

CONTRACT FOR PERSONAL SERVICES  
BETWEEN  
STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES  
AND  
Level 4 Ventures, Inc.  
DES Contract No. 30205

This Convenience Contract is made and entered into by and between the Washington State Department of Enterprise Services (hereinafter called "AGENCY"), and acting as the agent for Washington State Agencies, Political Subdivisions, Co-op members, non-profit organizations and participating institutions of Higher Education, Western States Contracting Alliance (WSCA) and National Association of State Procurement Officials (NASPO) hereinafter referred to as (CUSTOMERS) and Level 4 Ventures Inc., Contractor.

<u>Contractor Name:</u>	<u>Level 4 Ventures Inc.</u>
<u>Address:</u>	<u>13518 Jamul Drive</u>
<u>City, State &amp; Zip Code:</u>	<u>Jamul, CA 91935</u>
<u>Phone:</u>	<u>(619) 917.4917</u>
<u>E-mail Address:</u>	<u><a href="mailto:william@level4ventures.com">william@level4ventures.com</a></u>

<u>Washington State UBI No.:</u>	
<u>Federal ID No.:</u>	20-4204997

**PURPOSE**

The purpose of this contract is to provide Strategic Sourcing Services that address varying CUSTOMER business requirements. Strategic Sourcing is the process of determining an enterprise's long-term supply requirements by comprehensive analysis of historic spending, finding sources to fulfill those needs at the lowest possible total cost, selecting suppliers to provide the services, negotiating the purchase agreements, and managing the suppliers' performance.

It is the purpose of this Agreement for the Contractor to provide CUSTOMERS with Strategic Sourcing Services in the following Service Categories at or below the indicated not-to-exceed hourly blended rates:

<b>Category</b>	<b>Not to Exceed Hourly Blended Rates</b>
Negotiate & Award	\$110.92
Implementation	\$102.46

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In consideration of the terms and conditions contained herein or attached and incorporated and made a part hereof, the parties mutually agree as follows:

### **SPECIAL TERMS & CONDITIONS**

#### **TERMS AND CONDITIONS**

All rights and obligations of the parties to this Contract shall be subject to and governed by the following:

- Special Terms and Conditions contained in the text of this Contract instrument;
- Professional Solicitation Standards, Exhibit A, <http://www.ga.wa.gov/PCA/Bids/T3SSTAND.DOC> ;
- Work Order Information and Sample Work Order, Exhibit C, Budget, Exhibit D
- Request for Proposals for Strategic Sourcing Services, RFP #30205, including any amendments thereto, Exhibit F; and
- Contractor's Proposal, Exhibit G.

In the event of conflict between the terms of the Contract and the Exhibits listed, the inconsistency shall be resolved as set out in Order of Precedence.

#### **STATEMENT OF WORK**

The Contractor has been pre-qualified to potentially furnish the category(s) of Strategic Sourcing services incorporated by reference herein. Pre-qualification does not assure that the Contractor shall receive any work under the terms of this Agreement. In responding to Work Requests issued by CUSTOMERS under this Agreement, the Contractor shall furnish the necessary personnel and services for or incidental to the performance of work as set forth in the *Statement of Work*, and any Work Orders which may be awarded to the Contractor. The Contractor agrees to assist CUSTOMERS with Strategic Sourcing Services as set forth in the *Statement of Work*, and any Work Orders, which may be awarded to the Contractor.

#### **INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of either the AGENCY or the CUSTOMER(s). The Contractor will not hold himself/herself out as or claim to be an officer or employee of the AGENCY, CUSTOMER(s) or the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit, which would accrue to such employee under law. Conduct and control of work performed under the terms of this contract shall be solely with the Contractor.

#### **INSURANCE**

The Contractor shall provide insurance coverage as set out in RFP #30205, Section 2.14. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this Contract.

#### **PERIOD OF PERFORMANCE**

The initial term shall begin performance January 15, 2013 and end September 30, 2013.

Note: The initial period of performance and subsequent contract amendments may be renegotiated based on conditions that have been deemed to impact the CUSTOMERS. The state of Washington on behalf of the customers, reserves the right to exercise the option to negotiate previously established pricing, terms & conditions and the period of performance.

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COMPENSATION

**The maximum consideration available under this Contract is \$2,500,000.**

CUSTOMER shall pay an amount not to exceed hourly rate bid for performance of all Work Orders under this Contract. Compensation will be stated in each individual Work Order. CUSTOMER shall make payments on Work Order to the Contractor consistent with the terms set out in the Work Order.

BILLING PROCEDURES

CUSTOMER will pay the Contractor within 30 calendar days of receipt of properly executed invoice vouchers and acceptance of services. Requests for payment under this Contract shall be submitted by the Contractor on an Invoice Voucher. No payment in advance or in anticipation of services or supplies under this Contract shall be made by AGENCY CUSTOMER. Claims for payment submitted by the Contractor to CUSTOMER for costs due and payable under this Contract that were incurred prior to the expiration date shall be paid to the Contractor if received by CUSTOMER within 90 days after the expiration date.

Submitting vouchers. Vouchers shall be submitted to the *Work Order Project Manager* named in the Work Order. Invoices shall include a description of the work/deliverables performed, the date, invoice number, the progress of the project, fees and such information as is necessary for CUSTOMER to determine to its satisfaction the percentage of deliverable completed during the current billing period.

Each voucher will clearly reference

**"CONTRACT NUMBER 30205, WORK ORDER # \_\_\_\_\_, DELIVERABLE \_\_\_\_\_, (IF APPROPRIATE)."**

Management Fee

A management fee of one and a half percent (1.5%) will be assessed to the vendor(s) centrally for all purchases conducted under this contract (30205 Strategic Sourcing Services). This fee is due quarterly and paid to Western States Contracting Alliance.

Additional administrative fees may be added by individual States. These fees will be negotiated and addressed in each State's participating addendum or Exhibit "B", State Specific Terms and Conditions. These administrative fees will only apply to purchases made in that State and charged to that State.

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**CONTRACT MANAGEMENT**

The Contract Manager for each of the parties shall be responsible for and shall be the contact person for all communications, notices, and billings regarding the performance of this Contract.

<b>The Contract Manager for MCC is:</b>	<b>The Contract Manager for the Contractor is:</b>
Name: Marci Disken Address: PO Box 41017 Olympia WA 98504-1017 Phone: (360) 407.9405 FAX: (360) 586-2426 Email: <a href="mailto:marci.disken@des.wa.gov">marci.disken@des.wa.gov</a>	Contract Manager: William Roetzheim Email: <a href="mailto:william@level4ventures.com">william@level4ventures.com</a> Phone: (619) 917-4917 <u>Level 4 Ventures Inc.</u> <u>13518 Jamul Drive</u> <u>Jamul, CA 91935</u>

**MEMORANDUM OF UNDERSTANDING (Memo)**

Any communications that either Work Order Project Manager determines to address more than day-to-day concerns, but do not modify the terms of this Contract, shall be documented by a *Memorandum of Understanding*. CUSTOMER and the Contractor shall document to each other through written, numbered *Memorandums of Understanding* any communications that clarify sections or address details of the Contract. All *Memorandums* must be signed by either CUSTOMER's Work Order Project Manager or Contract Manager.

**ASSURANCES**

AGENCY, AGENCY CUSTOMERS and the Contractor agree that all activity pursuant to this Contract will be conducted in accordance with all the applicable current or future federal, state and local laws, rules, and regulations.

**JURISDICTION**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**ATTORNEY FEES AND COSTS**

The Contractor covenants and agrees that in the event suit is instituted by the AGENCY or the CUSTOMER for any nonperformance, breach or default on the part of the Contractor, and the Contractor is adjudged by a court of competent jurisdiction, the Contractor shall pay to the AGENCY or the CUSTOMER all costs, expenses expended or incurred by the purchaser in connection therewith, and reasonable attorney's fees.

**ENTIRE AGREEMENT**

This Agreement, consisting of twelve Pages (12) pages including all referenced documents, represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

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ORDER OF PRECEDENCE

The items listed below are incorporated by reference herein. In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following Contract:

1. Applicable Federal and State Statutes and Regulations;
2. Professional Solicitation Standards, Exhibit A;
3. Special Terms and Conditions as contained in this basic contract instrument;
4. State Specific Terms and Conditions, Exhibit B
5. Work Order Information, Exhibit C, Budget, Exhibit D, and Sample Work Order, Exhibit E;
6. *RFP#30205: Strategic Sourcing Services*, Exhibit F;
7. Contractor's Proposal, Exhibit G; and
8. Any other provisions of the Contract incorporated by reference or otherwise.

SEVERABILITY

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision, or part thereof if such remainder conforms to the terms and requirements of applicable law and the intent of this agreement, and to this end the provisions of this Contract are declared to be severable.

ALL WRITINGS CONTAINED HEREIN

This Contract sets forth in full all the terms and conditions agreed upon by the parties. Any other agreement, representation, or understandings, verbal or otherwise, regarding the subject matter of this Contract shall be deemed to be null and void and of no force and effect whatsoever. This CONTRACT, consisting of 5 pages and 7 Exhibits, is executed by the persons signing below, who warrant that they have the authority to execute this Contract.

*IN WITNESS WHEREOF*, the parties have executed this Contract.

Level 4 Ventures Inc.:

State of Washington



William Roetzheim, CEO 1/15/2013

Department of Enterprise Services

\_\_\_\_\_  
Name: Date

\_\_\_\_\_  
Name Marci Disken Date  
Title Contract Administrator

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Assistant Attorney General Date

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## **EXHIBIT C**

### **WORK ORDER INFORMATION**

#### WORK ORDER

The Contractor may receive one or more Work Orders. However, no compensation and no Work Orders are guaranteed to the Contractor under this Contract. Work Orders will be offered to contractors in order to provide the highest value to AGENCY CUSTOMER. Contractor may be offered Work Order(s) only if the Contractor has been selected as the apparent successful vendor after responding to a Work Request.

#### CHANGES TO THE WORK ORDER

The Contractor shall complete all work under each Work Order as stated in that Work Order. Deviation from the Work Order schedule for major deliverables must be agreed upon by CUSTOMER and Contractor and documented through a *Memorandum of Understanding*.

The parties may change the due date/s of Deliverables; and/or re-define deliverables as necessary to successfully complete the specific Work Order. Such changes shall be mutually agreed upon by the parties and documented in a *Memorandum of Understanding*. The memo will also document any reallocation of compensation resulting from the changes.

Changes to the Contract which extend the end date or involve a change in the scope of work require an amendment to the Contract.

#### INVOLVEMENT OF CUSTOMER STAFF AND OTHER CONTRACTORS

1. It may be necessary for the Contractor to work with other contractors.
2. CUSTOMER staff will be available to actively participate in Deliverables including interviews, surveys, presentations, report review, and management decisions. A core planning team has been established to expedite deliverable review and act as a resource to the Contractor. Both groups will be accessible to the Contractor on a regular basis. The Contractor shall not supervise any CUSTOMER staff, nor shall the CUSTOMER control the means or supervise the methods by which the Contractor achieves the contract objectives.

#### ACCEPTANCE

CUSTOMER shall have a period of 15 business days after Contractor notifies it that a Deliverable is complete (the "Deliverable Evaluation Period"), to evaluate the Deliverable to determine if the Deliverable contains any material deviations ("Deliverable Nonconformity") from the specifications set forth in this Contract. If the CUSTOMER does not notify Contractor in writing of any Deliverable Nonconformity prior to expiration of the Deliverable Evaluation Period, then the Deliverable shall be deemed accepted by the CUSTOMER.

If CUSTOMER notifies Contractor in writing of a Deliverable Nonconformity prior to expiration of the Deliverable Evaluation Period, then Contractor shall promptly use commercially reasonable efforts to correct the Deliverable Nonconformity, whereupon the CUSTOMER shall receive an additional ten (10) business day period (the "Deliverable Verification Period"), commencing upon the CUSTOMER's receipt of the corrected Design, to verify that the previously reported Deliverable Nonconformity has been satisfactorily corrected. CUSTOMER shall provide Contractor with all reasonable assistance required by Contractor to verify the existence of and correct a reported Deliverable Nonconformity. The parties shall repeat this Deliverable Verification process until CUSTOMER's acceptance of the Deliverable. The Deliverable shall be deemed accepted by CUSTOMER upon expiration of any Deliverable Verification Period during which no Deliverable Nonconformity has been reported.

CUSTOMER shall not use the Deliverable Evaluation Period to change previously-approved Deliverables.

# WORK ORDER



STATE OF WASHINGTON  
(AGENCY)

Work Order #

Contract #

30205

This Work Order is issued under the provisions of a CUSTOMER contract. The services authorized are within the scope of services set forth in the *Purpose* of the contract. All rights and obligations of the parties shall be subject to and governed by the terms of the contract including any subsequent modifications, which are hereby incorporated by reference.

Purpose

*(Attach additional sheets if necessary)*

Statement of Work

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Deliverables:

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Note:

Deliverables are subject to review and approval by AGENCY prior to payment.  
*(Attach additional sheets if necessary)*

Start Date

End Date

### Budget

Description / Task	Quantity	Unit (Hrs.)	Unit Cost	Total
1		hours	\$	\$
2			\$	\$
Business Objective Supported:			AGENCY shall pay an amount not to exceed	\$

### Cost Codes

Prog Index	Org Code	Fund	Appn Index	Object	Sub-Object	Dollars

*Both the Agency and the Contractor are responsible for ensuring work performed is within the scope of this Work Order. The Agency must monitor proper compliance with the terms of this Work Order and RCW 39.29. Any changes or amendments to this Work Order must be in writing and acknowledged by the GA Coordinator. **IN WITNESS WHEREOF, the parties have executed this Work order.***

Contractor

\_\_\_\_\_  
(Signature)

Date

W/O Mgr

Telephone No.

Email:

Agency Approval

\_\_\_\_\_  
(Signature) AGENCY W/O Manager Date

\_\_\_\_\_  
(Acknowledgement) MCC- Coordinator Date

W/O Mgr

Telephone No.

EMAIL:

<b>WORK ORDER CLOSEOUT</b> STATE OF WASHINGTON Work Order Title/Description:	<u>MCC Work Order Reference #</u>	<u>Agency Contract #</u>

Contractor \_\_\_\_\_

Work Order End Date: \_\_\_\_\_ Latest Amendment Issued to Date: \_\_\_\_\_

Not to Exceed Work Order Budget: \$ \_\_\_\_\_

Actual Amount Invoiced by Contractor: \$ \_\_\_\_\_

This Work Order Closeout Memorandum is issued to certify project completion by the Program Manager. The contract is considered complete when one of two events has occurred:

1. All required services have been performed, and accepted and all existing options have been exercised or have expired, **or**
2. A notice of Work Contract completion has been issued to the contractor.

Work Contract/Program Manager

Please reply by endorsement below and certify contract completion.

1. The contractor has meet all contract terms and conditions.
- The contractor has not meet all contract terms and conditions.
2. A final contract performance evaluation report is completed and attached.
3. The contract is ready for procurement closeout action.

*Work Contract/Program Manager* Please reply by endorsement below and certify contract completion.

AGENCY W/O Manager

**Telephone No.:**

**Email:**

(Signature)

(Date)

MCC Work Order Reference # \_\_\_\_\_

Agency Contract # \_\_\_\_\_



**CONTRACT CLOSE-OUT PERFORMANCE EVALUATION FORM****TECHNICAL PERFORMANCE**

	FACTORS/RATINGS	Outstanding (5)	Excellent (4)	Satisfactory (3)	Marginal (2)	Unsatisfactory (1)
1.	Completion of major tasks/milestones/deliverables on schedule					
2.	Responsiveness to changes in technical direction					
3.	Ability to identify risk factors and alternatives for alleviating risk					
4.	Ability to identify and solve problems expeditiously.					
5.	Quality of work performed.					

**MANAGEMENT PERFORMANCE**

	FACTORS/RATINGS	Outstanding (5)	Excellent (4)	Satisfactory (3)	Marginal (2)	Unsatisfactory (1)
6.	Overall communication with the Agency					
7.	Effectiveness and reliability of Contractor's key personnel.					
8.	Ability to recruit and maintain qualified personnel.					
9.	Ability to manage multiple and diverse projects/tasks from planning through execution.					
10.	Ability to effectively manage subcontractors.					
11.	Ability to meet goals for use of DBE subcontractors.					
12.	Ability to accurately estimate and control cost to complete tasks.					
13.	Overall performance in planning, scheduling and monitoring					
14.	Use of management tools (e.g. cost/schedule, task management tools)					

**DELIVERABLE(S)**

	FACTORS/RATINGS	Outstanding (5)	Excellent (4)	Satisfactory (3)	Marginal (2)	Unsatisfactory (1)
15.	Met scope of work/technical specification requirements.					
16.	On-schedule.					
17.	Employs approved standards, regulations, tools and methods.					

**CUSTOMER SATISFACTION**

	FACTORS/RATINGS	Outstanding (5)	Excellent (4)	Satisfactory (3)	Marginal (2)	Unsatisfactory (1)
18.	How would you rate the Contractor's overall technical performance on this contract, including task orders?					
19.	How would you rate the Contractor's overall management performance on this contract, including task orders?					
20.	How would you rate the Contractor's ability to be businesslike and concerned with the interests of the Agency?					

**OVERALL PERFORMANCE EVALUATION FOR THE CONTRACT PERIOD**

	FACTORS/RATINGS	Outstanding (5)	Excellent (4)	Satisfactory (3)	Marginal (2)	Unsatisfactory (1)
21.	How would you rate the Contractor's overall technical performance on this contract, including task orders?					

**COMMENTS** [*Ratings of less than Satisfactory must be supported by facts concerning specific events or actions to justify the rating. Please reference the applicable ratings/factor number (1-21) with your comment*]:

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**EXHIBIT D**  
**BUDGET**

1. AMOUNT OF COMPENSATION

1.1 Contract. Total compensation under this Contract shall not exceed the amount set out in the *Compensation* clause of the *Special Terms & Conditions* section of this Contract. This is a maximum contract value and includes work performed in all Service Categories and for all Work Orders awarded to the Contractor under this Contract.

1.2 Work Order. Unless a different compensation method has been approved in writing by *CUSTOMER* and agreed upon by both *CUSTOMER* and the Contractor, compensation to Contractor for each Work Order shall be based upon the percent of deliverable completed.

2. TERMINATION, DELETION, AND/OR RE-DEFINING OF DELIVERABLES

At the sole discretion of CUSTOMER's Project Manager, a Deliverable or Deliverables within a Work Order, can be deleted or terminated before completion. If such termination takes place before completion, *CUSTOMER* shall pay the Contractor for the percent of the Deliverable completed.

3. SHIFTING THE ALLOCATION OF COMPENSATION.

If the *CUSTOMER's* Project Manager determines that a shift of compensation allocated to one Deliverable to another is warranted, she/he shall discuss and agree to the specifics of the reallocation with the Contractor. This shall be documented and acknowledged by both parties in a *Memorandum of Understanding*.

4. COST PER DELIVERABLE

The rate for each Deliverable will be set out in the Work Order. CUSTOMER shall pay up to but not to exceed 80% of the maximum cost of each Deliverable before acceptance by CUSTOMER of the completed Deliverable. The remaining 20% due shall be payable upon completion of the Deliverable and acceptance by CUSTOMER. The Contractor's compensation for a specific Deliverable shall be *up to, but shall not exceed*, the budgeted cost for that Deliverable regardless of hours worked or other expenses related to that Deliverable.