



**KITSAP COUNTY
REQUEST FOR QUALIFICATIONS (RFQ)
2018-105**

**NOTICE TO CONSULTANTS FOR
CLEAR CREEK / SCHOLD FARM MASTER PLAN**

RESPONSE DEADLINE: WEDNESDAY, FEBRUARY 28, 2018 3:00 p.m.

Kitsap County Board of Commissioners invites Statements of Qualifications (SOQ) from qualified firms and individuals to assist the County in developing a master plan for the Clear Creek / Schold Farm floodplain.

BACKGROUND

Kitsap County is located on the Kitsap Peninsula in Washington State across Puget Sound from Seattle. The Clear Creek watershed is located in central Kitsap County. It drains roughly from Naval Submarine Base Bangor, southeast across State Highway 3, through Silverdale, and into the north end of Dyes Inlet on Puget Sound. The Clear creek basin is an important watershed for Dyes Inlet by playing a significant role in flood control, salmon habitat and aquatic life. Over the course of many years, several stakeholders have improved certain portions of Clear Creek, however these restorations or improvements often times were designed and constructed independently of one another.

In the early 1990's, Kitsap County, through several departments, acquired property formally known as the Schold Farm, as well as several adjoining properties immediately east of State Highway 3 and north of State Highway 303 (Schold Farm). This property encompasses approximately 118 acres of the Clear Creek floodplain and associated wetlands. Since acquisition, Schold Farm has been predominantly used as a wetland restoration mitigation bank, but with no comprehensive master plan. Thus far, wetland restoration efforts on site serve as compensatory mitigation for



North Schold Farm Boardwalk Public Trail

19 segregated restoration projects on the properties. Some mitigation sites are still currently active in monitoring and maintenance while others have concluded their permit obligations.

Additionally, Schold Farm has become a popular destination for passive recreation. Since the 1990s, a network of levee and boardwalk trails in and around the wetlands was constructed by volunteers under a joint land use agreement with the County and a local land conservancy. The trail network has the support of community advocates and a dedicated volunteer base known as the Clear Creek Taskforce. Due to the complexity of ownerships, the patchwork of individual mitigation designs, and differing levels of maintenance, the management of Schold Farm has become increasingly difficult over the years. Challenges on the site include:

- Conflicts between the passive recreation and wetland habitat;
- Hydrologic isolation of several mitigation projects, which has prevented the floodplain from acting as a contiguous whole; and
- Trail safety and maintenance.

Most recently, the Kitsap County Department of Public Works completed an award winning habitat and floodplain restoration project on the south end of the Schold Farm site. This project serves as an optimal guide for other Schold Farm restoration efforts as an interconnected floodplain that appropriately separates passive recreation amenities away from critical habitat.

PRELIMINARY SCOPE OF WORK

Kitsap County Board of Commissioners desires to enter into a contractual agreement with a well-qualified and cost-effective consulting firm who can build off of existing studies and help the County craft a coordinated master plan to guide future restoration efforts and public use at Schold Farm. The County expects the successful firm to perform to research and create potential plan components and alternatives, which the County will evaluate and potentially adopt after the



Schold Farm Mitigation Project—The Trails Shopping Center



South Schold Farm Floodplain Restoration Project—Completed Spring 2017

4. The availability of the firm's resources to complete all components of the project within appropriate and reasonable timelines.
5. The firm's contact information (address, telephone, email).
6. Additional data or recommendation, if desired.

2. Statement of Qualifications

The nature and form of response are at the discretion of the respondent, but at minimum, must include the following:

- A. Firm Background
 1. General information about the firm, including a description of the firm's background, the names and number of years the firm has been in business, and current or previous names, or additional assumed business names, and any other pertinent firm information.
- B. Project Organization and Staffing
 1. Identify the project manager that will provide day-to-day management of the project and serve as the County's primary point of contact.
 2. Provide an organization chart showing all proposed team members and describe their responsibilities for this project. Include members of the prime contractor's firm and any subcontractors.
 3. Provide statements of qualifications and resumes for each member of the project team. Include members of the prime contractor's firm and any subcontractors.
 4. Describe all portions of work that will be performed by a subcontractor. Describe how subcontractor work will be managed and supervised.
- C. Description of Related Experience
 1. Describe, specifically, the firm's experience relevant to each component of the scope of work shown above.
 2. Provide specific examples of similar projects. Include examples completed within the past three years. For each example, include:
 - The name, address and telephone number of the client.
 - The name of the firm's project manager and personnel who worked on each project with a brief description of their responsibilities.
 - The budget and actual project cost.
 - The elements of the projects that are common to the scope shown above.
 - A summary of the firm's role/responsibility in overall project.
 - A summary of the firm's deliverables.
 3. Describe the firm's familiarity with Kitsap County and possible approach in regards to the preliminary scope of work.
 4. Describe the firm's ability to complete work on budget and schedule.
 5. (Optional) Identify any other relevant information pertinent to this RFQ section.

SUBMITTAL FORMAT

The Statement of Qualifications (SOQ) should be organized in a manner that allows the reviewer to evaluate the firm's qualifications quickly and easily. Concise text is preferred.

The SOQ shall be no more than twenty-four (24) pages in length, including the cover letter. Pages shall be 8-1/2 inches by 11 inches with one-inch margins. The font size shall be at least 11-point.

Attachments and content beyond the page limit will not be reviewed.

SELECTION PROCESS

A two-step selection process may be used:

Step One:

After Statements of Qualifications are received by the County's Purchasing Office, a selection committee will rank each RFQ submittal. The scoring criteria are shown below.

RFQ Scoring Criteria	Maximum Score
1. Experience working with public sector clients such as Kitsap County to define project goals, select appropriate methodologies, and complete all activities on time and within budget.	10 points
2. Demonstrated capability to maintain good communication, productive ongoing working relationships, and efficient task progress with public sector clients.	10 points
3. Specific experience related to the tasks shown in the scope of work above.	50 points
4. Specific experience conducting wetland habitat restoration projects.	10 points
5. Specific experience developing public lands master plans, including successful funding and management strategies.	15 points
6. General knowledge and insight into the Kitsap County area, the history, the nature of its citizens, and a general sense of the community's values.	5 points
MAXIMUM SCORE	100 points

To assist with the scoring, Kitsap County may contact references who the consultant has recently worked with.

Step Two:

When step one scoring is completed, the highest scoring consultant firm or firms may be requested to make a presentation. The County reserves the right to interview one or more firms at its discretion. That firm will be allotted a maximum of 30 minutes of presentation time plus 30 minutes to answer questions from the selection committee.

Whereas the initial RFQ submittal packages should be primarily about the firm itself, the presentations from the highest ranked firms should delve further into what each firm could do to meet the needs of Kitsap County. The selection committee will evaluate each presentation as to the firm's abilities to fulfill those needs.

The firm given the best evaluation will be requested to negotiate with the County for the project contract. If negotiations are unsuccessful, the County reserves the right to negotiate with the next highest ranked firm after proper notification. It is the County's intent to award the contract to a single firm, however the County reserves the right to potentially award contracts to multiple firms if it is in the County's best interest.

Please note that notice in writing to a Respondent that it has been identified as a Qualified Respondent will not constitute a Contract nor give the Respondent any legal or equitable rights or privileges relative to the service requirements set out in this RFQ or in any subsequent Request for Proposal (RFP). Only if a Qualified Respondent and Kitsap County enter into a subsequent fully executed contract, as a result of an RFP or RFQ, will a Respondent acquire any legal or equitable rights or privileges. Please see Contract sample attached.

AGREEMENT FOR SERVICES

The selected firm(s) will be expected to enter into a standard Professional Services Agreement. Insurance requirements, included in the services agreement package are:

1. General Liability
2. Professional liability

Anticipated Schedule

7. Optional Site Tour	February 8, 2018 from 9:00-10:30am
8. SOQ's received	February 28, 2018 by 3:00 PM
9. SOQ's reviewed	March 1, 2018 to March 9, 2018
10. Possible Consultant interview(s)	Week of March 19, 2018
11. Consultant selection	Week of March 19, 2018
12. Scope and Budget from Consultant	To be Determined
13. Contract Negotiations completed	To be Determined
14. Contract Execution by Commissioners	April 2018
15. Notice to Proceed	April 2018
16. Project Completion	Subject to Negotiation

Responders shall submit one (1) signed original and five (5) copies along with one (1) electronic copy (on CD or USB drive-.PDF format) of their proposal to:

By mail to:

Colby Wattling, Buyer
Kitsap County Purchasing Office
614 Division Street, MS-7
Port Orchard, WA 98366

OR

For hand delivery, express, or courier:

Colby Wattling, Buyer
Kitsap County Administration Building
Purchasing Office – Fourth Floor
619 Division Street
Port Orchard, WA 98366

Sealed proposals will be accepted no later than 3:00 p.m. on February 28, 2018 at which time they will be recorded and forwarded to the Kitsap County Commissioners Office. Any questions regarding this project should be directed to Angie Silva at asilva@co.kitsap.wa.us. Additional information supplied based on questions asked by prospective respondents will be provided by Kitsap County via posting on the County's website.

An optional, but recommended site tour will be conducted starting at **9:00-10:30am on February 8, 2018**. Persons wishing to attend the tour should notify Angie Silva at asilva@co.kitsap.wa.us of their interest in attending.

Persons with disabilities may request that this information be prepared and supplied in alternate forms by calling collect to (360)337-5777, or TTY (360)337-5455.

The recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all consultants that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit qualifications in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

-SAMPLE CONTRACT DRAFT-

CONTRACT FOR PROFESSIONAL SERVICES

This Contract for Professional 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 _____, having its principal offices at _____ (the Contractor).

SECTION 1. EFFECTIVE DATE OF CONTRACT

The Contract will become effective on _____ and terminate on _____. 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: Description of Services, 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 perform the work specified in the Contract according to standard industry practice.
- 2.4 The Contractor will complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- 2.5 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: Compensation, 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. Further, if a court of competent jurisdiction determines that this Contract is subject to RCW 4.24.115, then in the event of liability for damages caused by or arising out of the concurrent negligence of the Contractor and the County, its officers, officials, employees or agents, the Contractor's liability shall be only to the extent of the Contractor's negligence.
- 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 **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 as an additional insured 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.

7.6 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 10-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 representatives 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)

