, state and local laws, regulations, rules, standards and permits.
- Complete all required spill prevention training (at Contractor's expense).
- Supply all required spill management and prevention equipment.
- If a Purchaser's vessel is required to be boomed or expects to receive fuel greater than five hundred gallons per minute (500 gpm) a third party boom fee would be assessed based on location.
- *Deploy containment boom per rules and regulations set by Department of Ecology in [WAC 173-180](#) and [WAC 173-184](#) and [WAC 317-40](#).*

Should Contractor fail or refuse to take the appropriate and timely containment, clean up, disposal actions, Purchaser may do so and Contractor shall reimburse Purchaser for all expenses incurred including fines levied by appropriate agencies of federal or local governments. If there are no moneys due, the remediation costs shall be the responsibility of Contractor.

6.3. UPON COMPLETION OF THE TRANSFER. After each over-water transfer, steps must be taken to secure the equipment to prevent accidental releases

- Close all transfer system valves
- Drain all hoses into a proper receptacle before disconnection
- Blank all transfer hoses upon disconnection and before movement out of secondary containment area.
- Blank off transfer header flanges and manifolds immediately after hose removal
- Store all hoses and equipment where they are protected from the weather
- Secure storage areas (e.g., store piping, pumps, valves, and manifolds in an area where they will not be tampered with, used for the wrong purpose, and/or damaged by production operations)
- Clean-up work area and ensure that all associated equipment is stowed
- Remove or disconnect electrical power and/or compressed air to transfer equipment

7. MARINE REFUELING SERVICES.

7.1. BULK MARINE REFUELING SERVICES. The following will be applicable to Vessel-to-Vessel marine refueling services:

- U. S. COAST GUARD REGULATIONS & ENVIRONMENTAL REGULATIONS. Contractor must be certified by the U.S. Coast Guard and the Department of Ecology (DOE). Contractor may be asked for proof of this certification (a copy of the U.S. Coast Guard-stamped page of contractors safety manual and a copy of the Contractor's Operations Manual approval letter issued by DOE will be considered acceptable proof). Furthermore, marine refueling shall comply with all (current and any future) applicable regulations. Additionally, Contractor must furnish relevant hardware which includes but is not limited to proper sized U.S. Coast Guard approved hose and fittings. Contractor shall be responsible for maintaining its Coast Guard and DOE certifications. Failure to do so may result in contract suspension and/or termination.

- SPILL RESPONSE COMPLIANCE DRILLS. If in the course of a refueling a regulatory authority (e.g. U.S. Coast Guard or Department of Ecology) directs Contractor to demonstrate compliance of a rule or regulation, the cost of performing the drill may be passed on to the Purchaser mines that compliance has been met.
- ADDITIONS/DELETIONS. Enterprise Services reserves the right to add or remove vessels or service terminals. Whenever possible, WSF is to provide at least 30-days advance notice of a deletion. Although Contractor's Oil Price Information Service (OPIS) price Adder is to remain firm, the fixed service fee for any new location is to be negotiated and be comparable to Contractor's already established service fees with regard to contract additions.

7.2. RELIABLE SUPPLY CHAIN. Contractor shall provide Purchasers with a supply chain that shall ensure the reliable delivery of Fuel Products at all times during the term of this Master Contract.

- REFINERY AND PIPELINE RELATIONSHIPS. Contractor shall use its best efforts to maintain uninterrupted relationships with refineries, pipelines, and other sources of supply of Fuel Products. These relationships and agreements must support the State of Washington's Fuel Product's needs.
- TERMINAL RELATIONSHIPS. Contractor shall use its best efforts to maintain uninterrupted relationships with terminals and other facilities that distribute Fuel Products, which shall include, but not be limited to, maintaining active terminal agreements with the primary terminals used to provide fuel to Washington Purchasers as well as relationships with other terminals throughout the State of Washington and surrounding states.
- CARRIER MANAGEMENT. Contractor shall use its best efforts to insure that their carriers provide a consistently high level of professionalism, workmanship, and customer service. Contractor shall maintain contractual agreements with subcontracted carriers used in support of this Master Contract. The on-time performance of all carriers must be measured by Contractor and corrective actions shall be taken to remedy poor carrier performance. Notwithstanding any provision to the contrary, Contractor must remove any particular carrier or delivery personnel from providing Service to any particular Purchaser upon Enterprise Services' or the Purchaser's request and reasonable business judgment.
- DEMAND FLUCTUATION MANAGEMENT. Contractor shall use its best efforts to manage fluctuations in demand so that Purchasers do not experience disruptions in the reliable delivery of all required Fuel Products. Contractor shall do so through providing the supply chain management actions set forth herein. Additionally, in order to insure reliable delivery to Purchasers during seasonal shortages and to minimize the impacts of other supply distributions, Contractor shall enter into appropriate supply agreements.

7.3. EMERGENCIES. In In the event of demand spikes, regional or industry wide fuel shortages, Governor proclaimed state of emergency, and catastrophes, Contractor shall make delivery of Fuel Products to Purchasers in a priority manner.

- Purchaser Support. Contractor shall endeavor to use reasonable and customary business practices to: (1) Ensure that Purchasers are supplied with adequate amounts of fuel in preparation for Events; (2) Ensure deliveries to Purchasers are Contractor's their first priority to extent commercially reasonable; (3) Establish the

priorities for deliveries to Purchasers based on direct communications with Purchasers or interactions with the Washington State Department of Emergency Management (and Enterprise Services), as may be required; (4) Leverage their Backup Supply, to insure continuous supply to all Purchasers during an Event; (5) Provide Fuel Products whenever it is safe to do so. Roads will be determined to be unsafe if they are declared as closed by the state or federal government or upon the reasonable business judgment of Contractor. This reasonable business judgement shall be similar to the judgement exercised by Contractor over the previous 24 months.

- Deliveries. Deliveries may be reduced, increased or delayed, depending on the Event and the immediate need of the Purchasers in order to ensure that no Purchasers run out of fuel. If a delivery is to be made short, Contractor shall contact the affected Purchasers prior to delivery to inform them of the short. If the Purchasers provides a reasonable business justification for refusing the short (for example, their usage rate demonstrates the location risks running out of fuel due to the short delivery) then Contractor shall deliver the fuel in the quantity ordered. Additionally, during times of demand spikes, regional or industry wide fuel shortages, urgent need, Governor proclaimed state of emergency, and catastrophes and in the event of fuel supply shortages at the terminal established as the primary point of supply for any particular Purchasers, Contractor shall notify the affected Purchasers of the shortage and the expected date of return to normal operations. Contractor also shall provide Enterprise Services with evidence to substantiate the claim. If the Purchaser so chooses, Contractor shall provide the fuel from the next available alternate point of supply. All such charges must be approved, in advance, in writing, by the Purchaser.
- Purchaser Emergency Planning. At Purchaser's request, Contractor will engage in discussions to plan for the provision of Fuel Products necessary to Purchasers' mission for any emergency scenario that may be anticipated prior to the occurrence of such an Event.
- Emergency Fueling Operations at Cost (No Markup). Neither Contractor nor Enterprise Services can predict the circumstances that may be present when an emergency or catastrophe occurs. In the event of a State or federal declared emergency and the Governor of the State of Washington so requests, any emergency fueling operations that Contractor is capable of providing and that are required and requested by Purchasers(s) that fall out of the normal processes and procedures described in this Master Contract shall be to the extent commercially reasonable in the sole discretion of Contractor provided to Purchasers(s) by Contractor. The emergency fueling operations shall be to the extent commercially reasonable in the sole discretion of Contractor billed at Contractor's actual cost above and beyond the normal operating costs as described in *Exhibit B – Fuel Products Prices*. Enterprise Services and Contractor also may negotiate a markup in cents per gallon, as a flat fee, or other pricing methodology for such emergency fueling operations.

7.4. **PURCHASER SUPPORT.** Contractor shall provide customer support for this Master Contract including, but not limited to, a dedicated account team, customer service, business optimization program reviews, and other support services.

- CUSTOMER SERVICE. Contractor shall deliver comprehensive customer service for Purchaser needs to all users of the Master Contract, which includes Enterprise Services as well as Purchasers' fiscal, administrative, and operations personnel. Standard customer service shall include customer support provided for delivery, account, and billing inquiries and other similar services. Other customer service shall include support provided after non-normal business hours during times of urgent need, Governor proclaimed state of emergency, and catastrophic conditions.
 - 1) Contractor shall provide detailed customer service contact information to Purchasers at the time of account set up.
 - 2) Customer service inquiries shall be escalated to the Client Relationship Manager at the Purchaser's request or as otherwise deemed necessary.
 - 3) Standard customer service shall be available via a dedicated toll free telephone number or email. The service hours shall be from 8:00 a.m. to 5:00 p.m. (Pacific Time) Monday through Friday.
 - 4) Extended customer service shall be available via a dedicated toll free telephone number or email. The service hours shall be from 5:00 p.m. to 8:00 a.m. (Pacific Time) Monday through Friday and twenty-four hours a day Saturday and Sunday.
 - 5) In the event that the call center becomes unavailable, due to emergency or otherwise, Contractor's after-hours emergency phone support service and remote support staff shall be utilized to provide customer service.
 - 6) Other customer service shall be available outside of Contractor's normal business hours via a toll free telephone number which routes to an emergency telephone support service that shall relay requests to Contractor's on-call field personnel for resolution.
 - 7) The Client Relationship Manager shall be the point of contact during Governor proclaimed state of emergency and catastrophic conditions and can be reached at 206.623.3480 (Emergency 24/7).

- 7.5. SERVICE LEVEL AGREEMENT FOR PURCHASERS. Contractor shall post a Service Level Agreement (SLA) for WSF, approved by Enterprise Services, that summarizes 'customer (Purchaser) expectations' regarding the delivery of Fuel Products pursuant to this Master Contract. Such SLA shall be developed in collaboration with Enterprise Services, may be updated from time to time, and, at a minimum, shall reflect the following:

SERVICE LEVEL AGREEMENT			
No.	CUSTOMER SERVICE METRIC DESCRIPTION	CONTRACTOR PERFORMANCE RATE	CONTRACT REMEDY
1	<p>REDUNDANT, RELIABLE MARINE REFUELING SERVICES</p> <p>Contractor shall maintain and keep operable Pier-to-Vessel and Vessel-to-Vessel Marine Refueling capability (in addition to Truck-to-Vessel Marine Refueling) such that Purchaser's, as desired, can transition fuel delivers from Truck-to-Vessel to these more efficient Marine Refueling Services.</p>	90%	<p>If Contractor fails to maintain and keep operable the redundant, reliable Marine Refueling Services, at the agreed performance rate, Contractor shall be obligated, at Purchaser's request to provide Truck-to-Vessel Fuel Marine Refueling Services at an adjusted price that is less than or equal to the lower of either Pier-to-Vessel Marine Refueling Services or Vessel-to-Vessel Marine Refueling Services.</p>
2	<p>FUEL PRODUCTS – QUALITY</p> <p>All Fuel Products must meet or exceed the fuel quality specifications.</p>	100%	<p>If any Fuel Products fail to meet the standards, Contractor shall pay for any applicable laboratory testing and any required treatment, removal, tank cleaning, replacement of Fuel Products, and damages.</p>
3	<p>ORDERS – CONTRACTOR ACKNOWLEDGMENT</p> <p>All Purchaser orders from Purchasers with valid customer accounts must be acknowledged within one (1) business day.</p>		100%
4	<p>ORDERS – DELIVERED</p> <p>All acknowledged Purchaser orders must be delivered within two (2) business days.</p>		100%

SERVICE LEVEL AGREEMENT			
No.	CUSTOMER SERVICE METRIC DESCRIPTION	CONTRACTOR PERFORMANCE RATE	CONTRACT REMEDY
5	DELIVERIES – TRUCK-TO-VESSEL Contractor and Purchaser shall agree on a delivery window, which shall not be more than 2 hours, as well as a cut off time prior to the end of normal business hours during which the fuel shall be delivered.	100% On Time	Late deliveries shall result in a \$20 payment credit for every full 15 minute interval after the end of the delivery window or the cut off at the end of normal business hours. The total payment credit shall not exceed \$150.
6	DELIVERIES –If Purchaser has provided contact information, Contractor shall contact the Purchaser with an estimated delivery time, which shall not be less than 4 hour advanced notice.	100% On Time	Late deliveries shall result in a \$20 payment credit for every full 15 minute interval after the end of the delivery window or the cut off at the end of normal business hours. The total payment credit shall not exceed \$150.
7	CUSTOMER SERVICE – AVAILABILITY Contractor shall provide <ul style="list-style-type: none"> ▪ Customer service center 8:00 a.m. – 5:00 p.m. Monday – Friday (Pacific Time) ▪ Extended customer service center 5:00 p.m. – 8:00 a.m. Monday – Friday (Pacific Time) and twenty-four hours a day Saturday and Sunday With average telephone answer time of 30 seconds or less and average email response time of four (4) business hours or less.		100%
8	CUSTOMER SERVICE - ESCALATION Purchaser requests for customer service escalation shall be resolved within one (1) business day.	100%	If resolutions are not initiated within 24 hours of the request, the issue will be escalated to the next management.

SERVICE LEVEL AGREEMENT			
No.	CUSTOMER SERVICE METRIC DESCRIPTION	CONTRACTOR PERFORMANCE RATE	CONTRACT REMEDY
9	ORDERED/DELIVERED The amount of Fuel Product delivered by Contractor must be reasonably equal to the amount of Fuel Product ordered by Purchaser.	+/- 2%	If Purchaser does not opt to accept the overage or shortage, Contractor shall pump out or provide the Fuel as described herein.
10	FUEL SUPPLY Purchaser's fuel tank(s), for which a timely, valid order has been submitted, shall not run out of fuel as a result of any action or failure to act directly attributable to Contractor. Examples include, but are not limited to, actions such as Contractor's opting to prioritize deliveries to other customers for the sake of increased profitability or failing to maintain a reliable fuel supply chain.	100%	Any missed delivery or missed order or other action by Contractor or Purchaser that results in a tank running out of Fuel Products or Fuel Products not being received by Purchaser, then will result in payment credit to Purchaser or Contractor in the amount of \$200 per day until the Purchaser's delivery or order is completed.
11	SPILLS Contractor shall not spill any Fuel Products on Purchaser's property.	100%	Contractor shall be liable for any costs and damages for spills which is their responsibility.

SERVICE LEVEL AGREEMENT			
No.	CUSTOMER SERVICE METRIC DESCRIPTION	CONTRACTOR PERFORMANCE RATE	CONTRACT REMEDY
12	<p>EMERGENCY</p> <p>During times of Governor proclaimed state of emergency and/or catastrophic events Contractor shall make deliveries as follows:</p> <ul style="list-style-type: none"> ▪ <u>*Immediate threat</u> to persons or property – within 4 hours ▪ <u>**Imminent threat</u> to persons or property – within 10 hours ▪ <u>***Impending threat</u> to persons or property – within 18 hours <p>During times of Governor proclaimed state of emergency and/or catastrophic events, Contractor shall keep delivery sources filled with employees on call 24 hours a day 7 days a week.</p>	100%	<p>If the Standard is not met Contractor will provide Fuel Products to the location immediately upon Purchaser's notification of the missed delivery.</p> <p>Contractor shall be reimbursed for authorized expenses due to an Event <i>Section 6.3</i>.</p>
	<p>Purchaser will be responsible for identifying the threat level. Washington Department of Emergency Management also may identify the threat level, which shall supersede the Purchaser.</p> <p>** Immediate threat means that persons or property are currently subject to harm. For example, a person is in need of immediate medical attention and/or property is currently damaged due to an Event.</p> <p>** Imminent threat means that persons or property will be subject to harm within the near future (i.e. within the next 10 hours) due to an Event. For example, if a Purchaser does not have fuel within the near future, persons will need medical attention after that time or property will be subject to damage after that time.</p> <p>*** Impending threat means that persons or property will be subject to harm within the foreseeable future due to an Event. For example, a Tsunami is forecast, within a reasonable amount of accuracy, to impact Washington or the roads will not be able to be cleared, therefore making them hazardous to travel, if fuel is not delivered.</p>		

8. INVOICING & PAYMENT.

8.1. **INVOICES.** Contractor shall issue all invoices directly to the Purchaser after all Fuel Products covered by the invoice have been provided. Contractor may issue invoices for each individual

order or on a set schedule (i.e. weekly, monthly, or otherwise) pursuant to the issuance of a blanket purchase order as may be agreed to by the Purchaser. Contractor shall provide, at a minimum, the following information on each invoice:

- Name of Purchaser (the ordering entity)
- Delivery terminal and or vessel name
- Customer account number
- Purchaser point of contact name
- Description of the Fuel Products provided
- Invoice number
- Invoice date
- Itemized quantities, unit price and extended price
- Master Contract Number
- Purchase Order Number
- Enterprise Services Vendor Management Fee

Contractor shall issue invoices to Purchaser in accordance with the instructions contained in their Purchase Order.

- 8.2. **PAYMENT FOR NON-WSF PURCHASERS.** Payment is the sole responsibility of, and will be made by, the Purchaser. Payment is due within thirty (30) days of receipt of invoice or receipt of the Fuel Products, whichever last occurs. If Purchaser fails to make timely payment(s), Contractor may invoice Purchaser in the amount of one percent (1%) per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified.
- 8.3. **PAYMENT FOR WSF PURCHASES.** Semi-monthly (twice per month), Contractor shall list all invoices and deliveries made (the 1st through the 15th, and the 16th through 31st) to each WSF vessel on a statement, and shall submit this billing statement to WSF by the next business day following the billing period (for example, for the period 1st through the 15th, the statement will be submitted on the 16th, for the period 16th through 31st, the statement will be submitted on the 1st of the following month). WSF will process payment by Electronic Funds Transfer (EFT) within fifteen calendar days from receipt (for example, if contractor submits the statement on the 16th, WSF will process payment by EFT by the 2nd day of the following month and for statements delivered on the 1st, WSF will process payment by EFT by the 16th of that month). Due date for processing payment by EFT will be extended by an equal number of days due to any state holidays incurred during the business cycle. This process shall occur twice per month.
- 8.4. **OVERPAYMENTS.** Contractor promptly shall refund to Purchaser the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to Contractor; *Provided*, however, that Purchaser shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely payment(s) or issuance of such credit memos, Purchaser may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the Contractor.
- 8.5. **NO ADVANCE PAYMENT.** No advance payments shall be made for any Fuel Products furnished by Contractor pursuant to this Master Contract.

- 8.6. **NO ADDITIONAL CHARGES.** The prices set forth in *Exhibit B – Fuel Products Prices* shall be for the complete delivery of the Fuel Products described herein, and shall include all applicable delivery/transportation costs, payment processing, and service costs or fees of any kind. Contractor understands and agrees that a key component of this Master Contract is to provide a cost-effective and efficient procurement bridge for eligible Purchasers to minimize the transaction costs associated with procuring Fuel Products and that clear, transparent, administratively simple pricing is a fundamental value-added attribute of this Master Contract.
- 8.7. **CONTRACTOR TAXES.** Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Master Contract. Failure to do so shall constitute breach of this Master Contract.
- 8.8. **FUEL TAXES & CONTRACTOR INVOICING.** Purchasers may be exempt from federal, state, and/or local taxes on Fuel Products and will present their tax exempt certificates to Contractor upon request. Accordingly, purchases against this Master Contract may be free of federal excise and transportation taxes as well as state and/or local taxes. Contractor shall add any applicable taxes as a separate line item to each invoice submitted to a Purchaser, and each applicable tax (e.g. federal, state, local, or otherwise) must be separately identified on the applicable invoice so that Purchasers may assess the accuracy of such imposed taxes.
- 8.9. **SALES TAX & CONTRACTOR INVOICING.** Purchaser shall pay applicable sales on purchased Fuel Products. Contractor shall add any applicable sales tax as a separate line item to each invoice submitted to a Purchaser.

9. CONTRACT MANAGEMENT.

- 9.1. **CONTRACT ADMINISTRATION & NOTICES.** Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Master Contract. Enterprise Services’ contract administrator shall provide Master Contract oversight. Contractor’s contract administrator shall be Contractor’s principal contact for business activities under this Master Contract. The parties may change contractor administrators by written notice as set forth below.

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

Enterprise Services

Attn: John Allen
 Washington Dept. of Enterprise Services
 PO Box 41411
 Olympia, WA 98504-1411
 Tel: (360) 407-8406
 Email: John.Allen@des.wa.gov

Contractor

Attn: Dan Kovacich
 Maxum Petroleum / Pilot Thomas
 Logistics
 1711 13th Ave SW
 Seattle, WA 98134
 Tel: (206) 613-1449
 Email: Dan.Kovacich@pilotthomas.com

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

- 9.2. **CONTRACTOR EMERGENCY RESPONSE TEAM.** Contractor shall designate an emergency response team (and inform Enterprise Services of the same) that shall be responsible for addressing Contract and Purchaser issues pertaining to emergency preparedness, planning, and response regarding Fuel Products pursuant to this Master Contract.
- 9.3. **CONTRACTOR SUPPORT FOR FUEL RECALL.** In the event of a governmental or Contractor directed recall of any of the Fuel Products (or their components) (a "fuel recall"), Contractor shall provide best effort efforts to support Enterprise Services in developing a recall strategy and shall cooperate with the Enterprise Services and impacted Purchasers, at a minimum, to monitor the recall operation and prepare any such reports as may be required or desired. In the event of a fuel recall, Contractor immediately shall notify Enterprise Services and provide a written summary of the fuel recall and Contractor's action plan.
- 9.4. **LEGAL NOTICES.** Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services

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

Contractor

Attn: Legal Department
 Maxum Petroleum / Pilot Thomas
 Logistics
 201 N. Rupert St.
 Fort Worth, TX 76107
 Tel: (817) 877-8305
 Email: Contract.Group@pilotthomas.com

And with a copy to:

Attn: CFO
 Maxum Petroleum/Pilot Thomas
 Logistics
 201 N. Rupert Street
 Fort Worth, Texas 76107

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

10. CONTRACTOR SALES REPORTING; VENDOR MANAGEMENT FEE; & CONTRACTOR REPORTS.

- 10.1. **MASTER CONTRACT SALES REPORTING.** Contractor shall report total Master Contract sales quarterly to Enterprise Services, as set forth below.
- (b) **Master Contract Sales Reporting System.** Contractor shall report quarterly Master Contract sales in Enterprise Services' Master Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor number. The password and vendor number will be provided to the Sales Reporting Representative(s) listed on Contractor's Proposer Profile.

- (c) Data. Each sales report must identify every authorized Purchaser by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The “Miscellaneous” option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized purchasers specified herein during the term of the Master Contract. If there are no Master Contract sales during the reporting period, Contractor must report zero sales.
- (d) Due dates for Master Contract Sales Reporting. Quarterly Master Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

FOR CALENDAR QUARTER ENDING	MASTER CONTRACT SALES REPORT DUE
March 31:	April 30
June 30:	July 31
September 30:	October 31
December 31:	January 31

10.2. QUARTERLY DETAILED MASTER CONTRACT REPORT. In addition to the quarterly sales report, Contractor shall provide to Enterprise Services, on a quarterly basis (using the same schedule set forth above), a detailed Master Contract Report. Such report shall be provided in an electronic format that can be read by MS Excel and shall include, at a minimum:

- Purchaser
- Delivery location by terminal, vessel and Pier 15
- Date of delivery
- Gallons delivered
- Fuel Products, by type
- Distributor/delivery firm

10.3. VENDOR MANAGEMENT FEE. Contractor shall pay to Enterprise Services a vendor management fee (“VMF”) of 0.15 percent on the purchase price for all Master Contract sales (the purchase price is the total invoice price less applicable sales tax(s)).

- (a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

$$\text{Amount owed to Enterprise Services} = \text{Total Master Contract sales invoiced (not including sales tax)} \times 0.0015$$

- (b) The VMF must be shown as a separate line item on any invoice unless specifically requested otherwise by Enterprise Services.
- (c) Enterprise Services will invoice Contractor quarterly based on Master Contract sales reported by Contractor. Contractor shall not remit payment until invoiced by Enterprise Services. Contractor’s VMF payment to Enterprise Services must reference this Master Contract number, the year and quarter for which the VMF

is being remitted, and the Contractor's name as set forth in this Master Contract, if not already included on the face of the check.

- (d) Failure to accurately report total net sales, to submit a timely usage report, inclusion, or remit timely payment of the VMF, may be cause for Master Contract termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the State to identify, process, and collect such sums. The sum of \$200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.
- (e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases.

11. RECORDS RETENTION & AUDITS.

- 11.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Contract and orders placed by Purchasers under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of two (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 11.2. AUDIT. Enterprise Services reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor has properly invoiced Purchasers and that Contractor has paid all applicable contract management fees. Accordingly, Contractor shall permit Enterprise Services, any Purchaser, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Contract or orders placed by a Purchaser under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following the date of services were provided that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 11.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any Purchaser, Contractor shall (a) reimburse Purchasers for any actual overpayments inconsistent with the terms of this Master Contract or orders found as a result of the examination of the Contractor's records; and (b) reimburse Enterprise Services for any actual underpayment of fees, at a rate of 125% of such fees found as a result of the examination of the Contractor's records

12. INSURANCE.

- 12.1. REQUIRED INSURANCE. During the Term of this Master Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*.

12.2. **WORKERS COMPENSATION.** Contractor shall comply with applicable workers compensation statutes and regulations (i.e., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Master Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

13. CLAIMS.

13.1. **ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES.** Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees, agents, and Contractors in connection with Contractor's operations under this Master Contract. Enterprise Services has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Purchaser's property resulting directly or indirectly from its acts or omissions under this Master Contract, even if not attributable to negligence by Contractor or its agents.

13.2. **THIRD-PARTY CLAIMS; INDEMNITY.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Enterprise Services and any Purchaser and their employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Master Contract, except claims caused solely by Enterprise Services or any Purchasers' negligence. Contractor shall take all steps needed to keep Purchaser's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

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

15. SUSPENSION & TERMINATION; REMEDIES.

15.1. **SUSPENSION & TERMINATION FOR DEFAULT.** Enterprise Services may suspend Contractor's operations under this Master Contract immediately by written cure notice of any default. Suspension shall continue until the default is remedied to Enterprise Services' reasonable satisfaction; *Provided*, however, that, if after thirty (30) days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Master Contract. All of Contractor's obligations to Enterprise Services and Purchasers survive termination of Contractor's rights under this Master Contract, until such obligations have been fulfilled.

- 15.2. **DEFAULT.** Each of the following events shall constitute default of this Master Contract by Contractor:
- (a) Contractor fails to perform or comply with any of the terms or conditions of this Master Contract including, but not limited to, Contractor's obligation to pay vendor management fees when due;
 - (b) Contractor breaches any representation or warranty provided herein; or
 - (c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.
- 15.3. **REMEDIES FOR DEFAULT.**
- (a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Master Contract are in addition to all other available remedies.
 - (b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Purchasers replacement Fuel Products. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Master Contract price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.
- 15.4. **LIMITATION ON DAMAGES.** Notwithstanding any provision to the contrary, the Parties agree that in no event shall any party or Purchaser be liable to the other for exemplary or punitive damages.
- 15.5. **GOVERNMENTAL TERMINATION.**
- (a) Termination for Withdrawal of Authority. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, Enterprise Services' procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve any Purchaser from payment for Fuel Products already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.
 - (b) Termination for Convenience. Enterprise Services, for convenience, may terminate THIS MASTER CONTRACT; PROVIDED, HOWEVER, THAT SUCH TERMINATION FOR CONVENIENCE must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that such termination for convenience shall not relieve any Purchaser from payment for Fuel Products already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for convenience, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.
- 15.6. **TERMINATION PROCEDURE.** Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or

termination. Accordingly, Contractor shall deliver to Purchasers all Fuel Products that are ordered and/or in transit (or with approval from Enterprise Services, scheduled for delivery) and Purchasers shall inspect, accept, and pay for the same in accordance with this Master Contract and the applicable Purchase Order. Unless directed by Enterprise Services to the contrary, Contractor shall not process any orders after notice of suspension or termination inconsistent therewith.

16. GENERAL PROVISIONS.

- 16.1. **TIME IS OF THE ESSENCE.** Time is of the essence for each and every provision of this Master Contract.
- 16.2. **COMPLIANCE WITH LAW.** Contractor shall comply with all applicable law.
- 16.3. **INTEGRATED AGREEMENT.** This Master Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 16.4. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this Master Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.
- 16.5. **AUTHORITY.** Each party to this Master Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Master Contract and that its execution, delivery, and performance of this Master Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- 16.6. **NO AGENCY.** The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Master Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 16.7. **ASSIGNMENT.** Contractor may not assign its rights under this Master Contract without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void, *Provided*, however, that, if Contractor provides written notice to Enterprise Services within thirty (30) days, Contractor may assign its rights under this Master Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Master Contract notwithstanding any prior assignment of its rights.
- 16.8. **BINDING EFFECT; SUCCESSORS & ASSIGNS.** This Master Contract shall be binding upon and shall INURE TO THE BENEFIT OF THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.
- 16.9. **PUBLIC INFORMATION.** This Master Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56.
- 16.10. **ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED FUEL PRODUCTS.** Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the

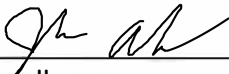
future by reason of any violation of state or federal antitrust laws in connection with any Fuel Products provided in Washington for the purpose of carrying out the Contractor's obligations under this Master Contract, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.

- 16.11. FEDERAL FUNDS. To the extent that any Purchaser uses federal funds to purchase Fuel Products pursuant to this Master Contract, such Purchaser shall specify, with its order, any applicable requirement or certification that must be satisfied by Contractor at the time the order is placed or upon delivery.
- 16.12. SEVERABILITY. If any provision of this Master Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Master Contract, and to this end the provisions of this Master Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Master Contract.
- 16.13. WAIVER. Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Master Contract, nor shall any purported oral modification or rescission of this Master Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.
- 16.14. SURVIVAL. All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Master Contract shall survive and remain in effect following the expiration or termination of this Master Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 16.15. GOVERNING LAW. The validity, construction, performance, and enforcement of this Master Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- 16.16. JURISDICTION & VENUE. In the event that any action is brought to enforce any provision of this Master Contract, the parties agree to submit to exclusive in person a jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- 16.17. ATTORNEYS' FEES. Should any legal action or proceeding be commenced by either party in order to enforce this Master Contract or any provision hereof, or in connection with any alleged dispute, breach, default, or misrepresentation in connection with any provision herein contained, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action or proceeding, including costs of pursuing or defending any legal action, including, without limitation, any appeal, discovery, or negotiation and preparation of settlement arrangements, in addition to such other relief as may be granted.

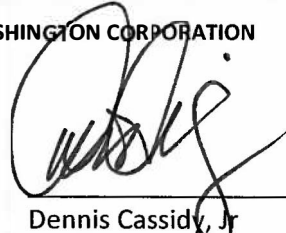
- 16.18. **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this Master Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Master Contract. Each party hereto and its counsel has reviewed and revised this Master Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Master Contract. Each term and provision of this Master Contract to be performed by either party shall be construed to be both a covenant and a condition.
- 16.19. **FURTHER ASSURANCES.** In addition to the actions specifically mentioned in this Master Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Master Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Master Contract.
- 16.20. **EXHIBITS.** All exhibits referred to herein are deemed to be incorporated in this Master Contract in their entirety.
- 16.21. **CAPTIONS & HEADINGS.** The captions and headings in this Master Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Master Contract nor the meaning of any provisions hereof.
- 16.22. **ELECTRONIC SIGNATURES.** A signed copy of this Master Contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Master Contract or such other ancillary agreement for all purposes.
- 16.23. **COUNTERPARTS.** This Master Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Master Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Master Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

By: 
 John Allen
 Its: Procurement Supervisor

RAINIER PETROLEUM CORPORATION,
A WASHINGTON CORPORATION

By: 
 Dennis Cassidy, Jr.
 Its: President and Chief Executive Officer

LIST OF EXHIBITS TO MASTER CONTRACT

- A. Included Fuel Products
- B. Fuel Products Prices (including Fuel Price Tables)
- C. Insurance Requirements
- D. FTA Clauses for Fuel Products

INCLUDED FUEL PRODUCTS

All fuel must meet Washington state fuel quality standards as provided by Washington's Motor Fuel Quality Act, RCW Chap. 19.112, as administered by the Washington State Department of Agriculture (WSDA). Current WSDA rules adopt the national standard for the definitions and requirements for standard fuel specifications: Uniform Engine Fuels and Automotive Lubricants Regulation as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2009 Edition and, effective June 1, 2011, the 2010 Amendments to the 2009 Edition of NIST Handbook 130 to Section 2.1. Gasoline and Gasoline-Oxygenate Blends in the Engine Fuels and Automotive Lubricants Regulation. The national standards are developed by ASTM, the national voluntary standards organization formed to develop standards on the characteristics and performance of fuels and other materials, products, systems and services. Any reference to an ASTM shall mean the most current version of the ASTM fuel standard as adopted by the Washington State Department of Agriculture.

FUEL PRODUCT Type		SPECIFICATION
GASOLINE – UNLEADED		
	Regular	ASTM D4814
	Midgrade	
	Premium/Supreme	
NON - ETHANOL FUEL		
	Ethanol Flex Fuel up to 51%	ASTM D7794
	Ethanol Flex Fuel (E85)	ASTM D5798
ULTRA LOW SULFUR DIESEL (ULSD) FUELS		
	ULSD #1 red dyed diesel	ASTM D975
	ULSD #2 red dyed diesel	
BIODIESEL		
	Biodiesel B100/99 Red Dyed	ASTM D6751
	Biodiesels B1 – B5	ASTM D6751, D7467, D975
	Biodiesels B6 – B20	ASTM D7467
	Biodiesels B100	ASTM D6751
RENEWABLE HYDROCARBON DIESEL (RHD)		
	Renewable Hydrocarbon Diesel B100/99 Clear	ASTM D975

FUEL PRODUCT Type	SPECIFICATION
Renewable Hydrocarbon Diesel B100/99 Red Dyed	

In addition to the requirements set forth in the Master Contract, this section summarizes additional requirements for all of the Fuel Products and unique requirements for biodiesel and RHD fuels.

A. General Requirements: All fuel must be free from contamination – i.e., free from impurities including water, dirt, harmful oils, fibrous materials, and other petroleum products or contaminants.

B. Additional Requirements for Biodiesels and RHD Fuels

1. Contractor shall provide biodiesel in any percentage range from B1 to B99.
2. The biodiesel used for blending must meet ASTM D6751 specifications. The remainder of the fuel must be a diesel or RHD fuel that meets ASTM D975 specifications.
3. All biodiesel and RHD fuels
 - A. Must be produced from a BQ-9000 certified facility.
 - B. Must be manufactured from at least fifty-one percent (51%) Washington state feedstock and/or biodiesel produced in Washington State.
 - C. Must be free of contamination resulting in bacteria or condensation. If bacteria are present, the appropriate treatment shall be applied to the biodiesel at Contractor's expense.
 - D. Must be filter-cleaned to 5 microns or less.
 - E. Must be less than two (2) months old (measured from date of manufacture) at the time of delivery to Purchaser.
 - F. Shall include a product transfer document showing feedstock origin, location, and producer of the fuel and carbon intensity pathway for all gallons sold and delivered to a Purchaser.
 - G. Shall have a carbon intensity (CI) of 60 or less as defined by California and/or Oregon low carbon fuel standard (LCFS) certified or approved temporary pathways. Co-mingled feedstock production shall be calculated on a mass balance basis and shall not exceed an overall CI score of 60.
 - H. All PTD's provided with fuel sold will be subject to third party verification at the request of the Purchaser at any time. Purchasers of the fuel will be responsible for verification costs. Five percent of total fuel volume sold under this contract may not exceed a mass balanced LCFS certified CI score of 60.
4. Contractor shall ensure that the Renewable and/or Biodiesel shall include a product transfer document (PTD) showing feedstock origin, location and producer of the fuel and carbon intensity (CI) pathway for all gallons sold. Only certified CI fuel pathway codes approved under the California and/or Oregon State low carbon fuel standard (LCFS) program(s) will be accepted and considered in compliance of this contract requirement. If Washington State adopts an LCFS program during the term of this Master Contract then those corresponding certified pathways

also shall be accepted. Co-mingled feedstock production shall show gallons sold of each certified pathway and feedstock origin clearly on the PTD in order to verify compliance and allow calculation of lifecycle greenhouse gas emissions of fuel purchased. A temporary fuel pathway code may be referenced if the producer is in the active process of getting feedstock production pathways certified through California and/or Oregon LCFS programs.

FUEL PRODUCTS PRICES

This exhibit, which includes product-specific tables, sets forth Fuel Products pricing on a per gallon, delivered basis.

Except as set forth herein, with the exception of applicable taxes and the VMF, there are no additional charges except for Purchaser caused, on-site, delivery delays. In such event, Contractor shall be entitled to impose a standby fee consistent with this contract. The Fuel Products Prices are for fuel delivered to Purchaser's vessel(s). Accordingly, the pricing is set forth on a Truck-to-Vessel, Pier-to-Vessel-to-Vessel (e.g., Global Provider) basis. The Fuel Products pricing set forth herein is for the original term. Enterprises Services and Contractor mutually will agree upon the prices for each new subsequent term, if any, at least ninety (90) days prior to the end of each subsequent term.

Fuel Products pricing is set forth on a benchmark model using the current Oil Price Information Service (OPIS) daily average for a specifically identified rack pricing as the benchmark price. Pricing consists of the OPIS daily average price per gallon, plus Contractor's stated Adder number (Pier-to-Vessel, Vessel-to-Vessel) and Multiplier (Truck-to-Vessel).

- A. Product OPIS References Product OPIS references are designated references reported by the Oil Price Information Service (OPIS).

ULSD #2: The product reference price for "Ultra-Low Red Diesel" is Seattle, "OPIS Contract Average"

Biodiesel, B5 to B99, Dyed: The product reference price for Biodiesel B5 through B99 is the OPIS Biodiesel daily report (Portland Gross Wholesale B5 SME Biodiesel w/o RIN, LSN2D "Contract Average") will serve as the basis for establishing any biodiesel blend contract pricing. Biodiesel purchases are to receive the appropriate proportion of B99 necessary to achieve the requested biodiesel blend. For example if WSF places an order for Pier 15 and desires 1,000 gallons of a ULSD-B20 blend, the contractor would acquire and blend (in accordance with biodiesel specifications) 800 gallons of ULSD 2 Dyed with 200 gallons of B99.

Per Gallon Pricing:

"Portland Gross Wholesale B5 SME Biodiesel SME w/o RIN, "Contract Average" adjusted by Adder or Multiplier as set forth herein = Bio PPG

ULSD 2 dyed "Portland OPIS Gross Wholesale ULSD # 2 Dyed, "Contract Average" adjusted by Adder or Multiplier as set forth herein = Fuel PPG

*Bio PPG * % of Blend = Bio Cost*

*ULSD 2 dyed * % of Blend = Fuel Cost*

Bio Cost + Fuel Cost = Contract Blend PPG

- B. Changes to Reference City:** Changes to the reference city or the reference within the target city may be changed by mutual agreement of Enterprise Services/WSF and the Contractor. However, it is Enterprise Services expectation that the Contractor's profit margins do not increase as a result of such action.

The price for Fuel Products shall be the Oil Price Information Service (OPIS) Closing Average Wholesale Rack Report gross price published at 5:59 P.M. for the day the applicable fuel is delivered and for the rack identified in the table below for that delivery location. If it should occur that the OPIS publication is not published for any given day, then the previous day's publication shall be used to determine the daily price. Should OPIS become unavailable or if the OPIS reference Enterprise Services uses for pricing become unavailable, the parties shall cooperate to substitute a pricing mechanism to reflect the cost of fuel as set forth in this Master Contract.

For all deliveries made Saturday and/or Sunday fuel prices invoiced for those deliveries shall reflect OPIS DAILY AVERAGE rack prices posted for the following Monday.

Purchaser will make every reasonable effort to ensure that vessels arrive at the terminal on time to receive fuel deliveries. However, unexpected or unavoidable delays occasionally occur. The Contractor's service fee (coupled with the fuel pricing) is expected to cover all normal costs associated to a mobile marine refueling and is to include $\frac{3}{4}$ hour of free standby time for each marine delivery. Unless otherwise indicated in the price tables, additional delivery time (as a result of delays beyond $\frac{3}{4}$ hours) may be charged for at a rate of \$90/hr., broken into 1/3 increments (\$30 per 20 minutes). To receive compensation for standby, the charges are to be identified on the invoice as a separate line item and the customer representative must identify on the bill of lading the length of delay beyond the free $\frac{3}{4}$ hour standby time. In the event that Purchaser turns the Contractor away from a scheduled delivery (for reasons unrelated to the Contractor's control) the Contractor may bill the Purchaser the amount of the already established service fee. In such cases, the customer representative is to make note on the bill of lading that the refueling was refused. For Vessel-to-Vessel deliveries, the standby fee is \$650/hour and will be billed in 30 min increments. The Contractor will provide 1 hour of free standby time upon completed mooring alongside vessel.

Fuel Products Prices are set forth on the following tables:

Fuel Price Table 1. Non – Ethanol (Minimal Use)

Fuel Price Table 2. Ultra Low Sulfur Diesel (ULSD) Fuels

Fuel Price Table 3. Biodiesel Dyed

Fuel Price Table 4. Renewable Hydrocarbon Diesel (RHD) (not applicable at this time)

Fuel Price Table 5. Vessel-to-Vessel

Fuel Price Table 6. Diesel Exhaust Fluid (DEF\UREA)

Notes: The Following are explanatory notes for the Fuel Price Tables

TERMINAL	
ANA	ANACORTES
EH	EAGLE HARBOR
BRE	BREMERTON
CLI	CLINTON
FAU	FAUNTLEROY
FRH	FRIDAY HARBOR
KIN	KINGSTON
PT	Port Townsend
PTD	Point Defiance
VIG	Vigor
EDM	Edmonds
P15	Pier 15

FUEL PRICE TABLE 1 – GASOLINE/NON-ETHANOL

PRODUCT	NON –ETHANOL - (MINIMAL USAGE) – SMALL TRUCK DELIVERY ONLY		
INDEX	NON - ETHANOL / CONTRACT AVERAGE		
Terminal	OPIS Reference City	Contract Multiplier	Service Fee
ANA	Seattle	1.8000	\$280.00
BRE/EH	Seattle	1.8000	\$280.00
CLI	Seattle	1.8000	\$280.00
FAU	Seattle	1.8000	\$280.00
FRH	Seattle	1.8000	\$525.00
KIN	Seattle	1.8000	\$280.00
PT	Seattle	1.8000	\$380.00
PTD	Seattle	1.8000	\$280.00
VIG	Seattle	1.8000	\$280.00
EDM	Seattle	1.8000	\$280.00

FUEL PRICE TABLE 2 –DIESEL DYED

TRUCK-TO-VESSEL				
PRODUCT		ULTRA LOW SULFUR DIESEL #2 DYED		
INDEX		OPIS GROSS ULTRA LOW SULFUR RED DYED DISTILLATE PRICES; CONT AVG		
Terminal	OPIS REFERENCE CITY	DELIVERY	CONTRACT MULTIPLIER	SERVICE FEE
ANA	Anacortes	Truck-to-Vessel	1.0039	\$490.00
ANA	Tacoma - if fuel is supplied from Harbor Island	Truck-to-Vessel	1.0039	\$1,045.00
EH	Tacoma	Truck-to-Vessel	1.0039	\$565.00
CLI	Anacortes	Truck-to-Vessel	1.0039	\$540.00
CLI	Tacoma - if fuel is supplied from Harbor Island	Truck-to-Vessel	1.0039	\$940.00
FAU	Tacoma	Truck-to-Vessel	1.0039	\$565.00
FRH	Tacoma	Truck-to-Vessel	1.0140	\$690.00
KIN	Tacoma	Truck-to-Vessel	1.0140	\$565.00
PT	Tacoma	Truck-to-Vessel	1.0140	\$565.00
PTD	Tacoma	Truck-to-Vessel	1.0039	\$490.00
VIG	Tacoma	Truck-to-Vessel	1.0039	\$490.00
EDM	Tacoma	Truck-to-Vessel	1.0039	\$490.00
** P15	Seattle	Ex-wharf	plus \$ 0.11 / USG	\$750 boom deployment fee

Standby/Demurrage Fee - Delays beyond 3/4 hour will be charged at a rate of \$90.00/hour, broken into 1/3 hour increments (\$30 per 20 minutes).

** Pier 15 ex-wharf price is Index reference plus \$.11 / USG

FUEL PRICE TABLE 3 – BIODIESEL DYED

TRUCK-TO-VESSEL						
PRODUCT	BIODIESEL B99 DYED SUPPLIED IN B5, B10, B20					
INDEX	OPIS B5 SME CONTRACT DYED (NO RIN)					
Terminal	OPIS Reference City	Delivery	B5 Contract Multiplier	B10 Contract Multiplier	B20 Contract Multiplier	Service Fee
ANA	Anacortes	Truck-to-Vessel	See table 4 Renewable	See table 4 Renewable	See table 4 Renewable	\$490.00
ANA	Portland - if fuel is supplied from Harbor Island	Truck-to-Vessel	1.0039	1.0039	1.0039	\$1,045.00
B/EH	Portland	Truck-to-Vessel	1.0039	1.0039	1.0039	\$565.00
CLI	Anacortes	Truck-to-Vessel	See table 4 Renewable	See table 4 Renewable	See table 4 Renewable	\$540.00
CLI	Portland - if fuel is supplied from Harbor Island	Truck-to-Vessel	1.0039	1.0039	1.0039	\$940.00
FAU	Portland	Truck-to-Vessel	1.0039	1.0039	1.0039	\$565.00
FRH	Portland	Truck-to-Vessel	1.014	1.014	1.014	\$690.00
KIN	Portland	Truck-to-Vessel	1.014	1.014	1.014	\$565.00
PT	Portland	Truck-to-Vessel	1.014	1.014	1.014	\$565.00
PTD	Portland	Truck-to-Vessel	1.0039	1.0039	1.0039	\$490.00
VIG	Portland	Truck-to-Vessel	1.0039	1.0039	1.0039	\$490.00
EDM	Portland	Truck-to-Vessel	1.0039	1.0039	1.0039	\$490.00
** P15	Portland	Ex-wharf	plus \$.11 / USG	plus \$.11 / USG	plus \$.11 / USG	\$750 boom deployment fee

Standby/Demurrage Fees- Delays beyond 3/4 hour will be charged at a rate of \$90.00/hour, broken into 1/3 hour increments (\$30 per 20 minutes).

* Service fee tariff increase due to DOT Electronic Log data recorders, City Fire Department License fees, and USCG/Dept. of Ecology enhanced compliance requirements.

** Pier 15 ex-wharf price is Index reference plus \$.11 / USG

FUEL PRICE TABLE 4 - RENEWABLE DIESEL DYED

PRODUCT	RENEWABLE DIESEL R5 DYED			
INDEX	PORTLAND OPIS B5 SME CONTRACT AVG (NO RIN)			
Terminal	OPIS Reference City	Delivery	B5 Contract Multiplier	Service Fee
ANA	Portland	Truck-to-Vessel	1.012	\$490.00
CLI	Portland	Truck-to-Vessel	1.012	\$540.00

FUEL PRICE TABLE 5 – VESSEL-TO-VESSEL

PRODUCT	FUEL TYPES – USLD D, B5, B10 AND B20	
INDEX	BASED ON FUEL PRODUCT ORDERED	
Terminal	Service Fee	* Standby/Demurrage Fee
Bremerton/Eagle Harbor	\$2,800.00	\$650.00
Clinton	\$2,800.00	\$650.00
Fauntleroy	\$2,160.00	\$650.00
Port Townsend	\$4,320.00	\$650.00

GLOBAL PROVIDER (GP) CONTRACT ADDERS - DYED ULTRA LOW SULFUR AND BIODIESEL

Global Provider Contract Adders		
Fuel Type	OPIS Reference Contract Average	Adder Per Gallon
OPIS Ultra Low Sulfur Diesel -Dyed	Seattle	\$0.11
OPIS Gross Wholesale B5 SME Biodiesel Prices Dyed	Portland	\$0.11

*Standby/Demurrage Fee - 1 hour of free time will be provided upon arrival for fuel appointment. After first hour the standby demurrage time is \$650/hour and will be invoiced in 30 min increments

All Global Providers delivered fuels ADDERS remain the same for the fuels delivered via GP.

Contractor to supply ULSD D, B5, B10 and B20

FUEL PRICE TABLE 6 - DIESEL EXHAUST FLUID

PRODUCT	DIESEL EXHAUST FLUID			
INDEX	UREA FOB NOLA (F5X18)			
TERMINAL	UREA REFERENCE CITY	DELIVERY VIA	CONTRACT ADDER MULTIPLIED	SERVICE FEE
ANA	New Orleans	Truck	0.00417	\$ 800.00
B/EH	New Orleans	Truck	0.00417	\$ 350.00
CLI	New Orleans	Truck	0.00417	\$ 750.00
FAU	New Orleans	Truck	0.00417	\$ 350.00
FRH	New Orleans	Truck	0.00417	\$ 350.00
KIN	New Orleans	Truck	0.00417	\$ 350.00
PT	New Orleans	Truck	0.00417	\$ 350.00
PTD	New Orleans	Truck	0.00417	\$ 350.00
VIG	New Orleans	Truck	0.00417	\$ 350.00
EDM	New Orleans	Truck	0.00417	\$ 350.00
P15	New Orleans	Ex-wharf	0.00417	\$ 150.00
**Global Provider	New Orleans	Vessel	0.00417	\$ 650.00

Product origination is Seattle, WA

** The DEF will need to be delivered with fuel to WSF

Reference link to UREA NOLA

https://www.barchart.com/futures/quotes/F5*0/price-history/historical

Exhibit C

INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION.** During the Term of this Master Contract, Contractor obtain and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages:
 - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial General Liability Insurance (and, if necessary, commercial umbrella liability insurance) covering Bodily Injury and Property Damage on an 'occurrence form' in the amount of not less than \$5,000,000 per occurrence and \$10,000,000 general aggregate. This coverage shall include Products Liability/Completed Operations and Contractual Liability insurance for the indemnity provided under this Master Contract.
 - b. **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE.** 'Symbol 1' Commercial Automobile Liability coverage (and, if necessary, commercial umbrella liability insurance) including coverage for all owned, hired, and non-owned vehicles. The combined single limit per accident shall not be less than \$5,000,000 and shall include a rider evidencing pollution liability broadened coverage for covered autos and broadened coverage for pollution conditions occurring while loading and unloading
 - c. **TRANSPORTATION POLLUTION LIABILITY COVERAGE.** Contractor shall provide transportation pollution liability insurance in an amount not less than \$10,000,000 per occurrence and \$20,000,000 aggregate.
 - d. **CONTRACTOR'S POLLUTION LIABILITY INSURANCE.** Pollution Liability Insurance coverage (to include, without limitation, loading and unloading of all Fuel Products) with a combined single limit per occurrence of not be less than \$5,000,000, or the equivalent. Such insurance shall provide coverage for bodily injury, including death; loss or damage to property, including loss of use of damaged property or of property that has not been physically injured; cleanup costs; and costs and expenses incurred in the investigation, defense or settlement of claims. Such coverage shall provide coverage for both on-site and off-site clean-up costs and cover gradual and sudden pollution.
 - e. **CRIME INSURANCE/EMPLOYEE DISHONESTY.** Employee Dishonesty and (when applicable) Inside/Outside Money and Securities including Computer Fraud coverages for State of Washington and/or Purchaser-owned property in the care, custody, and control of Contractor. Coverage limits shall not be less than \$2,000,000 per occurrence and \$4,000,000 general aggregate.

The limits of all insurance required to be provided by Contractor shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits.

A cross-liability clause or separation of insured condition shall be included in the general liability and the pollution liability policies required by this Master Contract.

2. **INSURANCE CARRIER RATING.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's

Insurance Rating. Enterprise Services reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

3. **ADDITIONAL INSURED.** Except for Commercial Automobile Liability, Cyber Liability, Technology Professional Liability, and Pollution Liability Insurance, all required insurance shall include the State of Washington and all authorized Purchasers (and their agents, officers, and employees) as an Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.
4. **CERTIFICATE OF INSURANCE.** Upon request by Enterprise Services, Contractor shall furnish to Enterprise Services, as evidence of the insurance coverage required by this Master Contract, a certificate of insurance satisfactory to Enterprise Services that insurance, in the above-stated kinds and minimum amounts, has been secured. A renewal certificate shall be delivered to Enterprise Services no less than ten (10) days prior to coverage expiration. Failure to provide proof of insurance, as required, will result in contract cancellation. All policies and certificates of insurance shall include the Master Contract number stated on the cover of this Master Contract.
5. **PRIMARY COVERAGE.** Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any Purchaser. All insurance or self-insurance of the State of Washington and/or Purchasers shall be excess of any insurance provided by Contractor or subcontractors.
6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any Purchaser for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) days prior written Legal Notice by Contractor to Enterprise Services. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the Master Contract number stated on the cover of this Master Contract.

FTA CLAUSES FOR FUEL PRODUCTS

1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES.

- (a) Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.
- (b) Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD.

- (a) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- (b) Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.
- (c) Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. ACCESS TO THIRD PARTY CONTRACT RECORDS.

- (a) Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives

including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

- (b) Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- (c) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- (d) Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- (e) Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (f) Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- (g) FTA does not require the inclusion of these requirements in subcontracts.

4. CHANGES TO FEDERAL REQUIREMENTS. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

5. TERMINATION.

- (a) Termination for Convenience. The (Recipient) may terminate this Contract, in whole or in part, at any time by written notice to Contractor when it is in the Government's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work

performed up to the time of termination. Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If Contractor has any property in its possession belonging to the (Recipient), Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

- (b) Termination for Default. If Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on Contractor setting forth the manner in which the Contractor is in default. Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- (c) Opportunity to Cure. The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- (d) Waiver of Remedies for any Breach. In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

6. CIVIL RIGHTS.

- (a) Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 102, section 202 of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. § 2132, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (b) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:
 - i. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal

Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

- ii. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
- iii. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

- 7. DISADVANTAGED BUSINESS ENTERPRISES. The Disadvantaged Business Enterprise (DBE) requirements of 49 CFR Part 26 and USDOT's official interpretations (i.e., Questions & Answers) apply to this Contract. As such, the requirements of this Contract are to make affirmative efforts to solicit DBEs, provide information on who submitted a Bid or quote and to report DBE participation. No preference will be included in the evaluation of Bids/Proposals, no minimum level of DBE participation shall be required as a Condition of Award and Bids/Proposals may not be rejected or considered non-responsive on that basis.
- 8. ADA Access. Contractor shall comply with the requirements of 49 CFR FTA C 4710.1 as applicable to this Contract. Equal access and the opportunity should be given to individuals with disabilities to fully participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations.
- 9. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein

notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

10. DEBARMENT AND SUSPENSION. This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the **bidder** or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Enterprise Services. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Enterprise Services, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The **bidder** or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The **bidder** or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

11. BUY AMERICA. Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7.

12. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION.

- (a) Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.
- (b) Performance During Dispute. Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- (c) Claims for Damages. Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- (d) Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

(e) Rights and Remedies. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

13. LOBBYING. Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]. Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

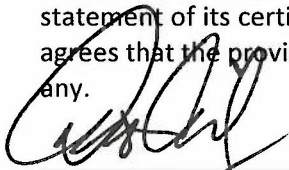
The undersigned Contractor certifies, to the best of his or her knowledge and belief, that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Rainier Petroleum Corporation, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

President + CEO

Name and Title of Contractor's Authorized Official

12-18-2018

Date

14. CLEAN AIR.

- (a) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (b) Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

15. CLEAN WATER.

- (a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (b) Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

16. CARGO PREFERENCE - USE OF UNITED STATES-FLAG VESSELS. Contractor agrees to:

- (a) Use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

- (b) Furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.)
 - (c) Include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.
17. ENERGY CONSERVATION. Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.