



KITSAP COUNTY

**REQUEST FOR PROPOSALS (RFP)
2019-109**

NOTICE TO CONSULTANTS FOR

REAL ESTATE BROKER SERVICES

RESPONSE DEADLINE: February 26, 2019 at 3:00pm

GENERAL INFORMATION

Kitsap County invites Statements of Qualifications (SOQ) from qualified individuals, firms and organizations who are capable of providing appraisal and acquisition services in accordance to Kitsap County Code Chapter 4.142 (Management of County Property) for the new addition to and the adaptive reuse of the Kitsap County Courthouse.

Kitsap County will negotiate a detailed scope of work and estimated time for completion after the consultant is selected.

BACKGROUND

With a population of 267,000 residents and founded in 1857, Kitsap County is located on the Kitsap Peninsula in Washington State across the Puget Sound from Seattle. It comprises a total land mass of 393 square miles. Kitsap County occupies a unique portion of the State of Washington, directly between the urban areas of Seattle and Tacoma and the Olympic Mountains. It is bounded by Hood Canal on the west, Puget Sound on the east, and Mason and Pierce Counties to the south.

While Kitsap is ranked as the 36th largest county in Washington, however it is the 3rd most densely populated county in the state. The county seat is located in the City of Port Orchard and unincorporated Kitsap is governed by three elected County Commissioners.

County law and justice programs, as well as our information services department are located at the courthouse which is located at 614 Division Street, Port Orchard, Washington. The building is approximately 159,000 square feet in size and was originally constructed in 1937 with

numerous remodels occurring in the intervening years. In 2018, Kitsap County completed a Courthouse Feasibility and Needs Assessment. This assessment analyzed existing conditions, projected future program needs and reviewed several concepts and related preliminary cost estimates. This review culminated in the development of five options, with **Option 5** ultimately selected as the preferred and within the total estimated project budget of \$54M. To implement Option 5, additional land adjacent to the existing Courthouse is needed for parking and other related construction needs. To review the Courthouse Feasibility and Needs Assessment, please visit the Kitsap County website at <https://spf.kitsapgov.com/das/Pages/Online-Bids.aspx>

Kitsap County seeks real estate brokerage services to assist in the appraisal and acquisition of parcels related to this project. Targeted acquisition areas will be discussed after a firm(s) has been awarded the contract.

SCOPE OF PROJECT

Kitsap County is seeking to enter into a contractual agreement with an efficient and cost-effective consultant(s) who possesses all disciplines required and can best demonstrate experience and ability to perform the following:

- Licensed real estate broker in good standing with the State of Washington.
- Must be knowledgeable in the local real estate market and have experience with public real estate requirements and records management.
- Should be familiar with the Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- Develop strategies for acquisition in consultation with the County project manager and Prosecutors Office.
- Meet regularly with the County project manager to provide reports and receive direction on information relative to each parcel to be acquired. Written summary reports and conference calls may be requested.
- Negotiate with property owners and/or their representative in accordance with state law and Kitsap County Code requirements to secure needed property rights determined by the County's project manager.
- Solicit and review preliminary title commitments on properties of interest. Provide recommendations to the County on title or easement requirements that require removal, additional negotiations or pose obstacles or delays to acquisitions.
- At the County's option and direction, clear title encumbrances. Negotiate as necessary with appropriate parties to resolve and clear title issues.
- Provide parcel summary information that lists all ownerships, title exceptions, conflicting easements or other rights of record for each parcel. Written summary reports may be requested.
- Perform research and market analysis as needed.
- Coordinate or perform, as needed, environmental site assessments on parcels to be acquired.

- Provide or coordinate as needed, licensed and certified appraisal services in accordance with the Uniform Standards of Professional Appraisal Practices.
- Coordinate with the County’s project manager and Prosecutors Office on the development of Purchase Agreements in accordance to Kitsap County Code Chapter 4.142.
- Coordinate all real estate transaction closings and other customary activities associated with transactions.
- Possible coordination or act as the owner’s representative in application submission of road vacations with the City of Port Orchard.
- Attend County public meetings, as needed.

SUBMITTAL REQUIREMENTS

1. Letter of Interest

A letter of interest shall be submitted that indicates the following:

- A high-level description of the firm’s qualifications to execute the scope of work described above.
- The number of years the firm has been in business.
- The number of years of experience the firm has conducting each component of the scope of work described above.
- The availability of the firm’s resources to complete all components of the project within appropriate and reasonable timelines.
- The firm’s contact information (address, telephone, email).
- 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 a minimum, must include the following:

- A. Firm Background
 1. General information about the firm, including a description of the firm’s history, 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. Provide an organization chart showing all proposed team members and describing their responsibilities for this project. Include professional qualifications/resumes of each member of the project team.
 2. Describe the portion of work that will be performed by a subcontractor, if any, and information about the professional qualifications of proposed sub-consultants.

C. Description of Related Experience

1. Describe the firm's experience with preparing services and needs assessments, evaluating site alternatives, and developing conceptual Design. Include at least three similar projects the firm has completed. For each project, provide the following information:
 - Name, address and telephone number of the client.
 - Name of the firm's project manager and personnel who worked on each project with a brief description of their responsibilities.
 - Budget and actual project cost.
 - The elements of the projects that are common to the projects proposed above.
 - Summary of the firm's role/responsibility in overall project.
 - Summary of the firm's deliverables.
2. Describe the firm's familiarity with Kitsap County.
3. Describe the firm's ability to complete work on schedule.
4. List any outstanding litigation the firm is involved as a named defendant.
5. (Optional) Identify any other relevant information pertinent to this RFQ section.

D. Project Approach

1. Describe your Firm's approach to this project and budget or fee for services.

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 cover letter, double-sided, utilizing recycled paper. No laminated sheets or cardstock. Pages shall be 8-1/2 inches by 11 inches with one-inch margins. The font size shall be at least 11-point. Please staple or clip packet in upper left-hand corner. Do not wire or comb bind.

SELECTION PROCESS

A two-step selection may be used to award the contract. First, SOQ's will be evaluated based on the firm's clear ability to provide acquisition and appraisal services in a timely, cost effective manner. The responses will be rated according to the criteria detailed below.

Kitsap County reserves the right to make selections based on initial proposals and/or request follow-up presentations, or to reject all proposals.

Evaluation Criteria for the Written Responses

Each proposal will be evaluated and given a score based upon the quality of response to each of the following topic areas. Maximum number of points achievable is 100.

A. Project Timeline & Budget - 30 points maximum

- i. Timeline – 15 points
 - Demonstrates the ability to create/monitor project timelines

- Demonstrates the ability to meet project timelines
 - Demonstrates the ability to exceed project timelines
 - ii. Budget – 15 points
 - Ability to create/monitor total project budget (soft and hard costs)
 - Methods of proven successes for staying within project budget
- B. Organizational Background, Experience & Expertise - 50 points maximum
- i. Qualifications of Proposed Members – 15 points
 - Years of experience
 - Quantity of similar projects
 - Education
 - Years with the firm
 - ii. Comprehension, Responsiveness and Demonstrated Success – 15 points
 - Illustrates that the team clearly understands objectives and technical requirements
 - Responsiveness to all aspects of the RFQ
 - Firm’s demonstrated success with similar projects
 - iii. Public Sector Experiences, including managing multiple stakeholder groups – 20 points
- A. Clarity of Proposal - 20 points maximum
- Is the SOQ easy to understand?
 - Do the graphics further clarify the written items?
 - Did the firm stay within the maximum allotted pages?

Interviews

After reviewing and scoring written proposals, Kitsap County may request the highest scoring firms or all firms to make a presentation before a selection committee. Whereas the initial SOQ submittal 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 asked 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.

AGREEMENT FOR SERVICES

The selected firms will be expected to enter into a standard Professional Services Agreement located in the attachment. Insurance requirements, included in the services agreement package are:

- 1. General Liability
- 2. Professional liability

Anticipated Schedule

- SOQ’s received February 26, 2019 at 3pm
- SOQ’s reviewed Week of March 4, 2019
- Consultant interview(s) TBD
- Consultant selection TBD
- Scope and Budget from Consultant TBD
- Contract Negotiations completed TBD
- Contract Execution by Commissioners TBD
- Notice to Proceed TBD
- 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 3:00pm on February 26, 2019 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, Senior Policy Analyst at (360) 337-7080, or asilva@co.kitsap.wa.us. Additional information supplied based on questions asked by perspective respondents will be provided by Kitsap County via posting on the County’s website.

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.

Date of Publication February 5, 2019

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).

