



City of Kirkland

Request for Proposal

Onsite/Near-Site Child Care Consultation & Provider Services For Employees Job #24-23-HR

Issue Date: June 27, 2023

Due Date: July 24, 2023 at 4:00 p.m. (Pacific Time)

REQUEST FOR PROPOSALS

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

**Onsite/Near-Site Child Care Consultation and Provider Services
For Employees
Job # 24-23-HR**

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

Proposals received later than **4:00 p.m. on July 24, 2023 will not** be considered.

A copy of this Request for Proposal (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 "Doing Business with the City" and look under the "Opportunities" tab.

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 respondents 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 requires that no person shall, on the grounds of race, religion, color, national origin, sex, age, marital status, political affiliation, sexual orientation, or the presence of any sensory, mental, or physical disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City 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, the Service Provider(s) 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; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.

Dated this Tuesday, June 27, 2023

Jay Gewin
Purchasing Agent
425-587-3123
City of Kirkland

Published in the Daily Journal of Commerce on June 27th and July 5th, 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. 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.

City Request for On or Near-site Childcare Services

City of Kirkland has proudly included a focus on innovation in recruitment and retention in the 2023-2024 adopted City Work Program. The priority states the City will "Review and update Kirkland's personnel codes, policies, programs, and practices to ensure that Kirkland is a preferred employer that attracts and retains talented and diverse employees." One strategy to support this priority is to establish an onsite or near-site childcare facility as a new benefit for employees that responds to employee feedback that the City has an opportunity to support employees with access to quality childcare. An employee on or near-site childcare center would positively benefit an estimated 103 employees who listed dependents age 5 and under as of May 2023. This represents 15% of the City's 700 total benefitted employees who work a variety of traditional and non-traditional working hours. See Attachment A for additional demographic information for employees who listed dependents age 5 and under and shifts worked by each department.

The City of Kirkland invites proposals from qualified firms or entities who meet all state and federal requirements as licensed childcare providers to provide consultation, implementation, and ongoing operations of onsite or near-site childcare services from 6am – 6pm, Monday through Friday, for infants through 6 years old (or the year before starting Kindergarten) for City of Kirkland employees.

Firms or entities may also submit a proposal for expanded hours of operations (such as swing shift or night shift) that meet the unique needs of Kirkland employees who work non-traditional hours, such as police and fire personnel, and/or proposals to accommodate older children that may need before or after school care. See Attachment A for additional information on shifts.

The selected vendor will work with the City to establish a plan (including timelines, cost and resources needed) for executing on or near-site childcare services for the City's employees and then implement the plan.

The City invites proposals that address the following categories:

1. Total Cost to the City

Total estimated cost should include start-up costs for construction/renovation and furniture, fixtures, and equipment (FFE), and on-going operational costs, including personnel and other operational and programmatic expenses. A range of potential monthly charges to families should be included in the response, including how monthly charges would vary by age group, number of children in a family, and full or part-time use. If submitting expansion proposals to meet the schedule needs of personnel with non-traditional working hours, or older children, please provide a range of monthly tuition charges. Hourly charges for consulting services during the planning phase of the launch of the project should also be included.

2. Agency Profile and Experience

Provide an overview of the agency and describe the agency's overall experience as it relates to the requirements within the RFP, evidence of past performance, experience with public sector or government employers (if any) and provide at least three references. Include examples of monthly or annual fees charged to participating families in other facilities operated by the agency.

3. Scope of Services and Program Plan

Describe in detail what and how the agency will implement to ensure the delivery of quality childcare services for City of Kirkland Employees. This should include proposed hours of operation, teacher/child ratios and number of children per classroom, early learning methods, licenses obtained and approach for maintaining licenses, and approach for meals, technology, and outdoor time. Describe the agency's methodology for identifying individual and group needs of the children and efforts to meet those needs in program activities and environment. If submitting expansion proposals to meet the schedule needs of personnel with non-traditional working hours, or older children, please describe in detail your approach to scale operations.

4. Staffing Model

Describe in detail the types of staff employed (i.e., managers, supervisors, teachers, administrative staff, etc.), staff qualifications, and the agency's process for recruiting, employing, conducting background checks, and retaining qualified staff in a competitive market. Describe the roles and responsibilities of the core administrative staff responsible for fiscal and programmatic matters, in addition to serving as the main point of contact to the City's Human Resources Department.

5. Facility Needs

The City is exploring renovating an existing City facility, purchasing or leasing a new facility, or utilizing a facility already acquired by a vendor. Please describe the agency's facility's needs, estimated costs, and preliminary timeline under each of these scenarios, including whether the agency already has a facility that would meet the requirements of this RFP. Agency facility needs should include, but not be limited to, estimated square footage (indoor and outdoor), outdoor play equipment, facility specifics to maintain licenses, parking and drop-off requirements, etc. Childcare facilities of 13 or more children are permissible in most areas of

Kirkland under current zoning codes, with some minor exceptions in a handful of small and specific parcels or along the shoreline.

Performance Schedule

The length of the contract for onsite childcare services and consultation will be for a period of five (5) years with up to two (2) additional two (2) year extensions upon mutual agreement of both parties.

Contract Requirements and Fees

If your proposal is accepted, the following fees and requirements will be due upon award, prior to issuance of a contract:

1. Compliance with Law/City of Kirkland Business License

- Contractor must obtain and provide a copy of a City of Kirkland Business License and otherwise comply with Kirkland Municipal Code Chapter 7.02. (Business Licenses and Regulation)
- The Contractor shall comply with all applicable State, Federal and City laws, ordinances, regulations, and codes.

2. Insurance

- Contractor's insurance should be consistent with the requirements found in the sample agreement shown as Attachment B.

Submission Criteria

Proposals should be prepared simply, providing straight-forward, concise descriptions of the applicant's capabilities to satisfy the requirements of the request. Please note the following general requirements are mandatory to all proposals. Proposals submitted after the deadline date or lacking one or more of the following requirements will not be accepted. Proposals may not exceed 20 pages.

Proposals must include the following:

1. Basic information, including:

- Your name
- Business name
- Address of principal place of business
- Email address
- Phone number

2. Business information, including:

- State of incorporation
- UBI number, and Federal Tax ID number
- Business address
- Phone & fax Number for primary contact person
- Email for primary contact person
- Primary person to contact and be signed by an official who is legally authorized to bind the organization

3. A description of qualifications, including:
 - Business experience
 - Project specific experience
 - Company information including time the company has been in business
 - Number of employees
 - Identified staff and their experience that will be working on the project
4. Implementation plan including:
 - A complete description of method to complete the requirements in the RFP
 - Detailed information on the Contractor's proposed fee schedule for services to complete the requirements in the RFP, including consulting services, start-up costs for FFE, facility construction and/or renovation, and on-going operational rates including schedule of proposed tuition rates for participants, inclusive of Washington State sales tax; leasehold excise tax and any other applicable governmental charges.
5. Examples of relevant projects:
 - Provide information about similar projects or clients for whom you have completed projects or provided similar operations and services.
6. References:
 - Please provide three Client references, including any public sector or government employer groups.

Minimum Qualifications

In order to be considered for employment, the Consultant must:

- Be licensed to do business in the State of Washington.
- Have a valid City of Kirkland business license or agree to obtain such license by the start of the contract period.
- Demonstrate to the City's satisfaction that the proposer has the staffing capacity, capability, vehicle(s), equipment, training and licensure requirements necessary to assume the responsibilities required under this RFP and to successfully fulfill the contract.

Proposal Submittal Instructions

Please note: The following general requirements are mandatory for all proposals. Proposals submitted after the deadline date and time or lacking one or more of the following requirements will not be accepted.

1. **Proposals must be submitted by e-mail and be received no later than 4:00 PM on July 24, 2023 (Pacific Time).**
2. Emailed proposals should include, "Onsite Childcare Services – Job #24-23-HR" 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. Please make sure you stay within the twenty (20) page limit. The front cover, the back cover, and a maximum two-page cover letter may be in addition to the twenty (20) page limit.

5. 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.
6. To be evaluated, a proposal must address all requirements and instructions contained within.
7. Provide all references and materials required by the RFP instructions within.

Questions: Questions regarding the scope of work evaluation process, or technical aspects of this RFP must be submitted in writing and should be e-mailed to Erin Warner, HR Manager, at ewarner@kirklandwa.gov. Questions regarding the RFP process should be addressed to Purchasing staff, at purchasing@kirklandwa.gov. Questions must be submitted before 5:00 PM on July 11, 2023.

Submittal Deadlines

The Department’s schedule for review of the RFP submittals and final selection of the Contractor is as follows:

June 27, 2023	RFP posted
July 11, 2023	Deadline for questions: 5:00 p.m.
July 14, 2023	Responses to questions posted
July 24, 2023	Request for Proposal Submittals Deadline: 4:00 p.m.
Week of July 24, 2023	Evaluation Period
Week of August 1, 2023	Interviews (If City deems necessary)
September 15, 2023	Contract Awarded
October 15, 2023	Execute contract and Notice to Proceed

Selection Criteria

The City will make a selection based on the evaluation of the written proposals. The City will conduct an interview process with finalists. The City may elect to interview some or all proposers. 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:

Ability to meet Submission Criteria	10
Staffing Model and capacity	15
Agency profile, experience and reputation (including references)	20
Quality, ability, scope of services, implementation plan	25
<u>Total Cost to the City</u>	<u>30</u>
Total	100

Selection Process

A selection committee will review all proposals, select finalists and will conduct interviews with finalists either in person or remotely prior to making the final selection of the consultant.

Prior to the commencement of work, the City and the selected consultant will meet to settle contract details. A notice to the consultant of the City's award will constitute notice to proceed. The City is not responsible for any costs incurred by the consultant in the preparation of the proposal. Once submitted to the City, all proposals will become public information.

Contract

The Consultant and the City will execute a Professional Services Agreement for Onsite/Near-Site Child Care Consultation and Provider Services For Employees including all of the requirements found in the sample agreement shown as *Attachment B*.

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 opening of the proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of one hundred and twenty (120) days to sell to the City the services described in the attached specifications, or until one or more of the proposals have been approved by the City administration, whichever occurs first.
- 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. A copy of the City's standard Professional Services Agreement is available for review (see attachment B). 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.

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).

Attachment A

Demographics of City of Kirkland Employee who listed Dependents Age 5 and Under and Shifts Worked by Department

Data as of 5/23/23

Total Benefited Employees: 700

Gender of All Benefited Employees	
Male	445
Female	246
Unspecified	9

Age of All Benefited Employees	
<20	1
20-29	97
30-39	224
40-49	169
50-59	151
60-69	57
>70	1

Total Benefited Employees with Children Age 5 and Under: 103 (15% of benefited employees)

By Department	
City Attorney's Office (CAO)	1
City Manager's Office (CMO)	2
Finance & Administration (F&A)	5
Fire Department (FD)	39
Human Resources (HR)	1
Information Technology (IT)	3
Municipal Court (MC)	2
Parks & Community Services (P&CS)	5
Planning and Building (P&B)	6
Police Department (PD)	25
Public Works (PW)	13
Regional Crisis Response Agency (RCR)	1

By CBA	
AFSCME	15
IAFF	39
MAC	15
PD COMM	21
PD NON-COMM	4
TEAMSTERS	9

Annual Pay:	
\$40,000 - \$49,999	2
\$50,000 - \$59,999	4
\$60,000 - \$69,999	2
\$70,000 - \$79,999	13
\$80,000 - \$89,999	10
\$90,000 - \$99,999	17
\$100,000 - \$109,999	32
\$110,000 - \$119,999	9
\$120,000 - \$129,999	4
\$130,000 - \$139,999	1
\$140,000 - \$149,999	4
\$150,000 - \$159,999	3
\$160,000 +	2

Approx. Miles away from City Hall	
1-10 miles	91
11-20 miles	79
21-30 miles	74
31-40 miles	2
41-50 miles	5
51-60 miles	1
61-70 miles	2
71-80 miles	0
81-90 miles	7
91-100 miles	0
101-110 miles	3
111-120 miles	1
121-130 miles	1
131-140 miles	1

Total Benefited Employees with Two or More Children Age 5 and Under: 13

Shifts Worked by Department and # of Benefitted Children Age 5 and Under as of May 2023

	Typical Shifts	# Benefitted Children Age 5 and Under
CAO	8am – 6pm M-F	1
CMO	8am-5pm M-F	2
F & A	6am-6pm M-F	5
Fire	6am-6pm M-F 24/7: 48-hour shifts ~7am to 7am	39
HR	8am-5pm M-F	1
IT	6am-6pm M-F	3
MC	6am-6pm M-F	2
PCS	8am-5pm M-F 5:30/6:30am-2/3pm 7 days/week	5
PB	8am-5pm and 6am-3pm M-F	6
PD	Day shift patrol: 6:30-4:30pm 7 days/week Swing shift patrol: 3pm-1am 7 days/week Graveyard patrol: 9pm-7am 7 days/week Day shift specialties: 6am-4pm, 7am-5pm, 8am-6pm, 10am-8pm, 11am-9pm M-F Corrections shifts: 6am-6pm, 8am-8pm, 10pm-6am 7 days/week	25
PW	8am-5pm, 6:30am-3pm M-F	13
RCR	8am-6pm Sun-Fri 9am-8pm M-F 2pm-12am 7 days per week	1



PROFESSIONAL SERVICES AGREEMENT
Onsite/Near-Site Child Care Consultation & Provider Services for
Employees
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 ninety (90) 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 as 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 Human Resources 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 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 of 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: _____