



**REQUEST FOR QUALIFICATIONS
KITSAP COUNTY BOARD OF COMMISSIONERS
2021-117**

Project Title: *Diversity, Equity, and Inclusion Consultant*

Estimated Contract Period: July 1, 2021 through December 31, 2022.
Amendments extending the period of performance, if any, shall be at the sole discretion of Kitsap County.

Proposal Due Date: Proposals must arrive by 2:00 p.m. Pacific Daylight Time May 17, 2021.

OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.

SECTION A. SUMMARY

Kitsap County Overview

The Kitsap County Board of Commissioners is seeking a consultant to support the diversity, equity, and inclusion (DEI) growth and development for the County organization. The desired consultant qualifications are described below.

Mission Statement

Kitsap County government exists to protect and promote the safety, health, and welfare of our citizens in an efficient, accessible, and effective manner.

Kitsap County Vision Statement

Effective and Efficient County Services - County government continuously assesses its purpose, promotes and rewards innovation and improvement, fosters employee development and uses effective methods and technologies to produce significant positive results and lasting benefits for citizens.

Protected Natural Resources and Systems - Education, land use planning and coordinated efforts assure that the forests, clean air, and water that Kitsap is known for are sustained for the benefit of current and future generations.

Thriving Local Economy - A well-educated workforce and strategic investment in County infrastructure prompt businesses to expand or locate in Kitsap County, creating well-paying jobs and enhancing our quality of life.

Safe and Healthy Communities - People are protected and secure, care about their neighborhoods and are proud of where they live, work and play.

Inclusive Government - County government conducts all activities in a manner that encourages citizen involvement, enhances public trust, and promotes understanding.

Non-Discrimination Policy

The County is an equal opportunity employer and complies with federal, state and local laws and regulations prohibiting discrimination in employment based upon race, religion, religious affiliation, creed, national origin, ancestry, sex, sexual orientation, gender identity or expression, age, marital status, veteran or military status, or the presence of a sensory, mental or physical disability, or the use of a trained guide dog or service animal by a disabled person.

This extends to the delivery of services to county residents as affirmed in Resolution 196-2017: Affirmation of Human Rights in Kitsap County.

RFQ Background

In 2020, before the COVID-19 pandemic halted many new initiatives, the Kitsap County Board of Commissioners (the Board) embarked on a journey to bring the lens of diversity, equity and inclusion (DEI) to the policies, procedures, workforce, and boards/commissions of the County. The goal the Board and the Kitsap County organization is to pursue clarification, develop a common understanding and take specific action to fully engage DEI practices at the organizational level. To this end, the Board is currently creating the charter, bylaws and recruitment process for a County Anti-racism and DEI Committee (committee) of community members and has joined the Governmental Alliance on Race Equity (GARE).

Request for Qualifications Response Requirements

Diversity, Equity, and Inclusion

Kitsap County strives to create a diverse, equitable and inclusive organization with responsive employees and contractors who achieve optimum delivery of services and engage other partners. Diversity, equity, and inclusion work at Kitsap County is guided by a portion of the County's Vision statement that speaks to inclusive government conducting all activities in a manner that encourages resident involvement, enhances public trust and promotes understanding.

In responding to this RFQ, the respondents are asked to disclose whether their company is women-owned or minority-owned, and whether formally certified as such. In addition, Kitsap County is interested in the respondent's experiences developing and executing diversity, equity and inclusion plans, initiatives and/or policies within an organization.

Qualifications:

Provide information describing the consultant's experience working with elected or executive Boards on anti-racism and DEI review, analysis, and development. The statement of qualifications should detail their organizations key staff, history, experience, qualifications, and a representative list of clients for whom anti-racism analysis and DEI work has been performed at the executive board level. A description of the consultant's (or its personnel) lived experience (professional or personal) pertinent to anti-racism and DEI work should be provided. A description of how they chose this work, their firm's founding principles, and their commitment to anti-racism and DEI should be provided. In addition, the consultant should provide the specific DEI qualifications and experience of the personnel anticipated to be assigned to the project. The consultants experience and competencies supporting and facilitating the development of anti-racism and DEI plans, goals, objectives, as well as staffing anti-racism and DEI committees should be identified and detailed.

Proposal Approach:

Provide a detailed proposal describing how the consultant will collect the information necessary and engage the Board to determine the best course of action to help define the county's current anti-racism analysis and DEI cultural landscape, its starting assumptions and its common understanding of racism and DEI. Describe how the consultant will facilitate and engage the Board and Committee to embark on an ongoing, robust, and challenging

learning model of effective anti-racism and DEI commitments and actions. Describe how the consultant will support the Board in the development of an Anti-racism and DEI action plan, workplan development for the implementation of identified goals and actions, and support for the efforts of the Committee. A general timeline for completing the initial work and recommended stages or decision points for ongoing review and/or next steps should be provided. Describe which personnel will be engaged in which parts of the proposed work.

Project Deliverables:

- ✓ Evaluation of current organization climate and report
- ✓ Advisory Board development (## Members)
- ✓ Advisory Board meeting planning (## meetings) including agenda and meeting facilitation
- ✓ Assistance with plan development and completion of formal plan
- ✓ Plan implementation
- ✓ Measurables
- ✓ Contract and time frame.

Rates and Pricing:

Responding consultants should include their rates and pricing in their response to this RFQ. Time and material, as well as alternative pricing proposals, will be considered. Responding consultants should also disclose whether they have any direct or indirect conflicts of interest with Kitsap County or the Board. It is anticipated that a resulting contract may be for a minimum of 18 months in length with options to renew.

SECTION B. PROCUREMENT PROCESS

1. Procurement Schedule

The Procurement Schedule outlines the tentative schedule for important action dates and times. All dates after the proposal submission due date are approximate and may be adjusted as conditions indicate, without amending this document. It is the Responder’s sole responsibility to periodically check the County’s website for amendments to this document.

Figure 1. PROCUREMENT SCHEDULE

Item	Action	Date
1.	Announcement of Request for Qualifications Issued	May 3, 2021
5.	Responder must submit Proposal by 2:00 p.m.Pacific Time	May 17, 2021
5.	Kitsap County evaluation of Proposals begins	May 18, 2021
6.	Announce successful Proposal	June 1, 2021
7.	Contract Execution	July 1, 2021

2. Contract

Kitsap County intends to award one contract to provide the services described in this Request for Qualifications. However, depending on the outcome of the evaluation, the County reserves the right to contract with more than one Responder.

The contract start date is expected to be July 1, 2021, but the actual start date of the activities will be negotiated.

The term of the Contract is expected to last through December 31, 2022. Amendments extending the period of performance through December 31, 2023 shall be at the sole discretion of the County.

3. Proprietary information/public disclosure

Materials submitted in response to this Request for Qualifications shall become the property of Kitsap County and the proposals shall be deemed public records as defined by RCW 42.56.

The Responder's Proposal must include a statement identifying the pages of its Proposal, if any, which contain information the Responder considers proprietary. Each page claimed to be proprietary must be clearly marked by printing the word "Proprietary" on the lower right-hand corner. Responders may not mark their entire Proposal proprietary.

If Kitsap County receives a request to view or copy a Responder's Proposal, the County will respond according to applicable law and policy governing public disclosure. The County will not disclose any information marked "Proprietary" in a Proposal without giving the Responder ten (10) days' notice to seek a relief in superior court per RCW 42.56.540.

4. Communications

All communications concerning this Request for Qualifications must be directed only to the Procurement Coordinator. Any communication directed to the Kitsap County Board of Commissioners, staff, or anyone other than the Procurement Coordinator, may result in disqualification. Proposals should be based on the material contained in this Request for Qualifications, any related amendment(s), and any questions and answers directed through the Procurement Coordinator.

5. Amendments

Kitsap County reserves the right, at any time before execution of a contract, to amend all, or a portion, of this Request for Qualifications. Amendments will be posted on the County website. If there is any conflict between amendments or between an amendment and this document, whichever document was issued most recently shall be controlling.

6. Retraction of this Request for Qualification

Kitsap County reserves the right to retract this Request for Qualifications in whole, or in part, at any time without penalty.

7. Submission of Proposals

Offers shall be submitted to the Buyer at the location specified below in a sealed envelope or package provided by the offeror and shall include the offeror’s name and address, the Request for Qualifications (RFQ) name and number, and the submittal due date clearly identified on the outside of the envelope or package. The offeror is responsible for the timely delivery of submitted offers, regardless of the delivery method. Offerors should allow sufficient time to ensure timely receipt by the County. Offers received after the submittal due date and time will not be opened or considered. The timeliness of offer submissions is determined by the County.

Responders shall submit one (1) signed original and one (1) electronic copy (on CD or USB drive PDF format) of their proposal to:

By mail to:

OR

For hand delivery, express, or courier:

By Appointment – call 360.337.4788

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

Vicki Martin
Kitsap County Administration Building
Purchasing Office – Fourth Floor
619 Division Street
Port Orchard, WA 98366

Sealed proposals will be accepted no later than Monday May 17, 2021 at 2:00PM at which time they will be recorded and forwarded to the County Administrator. Any questions regarding this project should be directed to Vicki Martin at vmartin@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.

All responses and any accompanying documentation and material becomes the property of Kitsap County and will not be returned.

8. Non-responsive Proposals

All Proposals will be reviewed by the Procurement Coordinator to determine compliance with administrative requirements and instructions specified in this Request for Qualifications. Kitsap County may reject or withdraw a Proposal at any time as nonresponsive for any of the following reasons:

- a. Incomplete Proposal
- b. Submission of a proposal that proposes services that deviate from the technical requirements set forth in this document
- c. Failure to comply with any part of this Request for Qualifications or any exhibit to this Request for Qualifications
- d. Submission of incorrect, misleading, or false information

9. Minor Irregularities

Kitsap County may waive minor administrative irregularities related to any Proposal.

10. Cost to Prepare Proposal

Kitsap County will not be liable for any costs incurred by the Responder in preparing, submitting, or presenting a Proposal in response to this Request.

11. Joint Proposals

If a Responder submitted a joint Proposal, with one or more other Responders, the prime Responder must be designated. The prime Responder will be Kitsap County's sole point of contact, will sign the contract and any amendments, and will bear sole responsibility for performance under the contract.

12. Withdrawal of Proposals

After a Proposal has been submitted, a Responder may withdraw its Proposal at any time up to the proposal submission date and time specified in the Procurement Schedule. A written request to withdraw the Proposal, signed by an authorized representative of the Responder, must be submitted to the Procurement Coordinator electronically. After withdrawing a Proposal, the Responder may submit another Proposal at any time up to the proposal submission date and time.

13. Execution of the Contract

The Successful Responder is expected to sign a contract with Kitsap County and any subsequent amendments that may be required to address specific work or services as needed.

The County reserves the right to negotiate the specific wording of the Statement of Work, based on the requirements of this Request for Qualifications and the terms of the winning Proposal.

If the Successful Responder fails or refuses to sign the contract or any subsequent amendment within ten (10) business days of delivery, Kitsap County may elect to cancel the award and may award the contract to the next-highest ranked finalist.

Any subcontracts necessary to perform the contract shall be subject to the prior written approval of Kitsap County.

If at contract award or anytime thereafter any specifically named individual(s) identified in the Proposal to work on this engagement are not available, Kitsap County has the right to approve or reject any change in Contractor personnel.

SECTION C. PROPOSAL CONTENTS

1. Proposal:

- a. General Requirements: In this section, the Responder is to provide a description of the Proposal which is consistent with the activities, goals, and objectives of the project. This section demonstrates the Responder's understanding of the skills and resources required to successfully accomplish the objectives of the project and assure timely completion of deliverables.
- b. Numbering of Responses. Please number each response so that it corresponds to the question number. The response must begin with a restatement of the question followed by the Responder's response to the question. A reference to another section will not suffice, each answer must stand alone.
- c. Points Awarded for Responses. The number in parentheses after each question or requirement represents the maximum number of points that may be awarded for the response to that question or requirement.

- a. The proposal is to be brief (no longer than five pages) and must include the following:

The total number of available points is 100.

- 1. Qualification and Experience. (Maximum 35 points)**
Describe qualifications and relevant experience providing direct and supportive services for the creation and management of diversity, equity, and inclusion programs with like organizations, including experience with individuals with disabilities.
- 2. Program Design. (Maximum 25 points)**
Describe how you or your company would approach the creation of a program, what steps would be involved, the amount of effort it would take, resources that would be needed, and who would be on point for the services, to include but not be limited to: internal training, review of internal policies, employee recruitment, community engagement, volunteer recruitment, etc.
- 3. DEI and Anti-racism Committee Engagement. (Maximum 20 points)**
Describe a process or approach to ensure the high functionality of the county DEI and Anti-racism Committee.
- 4. Community Involvement. (Maximum 20 points)**
Describe methodologies or strategies for communication with and involvement of community members.

SECTION D. EVALUATION

1. Evaluation Procedure

Kitsap County shall designate an evaluation team including community members to review, evaluate and score responder's Proposals.

2. Proposal Evaluation

Kitsap County will initially screen each Proposal to determine if the Responder has complied with the stated instructions. If a Proposal does not meet all requirements, the County may consider the Proposal non-responsive and may withdraw it from consideration at any time. If a Proposal meets all requirements, evaluators will be scored, and award points up to the maximum points available for each question.

3. Scoring of Proposals

The maximum number of evaluation points available is 100. Minimum Qualifications are evaluated on a pass/fail basis. The following weighting will be assigned to the Proposal for evaluation purposes:

For each question, 0 is the lowest possible score and points are awarded for the most complete answers that demonstrate the Responder's expertise and/or experience, up to the maximum number of points listed for each question.

4. Final Determination of Successful Responder(s)

The Kitsap County Board of Commissioners and/or staff may conduct a final review of the evaluation and scoring of finalists(s).

In this final review, the County may consider past or current performance of any County contracts by a finalist(s), and any experience of the program or Kitsap County in working with a finalist(s) under any past or current contract with the County.

The Kitsap County Board of Commissioners shall make the final determination as to which Responder(s), initially designated as finalist(s), shall be officially selected, and notified as the Apparently Successful Responder(s).

In doing so, the Board of Commissioners shall be guided, but not bound, by the scores awarded by the evaluators. The Board and County staff shall determine which Proposals reviewed during this final selection process will best meet the needs of Kitsap County.

Resolution 196-2017

AFFIRMATION OF HUMAN RIGHTS IN KITSAP COUNTY

WHEREAS, as elected officials of Kitsap County, we are committed to protecting the inalienable human rights, dignity and equality of all individuals; and

WHEREAS, we have sworn an oath of office to support the Constitution and Laws of the United States and the State of Washington to uphold and protect the constitutional rights of individuals; and

WHEREAS, in 1989 Kitsap County created the Council for Human Rights in response to a cross burning; and

WHEREAS, The mission of the Kitsap County Council for Human Rights is to advise county government and Kitsap County residents on issues related to discrimination, violence and harassment based on race or national origin, religion, age, gender, sexual orientation, disability, or economic status; and to promote the equitable treatment of all citizens and reduce prejudice through the development of prevention policies, education, resource, referrals, and advocacy.

WHEREAS each individual has the right to work, live and play in an atmosphere that promotes equal opportunities and prohibits discrimination based on race, color, ethnicity, national origin or status, religion, sex, sexual orientation, gender expression, age, marital status, genetic information, religion, veteran or military status, or disability; and

WHEREAS, the public relies on Kitsap County for protection of their civil and human rights and in turn, Kitsap County relies on public trust as critical to maintaining safe communities, we encourage residents to report instances of discrimination, harassment, violence, bullying and expression of hate based on difference; and

WHEREAS, history has tragically taught us that intolerance and discrimination threaten a just society, and that when people stand by and allow such acts to occur without speaking up or taking action, it can enable hatred, discrimination and intolerance to deepen and spread; and

WHEREAS, we affirm our commitment that human and civil rights, and the rule of law and due process are upheld;

NOW, THEREFORE, the elected officials of Kitsap County who have signed below hereby proclaim our unwavering commitment to the inalienable human rights and dignity of all individuals and equality under the law and constitution, and that we will continue to strive to make Kitsap County a place that is safe and healthy for all, free of discrimination and hatred, and we invite all residents to join us in safeguarding these values and promoting a climate of tolerance, inclusion and civic engagement in our community.



Adopted this the 13th day of November, 2017

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

Charlotte Garrido

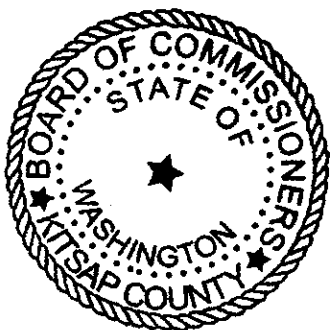
CHARLOTTE GARRIDO, Chair

Robert Gelder

ROBERT GELDER, Commissioner

E. Wolfe

EDWARD E. WOLFE, Commissioner



ATTEST:

Dana Daniels

Dana Daniels, Clerk of the Board

Dolores Gilmore

DOLORES GILMORE, Auditor

M. Green

MEREDITH GREEN, Treasurer

Alison Sonntag

ALISON SONNTAG, Clerk

Unofficial Copy

SAMPLE CONTRACT

CONTRACT NO. [Contract Number] Professional Services Contract

This Professional Services Contract (“Contract”) is between Kitsap County, a Washington state political subdivision, having its principal offices at 614 Division Street, Port Orchard, Washington 98366 (“County”) and [Contractor Name], a [Contractor Type] having its principal offices at [Contractor Addr] (“Contractor”).

In consideration of the terms and conditions of this Contract, the parties agree as follows:

SECTION 1. TERM AND EFFECTIVE DATE

1.1 The Contract will become effective [Contract Start Date] and terminate [Contract End Date], unless terminated or extended. The Contract may be extended for additional consecutive terms at the mutual agreement of the parties, not to exceed a total of [Contract Length]. 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

2.1. Scope of Work. The Contractor shall provide all “Services” identified in Attachment A: (Scope of Work), which is incorporated herein by reference. The Contractor shall provide its own equipment, labor, and materials.

2.2. Contract. “Contract” means this Contract and any exhibits, amendments, and solicitation documents accepted by the County, and Attachments A (Scope of Work), B (Compensation)[List Additional Attachments, if any]. All such documents are incorporated herein in full by this reference.

2.3. Personnel. The Contractor shall have and maintain complete responsibility for its Personnel. “Personnel” means Contractor and Contractor’s employees, subcontractors, volunteers, interns, agents, and any other person utilized by the Contractor directly or indirectly or through third parties to perform any Services under the Contract. The Contractor shall promptly remove any Personnel performing Services on request from the County Representative.

2.4. Standards. The Contractor warrants that i) Contractor has the qualifications, knowledge, experience, skills, and resources necessary to provide all Services; ii) all Services shall be provided by Personnel experienced in their respective fields and in a manner consistent with the standards of care, skill, diligence, and knowledge commonly possessed and exercised by experienced professionals in the same discipline in the same or similar circumstances; and iii) all Services shall be performed to the County’s reasonable satisfaction and according to the schedule agreed to by the parties.

2.5. Communication. The Contractor shall keep the County informed of the progress of the Services in the manner, method, and intervals requested by the County.

SECTION 3. COMPENSATION AND PAYMENT

3.1. Compensation. The maximum amount of compensation paid under the Contract by the County shall not exceed \$[Contract Amount]. A description of the compensation is provided in Attachment B: Compensation, which is incorporated herein by reference.

- 3.2. Invoice. The Contractor will submit one (1) invoice to the County per month for payment of Services completed to date, unless otherwise provided herein. Each invoice shall identify the Services performed, dates performed, and any other information requested by the County.
- 3.3. Payment. The County will make reasonable efforts to pay the Contractor within thirty (30) days from the date the County receives a complete and correct invoice, unless otherwise provided herein. All funds disbursed to the Contractor will be processed by Direct Deposit via Automated Clearing House (ACH), unless otherwise agreed to by the parties.
- 3.4. Insurance/W-9 Compliance. All payments are expressly conditioned upon the Contractor's compliance with all insurance requirements and submission of a current IRS W-9 form to the County. Payments may be suspended in full in the event of noncompliance. Upon full compliance, payments will be released to the Contractor unless otherwise provided herein.
- 3.5. Restrictions. The Contractor will only be entitled to receive payment for Services expressly authorized in the Contract, and received during the Contract term and accepted by the County. The Contractor acknowledges oral requests and approvals of additional services or additional compensation are prohibited and unenforceable. Advance payments are not authorized.

SECTION 4. TERMINATION

- 4.1. For Convenience. The County may terminate the Contract, in whole or in part, without penalty, for any reason or no reason, with ten days prior notice to the Contractor.
- 4.2. For Funding issues. If any funding for Services is not available, withdrawn, reduced, or limited in any way, or if additional or modified conditions are placed on the funding after the Contract becomes effective, the County may: (1) accept a decreased price offered by the Contractor; (2) terminate the Contract; or (3) terminate the Contract and re-solicit the requirements.
- 4.3. Termination for Default. The County may immediately terminate the Contract, in whole or part, due to the failure of the Contractor to comply with any Contract term or condition, or to make satisfactory progress in performing the Contract, subject to the provisions of 11.1, or if the County determines the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity. The Contractor shall immediately notify the County if the Contractor becomes suspended or debarred.
- 4.4. Procedures. Upon receipt of notice of termination, the Contractor shall stop all Services as directed in the notice, notify Personnel of the termination date, and minimize further costs. All goods, materials, documents, data, and reports prepared by the Contractor under the Contract shall become the property of, and delivered to, the County on demand. A final payment will be made to the Contractor only for Services performed and accepted by the County through the effective date of termination. No costs incurred after the effective date of the termination will be paid.

SECTION 5. INDEMNIFICATION

- 5.1. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless Kitsap County and its elected and appointed officials, officers, employees, and agents (collectively "Indemnitees") from and against all Claims resulting from or arising out of the performance of the Contract, whether such Claims arise from the acts, errors,

or omissions of the Contractor, its Personnel, third parties, or Kitsap County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors, or omissions any of them may be liable. It is the specific intent of the parties that the Indemnitees shall, in all instances, except Claims arising from the sole negligence or willful misconduct of the Indemnitees, be indemnified by the Contractor from and against any and all Claims.

- 5.2. With regard to any Claim against any Indemnitee by any of the Contractor's Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the Contractor's indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or Contractor's Personnel under workers compensation acts, disability benefit acts, or other employee benefit acts. Solely for the purposes of this indemnification provision, the Contractor expressly waives its immunity under Title 51 RCW (Industrial Insurance) and acknowledges this waiver was mutually negotiated by the parties.
- 5.3. Architectural, Landscape Architectural, Engineering, or Land Surveying Services. Should a court of competent jurisdiction determine the Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the County, its officers, officials, employees, and agents, the Contractor's liability hereunder, including the duty and cost to defend, will be only to the extent of the Contractor's negligence.
- 5.4. Claim. "Claim" means all losses, claims, suits, actions, liabilities, damages, demands, judgments, settlements, expenses, fines, or other liabilities of any kind or nature whatsoever, including without limitation, all costs including costs of Claim processing, investigation, reasonable attorneys' fees, and damages, for any personal or bodily injury, sickness, disease, disability, or death, or loss or damage to tangible or intangible business or property, including the loss of use. Claim includes any infringement of copyright, patent, trademark, or other proprietary rights of any third parties arising out of Contract performance or use by the County of materials furnished or work performed under the Contract.
- 5.5. Obligations/Notice of Claim. The County will provide the Contractor notice of the assertion of liability by a third party that may give rise to a Claim by County against the Contractor based on the indemnity contained herein. The Contractor shall respond to the County's tender of defense of a claim in writing within fourteen (14) calendar days from the notice date, and will advise the County if the Contractor accepts or denies tender of the claim. The County may in its discretion withhold all or part of any payment due the Contractor under the Contract until the Contractor responds to such notice. The Contractor shall keep the County timely and fully informed through all stages of the defense and promptly respond to and comply with County's requests for information. The County at all times reserves the right, but has no obligation to participate in the defense and settlement of any Claim. Such participation shall not constitute a waiver of the Contractor's indemnity and defense obligations under the Contract. The Contractor shall not settle or compromise any Claim in any manner that imposes any obligations upon the County without the prior written consent of the County. The Contractor shall promptly advise the County of any occurrence or information known to the Contractor that could reasonably result in a Claim against the County. The violation of any provisions of this Section, including improper refusal to accept tender, is a material breach.

SECTION 6. INSURANCE

- 6.1. Minimum Insurance Required. The Contractor and its subcontractors, if any, shall procure and maintain, until all of the Contract obligations have been fully discharged, including any warranty period, all insurance required in this Section with an insurance company duly licensed in Washington State with an A.M. Best Company ratings of not less than A-VIII and a category rating of not less than "8", with policies and forms satisfactory to the County. Use of alternative insurers requires prior written approval from the County. Coverage limits shall be at minimum the limits identified in this Section, or the limits available under the policies maintained by the Contractor without regard to the Contract, whichever is greater.
- 6.2. Professional Liability. Not less than \$1,000,000 per claim and \$2,000,000 annual aggregate. Coverage will apply to liability for professional error, act or omission arising out of or in connection with the Contractor's Services under the Contract. The coverage shall not exclude bodily injury, property damage or 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.
- 6.3. Commercial General Liability ("CGL"). Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include personal injury, bodily injury, and property damage for premise-operations liability, products/completed operations, personal/advertising injury, contractual liability, independent contractor liability, and stop gap/employer's liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required herein, without the prior written approval of the County. The certificate of insurance for the CGL policy shall expressly cover the indemnification obligations required by the Contract.
- 6.4. Automobile Liability.
- Contractor shall maintain personal automobile insurance on all vehicles used for Contract purposes as required by law.
 - Not less than \$100,000 per occurrence and \$300,000 annual aggregate. If a personal automobile liability policy is used to meet this requirement, it must include a business rider and cover each vehicle to be used in the performance of the Contract. If Contractor will use non-owned vehicles in performance of the Contract, the coverage shall include owned, hired, and non-owned automobiles.
 - Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include liability for any and all owned, hired, and non-owned vehicles. Coverage may be satisfied with an endorsement to the CGL policy.
- 6.5. Umbrella or Excess Liability. The Contractor may satisfy the minimum liability limits required for the CGL and Automobile Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest "Each Occurrence" limit for either CGL or Automobile Liability. The Contractor agrees to an endorsement naming the County as an additional insured as provided in this Section, unless the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

- 6.6. Workers' Compensation and Employer Liability. If applicable, the Contractor shall maintain workers' compensation insurance as required under the Title 51 RCW (Industrial Insurance), for all Contractor's Personnel eligible for such coverage. If the Contract is for over \$50,000, then the Contractor shall also maintain employer liability coverage with a limit of not less than \$1,000,000.
- 6.7. Primary, Non-Contributory Insurance/Subcontractors. The Contractor's and its subcontractors' insurance policies and additional named insured endorsements will provide primary insurance coverage and be non-contributory. Any insurance or self-insurance programs maintained or participated in by the County will be excess and not contributory to such insurance policies. All Contractor's and its subcontractors' liability insurance policies must be endorsed to show as primary coverage. The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall comply with all insurance and indemnification requirements herein.
- 6.8. Review of Policy Provisions. Upon request, the Contractor shall provide a full and complete copy of all requested insurance policies to the County. The County reserves the right without limitation, but has no obligation to revise any insurance requirement, or to reject any insurance policies that fail to meet the requirements of the Contract. The County also has the right, but no obligation to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. The County has the right to request and review the self-insurance retention limits and deductibles, and the Contractor's most recent annual financial reports and audited financial statements, as conditions of approval. Failure to demand evidence of full compliance with the insurance requirements or failure to identify any insurance deficiency shall not relieve the Contractor from, nor be construed or deemed a waiver, of its obligation to maintain all the required insurance at all times as required herein.
- 6.9. Waiver of Subrogation. In consideration of the Contract award, the Contractor agrees to waive all rights of subrogation against the County, its elected and appointed officials, officers, employees, and agents. This waiver does not apply to any policy that includes a condition that expressly prohibits waiver of subrogation by the insured or that voids coverage should the Contractor enter into a waiver of subrogation on a pre-loss basis.
- 6.10. Additional Insured, Endorsement and Certificate of Insurance. All required insurance coverage, other than the workers' compensation and professional liability, shall name the County, its elected and appointed officials, officers, employees, and agents, as additional insureds and be properly endorsed for the full available limits of coverage maintained by Contractor and its subcontractors. Endorsement is not required if the Contractor is a self-insured government entity, or insured through a government risk pool authorized by Washington State.

The Certificate of Insurance and endorsement shall identify the Contract number and shall require not less than thirty (30) days' prior notice of termination, cancellation, nonrenewal or reduction in coverage. At the time of execution, the Contractor shall provide the Certificate of Insurance, endorsement, and all insurance notices to: Risk Management Division, Kitsap County Department of Administrative Services, 614 Division Street, MS-7, Port Orchard, Washington 98366.

- 6.11. General. The coverage limits identified herein are minimum requirements only and will not in any manner limit or qualify the liabilities or obligations of the Contractor under the Contract. All insurance policy deductibles and self-insured retentions for policies maintained under the Contract shall be paid by the Contractor. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its elected and appointed officials, officers, employees, or agents. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, subject to the limits of the insurer's liability.
- 6.12. Claims-Made. If the Contractor's liability coverage is written as a claims-made policy, the Contractor shall purchase an extended-reporting period or "tail" coverage for a minimum of three (3) years following completion of the performance or attempted performance of the provisions of this Contract.

SECTION 7. NOTICE AND CONTRACT REPRESENTATIVES

- 7.1. Any notices, demands and other communications required by the Contract will be effective if personally served upon the other party or if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other party's Contract Representative at the address below. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three (3) 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. Each party will designate a "Contract Representative", which may be changed by providing fifteen (15) days prior notice to the other party.

County's Contract Representative

Name: [County Rep Name]
 Title: [County Rep Title]
 Address: [County Rep Addr]
 Phone: [County Rep Phone]
 Email: [County Rep Email]

Contractor's Contract Representative

Name: [Contractor Rep Name]
 Title: [Contractor Rep Title]
 Address: [Contractor Rep Addr]
 Phone: [Contractor Rep Phone]
 Email: [Contractor Rep Email]

SECTION 8. AMENDMENTS, SUBCONTRACTS, INDEPENDENT CONTRACTOR

- 8.1. Amendment. No amendment or modification to the Contract will be effective without the prior written consent of the authorized representatives of the parties.
- 8.2. Successors and Assigns. To the extent permitted by law, the Contract is binding on the parties' respective partners, successors, assigns, executors, and legal representatives.

- 8.3. Assignments. Except with the prior written consent of the other party, each party shall not assign or transfer, including by merger (whether that party is the surviving or disappearing entity), consolidation, dissolution, or operation of law any right, duty, obligation, or remedy under the Contract. Any purported assignment or transfer in violation of this section shall be void.
- 8.4. Subcontracts. The Contractor shall provide the County a list of all subcontractors and the subcontractors' proposed responsibilities. "Subcontract" means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or service for the performance of the Contract. All subcontracts shall incorporate by reference the terms and conditions of this Contract. The Contractor is solely responsible for the performance and payment of its subcontractors.
- 8.5. Independent Contractor. Each party under the Contract shall be for all purposes an independent contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Contractor shall have complete responsibility and control over its Personnel. Neither the Contractor nor its Personnel shall be, or be deemed to be, or act or purport to act, as an employee, agent or representative of the County. The Contractor and its Personnel shall have no County employee-type benefits of any kind whatsoever, including without limitation, insurance, pension plan, vacation pay or sick pay, or other right or privilege afforded to County employees. The Contractor and its Personnel shall be responsible for payment of all insurance, taxes, and benefits.

SECTION 9. OWNERSHIP, CONFIDENTIAL INFORMATION AND BREACH

- 9.1. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films, or any other materials created, prepared, produced, constructed, assembled, made performed, or otherwise produced by the Contractor or its Personnel for delivery to the County under this Contract shall be the sole and absolute property of the County. All such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material the Contractor uses to perform this Contract that is not created, prepared, constructed, assembled, made, performed, or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of the Contract.
- 9.2. Confidential Information/Breach. The Contractor shall ensure that all personal identifying information, financial information, and other information submitted or made available to the Contractor by, or on behalf of, the County, or acquired or developed by the Contractor in the performance of the Contract (unless publicly available) is kept confidential, secured, and protected to prevent unauthorized access. Such information will be utilized by the Contractor solely as necessary for the performance of Services under the Contract and not made available to any other person without the County's prior written consent. In the event of unauthorized access or other security breach, the Contractor shall immediately notify the Contract Representative and shall at its sole expense comply with all requirements of RCW 19.255.010, in effect at any given time. Upon expiration or termination of the Contract, all confidential information shall be returned to the County or destroyed at the County's discretion.

SECTION 10. REPRESENTATIONS AND RECORDS

- 10.1. No Fee. The Contractor certifies it has not received, nor paid or agreed to pay, another person or entity, other than a bona fide employee working exclusively for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract.
- 10.2. Licenses, Permits and Taxes. The Contractor shall, at its own expense, have and maintain all licenses, registrations, permits, and approvals necessary for the performance of the Contract, including without limitation, registration with the Washington State Department of Revenue. The Contractor shall pay all fees (including licensing fees) and applicable federal, state, and local taxes.
- 10.3. Compliance. The Contractor and its Personnel, and the Services provided by the Contractor and its Personnel, shall comply with all applicable laws, codes, and standards in effect at any given time regardless as to whether such laws are referred to by the County. If required for the Services provided, the Contractor and its Personnel shall submit to a background check as directed by the County.
- 10.4. Nondiscrimination. The Contractor and its Personnel shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of the Contract.
- 10.5. Public Records. The Contractor acknowledges the Contract and all public records associated with the Contract shall be available to the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW ("Act"). To the extent that public records in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor shall make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under the Contract, whether electronic or hard copy, to be protected from disclosure under the law, the Contractor shall clearly identify all specific information it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information that has been identified by the Contractor as protected from disclosure and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligation will be to make a reasonable effort to notify the Contractor of the request and the date that such protected information will be released to the requester unless the Contractor obtains a court order to enjoin disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this Section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County will not be liable to the Contractor for releasing records in compliance with the Act, this Section or court order.
- 10.6. Advertising, Logo. The Contractor shall not use, advertise, or promote for commercial benefit information concerning the Contract or use any trade name, trademark, or logo of the County, without the County's prior written consent.

- 10.7. Audit and Record Retention. The Contractor and its Personnel shall retain all books, documents, and records relating to performance of the Contract and Services provided in connection with this Contract for six (6) years after completion of the Contract or longer if requested by the County. All records shall be subject to inspection and audit by the County. Upon request, the Contractor shall promptly make available to the County a legible copy of all books, documents, and records at no cost to the County.

SECTION 11. RIGHTS AND REMEDIES

- 11.1. Failure to Perform. If County determines the Contractor has failed to perform any material obligation of the Contract, and such failure has not been cured within ten (10) days' following notice from the County, the County may without penalty, in its discretion, withhold all monies due the Contractor until such failure is cured to the reasonable satisfaction of the County.
- 11.2. Right of Assurance. If the County in good faith has reason to believe the Contractor does not intend, or is unable to perform, or continue performing under the Contract, the County may demand in writing that the Contractor give a written assurance of intent to perform. Should the Contractor fail to provide adequate assurance to the reasonable satisfaction of the County, by the date specified the demand, the County may terminate all or part of the Contract and pursue all other rights and remedies available at law and in equity.
- 11.3. Responsibility for Errors. All Services shall be completed to the reasonable satisfaction of the County and as required herein. Upon request, the Contractor shall provide any clarifications and/or explanations regarding any Services provided as required by the County, at no additional cost to the County. In the event of an error or omission under the Contract, the Contractor shall, at no cost to the County, provide all necessary design drawings, estimates, and all other professional services the County deems necessary to rectify and correct the matter to the satisfaction of the County. The Contractor shall continue to be responsible for the accuracy of Services, even after the Work is accepted by the County and the termination or expiration of the Contract.
- 11.4. Remedies. All County rights and remedies under the Contract are in addition to, and shall in no way limit, any other rights and remedies that may be available to the County at law and in equity.
- 11.5. Right of Off-Set; Reimbursement. The County will be entitled to offset against any sums due the Contractor and to reimbursement from the Contractor for any damages, expenses, or costs incurred by the County due to the Contractor's nonconforming performance or failure to perform the Services under the Contract.
- 11.6. Waiver. Either party's failure to insist upon the strict performance of any provision of the Contract, or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach, will not constitute a waiver of any right or remedy under the Contract unless expressly so agreed in writing by an authorized representative.
- 11.7. Breach. In the event of a material breach by the Contractor, the County may procure, on terms and in the manner that it deems appropriate, Services to replace those under the Contract. The Contractor shall be liable to the County for any and all costs, expenses, penalties, and fees incurred by the County in procuring such Services in substitution for those due from the Contractor under the Contract.

SECTION 12. GOVERNING LAW, DISPUTES

- 12.1. Governing Law; Venue. The Contract will be governed in all respects by the laws of the State of Washington, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington or as provided by RCW 36.01.050.
- 12.2. Disputes. Conflicts and disagreements between the parties related to the Contract will be promptly brought to the attention of the County. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County's Contract Representative. All decisions of the County's contract Representative are considered final; however, nothing herein prohibits either party from seeking judicial relief.

SECTION 13. PREVAILING WAGE

[Prevailing Wage]

SECTION 14. GENERAL PROVISIONS

- 14.1. Implied Contract Terms. Each provision of law and any terms required by law to be in the Contract are made a part of the Contract as if fully stated in it.
- 14.2. Headings/Captions. Headings and captions used are for convenience only and are not a part of the Contract and do not in any way limit or amplify the terms and provisions hereof.
- 14.3. No Party the Drafter. The Contract is the product of negotiation between the parties, and no party is deemed the drafter of the Contract.
- 14.4. No Third Party Beneficiary. No provision of the Contract is intended to, nor will it be construed to, create any third party beneficiary or provide any rights or benefits to any person or entity other than the County and the Contractor.
- 14.5. 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.
- 14.6. Counterparts. The Contract may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.
- 14.7. Non-Exclusive Contract. The County may at its discretion enter into multiple agreements to obtain the same or similar services that are the subject of this Contract or may have its own employees perform the same or similar services contemplated by the Contract.

- 14.8. Survival. Those provisions of this Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, without limitation: Sections 5 (Indemnification), 6 (Insurance), 8.5 (Independent Contractor), 9 (Ownership, Confidential Information and Breach), 11 (Rights and Remedies), 12 (Governing Law, Disputes), and 14 (General Provisions).
- 14.9. Entire Agreement. The parties acknowledge the Contract is the product of negotiation between the parties and represents the entire agreement of the parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by the Contract.
- 14.10. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Contract on behalf of the party for whom they sign.

Dated this ____ day of _____, 20__

Dated this ____ day of _____, 20__

CONTRACTOR NAME

KITSAP COUNTY, WASHINGTON

Signature

SIGNATORY NAME
SIGNATORY TITLE

Print Name

Title

Dated this ____ day of _____, 20__

Dated this ____ day of _____, 20__

CONTRACTOR NAME

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

Signature

ROBERT GELDER, CHAIR

Print Name

EDWARD E. WOLFE, COMMISSIONER

Title

CHARLOTTE GARRIDO, COMMISSIONER

ATTEST:

Dana Daniels, CLERK OF THE BOARD

ATTACHMENT A
SCOPE OF WORK

Purpose

Objective

Scope

Requirements

Technical Considerations

Schedule/Deliverables

Compliance/Acceptance

Warranties

Support/Maintenance

ATTACHMENT B
COMPENSATION

Payment amount and schedule is set forth below.

ATTACHMENT C
SPECIFIC TERMS AND CONDITIONS