



**REQUEST FOR PROPOSAL  
2016-118  
KITSAP COUNTY DEPARTMENT OF PUBLIC WORKS  
STORMWATER DIVISION**

Kitsap County Public Works Stormwater Division is seeking a qualified consultant to conduct services to support, implement and evaluate the grant-funded project “Statewide Education and Compliance Strategies for Contractor Businesses.”

**ATTACHMENTS:**

- A. Proposed Scope of Work
- B. “Statewide Education and Compliance Strategies for Contractor Businesses” grant application.

**A SUCCESSFUL PROPOSAL WILL INCLUDE:**

1. Consultant’s approach to satisfy the attached scope of work.
2. A proposed budget broken down by task.
3. A proposed timeline broken down by task.
4. Description of similar projects performed by consultant team including references and team performance relative to original project schedule and budget.

**SELECTION CRITERIA:**

The Kitsap County Public Works Stormwater Division and selected partners from Washington state municipalities and the Washington Stormwater Center will evaluate all proposals based on the following criteria:

1. Experience and background of key personnel related to projects of this type.
2. Demonstrated success with similar projects.
3. Approach to project.
4. Experience specific to the United States Pacific Northwest Region.
5. Organization, project management skills, and ability to meet project schedules.
6. Quality of references.
7. Ability to complete the work within the budget

**SUBMITTAL:**

Submittals should include at a minimum, a coversheet that contains pertinent contact information (i.e. firm name, address, phone and fax numbers, and name of project manager), as well as identification of all key personnel and associated capacities to be assigned to the project. Proposals are to be limited to 50 pages (2-sided and 100 pages print) or less. If sub-consultants will be used, the proposed firm(s) and information on their experience, qualifications, responsible personnel, and anticipated responsibilities should be identified.

Submittal must be received by **no later than 3:00 p.m. on March 15, 2016**. No submittals will be accepted after this date and time. Please submit seven (7) copies of your Proposal to:

**By mail:**

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

**OR**

**For hand delivery, express , or courier:**

Colby Wattling, Buyer  
 Kitsap County Administration Building  
 Purchasing Office – Fourth Floor  
 619 Division Street  
 Port Orchard, WA 98366

**Technical questions should be directed to Mindy Fohn, Water Quality Manager, Kitsap County, [mfohn@co.kitsap.wa.us](mailto:mfohn@co.kitsap.wa.us).** **QUESTIONS:** Questions must be submitted via email to the Kitsap County Project Manager no later than March 3, 2016 at 4:00 p.m.

Failure to request clarification of any inadequacy, omission, or conflict will not relieve the vendor of any responsibilities under this solicitation or any subsequent contract. It is the responsibility of the interested vendor to assure that they received responses to questions if any are issued. Questions and answers will be shared with all vendors no later than March 7 at 4:00pm.

<b>2016 PRELIMINARY PROJECT SCHEDULE</b>	
February 26, 2016	RFP Published
March 3, 2016	Deadline for Written Questions
March 7, 2016	Responses to Questions Emailed and Posted
March 15, 2016	<b><i>RFP Submittal Deadline</i></b>
April 4, 2015	Selection Committee Recommendation
April 7, 2016	Consultant Notification
April 11, 2016	Contract Award
May 23, 2016	Commence work
June 30, 2017	Complete Contract

# **Statewide Education and Compliance Strategies for Contractor Businesses**

## **ATTACHMENT A: Proposed Scope of Work**

### **1.0 BACKGROUND**

#### **Statewide Education and Compliance Strategies for Contractor Businesses**

Mobile/contractor businesses work across multiple jurisdictions and continue to be a source of pollutants to the stormwater system when they illegally dump wash water, chemicals, paint and other wastewater. A social marketing based program, informed by target audience research, will be developed and implemented. The permittee stakeholder group will develop guidance strategies for implementing consistent education and creating an atmosphere for compliance. The resulting program will incorporate research about target audience, cultural demographics and interactive educational tools. An evaluation will be conducted to gauge program success and inform future outreach with mobile businesses.

### **2.0 PROJECT DESCRIPTION**

The Mobile Business Work Group in the Puget Sound region and the Eastern Washington Permittee Effectiveness Monitoring Group are teaming to develop a statewide approach to educate mobile and contractor businesses about proper wash water disposal and foster an environment of compliance with illicit discharge regulations. This project will build on, expand, and if needed, retool the work completed in the “Dump Smart” program. Partners have identified two tiers of businesses and will focus on the top tier business types:

#### **Tier 1 Businesses:**

- Carpet cleaners
- Painters
- Pressure washers
- Restaurant hood vent cleaners



These sectors were identified as being the most prevalent, having the greatest potential for pollutant discharge across multiple NPDES Jurisdictions.



#### **Tier 2 Businesses**

- Landscapers
- Concrete installers
- Mobile car detailers
- Mobile food vendors

Successful Tier 1 strategies and products may be easily modified for Tier 2 businesses. If more research is needed then it will be performed if funding remains.

#### **Project Components:**

- Produce a background research report to inform the audience research, identify a possible educational approach, and to summarize existing programs and the cultural demographics of mobile businesses
- Using social marketing methods to develop and implement an educational strategy for painters, pressure washers, carpet cleaners and vent hood cleaners
- Explore two new strategies for stormwater education: a) modernizing interactive educational tools (such as social media) for messaging to the target audience and b) identify and modify programs for target audience cultural differences
- Develop consistent and effective strategies for NPDES permittees to foster an environment of high compliance rates among mobile/contractor businesses
- Develop statewide metrics for measuring behavior change of mobile business target audiences

The Dump Smart Program performed high quality audience research of painters, pressure washers and carpet cleaners; created untested graphics; and initiated a limited 2 month outreach pledge type of pilot in 2010. The lessons learned, focus group research, and motivators/barriers information will be carried forward.

The Background Research report will provide information on programs, demographics and the landscape of mobile businesses as a starting point for the project. Social marketing sessions with the stakeholders will inform the first round of audience research including:

- vent hood cleaner BMPs
- cultural differences in both Eastern and Western Washington
- businesses and property owners that hire mobile/contractor businesses
- interactive non-traditional communication strategies
- motivators and barriers for compliance
- messaging products and placement

## The End Goal

***Draft an Education Strategy, Develop Products and Metrics*** These products will be tested on the target audiences and may include social media, websites, videos, one-on-one educational materials, compliance letters, and workshops. The final education program will be made available to all jurisdictions.

***Pilot the Program in each Ecology Region*** The program will coordinate and integrate where practicable with programs of similar interests: Local Source Control Program, Permittee Commercial Property Inspection Programs, Food Inspection Programs, Grease Inspection Programs and Envirostars Program. We have members of the Technical Advisory Group from these programs. Finally, the Technical Advisory Group (TAG) will develop and create guidance for NPDES permittees for effective and tested compliance strategies for each mobile/contractor business group. Several TAG members have experience with implementing compliance strategies such as one-on-one education, compliance education, warning or enforcement letters as well as targeting the appropriate business contact for compliance education.

## 3.0 PROJECT SCHEDULE

The project is expected to be completed by June 30, 2017. The proposed timeline in the grant application is not applicable. The project has been extended to June 30, 2017, so a new timeline will be developed by the consultant with assistance from Kitsap County and the Washington Stormwater Center.

#### **4.0 PROJECT TASKS**

Scope of Work

##### **Task 1**

###### **Task title: Project Reporting**

**Task Description:** A final project report is due to Ecology July 15, 2017 from Kitsap County at the close of the project. Ecology provides a template that is 2 pages in length and includes a summary, photos, and lessons learned.

###### **Task Deliverables:**

- Completed Ecology form for the final project report

##### **Task 2**

###### **Task title: Project Timeline, Project Kick Off and Background Research Report**

**Task Description:** A project timeline will be developed by the consultant with assistance from Kitsap County and the Washington Stormwater Center.

The Core Group will convene a conference call with the consultant and develop the meeting agenda, location and date for the Technical Advisory Group (TAG) project kick off meeting. Representatives from Eastern Washington may travel to the TAG kick off meeting. This meeting will serve to inform the stakeholders of the project schedule, objectives and goals and to provide a time for input on known materials, strategies and approaches for the project. We'll review currently available materials, approaches and strategies for mobile/contractor businesses including BMP's, messages, motivators, barriers, placement of messages, products, evaluation and target audiences. The meeting will help the consultant develop a plan for research and the contents for the Background Research Report.

**Task Goal Statement:** Learn what materials, methods, evaluation and other information has been produced and implemented. Interview up to three of the jurisdictions that developed the outreach to learn about the successes, challenges and recommendations for future work.

###### **Task Deliverables:**

- Project Timeline
- Attend Core and TAG Kick off Meetings
- Conduct research
- Produce the Background Research Report

##### **Task 3**

###### **Task title: Mobile Business Best Management Practices**

**Task Description:** The TAG, comprised of representatives from statewide jurisdictions, plus those from programs that work with mobile businesses, such as Local Source Control, Commercial Inspection Programs, and Envirostars, will review existing Best Management Practices (BMPs) for carpet cleaners, pressure washers and painters. The group will perform research to identify the BMPs for vent hood cleaners. The BMPs will be documented in both technical regulatory compliance language and translated to layman's language for the target audiences. The layman's language will be tested on the target audiences during the audience research for ease of understanding and for the ability to apply them in their work. Non-English speaking materials will be created by the consultant if identified as needed from the Background Research. These BMPs will be distributed to the various permit coordinator and inspector groups for review.

**Task Goal Statement:** Produce a universally agreed upon set of BMPs for carpet cleaners, pressure washers, painters and vent hood cleaners by NPDES Permittees.

**Task Deliverables:**

- Research BMPs
- Attend Core Group and TAG Group meetings (1 each)
- Assist with drafting BMPs
- Create non-English language versions of BMPs for up to 3 languages

**Task 4**

**Task title:** Social Marketing Sessions with the TAG

**Task Description:** The consultant will conduct two social marketing sessions with the TAG to identify the products, place and price, motivators and barriers for each mobile business sector. Potential non-traditional communication strategies and various target audience cultural groups will be explored. The results of the sessions will inform the audience research which will determine if the proposed approaches are sound or would not be received the audience. Audience research will identify motivators, barriers, products, price and place.

**Task Goal Statement:** Identify social marketing approaches to present to the target audiences - vent hood cleaners, painters/pressure washers/carpet cleaners, and businesses/commercial property owners that hire mobile/contractor businesses.

**Task Deliverables**

- Attend Core group meeting
- Lead 2 Social Marketing sessions with the TAG
- Develop Audience Research Plan including the recruitment strategy

## **Task 5**

**Task title:** Perform Audience Research

**Task Description:** The consultant, will perform all aspects of this task. Audience research will be performed for two major groups: restaurant vent hood cleaners; and businesses and commercial property managers/owners that hire mobile/contractor businesses. Depending on the results of the social marketing sessions with the TAG, audience research for painters, pressure washers or carpet cleaners may be performed to provide additional information not found in the Dump Smart research. Audience research will include messaging the BMPs, placement of messages, motivators, barriers, and ability to perform them, the benefit of consistent expectations across multiple jurisdictions, and how jurisdictions can contribute to BMP compliance.

Once the outreach strategy and materials are developed in Task 8, they will be tested on a small group of our target audiences, possibly recruited from audience research participants, for confirmation or revisions.

**Task Goal Statement:** With input from the TAG, we hope to gain a greater understanding of our target audiences, how to communicate with them, how to encourage them to adopt practices for proper wastewater disposal, and how to create an environment of compliance.

### **Task Deliverables**

- Develop Audience research guides
- Review guide with Core group
- Revise the guide
- Conduct Audience research for up to 3 groups, 1 will be in Eastern Washington
- Audience research report

## **Task 6**

**Task title:** Develop messaging, materials and outreach program

**Task Description:** The consultant will develop messaging, materials and an outreach strategy for each mobile business type. Audience research will inform the optimum product, price and place for messaging and an outreach strategy that includes actions and methods for municipalities to contribute to creating an environment for compliance.

The actual methods for education and messaging are not specified. Previous projects, such as the "Business Outreach" GROSS Grant by Kitsap County, informed the working group that what stormwater educators may consider to be the effective approach does not always match with what our target audience informs us of how, when and what to communicate. We anticipate this project could implement fact cards, letters, stickers, videos, posters or some other product identified in the social marketing process. We are requesting Ecology to allow this project the flexibility to not identify the specific products at this time. However, the Core Working Group will be in close contact with the Ecology Project Manager at this stage.

**Task Goal Statement:** This is the task where the Background Research and audience research will be carefully interpreted to really listen to our audiences and apply social marketing principles to develop outreach and compliance strategies. This is the most challenging aspect of the project since both the Core Group and TAG must set aside their principals and norms to best understand our audiences. The goal is to develop materials, messaging, products and placement for optimum compliance by mobile businesses. Once developed, this outreach "package" will be tested in interviews or small focus groups with our test audiences and revised as needed.

### **Task Deliverables**

- Draft materials, messaging and strategy based on the audience research
- Review with the TAG
- Produce a plan which includes the materials, messaging and strategy

### **Task 7**

**Task title:** Develop metrics, implement the pilot program and measure behavior change using a rigorous evaluation plan.

**Task Description:** The TAG will work to create a metric or set of metrics for collection during the implementation phase. The Consultant will assist with development of appropriate metrics and evaluation methods, and develop an evaluation plan (referred to as the Quality Assurance Project Plan [QAPP]) with feedback from the Core Group. This evaluation plan is to meet NPDES Stormwater Permit requirements for measuring behavior change and the effectiveness of the outreach to the target audience for the targeted behaviors.

All municipalities will have the option to implement the developed materials and products. Implementation and test metrics data collection will be performed by a select number of municipalities, likely 2 jurisdictions in eastern Washington and 3 jurisdictions in western Washington. These municipalities will implement the developed materials and products and collect agreed upon metrics. The metrics will be identified as part of the social marketing sessions and audience research. We want to identify key metrics that could be collected by many municipalities to demonstrate awareness and/or behavior change over time to assist with permit compliance.

Before and during the pilot phase of the program in limited areas, baseline data will be collected to be compared to the final evaluation that will be administered. Information collected in this evaluation will be incorporated into the final grant report and be used to inform and improve future work.

**Task Goal Statement:** The goal is to encourage many municipalities implement the marketing strategy and a few select municipalities collect behavior change metrics to test for applicability in the future as a statewide metric of compliance

**Task Expected Outcomes:** Implementation of an outreach strategy by many municipalities and evaluation metrics collected by select municipalities.

**Task Deliverables**

- Produce the materials for the implementation of the pilot program
- Create an evaluation plan
- Collect behavior data and metrics according to the plan
- Produce a detailed and high quality report of the evaluation including measuring behavior change

**\*SAMPLE CONTRACT FOR PROFESSIONAL SERVICES\***

This Contract for Professional Services (the Contract) is entered into by Kitsap County, a municipal corporation, having its principal offices at 614 Division Street, Port Orchard, Washington, 98366 (the County) and , having its principal offices at (the Contractor).

**SECTION 1. EFFECTIVE DATE OF CONTRACT**

The Contract will become effective on and terminate on. In no event will the Contract become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.

**SECTION 2. SERVICES TO BE PROVIDED**

- 2.1 A description of the services to be performed by the Contractor is set forth in Exhibit A: Description of Services, which is attached to the Contract and incorporated by this reference.
- 2.2 The Contractor agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor or facilities will be furnished by the County.
- 2.3 The Contractor will perform the work specified in the Contract according to standard industry practice.
- 2.4 The Contractor will complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- 2.5 The Contractor will confer with the County from time to time during the progress of the work. The Contractor will prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the County.

**SECTION 3. CONTRACT REPRESENTATIVES**

The County and the Contractor will each have a contract representative. A party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

County's Contract Representative

Contractor's Contract Representative

**SECTION 4. COMPENSATION**

- 4.1 A description of the compensation to be paid to the Contractor is set forth in Exhibit B: Compensation, which is attached to the Contract and incorporated by this reference.
- 4.2 The total amount payable under the Contract by the County to the Contractor in no event will exceed \$.
- 4.3 Unless otherwise provided in the Contract, the Contractor may submit an invoice to the County once a month for payment of work actually completed to date. Subject to the other provisions of the Contract, the County generally will pay such an invoice within 30 days of receiving it.
- 4.4 The Contractor will be paid only for work expressly authorized in the Contract.
- 4.5 The Contractor will not be entitled to payment for any services that were performed prior to the effective date of the Contract or after its termination, unless a provision of the Contract expressly provides otherwise.
- 4.6 If the Contractor fails to perform any substantial obligation and the failure has not been cured within 10 days following notice from the County, the County may, in its sole discretion and upon written notice to the Contractor, withhold all monies due the Contractor, without penalty, until such failure to perform is cured.

## **SECTION 5. AMENDMENTS AND CHANGES IN WORK**

- 5.1 In the event of any errors or omissions by the Contractor in the performance of any work required under the Contract, the Contractor will make all necessary corrections without additional compensation. All work submitted by the Contractor will be certified by the Contractor and checked by the Contractor for errors and omissions. The Contractor will continue to be responsible for the accuracy of work even after the work is accepted by the County.
- 5.2 In order to be effective, any Contract renewal, amendment or modification must be in writing, be signed by both parties and be attached to the Contract. Work under a renewal, an amendment or a modification may not commence until the renewal, amendment or modification has been approved by the County and has become effective.

## **SECTION 6. HOLD HARMLESS AND INDEMNIFICATION**

- 6.1 The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractor's acts, errors or omissions in the performance of the Contract. Provided, however, that the Contractor's obligation under this provision will not extend to injury, sickness, disability, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.

- 6.2 With regard to any claim against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section will not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. It is clearly agreed and understood by the parties to the Contract that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section will be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work under the Contract.
- 6.3 The Contractor's obligations under these provisions include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

## **SECTION 7. INSURANCE**

- 7.1 **Professional Legal Liability.** The Contractor will maintain professional legal liability or professional errors and omissions coverage appropriate to the Contractor's profession. The coverage will have a limit of not less than \$1 million per occurrence. The coverage will apply to liability for a professional error, act or omission arising out of the Contractor's services under the Contract. The coverage will not exclude bodily injury or property damage. The coverage will not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services under the Contract, including testing, monitoring, measuring operations or laboratory analysis where such services are rendered under the Contract.
- 7.2 **Workers' Compensation and Employer Liability.** The Contractor will maintain workers' compensation insurance as required by Title 51, Revised Code of Washington, and will provide evidence of coverage to the Kitsap County Risk Management Division. If the Contract is for over \$50,000, then the Contractor will also maintain employer liability coverage with a limit of not less than \$1 million.
- 7.3 **Commercial General Liability.** The Contractor will maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to a limit of not less than \$1 million per occurrence. The general aggregate limit will apply separately to the Contract and be no less than \$2 million. The Contractor will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of the Contract. Specialized forms specific to the industry of the Contractor will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard commercial general liability policy, including contractual liability coverage.

7.4 **Automobile Liability.** The Contractor will maintain automobile liability insurance as follows (check ONE of the following options):

Not Applicable.

The Contractor will maintain commercial automobile liability insurance with a limit of not less than \$1 million each accident combined bodily injury and property damage. The aggregate limit will be at least \$2 million. Coverage will include owned, hired and non-owned automobiles.

The Contractor will maintain automobile liability insurance or equivalent form with a limit of not less than \$100,000 each accident combined bodily injury and property damage. The aggregate limit will be at least \$300,000. If a personal lines automobile liability policy is used to meet this requirement, it must include a business rider and must cover each vehicle to be used in the performance of the Contract and the certificates of insurance must evidence that these conditions have been met. If the Contractor will use non-owned vehicles in performance of the Contract, the coverage will include owned, hired and non-owned automobiles.

7.5 **Miscellaneous Insurance Provisions.**

- A. The Contractor's liability insurance provisions will be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.
- B. When such coverage is required, the Contractor's commercial general liability insurance and automobile liability insurance will include the County, its officers, officials, employees and agents as an additional insured with respect to performance of services.
- C. When such coverage is required, the Contractor's commercial general liability insurance and automobile liability insurance will contain no special limitations on the scope of protection afforded to the County as an additional insured.
- D. Any failure to comply with reporting provisions of the policies will not affect coverage provided to the County, its officers, officials, employees or agents.
- E. The Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, subject to the limits of the insurer's liability.
- F. The Contractor will include all subcontractors as insureds under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements stated in these provisions.
- G. The insurance limits mandated for any insurance coverage required by the Contract are not intended to be an indication of exposure, nor are they limitations on indemnification.

- H. The Contractor will maintain all required policies in force from the time services commence until services are completed. Certificates, policies and endorsements scheduled to expire before completion of services will be renewed before expiration. If the Contractor's liability coverage is written as a claims-made policy, then the Contractor must evidence the purchase of an extended-reporting period or "tail" coverage for a three-year period after completion of the services.

**7.6 Verification of Coverage and Acceptability of Insurers.**

- A. The Contractor will place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-VII, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.
- B. The Contractor will furnish the County with properly executed certificates of insurance or a signed policy endorsement which will clearly evidence all insurance required in this Section within 10 days after the effective date of the Contract. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract may not be canceled, or allowed to expire, except on 30-days' prior written notice to the County. Any certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes must be amended so as not to negate the intent of this provision.
- C. The Contractor will furnish the County with evidence that the additional-insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured.
- D. Certificates of insurance will show the certificate holder as Kitsap County and indicate "care of" the appropriate County office or department. The address of the certificate holder will be shown as the current address of the appropriate County office or department.
- E. The Contractor will request that the Washington State Department of Labor and Industries, Workers Compensation Representative, send written verification to Kitsap County that the Contractor is currently paying workers' compensation.
- F. Written notice of cancellation or change will be mailed to the County at the following address:

Risk Management Division  
Kitsap County Department of Administrative Services  
614 Division Street, MS-7  
Port Orchard, WA 98366

- G. The Contractor or its broker will provide a copy of all insurance policies specified in the Contract upon request of the Kitsap County Risk Manager.

## **SECTION 8. TERMINATION**

- 8.1 The County may terminate the Contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. The County may terminate the Contract upon giving the Contractor 10-days' written notice. In that event, the County will pay the Contractor for all costs incurred by the Contractor in performing the Contract up to the date of such notice, subject to the other provisions of the Contract.
- 8.2 If funding for the underlying project or matter is withdrawn, reduced or limited in any way after the Contract is signed or becomes effective, the County may summarily terminate the Contract notwithstanding any other termination provision in the Contract. Termination under this provision will be effective upon the date specified in the written notice of termination sent by County to the Contractor. No costs incurred after the effective date of the termination will be paid.
- 8.3 If the Contractor breaches any of its obligations under the Contract, and fails to cure the breach within 10 days of written notice to do so by the County, the County may terminate the Contract. In that event, the County will pay the Contractor only for the costs of services accepted by the County. Upon such termination, the County, at its discretion, may obtain performance of the work elsewhere, and the Contractor will bear all costs and expenses incurred by the County in completing the work and all damages sustained by the County by reason of the Contractor's breach.

## **SECTION 9. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

- 9.1 The Contractor will perform under the Contract using only its bona fide employees or agents, and the obligations and duties of the Contractor under the Contract will not be assigned, delegated or subcontracted to any other person or firm without the prior express written consent of the County.
- 9.2 The Contractor warrants that it has not paid, nor has it agreed to pay, any company, person, partnership or firm, other than a bona fide employee working exclusively for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of the Contract.

## **SECTION 10. INDEPENDENT CONTRACTOR**

- 10.1 The Contractor's services will be furnished by the Contractor as an independent contractor and not as an agent, an employee or a servant of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in the Contract.

- 10.2 The Contractor acknowledges that the entire compensation for the Contract is set forth in the compensation provisions of the Contract and the Contractor is not entitled to any County benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental or other insurance benefits; fringe benefits; or any other rights or privileges afforded to Kitsap County employees.
- 10.3 The Contractor will have and maintain complete responsibility and control over all of its subcontractors, employees, agents and representatives. No subcontractor, employee, agent or representative of the Contractor will be or be deemed to be, or act or purport to act, as an employee, agent or representative of the County.

## **SECTION 11. NONDISCRIMINATION**

The Contractor, its assignees, delegates or subcontractors will not discriminate against any person in performance of any of its obligations under the Contract on the basis of race, color, creed, religion, national origin, age, sex, marital status, veteran status or the presence of any disability.

## **SECTION 12. OWNERSHIP OF MATERIALS/WORKS PRODUCED**

- 12.1 All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under the Contract will be “works for hire” as defined by the U.S. Copyright Act of 1976 and will be owned by the County. Ownership includes the right to copyright, patent, and register, and the ability to transfer these rights.
- 12.2 All design work done by the Contractor will be done on AutoCAD, release 12 or higher or other systems mutually agreed upon, an electronic copy of which will be submitted to the County upon request or at the end of the job. Should a construction project result from the work of the Contractor, the record drawings from the Contractor will be transposed onto the electronic design drawings and submitted to the County.
- 12.3 An electronic copy of all word processing documents will be submitted to the County upon request or at the end of the job using the word processing program and version specified by the County.

## **SECTION 13. PATENT/COPYRIGHT INFRINGEMENT**

The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the County, where such action is based on the claim that information supplied by the Contractor or subcontractor infringes any patent or copyright. The Contractor will be notified promptly in writing by the County of any notice of such claim.

## **SECTION 14. DISPUTES**

Differences, disputes and disagreements between the Contractor and the County arising under or out of the Contract will be brought to the attention of the County at the earliest possible time so that the matter may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County's contract representative or designee. All rulings, orders, instructions and decisions of the County's contract representative will be final and conclusive.

## **SECTION 15. CONFIDENTIALITY**

The Contractor, its employees, subcontractors and their employees will maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of the Contract, except upon the prior express written consent of the County or an order entered by a court of competent jurisdiction. The Contractor will promptly give the County written notice of any judicial proceeding seeking disclosure of such information.

## **SECTION 16. CHOICE OF LAW, JURISDICTION AND VENUE**

- 16.1 The Contract will be construed as having been made and delivered within the State of Washington, and it is agreed by each party that the Contract will be governed by the laws of the State of Washington, both as to its interpretation and performance.
- 16.2 Any action at law, suit in equity or other judicial proceeding arising under or out of the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington.

## **SECTION 17. MISCELLANEOUS**

- 17.1 **No Waiver.** The parties agree that the excuse or forgiveness of performance, or waiver of any provisions of the Contract, does not constitute a waiver of such provision or future performance, or prejudice the right of the waiving party to enforce any of the provisions of the Contract at a later time.
- 17.2 **Tax Payments.** The Contractor will pay all applicable federal, state and local taxes, fees (including licensing fees) and other amounts.
- 17.3 **Personnel Removal.** The Contractor agrees to remove immediately any of its subcontractors, employees, agents or representatives from assignment to perform services under the Contract upon receipt of a written request to do so from the County's contract representative or designee.
- 17.4 **Legal Compliance.** The Contractor and its subcontractors, employees, agents and representatives will comply with all applicable federal, state and local laws, rules and regulations in their performance under the Contract.
- 17.5 **Records Inspection and Retention.** The County may, at reasonable times, inspect the books and records of the Contractor relating to the performance of the Contract.

The Contractor will retain for audit purposes all Contract-related records for at least six years after termination of the Contract.

- 17.6 **Successors and Assigns.** The County, to the extent permitted by law, and the Contractor each bind themselves, their partners, successors, executors, administrators and assigns to the other party to the Contract and to the partners, successors, administrators and assigns of such other party in respect to all covenants to the Contract.
- 17.7 **Severability.** If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
- 17.8 **Entire Agreement.** The parties acknowledge that the Contract is the complete expression of their agreement regarding the subject matter of the contract. Any oral or written representations or understandings not incorporated in the Contract are specifically excluded.
- 17.9 **Notices.** Any notices will be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the contract representatives provision of the Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day.
- 17.10 **Survival.** Those provisions of the Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, but are not necessarily limited to, the following: Sections 6.1-6.3 (Hold Harmless and Indemnification), 8.3 (Termination), 13 (Patent/Copyright Infringement), 14 (Disputes), 15 (Confidentiality), 16.1-16.2 (Choice of Law, Jurisdiction and Venue), 17.1 (Miscellaneous – No Waiver), 17.5 (Miscellaneous – Records Inspection and Retention) and Section 17.7 (Miscellaneous – Severability).

DATED this \_\_\_ day \_\_\_\_\_, 20\_\_\_.      DATED this \_\_\_ day \_\_\_\_\_, 20\_\_.