



Request for Proposal 2019-152

Property/Casualty Insurance Brokerage Services

Submission Due Date: Thursday August 22, 2019 3:00 PM

I. INTRODUCTION

Kitsap County is soliciting proposals for firms interested in providing insurance brokerage services for the County's property and casualty programs. Qualification statements will be evaluated in accordance with the criteria set forth in this Request for Proposal (RFP). Kitsap County will review experience, as well as the other qualifications of brokers who respond to this RFP. This is not a solicitation for an insurance plan, provider or underwriter. The County is reviewing agent qualifications with the intent to contract with a qualified broker who will be capable of providing services for the County's property and casualty insurance programs.

Proposals should be simple and straightforward, providing a concise description of the agent's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Each proposal should be clearly marked on the exterior "Insurance Broker Services." Proposals must be signed by an official authorized to bind the firm to its provisions. To be considered a valid response to this RFP, the proposal must remain valid for at least 90 days. Kitsap County is not liable for any cost incurred by the firm prior to the issuance of a contract.

Failure to comply with any part of this RFP may result in rejection of the proposal. Kitsap County's Risk Manager or representative will notify appropriate Brokers if the County wishes to interview them and will establish the time for those interviews.

Kitsap County reserves the right to reject any and all proposals, to negotiate separately with any source in a manner necessary to attend to the best interest of the County, to waive irregularities in any proposal and to accept a proposal(s) that best meets the needs of the County as it determines.

Proposals are subject to disclosure under the Washington State Public Records Act.

Please note that the County is not asking for, nor authorizing your soliciting quotes from insurance carriers.

II. BACKGROUND

With a population of 267,000 residents and founded in 1857, Kitsap County is located on the Kitsap Peninsula in Washington across the Puget Sound from Seattle. It comprises a total land mass of 393 square miles. Kitsap County occupies a unique portion of the State of Washington, directly between the urban areas of Seattle and Tacoma and the Olympic Mountains. It is bounded by Hood Canal on the west, Puget Sound on the east, and Mason and Pierce counties to the south. While Kitsap is ranked as the 36th largest county in Washington, it is the third most densely populated county in the state. The county seat is located in the City of Port Orchard and unincorporated Kitsap is governed by three elected County Commissioners and several elected officials. County Government provides the following services: public works and utilities, parks and recreation, community development, law enforcement and corrections, judicial and courts, juvenile services, and a multitude of government administrative services.

The current insurance programs include:

A. LIABILITY

The County's current liability insurance program provides for \$25 Million in coverage. Coverage includes Auto Liability, General Liability, Law Enforcement Liability, Errors or Omissions Liability, and Employment Practices Liability. Coverage is written on an occurrence basis. The County maintains a \$500,000 self-insured retention. Liability policy expires 12/31/2019.

B. PROPERTY

The County's property insurance program provides coverage to property with insured scheduled values totaling approximately \$307,875,331. Cyber liability coverage of \$2 Million is provided by the Property policy. In addition, Kitsap purchases an additional \$3 Million in cyber liability coverage.

C. AUTOMOBILE PHYSICAL DAMAGE

Auto physical damage coverage for employer vehicles and equipment is currently provided through the self-insured liability program.

D. WORKER'S COMPENSATION

The County's excess worker's compensation policy provides for excess coverage up to the statutory limits required by the State of Washington. The County maintains a \$500,000 self-insured retention for workers compensation and the excess policy provides for coverage in excess of the retention.

E. EMPLOYEE CRIME & FIDELITY

Kitsap County currently obtains an employee crime/fidelity with \$1 Million coverage.

F. BONDS

Kitsap procures public official bonds, notary bonds, and surety bonds to comply with specific RCW's and as needed for various contracts.

III. INSURANCE PROGRAM LOSS INFORMATION

The loss information below is provided for the purpose of providing prospective brokers with information that may be useful in proposing the most effective types of insurance programs for the County. **The responses to this RFP must not include actual insurance quotes.**

All loss data is valued as of 12/31/2018.

Auto Liability

Year	2014	2015	2016	2017	2018
Claim Count	18	20	37	19	12
Incurred Amount	\$8,771	\$38,156	\$30,729	\$8,316	\$42,214

Employment Liability

Year	2014	2015	2016	2017	2018
Claim Count	1	1	1	0	0
Incurred Amount	\$0	\$15,000	\$40,000	\$0	\$0

General Liability

Year	2014	2015	2016	2017	2018
Claim Count	17	21	9	12	12
Incurred Amount	\$126,219	\$59,144	\$14,745	\$12,960	\$61,440

Law Enforcement

Year	2014	2015	2016	2017	2018
Claim Count	10	6	1	2	0
Incurred Amount	\$89,642	\$28,625	\$1041	\$1000	\$4853

IV. DESCRIPTION OF SERVICES

Brokerage Services - This encompasses marketing, placement, completion of new and renewal applications, and negotiation for the procurement or renewal of policies. Further, the broker shall assemble a highly skilled service team to review for accuracy, completeness, and differences in terms and conditions for all policies in preparation for delivery and presentation. The broker shall be responsible for the invoicing of all applicable insurance policies and for an annual report and presentation for all existing and potential risk transfer/insurance placements.

Specific brokerage service responsibilities include, but are not limited to:

A. Risk Identification

1. Perform an ongoing review of the County's activities and operations.
2. Assist County's Risk Management Division in assessing County's exposure to liability, crime and property risk, including risk arising from the acts of its board members and officials.

B. Program Design

1. Analyze County's deductible/risk retention capacity for the County, compare it to like entities, and recommend appropriate deductible/retention levels.
2. Assess County's property and casualty insurance program, eliminating coverage gaps and overlaps and ensuring coverages match specifications.
3. County may participate, at its option, in a Washington State approved Risk Purchasing Group as provided in RCW 48.92.

C. Insurance Marketing

1. Assist County's Risk Management Division in preparing annual liability and crime questionnaires and property schedule of valuations for insurance placement.
 2. Act as County's insurance broker for scheduled insurance coverages. Negotiate coverage terms and premiums, and the placement of coverage with insurers.
 3. Arrange a property and liability insurance program which affords County a choice in the assignment of insurance adjusters and legal counsel, wherever possible.
 4. In conjunction with County staff, organize, develop, and present to underwriters, all necessary data for marketing the County's risk management/liability insurance program. Negotiate and present to the County the best risk finance/insurance policy terms, conditions, and premium rates.
 5. The broker will be responsible to bind coverage on behalf of the County when requested by the County. The broker will not place any coverage without specific, written, prior approval of the County.
 6. The broker will be responsible to review all policies and endorsements for accuracy prior to delivery and acceptance by the County. The broker will be responsible for verification of policy terms, conditions, language, form, compliance with specifications and compliance with regulatory requirements, plus ensure consistency with the terms and conditions of coverage marketed and purchased.
-

D. Program Management

1. Promptly submit originals of insurance policies and endorsements to County without waiting until all technical corrections have been completed. Include a list of those technical correction requests with the policies.
2. Prepare a schedule of County's insurance policies and surety bonds, including the name of the insurer, policy number, term, limits, deductibles/retentions and the estimated annual premium. If the policy is adjustable, include a description of the basis and timing for adjustment.
3. Check the accuracy of each insurance policy binder, certificate, endorsement, premium audit or adjustment, or other document received from County's insurers and obtain revisions when needed.
4. Prepare certificates of insurance as requested by the County.
5. Monitor the financial strength of the insurers providing County's insurance coverages and inform of adverse developments, including, but not limited to, changes in insurance company ratings by A.M. Best, Standard & Poor's or other rating organizations.
6. Develop and monitor procedures to assist County in submitting timely reports of values.
7. Annually, provide County with historical premium and program review of the past five years, including graphics.
8. On an annual basis (more often as necessary), broker and County will review service concerns and make adjustments as necessary.
9. For each renewal placement policy, the broker will provide the County with a summary of current program versus renewal options, specifically highlighting changes in coverage, regarding terms, conditions, premium rates, markets quoting and/or denying to quote (with reasons for the denial), underwriters ratings, and the broker's recommendations.
10. For ongoing policy administration, the broker will review coverage issues on a continuing basis, issue certificates of insurance, and process policy changes/endorsements as required on a timely and accurate basis. Maintain a diary follow-up system and generate an open-items report on a monthly basis.
11. The broker will place and administer various bonding requests.
12. The broker will prepare an annual marketing strategy that identifies current industry trends and best practices methods in which the County can market its insurance needs. The report shall cover anticipated market conditions and the broker's recommended marketing strategy for the County's liability insurance program.

E. Claims Management

1. As required, assist the County with the administration of insured claims. Assistance may include, but not be limited to, notification of insurers, loss investigations, tendering of losses, settlement negotiations, and claim evaluations.
 2. Assist County in adjusting and settling claims, including the preparation of proofs of loss.
-

3. Monitor the claims services provided by County's insurers and outside adjusters, review claim reserves on a quarterly basis, work with insurance adjusters to insure that reserves are adequate, but not excessive, and that claims are settled on a timely basis.
4. Assist County in managing litigation relating to its insurance claims, including recommendation of litigation, specialists in claims situations relating to errors and omissions, law enforcement, employment practices liability and similar areas requiring highly specialized knowledge.

F. Loss Control

1. Provide loss control assistance, including risk evaluation by loss control specialists, as needed by County.
2. Monitor the loss control assistance provided by County's insurers. Evaluate the recommendations submitted by the insurers and negotiate amendments, if appropriate.
3. Analyze County's loss data, including loss expenses, to determine trends in causes, types of damages, costs of loss investigation and sites of incidents. A report, including graphics, is to be provided on a semi-annual basis.
4. When requested, review recommendations made by insurance carriers and comment.
5. As requested, assist the County in analyzing loss patterns to determine causes of accidents and effectiveness of safety programs;
6. Provide the necessary resources, as requested, to assist the County in the development and maintenance of a comprehensive risk control program that will keep pace with the County's dynamic risk profile.
7. Assist the County with insurance requirements for the various contracts (design, construction, and service) the County manages.

G. Information Services

1. Keep the County informed of current risk management and insurance topics, issues, and trends, particularly as they affect the risk management profession, the insurance marketplace, and the municipal risk/public entity community.
 2. Provide the County with periodic information concerning particular losses/loss trends experienced throughout the industry or other public agency clients.
 3. When requested, represent the County and be an advocate for the County's interest on risk management and insurance issues affecting the County individually and/or as a member of the municipal risk/public entity community.
 4. Provide immediate written notification to the County's Risk Manager of potential or perceived conflicts of interest involving other Broker's clients.
-

H. Optional Services (such as actuarial and valuation services) – Brokers may indicate if they have other services available, such as actuarial and/or valuation services in their proposals. If such services require additional compensation, the County reserves the right to enter into a separate Professional Services Agreement for these services either with the broker or another qualified vendor, if it is determined to be in the best interest of the County.

V. SUBMITTAL REQUIREMENTS AND QUALIFICATIONS

A letter of interest shall be submitted that indicates the following:

- 1. FIRM EXPERIENCE:** Have a minimum of five years of experience as a public entity insurance broker. Possess the necessary licenses for an insurance broker in the state of Washington. Have brokers' errors & omissions insurance coverage with limits not less than \$5,000,000. Provide evidence confirming coverage. Provide an organization chart of your firm, including the local office and the individuals involved in servicing the County's account.
 - 2. AREAS OF SERVICES:** A description of your firm's experience in providing the services for public entity clients and an explanation of what distinguishes your firm from others in meeting the service needs of Kitsap County. The following are also required: a high-level description of the firm's qualifications to execute the scope of services described above; the number of years the firm has been in business; the number of years of experience the firm has conducting each component of the scope of work described above; a cover letter signed by a person authorized to represent the proposing firm and enter into a legal contract.
 - 3. GENERAL ASSESSMENT:** Describe how your organization shall perform a general assessment of the County's current insurance/self-insurance program and provide a conceptual plan with a suggested schedule for restructuring (if recommended) and timely marketing of the County's insurance needs for the upcoming January 1, 2020 term.
 - 4. ABILITIES:** Provide a description of your abilities to meet any other special services you perceive are needed. Demonstrate experience of the firm with major Washington public entity accounts. Provide a list of current major public entity accounts the broker's firm handles, including dates of service, the name of the principal account executive, and client names, email addresses, and telephone numbers. Include a description of any insurance placements or support service your firm has provided that shows the ability to service the Kitsap County account needs, including access to markets.
-

5. REFERENCES: Provide references that include a list of all major accounts currently being handled by the account executives to be assigned to the County account, with contact names, email addresses, and telephone numbers for each account

6. INNOVATION: Describe some recent examples of innovative insurance or risk management programs your firm has offered to its clients.

7. SPECIAL QUALITIES: Provide any additional information you feel would demonstrate your firm's capability, resources, and interest in working with the County's risk management and insurance program.

VII. PERFORMANCE CAPACITY MEASUREMENTS

The county has identified some key components to its overall risk management and insurance program. In order to assess the capability and performance of the individual brokerage teams in addressing these service areas, the county will critically examine the following components:

1. The quality of the broker's experience and ability to meet Kitsap County's needs.
 2. The assignment and availability of "public entity" experienced account executive(s), who are preferably based in the state of Washington.
 3. The ability of the broker to assemble and maintain a highly qualified service team to the account.
 4. The strength of resources within the broker's organization to meet Kitsap County's property and casualty program and service needs.
 5. The ability of the broker to competitively access a wide variety of quality insurance markets that are applicable to the County's needs.
 6. Commitment to full disclosure of all forms of remuneration received by the broker as a result of the broker's activities on behalf of the county.
 7. The willingness and ability to take on additional services/work, if the need arises, subject to a negotiated fee schedule for those additional services.
-

VIII. SUBMITTAL FORMAT

The Request for Proposal should be organized in a manner that allows the reviewer to evaluate the firm's qualifications quickly and easily. Concise text is preferred. RFP's will be evaluated based on the firm's ability to provide insurance brokerage services in a clear, detailed, all-inclusive, cost-effective manner. Kitsap County reserves the right to make selections based on initial proposals and/or request follow-up information, or to reject all proposals.

Responders shall submit one (1) signed original and two (2) copies of their proposal to:

By mail to:

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

Sealed proposals will be accepted no later than 3:00pm on August 22, 2019 at which time they will be recorded and forwarded to the Kitsap County Risk Management Office. Any questions regarding this project should be directed to Tim Perez, Risk Manager at (360) 337-4675, or tperez@co.kitsap.wa.us. Additional information supplied based on questions asked by perspective respondents will be provided by Kitsap County via posting on the County's website.

Persons with disabilities may request that this information be prepared and supplied in alternate forms by calling collect to (360)337-5777, or TTY (360)337-5455.

Date of Publication August 2, 2019

The recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all consultants that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit qualifications in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

-SAMPLE CONTRACT DRAFT-
CONTRACT NO. [Contract Number]
Professional Services Contract

This Professional Services Contract (“Contract”) is between Kitsap County, a Washington state political subdivision, having its principal offices at 614 Division Street, Port Orchard, Washington 98366 (“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. The 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. The Contractor shall promptly remove any Personnel performing Services on request from the County Representative.

2.4. Standards. The 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. The 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 (1) 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 thirty (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 the 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. The 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 the 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. The 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, the 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 the 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 the Contractor from and against any and all Claims.

- 5.2. With regard to any Claim against any Indemnitee by any of the Contractor's Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the 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, the 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, and 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. The Contractor shall respond to the County's tender of defense of a claim in writing within fourteen (14) calendar days from the notice date, and will advise the County if the Contractor accepts or denies tender of the claim. The County may in its discretion withhold all or part of any payment due the Contractor under the Contract until the Contractor responds to such notice. The 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 the Contractor's indemnity and defense obligations under the Contract. The 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. The 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. The Contractor and its subcontractors, if any, shall procure and maintain, until all of the 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 the 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 the 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 \$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.
 - 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.
- 6.5. Umbrella or Excess Liability. The Contractor 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. The 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, the 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, the 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 the 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, the 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 the 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 thirty (30) days' prior notice of termination, cancellation, nonrenewal or reduction in coverage. At the time of execution, the 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. The 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 the Contractor's liability coverage is written as a claims-made policy, the 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 (3) 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 fifteen (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. The 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. The 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. The Contractor shall have complete responsibility and control over its Personnel. Neither the 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. The 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. The 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. The Contractor shall ensure that all personal identifying information, financial information, and other information submitted or made available to the Contractor by, or on behalf of, the County, or acquired or developed by the 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 the 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, the 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. The 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 the 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. The 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. The Contractor shall pay all fees (including licensing fees) and applicable federal, state, and local taxes.
 - 10.3. Compliance. The Contractor and its Personnel, and the Services provided by the 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, the Contractor and its Personnel shall submit to a background check as directed by the County.
 - 10.4. Nondiscrimination. The 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. The 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. The 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. The 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 (6) 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, the 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 the Contractor has failed to perform any material obligation of the Contract, and such failure has not been cured within ten (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, the 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, the 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 the County at law and in equity.
- 11.5. Right of Off-Set; Reimbursement. The County will be entitled to offset against any sums due the Contractor and to reimbursement from the Contractor for any damages, expenses, or costs incurred by the County due to the 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 the 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 16 (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 _____, 2019

Dated this ____ day of _____, 2019

CONTRACTOR NAME

KITSAP COUNTY, WASHINGTON

Signature

SIGNATORY NAME
SIGNATORY TITLE

Print Name

Title

Dated this ____ day of _____, 2019

Dated this ____ day of _____, 2019

CONTRACTOR NAME

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

Signature

EDWARD E. WOLFE, CHAIR

Print Name

CHARLOTTE GARRIDO, COMMISSIONER

Title

ROBERT GELDER, COMMISSIONER

ATTEST:

Dana Daniels, CLERK OF THE BOARD

ATTACHMENT A

SCOPE OF WORK

Purpose

Objective

Scope

Requirements

Technical Considerations

Schedule/Deliverables

Compliance/Acceptance

Warranties

Support/Maintenance

ATTACHMENT B
COMPENSATION

Payment amount and schedule is set forth below.

ATTACHMENT C
SPECIFIC TERMS AND CONDITIONS