



City of Kirkland

Request for Proposals

DEVELOPMENT REVIEW CRITICAL AREAS ANALYSIS SERVICES

Job Number 16-23-PB

Issue Date: April 27, 2023

Due Date: May 26, 2023 – 4:00 p.m. (Pacific Time)

REQUEST FOR PROPOSALS

Notice is hereby given that proposals will be received by the City of Kirkland, Washington (City), for:

Kirkland Development Review Environmental Services Job Number 16-23-PB

File with Purchasing Agent, Finance Department, 123 - 5th Ave, Kirkland WA, 98033

Proposals received later than **4:00 p.m. PDT May 26, 2023 will not be considered.**

A copy of this Request for Proposals (RFP) may be obtained from City's web site at <http://www.kirklandwa.gov/>. Click on the Business tab at the top of the page and then click on the Request for Proposals link found under "Doing Business with the City".

The City of Kirkland reserves the right to reject any and all proposals, and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the City to pay any costs incurred by proposers in the preparation and submission of a proposal. Furthermore, the RFP does not obligate the City to accept or contract for any expressed or implied services.

A Service Provider response that indicates that any of the requested information in this RFP will only be provided if and when the Service Provider is selected as the apparently successful Service Provider is not acceptable, and, at the City's sole discretion, may disqualify the proposal from consideration.

The City of Kirkland assures that no person shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City of Kirkland further assures that every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs are federally funded or not.

In addition to nondiscrimination compliance requirements, a Service Provider ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; disabilities; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.

Dated this 27th Day of April, 2023.

Jay Gewin
Purchasing Agent
425-587-3123

Published in the Daily Journal of Commerce – April 27th and May 4th of 2023

Background Information

The City of Kirkland is located on the eastern shore of Lake Washington. It is a suburban city, surrounded by other suburban cities and pockets of unincorporated King County, but is experiencing significant amounts of housing and employment growth, and redevelopment. The City is near several major transportation routes including Interstate 405, State Route 520, and Interstate 5. These routes connect the City economically and socially to the greater Seattle area.

At the time of incorporation in 1905, the City of Kirkland's population was approximately 530. The current estimated population is 93,570. Kirkland is the thirteenth largest city in the State of Washington and the sixth largest in King County.

Since its incorporation, Kirkland has grown in geographic size to eighteen square miles - approximately twenty times its original size. This growth occurred primarily through the consolidation of the cities of Houghton and Kirkland in 1968, the annexations of Rose Hill and Juanita in 1988 and the annexation of North Juanita, Finn Hill, and Kingsgate areas in 2011.

Kirkland operates under a Council-Manager form of government. The City Council is the policy-making branch of Kirkland's government and consists of seven members elected at large to staggered, four-year terms. The Mayor is elected from within the Council. The City Council is supported by several advisory boards and commissions and the City Manager. The City Manager is appointed by the City Council and serves as the professional administrator of the organization, coordinating its day-to-day activities.

Introduction

The City of Kirkland is soliciting proposals for critical areas analysis services to support the development review function of the Department of Planning and Building. Firms should have experience working with public entities to provide development permitting critical areas review services and policy analysis. Proposals are requested for the period beginning July 1, 2023. The contract will be for an initial two-year duration with the possibility of two two-year extensions at the discretion of the City.

Scope of Services

The City of Kirkland Department of Planning and Building is seeking a qualified firm ("the consultant") to assist in reviewing development applications for compliance with the City's critical areas ordinance. The City seeks to provide a very high level of environmental protection while providing efficient, respectful, and cost-effective service to our customers.

At the request of the City, the consultant will work with project planners, providing critical areas review support services for the review of building permits, land use permits, subdivisions, and capital improvements projects including but not limited to the following list. The scope does not include consulting on geologically hazardous areas.

- Site assessments to determine the presence/absence of critical areas pursuant to [KZC 90.105](#).

- Delineation and classification of wetlands and streams or peer review of delineations and classifications provided by development applicants pursuant to [KZC 90.110](#).
- Assessment of fish and wildlife habitat conservation areas pursuant to [KZC 90.95](#)
- Peer review of development impacts and proposed mitigation provided by development applicants.
- Monitoring of mitigation projects or peer review of monitoring reports provided by applicants pursuant to [KZC 90.160](#).
- Assessment of existing buffer conditions for compliance with vegetative buffer standards or peer review of assessments provided by applicants pursuant to [KZC 90.130](#).
- Review of State Environmental Policy Act (SEPA) checklists.
- Providing a timely, accurate, and detailed response to unexpected as well as regularly scheduled requests for service.
- Working collaboratively in a regulatory environment with other City Departments, other regulatory agencies, interest groups, and permit applicants.
- Attending project meetings, public hearings, and public meetings as requested by City staff.
- Other review and analysis as requested by City staff.

This work is primarily funded by development applicants through a process of project-specific task authorizations. This contract will include independently authorized task authorizations, typically of \$5,000 or less.

The consultant may assist the City with development of codes, policies, and programs related to critical areas. This work would be City funded. In addition, the consultant may provide occasional assistance with review of shoreline development projects and background in this area is desired, but not a required qualification.

The consultant must have all necessary resources to provide requested services in-house and subcontracting for those services will not be considered by the City.

The number of hours and work volume is variable, based entirely on the volume of development permit applications in or near critical areas. In an average month, the consultant generally should expect around three to four new projects. Frequent on-site visits in Kirkland for field work or meetings are required, with frequency determined by peak monitoring periods and the volume of delineation requests received. It is expected that communication is available via email and phone.

The contract will be for an initial three-year duration with the possibility of one two-year extension at the discretion of the City. To avoid conflicts of interest, the consultant will not perform development-related environmental services for other clients within the City during the term of the contract. Provisions that would allow the consultant to complete any private contracts entered into prior to the City contract may be considered by the City based on the circumstances.

Minimum Qualifications

Minimum qualifications are required for a consultant to be eligible to submit a RFP response. Responses must clearly show compliance with these minimum qualifications. Submittals that

are not responsive to or in compliance with these minimum qualifications shall be rejected by the City without further consideration.

- Consultant must have demonstrated expertise and experience providing development permitting environmental review services and policy analysis. Five years of experience is considered a preferred qualification.
- At least one consultant staff person performing senior-level quality control and review for each work product related to Kirkland Zoning Code (KZC) Chapter 90 must be considered a Qualified Critical Area Professional as defined in [KZC 5.10.748](#).
- The consultant Project Manager must have demonstrated experience working with a public agency within the last five years providing satisfactory services similar to those expected by the City for this contract.

Proposal Submission and Evaluation

To be considered for selection, please submit the following information:

Letter of Introduction

- Briefly describe the consultant firm; and the name, address, e-mail, and phone number of the contact person as well as a summary of the understanding of the scope of services and overall approach to the scope of services. Describe how the consultant would balance the goals of environmental protection against the desire for Kirkland to continue to accommodate growth.

Experience and Qualifications

- Identify team members by area of expertise (discipline) and include contact information (name, phone number, and email address).
- Describe the team's qualifications as they relate to the scope of services.
- Describe past performance in completing a similar scope of services for other public agencies.
- Provide examples of work products including a report delineating and rating a wetland and a report describing monitoring of a wetland mitigation site.
- Statement of availability for the firm and staff identified.

References

- Provide at least three (3) references that may be contacted for verification of the respondent's experience and qualifications.

Rate and Service Structure

- Hourly Rate and project responsibilities shall be provided for all staff members on the consultant team. If additional charges are assessed for mileage, indicate charge per mile. Also detail any minimum hourly requirements. Otherwise, this rate should be all-inclusive.

Consultant Selection Criteria

The City will make a selection based on the evaluation of the written proposals. The City may also conduct an interview process with scoring used to determine the selected proposer. The City reserves the right to make a selection based only on the evaluation of the written proposals. Written proposals and interviews will be evaluated based on the following criteria and points:

<u>Proposal Section</u>	<u>Points</u>
Statement of understanding/Letter of Introduction	10
Company background and prior experience	20
Expertise of assigned personnel	20
Scope of work approach	30
Fees and schedule	20
Total	100

Contracting Requirements and Fees

For the successful organization to enter into an operational lease agreement with the City, the organization will need to comply with the following requirements prior to issuance of a contract, in addition to any other terms stated in this RFP:

1. Provide proof of a City of Kirkland Business License
 - The successful organization must have or obtain and provide a copy of a City of Kirkland Business License and otherwise comply with Chapter 7.02 of the Kirkland Municipal Code (Business Licenses and Regulation).
 - The Contractor shall comply with all applicable state, federal, and City laws, ordinances, regulations, and codes.
2. Provide proof of Insurance

The organization must provide proof of relevant insurance that is consistent with the City’s insurance requirements.

Tentative Schedule

The following schedule contains major milestones and may be modified as a result of consultant qualification submittals and contract negotiations:

RFP questions due:	May 12, 2023
RFP questions posted with City responses:	May 19, 2023
RFP submittal date:	May 26, 2023, 4:00 p.m.
Consultant Interviews (if needed):	June 2, 2023 (estimate)
Consultant Selection:	June 7, 2023 (estimate)

Proposal Submittal Instructions

Please note: The following general requirements are mandatory for all proposals and non-compliant proposals may not be accepted or considered in the City's sole discretion.

- 1. Proposals must be submitted by e-mail and be received no later than 4:00 pm PST on May 26, 2023.**
2. E-mailed proposals should include "Development Review Environmental Services – Job #16-23-PB" in the subject line and be addressed to purchasing@kirklandwa.gov.
3. All proposals sent electronically must be in the form of a PDF or MS Word document and cannot exceed 20MB.
4. All proposals must include the legal name of the organization, firm, individual or partnership submitting the RFP. Include the address of the principal place of business, mailing address, phone numbers, emails, fax number (if one exists) and primary contact person.
5. To be evaluated, a proposal must address all requirements and instructions contained within.
6. Provide all references and materials required by the RFP instructions within.

Questions

Questions regarding the City's RFP process should be addressed to:

Jay Gewin
Purchasing Agent
Email: purchasing@kirklandwa.gov

Questions regarding the scope of work, evaluation process, or technical aspects of this request should be addressed by no later than 3:00 p.m. PDT on May 12, 2023 to:

Dawn Nelson
Planning Manager – Development Services
Email: dnelson@kirklandwa.gov

Contract

The Consultant and the City will execute a standard *City of Kirkland Professional Services Agreement (Attachment A)*.

The contract shall consist of the following documents: The Request for Proposals (RFP), the accepted proposal, a Professional Services Agreement (see Attachment A), and any agreed upon written changes to any of the foregoing documents. The contract documents are complimentary and what is called for in any one document shall be binding as if called for by all.

Terms and Conditions

- A. The City reserves the right to reject any and all proposals, and to waive minor irregularities in any proposal.
- B. Proposers responding to this RFP must follow the procedures and requirements stated in the RFP document. Adherence to the procedures and requirements of this RFP will ensure a fair and objective analysis of your proposal. Failure to comply with or complete any part of this RFP may result in rejection of your proposal.
- C. The City reserves the right to request clarification of information submitted, and to request additional information on any proposal.
- D. The City reserves the right to award any contract to the next most qualified agency, if the successful agency does not execute a contract within 30 days of being notified of selection.
- E. Any proposal may be withdrawn up until the date and time set above for the proposal submission deadline.
- F. The contract resulting from acceptance of a proposal by the City shall be in a form supplied or approved by the City and shall reflect the specifications in this RFP. The City may negotiate a lease with the highest-ranked proposal. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this RFP and which is not approved by the City Attorney's office.
- G. The City shall not be responsible for any costs incurred by the agency in preparing, submitting or presenting its response to the RFP.
- H. Any material submitted by a proposer shall become the property of the City. Materials submitted after a contract is signed will be subject to the ownership provision of the executed contract.
- I. The City reserves the right not to award any portion or all of the project if it finds that none of the proposals submitted meets the specific needs of the project. The City reserves the right to modify the scope of work and award portions of this RFP to the selected vendor. The City reserves the right to award this work to multiple vendors if the scope of work would be best completed by multiple vendors and their associated experience.

Confidentiality of Submissions

Confidentiality of Proposals is considered by Kirkland as an essential element of maintaining fairness during the evaluation process. However, confidentiality cannot be guaranteed under the State Public Disclosure Act, Chapter 42.17 RCW.

If a member of the public demands in writing to review portions of submissions which have been marked or identified as confidential, proprietary or business secrets, Kirkland will notify the

affected proposer prior to releasing such portions. The proposer shall take such legal actions as it deems necessary to protect its interests. If the proposer has not commenced such actions within five (5) calendar days after receipt of the notice from Kirkland of a demand to review such portions of its proposal and provided Kirkland written notice of the actions, Kirkland may make such portions available for review and copying by the public as Kirkland deems necessary to comply with state law.

The proposer asserting that portions of its proposal are legally protectable shall bear all costs of defending such assertion, including indemnifying and reimbursing Kirkland for its administrative, expert and legal costs and judgments involved in defending itself in actions arising from such assertions by the proposer including (without limitation) any assessments under RCW 42.17.340(3). By submitting a proposal with portions marked confidential, proprietary, business secrets or the like, the proposer has thereby agreed to the provisions of this section, including the defense and reimbursement obligations.

Cooperative Purchasing

Chapter 39.34 RCW allows cooperative purchasing between public agencies in the State of Washington. Public agencies which have filed an Intergovernmental Cooperative Purchasing Agreement with the City may purchase from City contracts, provided that the consultant agrees to participate. The City does not accept any responsibility for contracts issued by other public agencies, however.

Public Disclosure

Once submitted to the City, proposals shall become the property of the City, and all proposals shall be deemed a public record as defined in "The Public Records Act," chapter 42 section 56 of the RCW. Any proposal containing language which copyrights the proposal, declares the entire proposal to be confidential, declares that the document is the exclusive property of the proposer, or is any way contrary to state public disclosure laws or this RFP, could be removed from consideration. The City will not accept the liability of determining what the proposer considers proprietary or not. Therefore, any information in the proposal that the proposer claims as proprietary and exempt from disclosure under the provisions of RCW 42.56.270 must be clearly designated as described in the "Proprietary Material Submitted" section above. It must also include the exemption(s) from disclosure upon which the proposer is making the claim, and the page it is found on must be identified. With the exception of lists of prospective proposers, the City will not disclose RFP proposals until a bid selection is made. At that time, all information about the competitive procurement will be available with the exception of: proprietary/confidential portion(s) of the proposal(s), until the proposer has an adequate opportunity to seek a court order preventing disclosure. The City will consider a proposer's request for exemption from disclosure; however, the City will make a decision predicated upon RCW 42.56.

DBE Participation

The City encourages DBE firms to submit qualifications and encourages all firms to team with DBE firms in their pursuit of this project.

Federal Debarment

The Bidder shall not currently be debarred or suspended by the Federal government. The Bidder shall not be listed as having an "active exclusion" on the U.S. government's "System for Award Management" database (www.sam.gov).



**PROFESSIONAL SERVICES AGREEMENT
PSA 6/30/2020**

The City of Kirkland, Washington, a municipal corporation ("City") and _____, whose address is _____ ("Consultant"), agree and contract as follows.

In consideration of the mutual benefits and conditions set forth below, the parties agree as follows:

I. SERVICES BY CONSULTANT

- A. The Consultant agrees to perform the services described in Attachment _to this Agreement, which attachment is incorporated herein by reference.
- B. All services and duties shall be conducted and performed diligently, completely and in accordance with professional standards of conduct and performance.

II. COMPENSATION

- A. The total compensation to be paid to Consultant for these services shall not exceed \$_____, as detailed in Attachment _____.
- B. Payment to Consultant by the City in accordance with the payment ceiling specified above shall be the total compensation for all services performed under this Agreement and supporting documents hereto as well as all subcontractors' fees and expenses, supervision, labor, supplies, materials, equipment or the use thereof, reimbursable expenses, and other necessary incidentals.
- C. The Consultant shall be paid on the basis of invoices submitted. Invoicing will be on the basis of percentage complete or on the basis of time, whichever is applicable in accordance with the terms of this Agreement.
- D. The City shall have the right to withhold payment to Consultant for any services not completed in a satisfactory manner until such time as Consultant modifies such services to the satisfaction of the City.
- E. Unless otherwise specified in this Agreement, any payment shall be considered timely if a warrant is mailed or is available within 45 days of the date of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

III. TERMINATION OF AGREEMENT

The City or the Consultant may terminate or suspend this Agreement at any time, with or without cause, by giving ten (10) days' notice to the other in writing. In the event of termination, all finished or unfinished reports, or other material prepared by the Consultant pursuant to this Agreement, shall be provided to the City. In the event the City terminates prior to completion without cause, consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to receive just and equitable compensation for any satisfactory services

completed on the project prior to the date of termination, not to exceed the payment ceiling set forth above.

IV. OWNERSHIP OF WORK PRODUCT

- A. Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled or produced as a result of this Agreement, whether or not completed, shall be vested in the City. Any reuse of these materials by the City for projects or purposes other than those which fall within the scope of this Agreement or the project to which it relates, without written concurrence by the Consultant will be at the sole risk of the City.
- B. The City acknowledges the Consultant's plans and specifications as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the City upon completion of the services. The City agrees to hold harmless and indemnify consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of any reuse of such plans and specifications by any third party without the written authorization of the Consultant.
- C. Methodology, materials, software, logic, and systems developed under this Agreement are the property of the Consultant and the City, and may be used as either the consultant or the City sees fit, including the right to revise or publish the same without limitation.
- D. The Consultant at such times and in such forms as the City may require, shall furnish to the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement. All of the reports, information, data, and other related materials, prepared or assembled by the Consultant under this Agreement and any information relating to personal, medical, and financial data will be treated as confidential only as allowed by Washington State laws regarding disclosure of public information, Chapter 42.56 RCW

The Consultant shall at any time during normal business hours and as often as the City may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City shall receive a copy of all audit reports made by the agency or firm as to the Consultant's activities. The City may, at its discretion, conduct an audit, at its expense, using its own or outside auditors, of the Consultant's activities which relate, directly or indirectly, to the Agreement.

Consultant will provide all original operation and maintenance manuals, along with all warranties, from the manufacturer for any equipment or items installed or supplied to the City has part of this contracted project.

The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper

accounting of all funds contributed by the City to the performance of this Agreement.

The foregoing records shall be maintained for a period of seven years after termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the City.

V. GENERAL ADMINISTRATION AND MANAGEMENT

The Planning and Building Department for the City of Kirkland shall review and approve the Consultant's invoices to the City under this Agreement, shall have primary responsibility for overseeing and approving services to be performed by the Consultant, and shall coordinate all communications with the Consultant from the City.

VI. COMPLETION DATE

The estimated completion date for the Consultant's performance of the services specified in Section I is _____.

Consultant will diligently proceed with the services contracted for, but consultant shall not be held responsible for delays occasioned by factors beyond its control which could not reasonably have been foreseen at the time of the execution of this Agreement. If such a delay arises, Consultant shall forthwith notify the City.

VII. SUCCESSORS AND ASSIGNS

The Consultant shall not assign, transfer, convey, pledge, or otherwise dispose of this Agreement or any part of this Agreement without prior written consent of the City.

VIII. NONDISCRIMINATION

Consultant shall, in employment made possible or resulting from this Agreement, ensure that there shall be no unlawful discrimination against any employee or applicant for employment in violation of RCW 49.60.180, as currently written or hereafter amended, or other applicable law prohibiting discrimination, unless based upon a bona fide occupational qualification as provided in RCW 49.60.180 or as otherwise permitted by other applicable law. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement in violation of RCW 49.60.215 or other applicable law prohibiting discrimination.

IX. HOLD HARMLESS/INDEMNIFICATION

To the greatest extent allowed by law the Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement 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 City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

X. LIABILITY INSURANCE COVERAGE

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. A failure to obtain and maintain such insurance or to file required certificates and endorsements shall be a material breach of this Agreement.

Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant shall provide the City and all Additional Insureds for this services with written notice of any policy cancellation, within two business days of their receipt of such notice.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the services.

F. Failure to Maintain Insurance

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of agreement, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

G. City Full Availability of Consultant Limits

If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this agreement or whether any certificate of insurance

furnished to the City evidences limits of liability lower than those maintained by the Consultant.

XI. COMPLIANCE WITH LAWS/BUSINESS LICENSE

The Consultant shall comply with all applicable State, Federal, and City laws, ordinances, regulations, and codes. Consultant must obtain a City of Kirkland business license or otherwise comply with Kirkland Municipal Code Chapter 7.02.

XII. FUTURE SUPPORT

The City makes no commitment and assumes no obligations for the support of Consultant activities except as set forth in this Agreement.

XIII. INDEPENDENT CONTRACTOR

Consultant is and shall be at all times during the term of this Agreement an independent contractor and not an employee of the City. Consultant agrees that he or she is solely responsible for the payment of taxes applicable to the services performed under this Agreement and agrees to comply with all federal, state, and local laws regarding the reporting of taxes, maintenance of insurance and records, and all other requirements and obligations imposed on him or her as a result of his or her status as an independent contractor. Consultant is responsible for providing the office space and clerical support necessary for the performance of services under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance or unemployment compensation programs or otherwise assuming the duties of an employer with respect to the Consultant or any employee of Consultant.

XIV. EXTENT OF AGREEMENT/MODIFICATION

This Agreement, together with all attachments and addenda, represents the final and completely integrated Agreement between the parties regarding its subject matter and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument properly signed by both parties.

XV. ADDITIONAL WORK

The City may desire to have the Consultant perform work or render services in connection with the project other than provided for by the express intent of this Agreement. Any such work or services shall be considered as additional work, supplemental to this Agreement. This Agreement may be amended only by written instrument properly signed by both parties.

XVI. NON-ENDORSEMENT

As a result of the selection of a consultant to supply services to the City, the consultant agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

XVII. NON-COLLUSION

By signature below, the Consultant acknowledges that the person, firm, association, co-partnership or corporation herein named, has not either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in the preparation or submission of a proposal to the City for consideration in the award of a contract on the specifications contained in this Agreement.

XVIII. WAIVER

Waiver by the City of any breach of any term or condition of this Agreement shall not be construed as a waiver of any other breach.

XIX. ASSIGNMENT AND SUBCONTRACT

The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

XX. DEBARMENT

Recipient certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates written below:

CONSULTANT:

CITY OF KIRKLAND:

By: _____

By: _____
Beth Goldberg, Deputy City Manager

Date: _____

Date: _____