



# **City of Kirkland**

## **Request for Qualifications**

### **Peter Kirk Pool Facility Assessment and Feasibility Study**

**Job # 35-24-PCS**

**Issue Date: May 22, 2024**

**Due Date: June 13, 2024– 4:00 p.m. (Pacific Time)**

## REQUEST FOR QUALIFICATIONS

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

**Peter Kirk Pool Facility Assessment and Feasibility Study  
Job # 35-24-PCS**

File with Purchasing Agent, Finance Department, 123 - 5<sup>th</sup> Ave, Kirkland WA, 98033

Qualifications received later than **4:00 p.m. on Thursday, June 13, 2024 will not be considered.**

A copy of this Request for Qualifications (RFQ) 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 Qualifications link found under "Doing Business with the City".

The City of Kirkland reserves the right to reject any and all qualifications, and to waive irregularities and informalities in the submittal and evaluation process. This RFQ does not obligate the City to pay any costs incurred by respondents in the preparation and submission of qualifications. Furthermore, the RFQ 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 RFQ 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 qualifications 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 22<sup>nd</sup> day of May 2024.**

Jay Gewin  
Purchasing Agent  
City of Kirkland

**Published in the Daily Journal of Commerce on May 22<sup>nd</sup> and May 29<sup>th</sup>, 2024**

## **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 96,920. Kirkland is the twelfth 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.

## **Purpose and Background**

The City of Kirkland has been pursuing the construction of an aquatics and recreation center since 2001, most recently in November 2023 when the voters declined to approve the most recent ballot measure which would have funded ongoing operations of a new indoor recreation and aquatic center. Despite the unsuccessful ballot measure, the Kirkland community continues to express interest in expanded year-round aquatic opportunities.

The Peter Kirk Pool was originally built in 1969 and was renovated in 1995. Most recently the plaster pool shell was replaced in 2018. The facility offers summer seasonal swimming serving the community recreational needs, including swimming competitions, diving and recreational swimming. Despite the unsuccessful ballot measure, the demand for aquatic programming continues to exceed the supply. Each summer, there are more than 10,000 entries on wait lists for swim lessons, with most people never able to register due to the extreme demand.

The City is seeking a consultant or specialized firm or team to provide a comprehensive investigation, assessment, analysis, and recommendations for improvements allowing year-round operations of the Peter Kirk Pool, with a priority on swim lessons. Assessment shall evaluate the pool itself along with the associated components and supporting systems (mechanical, plumbing, filtration etc., and required amenities). Assessment shall weigh options including renovation options, including potential enclosure of the pool.

## **Performance Schedule**

Work for this contract will commence on Monday, July 1, 2024 with substantial completion by September 30, 2024 and presentations to Park Board and City Council October - November 2024:

Monday, July 8	Work begins
July – September 2024	Contractor team works with PCS to present and refine work
September 30, 2024	Substantial completion
October - November 2024	Presentations to Park Board and City Council
December 2024	Final Report submitted

## **Scope of Work**

### **Project Overview**

The City is requesting a comprehensive assessment of the Peter Kirk Pool to provide information for potential future improvements, upgrades, and renovations. The assessment shall include a prioritization and phasing plan to assist the City with planning and budgeting.

The Peter Kirk Pool Facility Assessment and Feasibility Study shall include:

- Evaluation of potential options to allow for year-round operations including, but not limited to a permanent or seasonal structure over the pool such as an inflatable bubble, fixed enclosure, retractable enclosure, or small heated covered spaces on the pool deck.
- Explore adding a seasonal splash pad near the pool facility.
- Perform a thorough and comprehensive assessment of the Peter Kirk pool complex to include the swimming pools and related systems and components (mechanical, plumbing, filtration, chlorination, lighting, access, and any other state and local code requirements, etc.).
- Provide the City with information during the study, at appropriate intervals, on the current condition of the existing pool, MEP systems, support facilities including, but not limited to, the bathhouse, pool decks, compliance with ADA and safety regulations; provide necessary information for the City to determine its options and potential next steps regarding the future of the swimming pool and all supporting systems.

The City envisions the Peter Kirk Pool Facility Assessment and Feasibility Study to comprise the following phases, tasks, and milestones.

#### **Facility Evaluation:**

- A. Conduct a kickoff meeting with City staff to discuss the goals of the project, timeline, and parameters of project.
- B. Conduct one (1) input meeting with administrative, operational and maintenance team members to gain insights to conditions, challenges, concerns and expectations.
- C. Collect and review available existing information including available plans, studies, reports, aerial photos, maps and other information.
- D. Evaluate the existing construction, structural and mechanical/electrical systems with an analysis of such problems that might exist in the facility that shall require long or short-term attention.
- E. Consultant team to review M&O maintenance records during preliminary assessment to determine if issues there are relating to improper maintenance and/or misunderstanding of pool operations.

- F. Review building for conformance with ADA compliance requirements, fire and safety regulation compliance regulations and solutions, if applicable.
- G. Evaluate all major facility systems and rate based on overall integrity, probable useful life and need of replacement. Systems and equipment shall be rated using evaluation criteria that includes present overall condition, age, effectiveness, efficiency, safety, code compliance per year constructed and new requirements that may get triggered, spare capacity, availability of spare parts.
- H. Determine the feasibility, including cost estimates, of adding a permanent or seasonal structure over the pool to provide year-round operation of the pool.

**Facility Condition Assessment and Recommendations:**

Prepare Condition Assessment that will include, but not be limited to, the following:

- A. Written condition analysis for each facility component
- B. Findings based on the condition of each facility component
- C. Recommendations on repairing, maintaining or replacing each facility component for long term operation
- D. Written report showing 3 viable recommendations for year round operations, including a rating of feasibility based on conditions, cost, benefits and anticipated life expectancy.
- E. Consultant shall present recommendations regarding any code compliance issues
- F. Develop capital budgets for each recommendation. These budgets must be reported in a manner so the decision-makers can consider priorities and potential phasing.

**Presentation of Findings and Recommendations:**

- A. Conduct a meeting with City staff at the end of the facility condition assessment to present draft findings and recommendations.
- B. Present final facility condition assessment findings at a Park Board meeting and a City Council meeting.

Consultant will maintain regular contact and communicate as necessary and as required by the City throughout all phases of the project.

**Contract Requirements and Fees**

If your qualifications 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.
  - 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 A

## **Submission Criteria**

Qualifications should be prepared simply, providing straight forward, concise descriptions of the applicant's capabilities to satisfy the requirements of the request. Qualifications should stay within the 25-page limit.

Qualifications must include the following:

1. A description of qualifications, including:
  - Project specific experience related to pool and recreation facility assessments and feasibility studies.
  - Company information including time the company has been in business and business experience.
  - Key personnel, both internal and subcontracted, to be assigned to this Project; this should include their role(s), unique skills, experiences, and qualifications for this Project.
2. Implementation plan including:
  - A statement of your understanding of the various aspects of the Project.
  - A discussion of your firm's approach to this Project.
  - A complete description of method to complete the scope of work.
  - A summary work coordination plan and schedule(s) describing how the goals, tasks, and other elements of the Project can be expected to be completed during the Project duration.
3. Examples of relevant projects:
  - Provide information about similar projects or clients for whom you have completed projects or provided similar operations and services, with an emphasis on recent and related projects.
4. References:
  - A list of names and phone numbers of three client references that would be most knowledgeable of your firm's performance on these similar projects. Please verify both name and contact phone number in advance before including this information in the qualifications. References involving past City of Kirkland projects will not be accepted.

## **Minimum Qualifications**

Demonstrated experience creating similar recreation and aquatic facility assessments and redevelopment projects.

## **Qualifications Submittal Instructions**

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

1. **Qualifications must be received no later than 4:00 p.m. on Thursday, June 13, 2024 (Pacific Time).**
2. Emailed qualifications should include, "Peter Kirk Pool Facility Assessment and Feasibility Study – Job #35-24-PCS" in the subject line and be addressed to [purchasing@kirklandwa.gov](mailto:purchasing@kirklandwa.gov) .
3. All qualifications 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 25-page limit on your qualifications. Front and back is considered 2 pages.
5. All qualifications must include the legal name of the organization, firm, individual or partnership submitting the RFQ. 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, qualifications must address all requirements and instructions contained within.
7. Provide all references and materials required by the RFQ instructions within.

**Questions:** Questions regarding the scope of work or evaluation process must be submitted in writing and should be addressed to John Lloyd, Parks and Community Services Deputy Director, at [jlloyd@kirklandwa.gov](mailto:jlloyd@kirklandwa.gov). Questions regarding the RFQ process should be addressed to Purchasing staff, at [purchasing@kirklandwa.gov](mailto:purchasing@kirklandwa.gov). Questions must be submitted before 5:00 p.m. on Tuesday, June 4, 2024.

**Submittal Deadlines**

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

Wednesday, May 22, 2024	RFQ posted
Tuesday, June 4, 2024	Deadline for questions: 5:00 p.m.
Friday, June 7, 2024	Responses to questions posted: 5:00 p.m.
Thursday, June 13, 2024	Deadline for RFQ Submittals: 4:00 p.m.
Monday, June 17, 2024 – Friday, June 28, 2024	Evaluation Period – including interviews
Monday, July 8, 2024	Contract Awarded

**Selection Criteria**

The City will make a selection based on the evaluation of the written qualifications. The City may also conduct an interview process with scoring used to determine the selected proposer. 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 qualifications.

Written qualifications will be evaluated based on the following criteria:

<b>Criteria</b>	<b>Points</b>
Previous experience in similar projects/references included	0-15
Expertise of key personnel and/or team partners for identified roles	0-20
Project understanding and proposed strategy for success	0-35
<u>Approach to project management and delivery</u>	<u>0-30</u>
<b>Maximum Points</b>	<b>100</b>

**Selection Process**

A selection committee will review all qualifications and select finalists, and may conduct interviews, prior to making the final selection of the consultant.

The qualifications will be the basis from which interested firms may be selected for in-person interviews. Following the City staff evaluation of the qualifications received, selected firms may be invited to make oral presentations before the City's Evaluation Panel. City staff will provide additional details outlining the preferred content of the presentation to each firm or team of firms that are invited to participate. Upon completion of the evaluations, the City's Evaluation Panel will determine the most qualified firm based on all materials and information presented. The City will then begin the contract negotiations for an agreement with the selected firm. If the City cannot agree on a contract with the highest ranked firm, contract negotiations will begin with the next highest ranked firm, and so forth.

Any firm failing to submit information in accordance with the procedures set forth in the RFQ may be subject to disqualification. The City reserves the right to change the solicitation schedule or issue amendments to the solicitation at any time. The City reserves the right, at its sole discretion, to waive irregularities contained in the solicitation. The City reserves the right to reject any and all qualifications at any time, without penalty. The City reserves the right to refrain from contracting with any proposer. Proposers eliminated from further consideration will be notified by the City as soon as practical.

### **Contract**

The Consultant and the City will execute a Professional Services Agreement for the Peter Kirk Pool Assessment and Feasibility Study (Attachment A).

### **Terms and Conditions**

- A. The City reserves the right to reject any and all qualifications, and to waive minor irregularities in any qualifications.
- B. Proposers responding to this RFQ must follow the procedures and requirements stated in the RFQ document. Adherence to the procedures and requirements of this RFQ will ensure a fair and objective analysis of your qualifications. Failure to comply with or complete any part of this RFQ may result in rejection of your qualifications.
- C. The City reserves the right to request clarification of information submitted, and to request additional information on any qualifications.
- 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 qualifications may be withdrawn up until the date and time set above for opening of the qualifications. Any qualifications 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 qualifications have been approved by the City administration, whichever occurs first.
- F. The contract resulting from acceptance of qualifications by the City shall be in a form supplied or approved by the City and shall reflect the specifications in this RFQ. A copy of the City's standard Professional Services Agreement is available for review (see attachment A). The City reserves the right to reject any proposed agreement or



contract that does not conform to the specifications contained in this RFQ 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 RFQ.
- 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 qualifications submitted meets the specific needs of the project. The City reserves the right to modify the scope of work and award portions of this RFQ 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, qualifications shall become the property of the City, and all qualifications shall be deemed a public record as defined in "The Public Records Act," chapter 42 section 56 of the RCW. Any qualifications containing language which copyrights the qualifications, declares the entire qualifications 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 RFQ, 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 qualifications 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 RFQ qualifications 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 qualifications(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](http://www.sam.gov) ).



**PROFESSIONAL SERVICES AGREEMENT  
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 \_\_\_\_\_ 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 qualifications 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: \_\_\_\_\_  
Julie Underwood, Deputy City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_