



**REQUEST FOR PROPOSALS  
KITSAP COUNTY**

**2023-054**

**CONTRACT LAW LIBRARIAN**

***Posted: (Tuesday, November 7, 2023)***

**Proposal Response Deadline:  
(Monday, November 27, 2023, 2:00pm Pacific Time)**

**2023-054 RFP**  
**Contract Law Librarian**

**1. PROJECT INTRODUCTION**

Kitsap County is seeking proposals from qualified Offerors (“Offeror”) to serve as the executive and administrative officer of the County Law Library on behalf of the Kitsap County Board of Law Library Trustees (“Board”). Under the Board’s review and direction, the law librarian shall be responsible for the proper management and supervision of staff, for the care of library property, for an adequate and proper selection of materials in keeping with the Board’s policy, for the efficiency of library service(s), and for the financial operation of the library within budgetary and resource limitations.

**2. BACKGROUND**

Kitsap County has established a County Law Library as prescribed by RCW 27.24.010. The Law Library is directly governed by a five-member Board of Trustees chaired by a Superior Court judge, a representative of the Kitsap Board of County Commissioners, and the Kitsap County Bar Association. (RCW 27.24.020). This solicitation for a contract Law Librarian is conducted in exercise of the prescribed powers of the Board of Trustees under RCW 27.24.030(3). The Board of Trustees operates pursuant to statute and according to a set of operational Bylaws adopted October 25, 2018. (See Attachment A).

The Law Library currently exists on the first floor of the Kitsap County Courthouse located at 614 Division Street, Port Orchard, Washington. It is open to the public every non-holiday weekday between the hours of 8:00 a.m. and 4:30 p.m. The Law Librarian and all patrons are expected to abide by all protocols, regulations, and/or court security directives adopted for the Courthouse.

**3. SCOPE OF WORK**

Historically, the Law Librarian has provided executive and administrative services under the general direction of the Board of Trustees for a minimum of twenty (20) hours and a maximum of twenty-five (25) hours per month.

Under this arrangement, the Law Librarian has appointed, trained, supervised, and periodically evaluated a library clerk/assistant for forty (40) hour per week. Any library clerk/assistant subcontracted to provide library services shall first be approved by the Board of Trustees. The library clerk/assistant shall be subcontracted by the Law Librarian and is not a Kitsap County employee.

In recent years, the contracted law librarian has combined the executive and administrative services function with the library clerk/assistant function so that all responsibilities have been provided by one incumbent. Offerors should be prepared to describe which service model (one person/two person) they are proposing to implement.

The Law Librarian is responsible for receiving, reviewing, verifying and timely submitting to Superior Court Administration all law library invoices in accordance with the policies

and accounts payable protocols set forth by the County Auditor's Office. Invoices (e.g., law books and other materials) shall be promptly processed and presented within thirty (30) days of receipt.

The Law Librarian is responsible for managing regular library operations, including ordering books and supplies, updating/renewing online subscriptions, and ensuring the orderly maintenance of the law library. The Law Librarian shall ensure that the law library operates in compliance with any standards set forth by the Washington Association of County Law Libraries to the extent possible. The Law Librarian shall ensure that the library maintains regular operating hours on all judicial days and during hours in which the County Courthouse is otherwise open for public business. Library hours shall be adjusted in accordance with emergency building closures and/or delayed County operations.

The Law Librarian is responsible for preparing and presenting the law library's annual budget in consultation with the Board of Trustees and in accordance with processes and schedules established by the County Department of Administrative Services (DAS) Budget Office. A draft budget shall be presented to the Board of Trustees within thirty (30) days of timely submittal to the DAS Budget Office. The Librarian shall monitor the annual budget throughout the year in consultation with the DAS Budget Office and timely alert the Board regarding any unexpected challenges or resource needs.

The Law Librarian is responsible for maintaining all public records in accordance with the Washington Public Records Act and ensuring that all library clerks/assistants and subcontractors comply with public records laws set forth in applicable statutes.

The Law Librarian is responsible for maintaining, procuring, updating and/or installing available public computers and information technology equipment with the assistance of the Information Systems (IS) Department and in compliance with all relevant Kitsap County Information Systems policies.

The Law Librarian serves as the Secretary for the Law Library Board of Trustees meetings, including issuing and posting notices of all regular and special meetings in accordance with Washington's Public Meeting laws, preparing and distributing agenda items, keeping appropriate written records of meetings, and fulfilling any additional duties assigned by the Board or Board Chair, or as directed by the Board's Bylaws. Copies of all notices shall be provided to the Board Chair and the County Administrator.

The Law Library will be responsible for drafting a preliminary annual report on behalf of the Board of Trustees for presentation to the Kitsap Board of County Commissioners on or before the first Monday in September of each year. The report shall include a full statement of all property received and how used, the number of books and other publications on hand, the number added by purchase, gift or otherwise during the preceding year, the number lost or missing, the number of people who use the library and take advantage of available law library materials and services, and such other information as may be of public interest, together with a financial report showing all receipts and disbursements of money. A preliminary draft shall be prepared and circulated among the Board's Trustees with sufficient time for review and discussion at a regular scheduled meeting prior to yearly presentation deadlines.

#### 4. Procurement Schedule

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

Procurement Schedule- Figure 1

Item	Action	Date
1.	Kitsap County Issues Request for Proposals	November 7, 2023,
5.	Responder must submit Proposal by 2:00 p.m. Pacific Time	November 27, 2023
5.	Kitsap County evaluation of Proposals	November 28, 2023
6.	Announce successful Proposal	On or about November 30, 2023

#### 5. Submission of Proposals

The Letter of Intent and proposals must be prepared and submitted no later than the submission date and time specified in the Procurement Schedule. The Proposal is to be sent to the Procurement Coordinator either by mail, **email (preferred) or hand/mail delivered.**

Responders should allow sufficient time to ensure timely receipt by the Procurement Coordinator. Responders assume the risk for the method of delivery and for any delay in the delivery of the Proposal. Kitsap County will disqualify any Proposal and withdraw it from consideration if it is received after the proposal submission due date and time.

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

**If mailed, two (2) copies of the proposal must be submitted with the Request for Proposal (RFP) number and the name and address of the respondent clearly stated on the outside of the envelope.**

**Please submit proposal documents to the Kitsap County Purchasing Office at:**

**By Mail**  
Glen McNeil  
Kitsap County Department of  
Administrative Services

**OR**

**Express, Courier, or Hand delivery**  
Glen McNeil  
Kitsap County Department of Administrative  
Services

Purchasing Office  
614 Division Street MS-7  
Port Orchard, WA 98366

Purchasing Office – Fourth Floor  
619 Division Street  
Port Orchard, WA 98366

**By email:** Attention Glen McNeil at [Purchasing@co.kitsap.wa.us](mailto:Purchasing@co.kitsap.wa.us) (**Preferred**)

## **QUALIFICATIONS**

The Offeror must possess, at a minimum, an Associate degree in Library Science or a related field. The Offeror shall also have a minimum of three (3) years' experience working in a law library or in a position requiring advanced legal research skills, including hardcopy legal materials as well as online legal research tools such as Westlaw, Lexis, CaseMaker, or others. The Offeror should be able to demonstrate proficiency in responding to reference questions and fulfilling requests for legal information with professional limitations which prohibit providing legal advice.

## **6. COMPENSATION**

Payment is not to exceed fifty-four thousand dollars (\$54,000) under this Contract. This includes twelve thousand dollars (\$12,000), billable in twelve (12) monthly installments of one thousand dollars (\$1,000) for law library administrative services; and, forty-two thousand dollars (\$42,000), billable in twelve (12) monthly installments of three-thousand, five hundred dollars (\$3,500) for law library clerical services, inclusive of wages, payroll taxes, Industrial Insurance and Employment Security premiums. Offerors may propose an alternate breakdown of the monthly and/or functional breakdown of compensation terms set forth above provided it does not exceed the total appropriation of \$54,000.

Any increases in compensation beyond that which is set forth above will be dependent on revenues specifically generated to support the Law Library and conditioned upon the express approval of the Law Library Board of Trustees and the Kitsap County Commissioners.

## **7. PROPOSAL (SUBMITTAL) REQUIREMENTS**

To ensure that all information provided is properly evaluated, please organize and label proposals in the structure provided below (6A, 6B, 6C, etc.).

Proposals (submittals) shall include, at a minimum, the following:

- A. Experience with Similar Projects:** Describe your experience providing coordination and support services in a library or law library environment. Your description should include a brief description of the scope of work in the context of the scope of work intended by this RFP, including but not limited to library client services, provision of legal research assistance, and monthly and annual fiscal management of discrete programs or organizations.

- B. References:** Provide three client references for similar projects in size and scope within the past five years. Briefly describe each project and for each reference provide up-to-date individual contact name with e-mail and phone number. Provide the size, scope, and dates of each project and indicate how these projects match the requirements set forth in this RFP.
- C. Qualification/Experience of Personnel Assigned:** Qualifications and experience of key personnel who will be assigned to this project, including law librarian and librarian assistant, and the percentage of time each will commit to the contract, as applicable. Experience working with the public in the provision of library services is critical and should be specified. Include for each their name and up-to-date, pertinent resume.
- D. Compensation:** Please provide an overall cost to meet the terms of this contract and how expenses will be separated between multiple discrete roles, where applicable.
- E. Performance:** Provide demonstrated ability to fulfill the essential functions for which the contract is created. Please note any functionality required by the contract that will be challenging or may prove to be difficult to fulfill.
- F. Sustainability:** The County has adopted an environmentally preferable purchasing policy which requires to the greatest extent feasible and practicable and in a manner that balances fiscal and environmental stewardship, the County shall procure and utilize environmentally preferable materials, products, and services.
- Proposer shall include any sustainable related strategies, practices, services, or products that may reduce the environmental and/or economic impact of the services proposed. Proposer shall provide information on any sustainability related goals, accomplishments, and/or programs or other factors that may be of benefit to the County.
- G. Professional Services Contract Terms & Conditions:** By this reference, the Kitsap County's standard Contract for Professional Services is made a part of this RFP and will be used as the basis for preparing a final agreement with the successful proposer compliant with applicable law and in the best interests of the County. The proposal should identify any additional contract provisions to be sought by the proposer and should also identify Professional Services Contract provisions the proposer considers unacceptable and suggest alternate language.
- H. Legal Action:** Disclose any current or recent (within past five years) legal action in progress or taken against Kitsap County; or any legal action which has been filed and/or resolved in either the Kitsap County Superior or District Courts.

- I. Disclosure: List all business transactions and relations within the past five years that may create or be perceived to create a conflict of interest either with Kitsap County or the Kitsap County Superior and/or District Courts.
- J. Transmittal Page: The first page (cover page) of this RFP shall be signed in ink, completed and included in the Proposal Submittal Package. **Submittal Form 1**

**8. EVALUATION CRITERIA:**

<b>A.</b>	Experience with Similar Projects	25%
<b>B.</b>	References	10%
<b>C.</b>	Qualification and Experience of Personnel Assigned	25%
<b>D.</b>	Compensation	15%
<b>E.</b>	Performance	25%
<b>F.</b>	Sustainability: Environmental focus and impact.	Y or N
<b>G.</b>	Professional Services Contract Terms & Conditions	Y or N
<b>H.</b>	Legal Action	Y or N
<b>I.</b>	Disclosure	Y or N
<b>J.</b>	Transmittal Page (front cover page of RFP)	Y or N
<b>K.</b>	Non-Disclosure Request (Submittal Form 2)	Y or N
	<b>Total</b>	<b>100%</b>

**9. PROPOSAL EVALUATION**

- A. The County will evaluate proposals using the criteria set forth in Section 7 of this RFP. The County reserves the right, in its sole discretion, to reject all proposals, waive informalities and irregularities in responses, or not award.
- B. The County may require one or more of the proposers to demonstrate its offering if the equipment descriptions are unclear. The County may issue Best and Final Offers to the highest rated proposers. Therefore, the proposal should be initially submitted on the most favorable terms that the Vendor can offer.
- C. The County reserves the right to award a contract to the single highest rated proposer without proceeding to interviews or demonstrations.

## SUBMITTAL FORM 2 NON-DISCLOSURE REQUEST

If you believe any statements or items you submit to the County as part of this submittal/response are exempt from public disclosure under the Washington Public Records Act (PRA), you must identify and list them below. You must very clearly and specifically identify each statement or item, and the specific exemption that applies. If awarded a County contract, the same exemption status will carry forward to the contract records.

The County will not exempt materials from disclosure simply because you mark them with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not identify the entire page, unless the entire page is within the exemption scope. Only records properly listed on this Form will be protected and withheld for notice. All other records will be considered fully disclosable upon request.

- I do not request any information be withheld
- I request the following specific information be withheld. I understand that all other information will be considered public information.

For each statement or item you intend to withhold, you must fill out every box below. You should not request an entire page withheld; only request the specific portion subject to the exemption.

<b>Document Page:</b> Specify the <b>page number</b> on which the material is located within your submittal package	<b>Statement:</b> Repeat the text you request to be held as confidential, or attach a redacted version	<b>RCW Exemption:</b> Specify the RCW exemption including the subheading

For this request to be valid, you must specify the RCW provision or other State or Federal law that designates the document as exempt from disclosure. For example, potential RCW exemptions include the following:

1. RCW 42.56.230.3 - Personal information - Taxpayer
2. RCW 42.56.230.4 - Personal information - Credit card numbers and related
3. RCW 42.56.240 - Investigative, law enforcement and crime victims
4. RCW 42.56.250 - Employment and licensing - specify the applicable subheading
5. RCW 42.56.260 - Real estate appraisals



6. RCW 42.56.270 (Items 1- 17) – specify applicable subheading
7. RCW 42.56.420 - Security

**CONTRACT NO.** [Contract Number]  
[TITLE]

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

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

**SECTION 1. TERM AND EFFECTIVE DATE**

1.1 The Contract will become effective [Contract Start Date] and terminate [Contract End Date], unless terminated or extended. The Contract may be extended for additional consecutive terms at the mutual agreement of the parties, not to exceed a total of [Contract Length]. In no event will the Contract become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.

**SECTION 2. SERVICES**

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

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

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

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

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

**SECTION 3. COMPENSATION AND PAYMENT**

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

3.2. Invoice. The Contractor will submit one invoice to the County per month for payment of Services completed to date, unless otherwise provided herein. Each invoice shall identify the Services performed, dates performed, and any other information requested by the County.

3.3. Payment. The County will make reasonable efforts to pay the Contractor within 30 days from the date the County receives a complete and correct invoice, unless otherwise provided herein. All funds disbursed to the Contractor will be processed by Direct Deposit via Automated Clearing House (ACH), unless otherwise agreed to by the parties.

- 3.4. Insurance/W-9 Compliance. All payments are expressly conditioned upon the Contractor's compliance with all insurance requirements and submission of a current IRS W-9 form to the County. Payments may be suspended in full in the event of noncompliance. Upon full compliance, payments will be released to Contractor unless otherwise provided herein.
- 3.5. Restrictions. The Contractor will only be entitled to receive payment for Services expressly authorized in the Contract, and received during the Contract term and accepted by the County. Contractor acknowledges oral requests and approvals of additional services or additional compensation are prohibited and unenforceable. Advance payments are not authorized.

#### **SECTION 4. TERMINATION**

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

#### **SECTION 5. INDEMNIFICATION**

- 5.1. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless Kitsap County and its elected and appointed officials, officers, employees, and agents (collectively "Indemnitees") from and against all Claims resulting from or arising out of the performance of the Contract, whether such Claims arise from the acts, errors, or omissions of Contractor, its Personnel, third parties, or Kitsap County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors, or omissions any of them may be liable. It is the specific intent of the parties that the Indemnitees shall, in all instances, except Claims arising from the sole negligence or willful misconduct of the Indemnitees, be indemnified by Contractor from and against any and all Claims.
- 5.2. With regard to any Claim against any Indemnitee by any of Contractor's Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, Contractor's indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or Contractor's Personnel under workers compensation acts, disability benefit acts, or other employee benefit acts. Solely for the purposes of this indemnification provision, Contractor expressly waives its immunity under Title 51 RCW (Industrial Insurance) and acknowledges this waiver was mutually negotiated by the parties.

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

## **SECTION 6. INSURANCE**

- 6.1. Minimum Insurance Required. Contractor and its subcontractors, if any, shall procure and maintain, until all of Contract obligations have been fully discharged, including any warranty period, all insurance required in this Section with an insurance company duly licensed in Washington State with an A.M. Best Company ratings of not less than A-VIII and a category rating of not less than "8", with policies and forms satisfactory to the County. Use of alternative insurers requires prior written approval from the County. Coverage limits shall be at minimum the limits identified in this Section, or the limits available under the policies maintained by Contractor without regard to the Contract, whichever is greater.
- 6.2. Professional Liability. Not less than \$1,000,000 per claim and \$2,000,000 annual aggregate. Coverage will apply to liability for professional error, act or omission arising out of or in connection with Contractor's Services under the Contract. The coverage shall not exclude bodily injury, property damage or hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services under the Contract, including testing, monitoring, measuring operations or laboratory analysis where such Services are rendered under the Contract.
- 6.3. Commercial General Liability ("CGL"). Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include personal injury, bodily injury, and property damage for premise-operations liability, products/completed operations, personal/advertising injury, contractual liability, independent contractor liability, and stop gap/employer's liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required herein, without the prior written approval of the County. The certificate of insurance for the CGL policy shall expressly cover the indemnification obligations required by the Contract.
- 6.4. Automobile Liability.  
 Contractor shall maintain personal automobile insurance on all vehicles used for Contract purposes as required by law.

- Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include liability for any and all owned, hired, and non-owned vehicles. Coverage may be satisfied with an endorsement to the CGL policy.
  - Not less than \$100,000 per occurrence and \$300,000 annual aggregate. If a personal automobile liability policy is used to meet this requirement, it must include a business rider and cover each vehicle to be used in the performance of the Contract. If Contractor will use non-owned vehicles in performance of the Contract, the coverage shall include owned, hired, and non-owned automobiles.
- 6.5. Umbrella or Excess Liability. Contactor may satisfy the minimum liability limits required for the CGL and Automobile Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest "Each Occurrence" limit for either CGL or Automobile Liability. Contractor agrees to an endorsement naming the County as an additional insured as provided in this Section, unless the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- 6.6. Workers' Compensation and Employer Liability. If applicable, Contractor shall maintain workers' compensation insurance as required under the Title 51 RCW (Industrial Insurance), for all Contractor's Personnel eligible for such coverage. If the Contract is for over \$50,000, then the Contractor shall also maintain employer liability coverage with a limit of not less than \$1,000,000.
- 6.7. Primary, Non-Contributory Insurance/Subcontractors. The Contractor's and its subcontractors' insurance policies and additional named insured endorsements will provide primary insurance coverage and be non-contributory. Any insurance or self-insurance programs maintained or participated in by the County will be excess and not contributory to such insurance policies. All Contractor's and its subcontractors' liability insurance policies must be endorsed to show as primary coverage. The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall comply with all insurance and indemnification requirements herein.
- 6.8. Review of Policy Provisions. Upon request, Contractor shall provide a full and complete copy of all requested insurance policies to the County. The County reserves the right without limitation, but has no obligation to revise any insurance requirement, or to reject any insurance policies that fail to meet the requirements of the Contract. The County also has the right, but no obligation to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. The County has the right to request and review the self-insurance retention limits and deductibles, and Contractor's most recent annual financial reports and audited financial statements, as conditions of approval. Failure to demand evidence of full compliance with the insurance requirements or failure to identify any insurance deficiency shall not relieve the Contractor from, nor be construed or deemed a waiver, of its obligation to maintain all the required insurance at all times as required herein.
- 6.9. Waiver of Subrogation. In consideration of the Contract award, Contractor agrees to waive all rights of subrogation against the County, its elected and appointed officials, officers, employees, and agents. This waiver does not apply to any policy that includes a condition that expressly prohibits waiver of subrogation by the insured or that voids coverage should the Contractor enter into a waiver of subrogation on a pre-loss basis.
- 6.10. Additional Insured, Endorsement and Certificate of Insurance. All required insurance coverage, other than the workers' compensation and professional liability, shall name the County, its elected and appointed officials, officers, employees, and agents, as additional insureds and be properly endorsed for the full available limits of coverage maintained by Contractor and its subcontractors. Endorsement is not required if Contractor is a self-insured government entity, or insured through a government risk pool authorized by Washington State.

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

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

## **SECTION 7. NOTICE AND CONTRACT REPRESENTATIVES**

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

### County's Contract Representative

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

### Contractor's Contract Representative

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

## **SECTION 8. AMENDMENTS, SUBCONTRACTS, INDEPENDENT CONTRACTOR**

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

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

## **SECTION 9. OWNERSHIP, CONFIDENTIAL INFORMATION AND BREACH**

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

## **SECTION 10. REPRESENTATIONS AND RECORDS**

- 10.1. No Fee. Contractor certifies it has not received, nor paid or agreed to pay, another person or entity, other than a bona fide employee working exclusively for Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract.
- 10.2. Licenses, Permits and Taxes. Contractor shall, at its own expense, have and maintain all licenses, registrations, permits, and approvals necessary for the performance of the Contract, including without limitation, registration with the Washington State Department of Revenue. Contractor shall pay all fees (including licensing fees) and applicable federal, state, and local taxes.

- 10.3. Compliance. Contractor and its Personnel, and the Services provided by Contractor and its Personnel, shall comply with all applicable laws, codes, and standards in effect at any given time regardless as to whether such laws are referred to by the County. If required for the Services provided, Contractor and its Personnel shall submit to a background check as directed by the County.
- 10.4. Nondiscrimination. Contractor and its Personnel shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of the Contract.
- 10.5. Public Records. Contractor acknowledges the Contract and all public records associated with the Contract shall be available to the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW ("Act"). To the extent that public records in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor shall make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under the Contract, whether electronic or hard copy, to be protected from disclosure under the law, the Contractor shall clearly identify all specific information it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information that has been identified by the Contractor as protected from disclosure and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligation will be to make a reasonable effort to notify the Contractor of the request and the date that such protected information will be released to the requester unless the Contractor obtains a court order to enjoin disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this Section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County will not be liable to the Contractor for releasing records in compliance with the Act, this Section or court order.
- 10.6. Advertising, Logo. Contractor shall not use, advertise, or promote for commercial benefit information concerning the Contract or use any trade name, trademark, or logo of the County, without the County's prior written consent.
- 10.7. Audit and Record Retention. Contractor and its Personnel shall retain all books, documents, and records relating to performance of the Contract and Services provided in connection with this Contract for six years after completion of the Contract or longer if requested by the County. All records shall be subject to inspection and audit by the County. Upon request, Contractor shall promptly make available to the County a legible copy of all books, documents, and records at no cost to the County.

## **SECTION 11. RIGHTS AND REMEDIES**

- 11.1. Failure to Perform. If County determines Contractor has failed to perform any material obligation of the Contract, and such failure has not been cured within 10 days' following notice from the County, the County may without penalty, in its discretion, withhold all monies due the Contractor until such failure is cured to the reasonable satisfaction of the County.
- 11.2. Right of Assurance. If the County in good faith has reason to believe the Contractor does not intend, or is unable to perform or continue performing under the Contract, the County may demand in writing that the Contractor give a written assurance of intent to perform. Should the Contractor fail to provide adequate assurance to the reasonable satisfaction of the County, by the date specified the demand, the County may terminate all or part of the Contract and pursue all other rights and remedies available at law and in equity.



- 11.3. Responsibility for Errors. All Services shall be completed to the reasonable satisfaction of the County and as required herein. Upon request, Contractor shall provide any clarifications and/or explanations regarding any Services provided as required by the County, at no additional cost to the County. In the event of an error or omission under the Contract, Contractor shall, at no cost to the County, provide all necessary design drawings, estimates, and all other professional services the County deems necessary to rectify and correct the matter to the satisfaction of the County. The Contractor shall continue to be responsible for the accuracy of Services, even after the Work is accepted by the County and the termination or expiration of the Contract.
- 11.4. Remedies. All County rights and remedies under the Contract are in addition to, and shall in no way limit, any other rights and remedies that may be available to County at law and in equity.
- 11.5. Right of Off-Set; Reimbursement. The County will be entitled to offset against any sums due Contractor and to reimbursement from the Contractor for any damages, expenses, or costs incurred by the County due to Contractor's nonconforming performance or failure to perform the Services under the Contract.
- 11.6. Waiver. Either party's failure to insist upon the strict performance of any provision of the Contract, or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach, will not constitute a waiver of any right or remedy under the Contract unless expressly so agreed in writing by an authorized representative.
- 11.7. Breach. In the event of a material breach by the Contractor, the County may procure, on terms and in the manner that it deems appropriate, Services to replace those under the Contract. The Contractor shall be liable to the County for any and all costs, expenses, penalties, and fees incurred by the County in procuring such Services in substitution for those due from the Contractor under the Contract.

## **SECTION 12. GOVERNING LAW, DISPUTES**

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

## **SECTION 13. PREVAILING WAGE**

[Prevailing Wage]

## **SECTION 14. GENERAL PROVISIONS**

- 14.1. Implied Contract Terms. Each provision of law and any terms required by law to be in the Contract are made a part of the Contract as if fully stated in it.
- 14.2. Headings/Captions. Headings and captions used are for convenience only and are not a part of the Contract and do not in any way limit or amplify the terms and provisions hereof.
- 14.3. No Party the Drafter. The Contract is the product of negotiation between the parties, and no party is deemed the drafter of the Contract.
- 14.4. No Third Party Beneficiary. No provision of the Contract is intended to, nor will it be construed to, create any third party beneficiary or provide any rights or benefits to any person or entity other than the County and Contractor.

- 14.5. Severability. If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid, or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
- 14.6. Counterparts. The Contract may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.
- 14.7. Non-Exclusive Contract. The County may at its discretion enter into multiple agreements to obtain the same or similar services that are the subject of this Contract or may have its own employees perform the same or similar services contemplated by the Contract.
- 14.8. Survival. Those provisions of this Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, without limitation: Sections 5 (Indemnification), 6 (Insurance), 8.5 (Independent Contractor), 9 (Ownership, Confidential Information and Breach), 11 (Rights and Remedies), 12 (Governing Law, Disputes), and 14 (General Provisions).
- 14.9. Entire Agreement. The parties acknowledge the Contract is the product of negotiation between the parties and represents the entire agreement of the parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by the Contract.
- 14.10. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Contract on behalf of the party for whom they sign.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

**CONTRACTOR NAME**

**KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
SIGNATORY NAME

SIGNATORY TITLE

\_\_\_\_\_

DRAFT