

**KITSAP COUNTY
DEPARTMENT OF PUBLIC WORKS
SOLID WASTE DIVISION**

**ON-SITE TESTING, COLLECTION, TRANSPORTATION, PROCESSING
FINAL USE OR DISPOSAL OF USED MOTOR OIL, ANTIFREEZE, OIL FILTERS**



**REQUEST FOR PROPOSAL
#2010-159**

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AND/OR DISPOSAL OF USED MOTOR OIL, ANTIFREEZE, AND OIL FILTERS**

REQUEST FOR PROPOSAL: 2010-159
RESPONSE DEADLINE: January 12, 2011 @ 3:00PM

The Kitsap County Purchasing Office is soliciting Proposals for the on-site testing, collection, transportation, processing, and final use and/or disposal of used motor oil, antifreeze, oil filters.

Proposals will be accepted in the Purchasing Office, Kitsap County Courthouse, 614 Division Street, Port Orchard, Washington, before the date and time indicated. After the review process is completed, the Proposal tabulation will be available for public inspection.

PROJECT DESCRIPTION

Kitsap County is issuing this request for Proposals for the on-site testing, collection, transportation, and final use and/or disposal of used motor oil, antifreeze and oil filters from residential vehicles. The waste will be collected from seven (7) sites within Kitsap County as listed. The contract term will be for one year, with an annual renewal clause of up to three years if both parties are agreeable.

PROPOSALS MUST BE submitted separately. The RFQ number, the date and time of the response deadline, and the name and address of the respondent shall be clearly shown on the outside of the envelope or fax cover sheet. Please mail proposal documents to:

**ATTN: R'Lene J. Orr, Manager
Purchasing Office, MS-7
Kitsap County
614 Division Street
Port Orchard, WA 98366**

Or hand-deliver, Monday-Thursday, 8AM to 4:30PM, to the Kitsap County Purchasing Office, Administration Building, 619 Division Street, 4th Floor, Port Orchard, Washington.

QUESTIONS REGARDING PROJECT can be referred to Project Coordinator, Rick Gilbert, (360) 337-5692, Kitsap County Department of Public Works Solid Waste Division Monday-Friday 8:00 a.m. to 3:30 p.m. excluding holidays.

Proposals received after 3:00PM on Wednesday, January 12, 2011, will not be considered.

Proposal/purchasing process questions may be directed to either of the people listed below Monday-Thursday, 8:00am to 4:30pm, excluding holidays.

R'Lene J. Orr	360-337-4410	or	rorr@co.kitsap.wa.us
Linda Nelson	360-337-7036	or	lnelson@co.kitsap.wa.us

Table 1

Oil and Oil Filter Collection History			
Facility	Oil (Gallons)		Filters 2008/ 2009
	2008	2009	
Bainbridge Island	3,025	3,450	-0-
Hansville	4,725	4,400	-0-
Household Hazardous Waste Facility	4,225	3,875	500 Pounds
Olalla	4,725	5,100	-0-
Poulsbo	4,300	4,775	-0-
Silverdale	4,825	5,025	-0-
Olympic View Transfer Station	9,850	11,750	-0-
TOTALS	35,675	38,375	500 Pounds

Antifreeze Collection History			
Facility	Antifreeze (Gallons)		
	2008	2009	
Bainbridge Island	220	235	
Hansville	310	305	
Household Hazardous Waste Facility	1,125	1,075	
Olalla	385	510	
Poulsbo	390	620	
Silverdale	495	420	
Olympic View Transfer Station	985	10,040	
TOTALS	3,910	4,205	

3. The County requests detailed information about the Contractor's environmental compliance history, including current applicable solid waste handling permits, Department of Ecology permits, Fire Department permits, and PSCAA permits. Include a history of compliance inspections, violations, and corrective action for the past 3 years. If the material is sent to another facility for final management, please include similar information about the final facility.

4. The County reserves the right to terminate the contract with thirty, (30) days written notice for unsatisfactory performance or other significant cause. Three (3) instances of late collection in a two (2) month period, failure to observe precautions against spills or other environmental protective measures, or failure to abide by the conditions of the contract shall be considered to be indications of unsatisfactory performance. Late collection will be considered to be collections that do not occur within 24 hours of request for collection.

5. Kitsap County reserves the right to refuse payment for collections that do not occur within 24 hours of request for collection.
6. Proposals will be evaluated in part on the end-use of the oil and metals collected and/or recovered. In accordance with RCW 70.95I.020, the preferred end-use for oil collected through this program is recycling. The preferred end-use for metal collected through this program is recycling. However, the contract will not be awarded based on price or end-use alone. The County reserves the right to select the Proposal, which, in their opinion, provides the best service to county residents, regardless of end-use or price.
7. The County reserves the right to increase or decrease the number of sites serviced by this program. Fees for additional sites may not be higher than those charged under the existing contract resultant from this Proposal.
8. No subcontractors are to be used in this program without prior written approval by the County.
9. If a contract is awarded through this proposal, the contractor must:
 - A. For the duration of the contract and until all work specified in the contract is completed, the contractor shall maintain in effect all insurance as required herein and comply with all limits, terms and conditions stipulated therein. Work under this contract shall not commence until evidence of all required insurance and bonding is provided to the County of Kitsap. The contractor's insurer shall have a minimum A.M. Best's rating of A-VII. Evidence of such insurance shall consist of a completed copy of the certificate of insurance, signed by the insurance agent for the contractor and returned to Kitsap County Risk Management. If for any reason, any material change occurs in the coverage during the course of the contract, such changes shall not become effective until 45 days after Kitsap County has received written notice of such changes. The policy shall be endorsed and certificate shall reflect that Kitsap County is an additional Insured on the contractor's general liability policy with respect to activities under the contract. The policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against whom a claim is made or a suit is brought except with the respect to the limits of the company's liability.

The policy shall be endorsed and the certificate shall reflect that the insurance afforded there shall be primary insurance and any insurance or self-insurance carried by the County shall be excess and not contributory insurance to that provided by the contractor.

Commercial General Liability: One to five million dollars (\$1,000,000-\$5,000,000) combines single limit per occurrence for bodily injury and property damage, and Two million dollars (\$2,000,000) aggregate. Coverage shall be on an "occurrence" basis. The actual coverage amount will be determined by Kitsap County Risk Management during the contract review process.

Comprehensive Auto/Truck Liability: Five million dollars (\$5,000,000) combines single limit per accident for bodily injury and property damage.

Contractor's Pollution Liability/Pollution Errors & Omissions Liability: Two million dollars (\$2,000,000) each loss.

Worker's Compensation and Employer's Liability: Workers' Compensation coverage as required by the State of Washington.

Evidence of the Contractor's insurance shall be presented to the County prior to the execution of the contract.

- B. Contractor shall indemnify and hold County and its officers and employees harmless from, and shall process and defend at its own expense, all claims, demands or suits at law or equity arising in whole or in part from Contractor's performance of any of its obligations under this Agreement; provided that nothing herein shall require Contractor to indemnify County against and hold harmless County from claims, demands, or suits based upon the sole negligence of the County, its agents, officers, and employees; and provided further that if claims or suits are caused by or result from the concurrent negligence of (a) Contractor or Contractor's agents or employees, and (b) County or County's agents, officers, or employees, this indemnity provision shall be valid and enforceable only to the extent of Contractor's negligence or the negligence of Contractor's agents or employees.

Contractor expressly assumes potential liability for actions brought by Contractor's own employees against County; and, solely for the purpose of this indemnification and defense, Contractor specifically waives any immunity under the state industrial insurance law, Title 51 RCW. Contractor recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was subject of mutual negotiation.

- C. Services rendered under a contract awarded via this proposal shall apply for a term of one year from date of contract execution, with an annual renewal clause of up to three years if both parties are agreeable.
- D. The Washington State Department of Ecology shall be designated as an express third-party beneficiary in final contract language. No other parties shall be designated as third party beneficiaries.
- E. All work must be performed in accordance with applicable federal, state and local regulations. This includes, but is not limited to, all transportation, environmental, health, and safety regulations.
- F. Upon award of the contract, Kitsap County will not recognize charges beyond or different than those specified in the proposal.
- G. Invoicing must consist of specific information needed for Solid Waste reporting such as but not limited to: Date of service, identified site, number of gallons pumped or hauled from each identified site.
- H. The Contractor must comply with all provisions of the Americans with Disabilities Act and all regulations interpreting or enforcing said act. The Contractor agrees to comply with all Federal, State and County laws and regulations in effect pertaining to non discrimination.

PROPOSAL REQUIREMENTS

On-site testing, collection, transportation, and final use and/or disposal of contaminated and uncontaminated used motor oil and antifreeze.

The contractor will be required to:

1. Collect oil from 350-gallon "Lube Cube" tanks located at seven (7) sites in Kitsap County (see attached map and tank specifications.). Tanks have a 3" cam lock or an 8" screened opening for drainage capabilities.
2. Collect antifreeze containerized into 55-gallon drums.
3. Upon verbal request, provide collection within 24 hours. Actual collection frequency will vary, but an estimate for oil is as follows:
 - Olalla Recycling and Garbage Facility: One collection every week May-Sept, every two weeks Oct-April
 - Hansville Recycling and Garbage Facility: One collection every 2 weeks
 - Bainbridge Island Transfer Station: One collection every 3 weeks
 - Silverdale Recycling and Garbage Facility: One collection every week May-Sept, every two weeks Oct-April
 - Poulsbo Recycle Center: One collection every 2 weeks
 - KC Household Hazardous Waste Collection Facility: One collection every 2 weeks
 - Olympic View Transfer Station: One collection every week, year-round

Collection of antifreeze is generally less frequent. If a regular pick up schedule is impractical, pick up must be made within 24 hours of notification.

Collections must occur during normal site operating hours:

- Olalla Recycling and Garbage Facility: Fri -Tues, 9:00 AM - 5:00 PM
 - Hansville Recycling and Garbage Facility: , Wed - Mon, 8:00 AM - 3:30 PM
 - Bainbridge Island Transfer Station: Wed - Sun, 10:00 AM - 4:00 PM
 - Silverdale Recycling and Garbage Facility: 9:00 AM - 5:00 PM, every day
 - Poulsbo Recycle Center: Tues - Sat, 8:00 AM - 3:30 PM
 - KC Household Hazardous Waste Collection Facility: Thurs - Sat. 8:00 AM – 4:30PM
 - Olympic View Transfer Station: 8:00AM – 5:00 PM, every day
4. Assume responsibility for any spills or discharge, including emergency response and cleanup that occurs during pumping or transportation.
 5. Provide contracted services in full compliance with all applicable federal, state, and local laws, regulations, and ordinances.
 6. Complete any necessary and appropriate paperwork and/or documentation for the oil collected from each tank and antifreeze in 55-gallon drums. Provide collection information on invoice: date of collection, specify site, gallons pumped per site.

7. Use dedicated vehicles with appropriate spill containment and loading mechanisms for the collection of oil, antifreeze and oil filters. Drivers must be trained in accident prevention and defensive driving, proper loading and unloading procedures, use of personal protective equipment (PPE), and in emergency response procedures to spills or accidents.
8. Provide a quarterly and an annual report documenting the amount of oil collected through this program, by site, and its final end use (e.g., 200 gallons to re-refining, 300 gallons to marine fuel), if this information is requested by Kitsap County.
9. Perform appropriate tests to verify loads are not contaminated and submit results of test in a written form.

PROPOSAL PROPOSAL FOR UNCONTAMINATED USED OIL

On-site testing, collection, transportation, and final use and/or disposal of uncontaminated used motor oil in Kitsap County

A separate Proposal must be submitted for each of the following proposed end-uses: a) re-refining, b) marine fuel, c) other fuel blending, d) other (specify).

Price Per Gallon: _____

Other fees/charges (specify): _____

1. End use option (circle one): Re-refining Marine Fuel Other Fuel Blending Other
 (specify) (add additional sites if necessary)

- Information on end-user
 Name
 Address
 Phone
 Contact person
 EPA I.D. #
- How long has your company had a working relationship with the end-user?
- What percentage of oil collected through this Proposal will be sent to this end user? Where will the remainder be sent?
- How will you verify the percentage of Kitsap County oil sent to this end user?
- Provide a 5-year compliance history or regulatory summary on this end user.

2. Price for on-site testing

- Please specify what elements are tested for, what type of test is performed, the test parameters, and the cost per test.
- Specify how results of on-site tests are presented; the county will require written results.
- Please specify what kinds of items should be prohibited from the oil or antifreeze to prevent contamination.

**PROPOSAL PROPOSAL FOR UNCONTAMINATED USED
ANTIFREEZE**

On-site testing, collection, transportation, and final use and/or disposal of uncontaminated used antifreeze in Kitsap County

A separate Proposal must be submitted for each of the following proposed end-uses: a) recycling b) fuel blending or other beneficial reuse (specify), d) other (specify).

Price Per Gallon: _____

Other fees/charges (specify): _____

1. End use option (circle one): Recycling Fuel Blending/Other Benefical Reuse (specify)
Other (specify) (add additional sites if necessary)

- Information on end-user
Name
Address
Phone
Contact person
EPA I.D. #
- How long has your company had a working relationship with the end-user?
- What percentage of oil collected through this Proposal will be sent to this end user? Where will the remainder be sent?
- How will you verify the percentage of Kitsap County oil sent to this end user?
- Provide a 5-year compliance history or regulatory summary on this end user.

2. Price for on-site testing

- Please specify what elements are tested for, what type of test is performed, the test parameters, and the cost per test.
- Specify how results of on-site tests are presented; the county will require written results.
- Please specify what kinds of items should be prohibited from the oil or antifreeze to prevent contamination.

PROPOSAL PROPOSAL FOR CONTAMINATED OIL

On-site testing, collection, transportation, and final use and/or disposal of contaminated used motor oil in Kitsap County

A separate Proposal must be submitted for each of the following proposed end-uses: a) fuel blending, b) other (specify).

Price Per Gallon: _____

Other fees/charges (specify): _____

1. End use option (circle one): Fuel Blending Other (specify)

- Information on end-user
Name
Address
Phone
Contact person
EPA I.D. #
- How long has your company had a working relationship with the end-user?
- What percentage of oil collected through this Proposal will be sent to this end user? Where will the remainder be sent?
- How will you verify the percentage of Kitsap County oil sent to this end user?
- Provide a 5-year compliance history or regulatory summary on this end user.

2. Will contaminated oil be considered and managed as hazardous waste?

PROPOSAL PROPOSAL FOR CONTAMINATED ANTIFREEZE

On-site testing, collection, transportation, and final use and/or disposal of contaminated antifreeze in Kitsap County

A separate Proposal must be submitted for each of the following proposed end-uses: a) fuel blending, b) other (specify).

Price Per Gallon: _____

Other fees/charges (specify): _____

1. End use option (circle one): Fuel Blending Other (specify)

- Information on end-user
Name
Address
Phone
Contact person
EPA I.D. #

- How long has your company had a working relationship with the end-user?
- What percentage of oil collected through this Proposal will be sent to this end user? Where will the remainder be sent?
- How will you verify the percentage of Kitsap County oil sent to this end user?
- Provide a 5-year compliance history or regulatory summary on this end user.

2. Will contaminated oil be considered and managed as hazardous waste?

PROPOSAL REQUIREMENTS FOR USED OIL FILTERS

NOTE: This is an optional service. Not all sites currently collect oil filters, so this service may or may not be exercised by Kitsap County.

Collection, processing, and final use and/or disposal of used oil filters.

The contractor may be requested to:

1. Collect used oil filters from a) each designated site, or b) an aggregation site (Kitsap County Household Hazardous Waste Facility).
2. Provide collection of filters on a regular basis (to be specified in the performance contract). The County reserves the right to modify the collection schedule as necessary to maintain opportunity of service to county residents. Collection must occur during normal site operating hours:
 - Olalla Recycling and Garbage Facility: Fri -Tues, 9:00 AM - 5:00 PM
 - Hansville Recycling and Garbage Facility: Wed - Sat, 8:00 AM - 3:30 PM,
 - Bainbridge Island Transfer Station: Wed - Sun, 10:00 AM - 4:00 PM
 - Silverdale Recycling and Garbage Facility: 9:00 AM - 5:00 PM, every day
 - Poulsbo Recycle Center: Tue - Sat, 8:00 AM - 3:30 PM
 - KC Household Hazardous Waste Facility: Thurs - Sat 8:00 AM – 4:30 PM
 - Olympic View Transfer Station: 8:00 AM – 5:00 PM every day.
3. Assume responsibility for any spills or discharge, including emergency response and cleanup, that occurs during collection or transportation.
4. Provide contracted services in full compliance with all applicable federal, state, and local laws, regulations, and ordinances.
5. Complete any necessary and appropriate paperwork and/or documentation for the filters collected from each site.
6. Provide a quarterly and an annual report documenting the pounds of metal recycled and amount of oil recovered through this program, by site and the final end use of the oil (if filter crushing is done by contractor), if this information is requested by Kitsap County.

PROPOSAL PROPOSAL FOR USED OIL FILTERS

Collection, processing, and final use and/or disposal of used oil filters in Kitsap County

NOTE: This is an optional service. Not all sites currently collect oil filters, so this service option may or may not be exercised by Kitsap County.

A separate Proposal must be submitted for each of the options specified in #3 of "Conditions For Proposals".

Price per 55-gallon drum for uncrushed used oil filters: _____

Other charges (specify): _____

1. End use for oil recovered (if filter crushing is done by contractor):

- Information on end-user
Name
Address
Phone
Contact person
EPA I.D. # (if applicable):
- How long has your company had a working relationship with the end-user?
- What percentage of oil collected through this Proposal will be sent to this end user? Where will the remainder be sent?
- How will you verify the percentage of Kitsap County oil sent to this end user?

2. End use for metal recovered:

- Information on end-user
Name
Address
Phone
Contact person
EPA I.D. # (if applicable):
 - How long has your company had a working relationship with the end-user?
 - How will you verify the amount of metal sent to this end user?
 - Provide a 5-year compliance history or regulatory summary on this end user.

Site List

1. **Olalla Recycling and Garbage Facility – 2850 SE Burley-Olalla RD, Olalla, WA**
2. **Hansville Recycling and Garbage Facility – 7791 NE Ecology RD, Kingston WA**
3. **Bainbridge Island Transfer Station – 7215 Don Palmer Ave, Bainbridge Is. WA**
4. **Silverdale Recycling and Garbage Facility – 8843 NW Dickey RD, Silverdale, WA**
5. **Poulsbo Recycle Center – 21868 Viking Way NW, Poulsbo, WA**
6. **Kitsap County Household Hazardous Waste Facility – 5551 SW Imperial Way, Port Orchard, WA***
7. **Olympic View Transfer Station – 9300 SW Barney White RD, Port Orchard, WA***

*Note: The Household Hazardous Waste Facility and Olympic View Transfer Station are in a location that was recently annexed by the City of Bremerton. These addresses are scheduled to transfer to the City of Bremerton in 2011.

CONTRACT FOR SERVICES

This Contract for Services (the Contract) is entered into by Kitsap County, a municipal corporation, having its principal offices at 614 Division Street, Port Orchard, Washington, 98366 (the County) and, (the Contractor).

SECTION 1. EFFECTIVE DATE OF CONTRACT

The Contract will become effective on. The duration of the contract will be for one year with annual renewal options for a period of three years. In no event will the Contract become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.

SECTION 2. SERVICES TO BE PROVIDED

- 2.1 A description of the services to be performed by the Contractor is set forth in Exhibit A: Scope of Work, which is attached to the Contract and incorporated by this reference.
- 2.2 The Contractor agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor or facilities will be furnished by the County.
- 2.3 The Contractor will complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- 2.4 The Contractor will confer with the County from time to time during the progress of the work. The Contractor will prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the County.

SECTION 3. CONTRACT REPRESENTATIVES

The County and the Contractor will each have a contract representative. A party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

- County's Contract Representative
- Contractor's Contract Representative

SECTION 4. COMPENSATION

- 4.1 A description of the compensation to be paid to the Contractor is set forth in Exhibit B: Cost Estimate, which is attached to the Contract and incorporated by this reference.
- 4.2 The total amount payable under the Contract by the County to the Contractor in no event will exceed \$.
- 4.3 Unless otherwise provided in the Contract, the Contractor may submit an invoice to the County once a month for payment of work actually completed to date. Subject to the

other provisions of the Contract, the County generally will pay such an invoice within 30 days of receiving it.

- 4.4 The Contractor will be paid only for work expressly authorized in the Contract.
- 4.5 The Contractor will not be entitled to payment for any services that were performed prior to the effective date of the Contract or after its termination, unless a provision of the Contract expressly provides otherwise.
- 4.6 If the Contractor fails to perform any substantial obligation and the failure has not been cured within 10 days following notice from the County, the County may, in its sole discretion and upon written notice to the Contractor, withhold all monies due the Contractor, without penalty, until such failure to perform is cured.

SECTION 5. AMENDMENTS AND CHANGES IN WORK

- 5.1 In the event of any errors or omissions by the Contractor in the performance of any work required under the Contract, the Contractor will make all necessary corrections without additional compensation. All work submitted by the Contractor will be certified by the Contractor and checked by the Contractor for errors and omissions. The Contractor will continue to be responsible for the accuracy of work even after the work is accepted by the County.
- 5.2 In order to be effective, any Contract renewal, amendment or modification must be in writing, be signed by both parties and be attached to the Contract. Work under a renewal, an amendment or a modification may not commence until the renewal, amendment or modification has been approved by the County and has become effective.

SECTION 6. HOLD HARMLESS AND INDEMNIFICATION

- 6.1 The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractor's acts, errors or omissions in the performance of the Contract. Provided, however, that the Contractor's obligation under this provision will not extend to injury, sickness, disability, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.
- 6.2 With regard to any claim against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section will not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. It is clearly agreed and understood by the parties to the Contract that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing the Contract, the Contractor acknowledges that the foregoing

waiver has been mutually negotiated by the parties and that the provisions of this Section will be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work under the Contract.

- 6.3 The Contractor's obligations under these provisions include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

SECTION 7. INSURANCE

- 7.1 **Professional Legal Liability.** The Contractor will maintain professional legal liability or professional errors and omissions coverage appropriate to the Contractor's profession. The coverage will have a limit of not less than \$1 million per occurrence. The coverage will apply to liability for a professional error, act or omission arising out of the Contractor's services under the Contract. The coverage will not exclude bodily injury or property damage. The coverage will not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services under the Contract, including testing, monitoring, measuring operations or laboratory analysis where such services are rendered under the Contract.
- 7.2 **Workers' Compensation and Employer Liability.** The Contractor will maintain workers' compensation insurance as required by Title 51, Revised Code of Washington, and will provide evidence of coverage to the Kitsap County Risk Management Division. If the Contract is for over \$50,000, then the Contractor will also maintain employer liability coverage with a limit of not less than \$1 million.
- 7.3 **Commercial General Liability.** The Contractor will maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to a limit of not less than \$1 million per occurrence. The general aggregate limit will apply separately to the Contract and be no less than \$2 million. The Contractor will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of the Contract. Specialized forms specific to the industry of the Contractor will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard commercial general liability policy, including contractual liability coverage.
- 7.4 **Automobile Liability.** The Contractor will maintain automobile liability insurance as follows (check ONE of the following options):

Not Applicable.

The Contractor will maintain commercial automobile liability insurance with a limit of not less than \$1 million each accident combined bodily injury and property damage. The aggregate limit will be at least \$2 million. Coverage will include owned, hired and non-owned automobiles.

The Contractor will maintain automobile liability insurance or equivalent form with a limit of not less than \$100,000 each accident combined bodily injury and property damage. The aggregate limit will be at least \$300,000. If a personal lines automobile

liability policy is used to meet this requirement, it must include a business rider and must cover each vehicle to be used in the performance of the Contract and the certificates of insurance must evidence that these conditions have been met. If the Contractor will use non-owned vehicles in performance of the Contract, the coverage will include owned, hired and non-owned automobiles.

7.5 **Pollution Liability** The Contractor shall carry pollution errors and omissions liability not less than two million (\$2,000,000) each loss, two million dollars (\$2,000,000) aggregate.

7.6 **Miscellaneous Insurance Provisions.**

- A. The Contractor's liability insurance provisions will be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.
- B. When such coverage is required, the Contractor's commercial general liability insurance and automobile liability insurance will include the County, its officers, officials, employees and agents with respect to performance of services.
- C. When such coverage is required, the Contractor's commercial general liability insurance and automobile liability insurance will contain no special limitations on the scope of protection afforded to the County as an additional insured.
- D. Any failure to comply with reporting provisions of the policies will not affect coverage provided to the County, its officers, officials, employees or agents.
- E. The Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, subject to the limits of the insurer's liability.
- F. The Contractor will include all subcontractors as insureds under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements stated in these provisions.
- G. The insurance limits mandated for any insurance coverage required by the Contract are not intended to be an indication of exposure, nor are they limitations on indemnification.
- H. The Contractor will maintain all required policies in force from the time services commence until services are completed. Certificates, policies and endorsements scheduled to expire before completion of services will be renewed before expiration. If the Contractor's liability coverage is written as a claims-made policy, then the Contractor must evidence the purchase of an extended-reporting period or "tail" coverage for a three-year period after completion of the services.

7.7 **Verification of Coverage and Acceptability of Insurers.**

- A. The Contractor will place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-VII, with the exception that excess and umbrella coverage used to meet the

requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.

- B. The Contractor will furnish the County with properly executed certificates of insurance or a signed policy endorsement which will clearly evidence all insurance required in this Section within 10 days after the effective date of the Contract. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract may not be canceled, or allowed to expire, except on 30-days' prior written notice to the County. Any certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes must be amended so as not to negate the intent of this provision.
- C. The Contractor will furnish the County with evidence that the additional-insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured.
- D. Certificates of insurance will show the certificate holder as Kitsap County and indicate "care of" the appropriate County office or department. The address of the certificate holder will be shown as the current address of the appropriate County office or department.
- E. The Contractor will request that the Washington State Department of Labor and Industries, Workers Compensation Representative, send written verification to Kitsap County that the Contractor is currently paying workers' compensation.
- F. Written notice of cancellation or change will be mailed to the County at the following address:

Risk Management Division
Kitsap County Department of Administrative Services
614 Division Street, MS-7
Port Orchard, WA 98366
- G. The Contractor or its broker will provide a copy of all insurance policies specified in the Contract upon request of the Kitsap County Risk Manager.

SECTION 8. TERMINATION

- 8.1 The County may terminate the Contract in whole or in part whenever the County determines, in its sole discretion that such termination is in the best interests of the County. The County may terminate the Contract upon giving the Contractor 30-days' written notice. In that event, the County will pay the Contractor for all costs incurred by the Contractor in performing the Contract up to the date of such notice, subject to the other provisions of the Contract.
- 8.2 If funding for the underlying project or matter is withdrawn, reduced or limited in any way after the Contract is signed or becomes effective, the County may summarily terminate the Contract notwithstanding any other termination provision in the Contract. Termination under this provision will be effective upon the date specified in the written

notice of termination sent by County to the Contractor. No costs incurred after the effective date of the termination will be paid.

- 8.3 If the Contractor breaches any of its obligations under the Contract, and fails to cure the breach within 10 days of written notice to do so by the County, the County may terminate the Contract. In that event, the County will pay the Contractor only for the costs of services accepted by the County. Upon such termination, the County, at its discretion, may obtain performance of the work elsewhere, and the Contractor will bear all costs and expenses incurred by the County in completing the work and all damages sustained by the County by reason of the Contractor's breach.

SECTION 9. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- 9.1 The Contractor will perform under the Contract using only its bona fide employees or agents, and the obligations and duties of the Contractor under the Contract will not be assigned, delegated or subcontracted to any other person or firm without the prior express written consent of the County.
- 9.2 The Contractor warrants that it has not paid, nor has it agreed to pay, any company, person, partnership or firm, other than a bona fide employee working exclusively for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of the Contract.

SECTION 10. INDEPENDENT CONTRACTOR

- 10.1 The Contractor's services will be furnished by the Contractor as an independent contractor and not as an agent, an employee or a servant of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in the Contract.
- 10.2 The Contractor acknowledges that the entire compensation for the Contract is set forth in the compensation provisions of the Contract and the Contractor is not entitled to any County benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental or other insurance benefits; fringe benefits; or any other rights or privileges afforded to Kitsap County employees.
- 10.3 The Contractor will have and maintain complete responsibility and control over all of its subcontractors, employees, agents and representatives. No subcontractor, employee, agent or representative of the Contractor will be or be deemed to be, or act or purport to act, as an employee, agent or representative of the County.

SECTION 11. NONDISCRIMINATION

The Contractor, its assignees, delegates or subcontractors will not discriminate against any person in performance of any of its obligations under the Contract on the basis of race, color, creed, religion, national origin, age, sex, marital status, veteran status or the presence of any disability.

SECTION 12. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- 12.1 All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under the Contract will be “works for hire” as defined by the U.S. Copyright Act of 1976 and will be owned by the County. Ownership includes the right to copyright, patent, and register, and the ability to transfer these rights.
- 12.2 All design work done by the Contractor will be done on AutoCAD, release 12 or higher or other systems mutually agreed upon, an electronic copy of which will be submitted to the County upon request or at the end of the job. Should a construction project result from the work of the Contractor, the record drawings from the Contractor will be transposed onto the electronic design drawings and submitted to the County.
- 12.3 An electronic copy of all word processing documents will be submitted to the County upon request or at the end of the job using the word processing program and version specified by the County.

SECTION 13. PATENT/COPYRIGHT INFRINGEMENT

The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the County, where such action is based on the claim that information supplied by the Contractor or subcontractor infringes any patent or copyright. The Contractor will be notified promptly in writing by the County of any notice of such claim.

SECTION 14. DISPUTES

Differences, disputes and disagreements between the Contractor and the County arising under or out of the Contract will be brought to the attention of the County at the earliest possible time so that the matter may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County’s contract representative or designee. All rulings, orders, instructions and decisions of the County’s contract representative will be final and conclusive.

SECTION 15. CONFIDENTIALITY

The Contractor, its employees, subcontractors and their employees will maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of the Contract, except upon the prior express written consent of the County or an order entered by a court of competent jurisdiction. The Contractor will promptly give the County written notice of any judicial proceeding seeking disclosure of such information.

SECTION 16. CHOICE OF LAW, JURISDICTION AND VENUE

- 16.1 The Contract will be construed as having been made and delivered within the State of Washington and it is agreed by each party that the Contract will be governed by the laws of the State of Washington, both as to its interpretation and performance.

- 16.2 Any action at law, suit in equity or other judicial proceeding arising under or out of the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington.

SECTION 17. MISCELLANEOUS

- 17.1 **No Waiver.** The parties agree that the excuse or forgiveness of performance, or waiver of any provisions of the Contract, does not constitute a waiver of such provision or future performance, or prejudice the right of the waiving party to enforce any of the provisions of the Contract at a later time.
- 17.2 **Tax Payments.** The Contractor will pay all applicable federal, state and local taxes, fees (including licensing fees) and other amounts.
- 17.3 **Personnel Removal.** The Contractor agrees to remove immediately any of its subcontractors, employees, agents or representatives from assignment to perform services under the Contract upon receipt of a written request to do so from the County's contract representative or designee.
- 17.4 **Legal Compliance.** The Contractor and its subcontractors, employees, agents and representatives will comply with all applicable federal, state and local laws, rules and regulations in their performance under the Contract.
- 17.5 **Records Inspection and Retention.** The County may, at reasonable times, inspect the books and records of the Contractor relating to the performance of the Contract. The Contractor will retain for audit purposes all Contract-related records for at least six years after termination of the Contract.
- 17.6 **Successors and Assigns.** The County, to the extent permitted by law, and the Contractor each bind themselves, their partners, successors, executors, administrators and assigns to the other party to the Contract and to the partners, successors, administrators and assigns of such other party in respect to all covenants to the Contract.
- 17.7 **Severability.** If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
- 17.8 **Entire Agreement.** The parties acknowledge that the Contract is the complete expression of their agreement regarding the subject matter of the contract. Any oral or written representations or understandings not incorporated in the Contract are specifically excluded.
- 17.9 **Notices.** Any notices will be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the contract representative's provision of the Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given

three days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day.

- 17.10 **Survival.** Those provisions of the Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, but are not necessarily limited to, the following: Sections 6.1-6.3 (Hold Harmless and Indemnification), 8.3 (Termination), 13 (Patent/Copyright Infringement), 14 (Disputes), 15 (Confidentiality), 16.1-16.2 (Choice of Law, Jurisdiction and Venue), 17.1 (Miscellaneous – No Waiver), 17.5 (Miscellaneous – Records Inspection and Retention) and Section 17.7 (Miscellaneous – Severability).

DATED this ____ day _____, 2011. DATED this ____ day _____, 2011