



KITSAP COUNTY

**REQUEST FOR Qualifications (RFQ)
2020-106**

NOTICE TO CONSULTANTS FOR

Port Gamble Forest Heritage Park Project – Project Management

RESPONSE DEADLINE: February 18, 2020

GENERAL INFORMATION

Kitsap County's Request for Qualifications (RFQ) invites Statements of Qualifications (SOQ) from qualified individuals, firms and organizations who can provide project management services for the Port Gamble Heritage Park Project (Project).

The successful consultant is expected to enter into a professional services contract with Kitsap County, and the parties to the contract will negotiate a detailed scope of work and estimated time for completion.

BACKGROUND

Over the past decade, Kitsap County, in collaboration with our state legislators, local Tribes, conservation organizations and Kitsap residents, has successfully acquired more than 4,500 acres of open space in North Kitsap known as the Port Gamble Forest Heritage Park. Of that newly acquired land, 3,500 is located south of the town of Port Gamble. This acreage includes over 1.5 miles of natural shoreline, wetlands, streams, trails and wildlife viewing areas.

In acquiring the property, Kitsap plans to develop both a mountain bike ride park and the regional Sound to Olympics trail through the property. A series of other uses may also be possible including campgrounds, adventure parks and/or an environmental learning center. While plans are underway to develop the ride park and regional trail, additional analysis and planning are necessary to discuss other expanded activities.

To assist in these efforts, funding was allocated from Kitsap County’s Parks capital fund, contributions were dedicated by private donors and, most recently, the Kitsap Public Facilities District allocated funding to the Project.

SCOPE OF PROJECT

The scope of the Project applicable to this RFQ includes project management, contractor procurement and delivery of specified elements of the Ride Park, Stottlemeyer Trailhead and Master Plan development only. The overall project is summarized below and with further details found in Exhibit A of Attachment A.

The Project has two primary elements related:

- 1) Element 1: Mountain Biking Ride Park and Stottlemeyer Trailhead design and construction.
- 2) Element 2: Master plan preparation for existing and future development opportunities for the entire 3,500-acre Port Gamble Forest Heritage Park.

A related element, not included in this solicitation, is preparation of a Sound to Olympics Regional Trail design (Segments A, B and D). The impact of the Project to the Sound to Olympics Regional Trail will be addressed by Kitsap County staff in close coordination with Elements 1 and 2 of the Project.

The selected contractor will be required to manage completion of the Elements 1 and 2 further described below.

PROJECT ELEMENT 1: MOUNTAIN BIKING RIDE PARK AND STOTTEMEYER TRAILHEAD

The over 160-acre Ride Park, acquired in 2017, is proposed as an active-recreation facility for multiple generations with a variety of mountain biking skill levels. Patterned after the Duthie Hills Bike Park in Issaquah, it will include over 10 miles of new trails serving different interests as well as a skills course for mountain bike training and introduction for beginning riders. The skills course will feature obstacles, a pump track and other challenges not found in



Kitsap County. Access to the Ride Park will be via the town of Port Gamble and the Sound to Olympics Regional Trail.

The Ride Park will also include a parking area, bathrooms and an access road from Port Gamble.

Design and construction must be in close coordination with the Evergreen Mountain Bike Alliance whose expertise and volunteer capabilities are foremost in the region.

Additionally, this element includes a trailhead at the connection of the Port Gamble Forest Heritage Park and Stottlemeyer Road. This trailhead would include a parking area capable of accommodating horse trailers and interpretive signage.

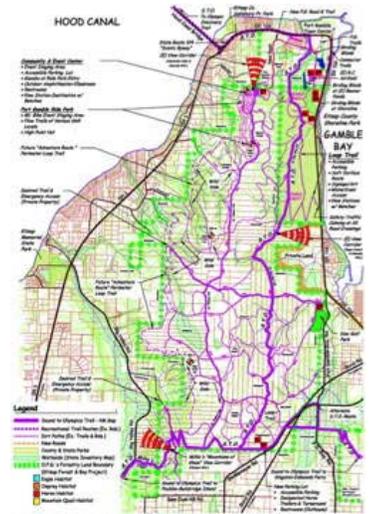


PROJECT ELEMENT 2: PORT GAMBLE FOREST HERITAGE PARK MASTER PLAN

To better understand the recreational and tourism opportunities of the 3,500-acre Port Gamble Forest

Heritage Park, a master plan will be developed. This master plan will assess the specific economic benefits of the Ride Park and Sound to Olympics Trail but also how these attractions and other possible park developments could be leveraged for larger opportunities.

Through visioning, public outreach, research and site analysis, the plan will assess greater uses for the overall property which may include a campground, adventure park, lodge, environmental learning center and/or other opportunities. If, and where, such amenities could be located on the property and the economic benefit of each would be assessed to provide a future direction for park long-term development and operations.



The plan shall also include an implementation strategy for any, or all, of the opportunities including potential funding sources such as the Kitsap Public Facilities District, private foundations, federal or state granting agencies and private developers.

This element also includes grant writing and fundraising activities for expansion of the facilities included in Element 1 (Ride Park and Stottlemeyer Trailhead) but also future phases as recommended by the Master Plan.

EXECUTION AND PROCUREMENT

Project management shall include procurement of contractors to complete the Project Elements. All procurement will be required to meet state and Kitsap County procurement requirements. These requirements will include but are not limited to:

1. **Element 1: Ride Park and Stottlemeyer Road Trailhead:** Design/Build procurement. Design/Build will take into consideration current plans for the ride park and trailhead as those plans exist at the time of contracting.
2. **Element 2: Master Plan:** Request for Proposal procurement for the Master Plan.

Kitsap County shall be included in the consultant's procurement considerations. Additional procurement requirements can also be found in Exhibit A of Attachment A.

PROJECT SCHEDULE

All deliverables for the Project are expected to be completed by December 31, 2021. Individual milestones will be required within this time period. A draft schedule currently approved by the Public Facilities District is attached in Exhibit A of Attachment A. The solicitation is for project management of the Ride Park, Stottlemeyer Trailhead and Master Plan development only.

Proposed amendments to this schedule may be entertained as part of the consultant's submittals to this RFQ, however effort should be made to adhere to the December 31, 2021 completion date.

SUBMITTAL REQUIREMENTS

1. Letter of Interest

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

- A description of the consultant's qualifications to execute the scope of work described above.
- The number of years the consultant has been in business.
- The number of years of experience the consultant has conducting each component of the scope of work described above.
- The availability of the consultant's resources to complete all components of the project within appropriate and reasonable timelines.
- The consultant's contact information (address, telephone, email).
- Additional data or recommendation, if desired.

2. Statement of Qualifications (SOQ)

The nature and form of response are at the discretion of the respondent, but at a minimum, must include the following required and desired experiences.

A. Consultant Background

1. General information about the consultant, including a description of the consultant's

- history, the names and number of years the consultant has been in business, and current or previous names, or additional assumed business names, and any other pertinent consultant information.
2. Proof that the consultant is licensed to do business in Washington state.
- B. Project Organization and Staffing
1. Provide an organization chart showing all proposed team members and describing their responsibilities for this project. Include professional qualifications/resumes of each member of the project team.
 2. Describe the portion of work that will be performed by a subcontractors and information about the professional qualifications of proposed sub-consultants.
- C. Description of Related Experience
1. Describe the consultant's experience with project management, competitive procurement, fundraising, grant writing and other related activities. For each project, provide the following information:
 - Name, address and telephone number of the client.
 - Name of the consultant's project manager and personnel who worked on each project with a brief description of their responsibilities.
 - Budget and actual project cost.
 - The elements of the projects that are common to the projects proposed above.
 - Summary of the consultant's role/responsibility in overall project.
 - Summary of the consultant's deliverables.
 2. Describe the consultant's familiarity with Kitsap County and local stakeholders.
 3. Describe the consultant's ability to complete work on schedule.
 4. List any litigation in which the consultant is or was involved as a named defendant.
 5. (Optional) Identify any other relevant information pertinent to this RFQ section.
- D. Project Approach and Budget
1. Describe the consultant's approach to this project and budget or fee for services as outlined in the scope.

The consultant's summary of qualifications should include, at a minimum, a coversheet that contains pertinent contact information (i.e. consultant name, address, phone and fax numbers, and name of project manager), as well as identification of all key personnel and associated capacities to be assigned to the project.

SUBMITTAL FORMAT

The Statement of Qualifications (SOQ) should be organized in a manner that allows the reviewer to evaluate the consultant's qualifications quickly and easily. Concise text is preferred.

The SOQ shall be no more than twenty-four (20) pages in length, including cover letter, double-sided, utilizing recycled paper. No laminated sheets or cardstock. Pages shall be 8-1/2 inches by 11 inches with one-inch margins. The font size shall be at least 11-point. Please staple or clip packet in upper left-hand corner. Do not wire or comb bind.

Five copies of the SOQ responsive to this RFQ must be received at the address noted below no later than 3:00PM (PST) on February 18, 2020. Responders are solely responsible for ensuring that SOQ is delivered on time. Responses received after the due date and time may be returned unopened. Faxed responses will not be accepted. Please submit five (5) copies of the SOQ to the following contact person:

Vicki Martin
Kitsap County Department of Administrative Services
Purchasing Office
614 Division Street MS-7
Port Orchard, WA 98366
Phone: 360-337-4788

CRITERIA FOR SELECTION

The County may use the following criteria for selection of consultant:

- Demonstrated success with similar projects. (20 points).
- Verbal and written communication skills (10 points).
- Organization and project management skills (10 points).
- Experience in grant writing, fundraising and other similar efforts (15 points).
- Quality of references (15 points).
- Ability to undertake and complete projects in a timely manner. (10 points).
- Project approach and cost of producing project deliverables (20 points).

Technical questions should be directed to Eric Baker, Policy Manager, Office of Board of Commissioners (360) 337-4495 and ebaker@co.kitsap.wa.us.

SUBMITTAL DEADLINE

February 18, 2020

Terms and Conditions

A copy of the Professional Services Contract is attached is attached to this RFQ as Attachment B. Respondents to this RFQ will need to affirm that the terms and conditions of Attachment B are acceptable or describe reasons for any exceptions and propose alternative language.

OTHER INFORMATION

All responses to this RFQ will be held unopened until the proposal deadline. The proposals will then be forwarded to the selection committee for review and selection of consultants for interview. Consultants not responding to items requested in the RFQ or indicating exceptions to such items may have their submittals rejected. All proposals, plans, and other documents submitted shall become the property of Kitsap County, are considered public records and may be subject to public release. Respondents to this RFQ are responsible for their own expense in preparing, delivering or presenting the proposal, and for subsequent negotiations, if any, with Kitsap County or its agents.

ATTACHMENT A

REGIONAL CENTER INTERLOCAL AGREEMENT Between the Kitsap Public Facilities District and Kitsap County

This **REGIONAL CENTER INTERLOCAL AGREEMENT** (the "Agreement") is made pursuant to chapter 39.34 RCW between Kitsap County, a political subdivision of the State of Washington operating under Chapter 36 RCW ("County"), and the Kitsap Public Facilities District, a Washington special purpose district operating under RCW 36.100 (the "District").

WHEREAS, pursuant to RCW 36.100.030(1) and RCW 35.57.20, the District is authorized to acquire, construct, own, remodel, maintain, equip, repair, and operate a regional center, and pursuant to chapter 36.100.030(2), the District may enter into interlocal agreements with other public agencies to operate such facilities. For purposes of this Agreement, "regional center" means special event center and recreation, convention and conference facilities, serving a regional population constructed after July 25, 1999, at cost of at least ten million dollars.

WHEREAS, pursuant to RCW 82.14.390, the District is entitled to receive certain local sales taxes which the District may use for the development of qualifying regional centers.

WHEREAS, the District believes it has the financial capacity to support the development of one or more new regional centers in Kitsap County and has requested proposals from public agencies for new regional centers in Kitsap County.

WHEREAS, the County has proposed a project which qualifies as a regional center.

WHEREAS, the District Board has completed an evaluation and review process of seven (7) applications for new regional centers and has initially determined to proceed with further review for possible funding with several applicants.

WHEREAS, the District anticipates collaborating with the County on the development of the Port Gamble Heritage Park (the "Project"), where the District's primary role would be to provide funding to create public benefits for Kitsap County. The Project will include, as primary features, a mountain bike ride park, the regional Sound to Olympics Trail, parking areas, bathrooms and other park and trail amenities and a master plan assessing opportunities for economic development further leveraging the Park's assets.

WHEREAS, the District has not committed to an amount or timing of funding, but desires to work collaboratively with the County in furtherance of the development of the Project.

WHEREAS, District funding is subject to an independent financial feasibility review prior to the issuance of any indebtedness or the long-term lease, purchase, or development of a regional facility pursuant to RCW 36.100.025.

NOW, THEREFORE, in consideration of the mutual obligations and benefits herein, the parties agree as follows:

1. **Purpose of Agreement.** The purpose and intent of this Agreement is for the County and District to collaborate on the feasibility of the Project utilizing County property and funds in part and District funds in part. The County project is more fully described in Exhibit A (Project Summary/Description).

2. **County Funding Request.** The County has requested funding in the amount of \$1,697,556 for the following purposes: developing a master plan/feasibility study, constructing a mountain bike ride park, completing design and permitting of the Sound to Olympics Trail and installing parking, bathrooms and other amenities related to the ride park and STO Trail. A full schedule and cost estimates for the County's funding request for years 2019 through 2021 appear in Exhibit B. Any funding considerations for years 2022 and beyond will require an amendment to this Agreement.

3. **County Obligations.** The County shall serve as the administrator for the Project and undertake the following tasks (the "Agreement Tasks"), as set forth in Exhibit "B" for years 2019 through 2021. Any County obligations for years 2022 and beyond will require an amendment to this Agreement. In addition, the County shall undertake the following tasks:

3.1 **Contract Administration.** The County shall be responsible for all aspects of the contract administration for the Agreement Tasks, which shall include, but not be limited to, advertising, bidding, awarding, and monitoring the contract(s), as generally required by any applicable law or regulation.

3.2 **Reporting.** The County shall regularly (not less than monthly) report to the District the progress of the County's obligations under this Agreement.

3.3 **Recognition.** The County shall publicly recognize the District's contribution to the Project in a manner to be agreed upon. The District may require some identification of the Project as "Regional Center" or "Special Event Center."

4. **The District's Obligations.** The District shall fund the tasks set forth in Exhibit "B" in an amount not to exceed \$1,697,556 for years 2019 through 2021. Any District obligations for funding in years 2022 and beyond will require an amendment to this Agreement.

5. **Process for Payment.**

5.1 **Establish Account.** The County shall establish an account, separate from any other County account to hold the funds deposited by the District for the purposes of this Agreement. Funds from the District shall not be commingled with other general accounts of the County.

5.2 **Advance Deposits.** The District may, but is not required to, pre-pay the County for each of the Agreement Tasks and subtasks, where applicable, before the County contracts with the consultant/service provider that will perform the particular task.

5.3 **Use of Funds.** The funds from the District shall solely be used for the payment of invoices for the Agreement Tasks and no other purposes. The County may not reimburse itself for any of its expenses from the funds on deposit.

5.4 **Release of Funds.** The County shall only release funds for the Agreement Tasks upon receipt of invoices for work performed, which work complies with the terms and conditions of the contracts for the Agreement Tasks. Further, the County shall notify the District of any proposed payment for review and consent, not to be unreasonably withheld or delayed.

5.5 **Increase in Consultant Contract Amounts.** The County will promptly inform the District if any of the consultants inform the County that the consultant/service provider is proposing an increase in a contract sum. The District shall, in its sole discretion, determine if the District's contribution to the contract sum should be increased.

5.6 **Refund of District Funds.** The County shall not be required to reimburse the District for the funds transmitted to the County that are either (i) paid to a consultant/service provider; or (ii) committed to be paid to a consultant/service provider pursuant to a valid contract between the County and that consultant/service provider. Otherwise, unused funds shall be reimbursed to the District.

5.7 **Final Accounting.** Within thirty days of the completion of the Assignment Tasks, the County shall provide a final written accounting of the District funds.

5.8 **Property.** All real or personal property acquired, used, or held in connection with the Project shall be owned solely by the County except as provided in Section 5.6 of this Agreement.

6. **No Continuing Obligation.** Although the parties contemplate development of the Project will be phased, consisting of five stages described in Exhibit A, nothing in this Agreement should be construed or interpreted as a commitment by the District to fund beyond the Cost Estimate appearing in Exhibit B for years 2019-2021.

7. **Notice and Project Coordinators.** The following individuals are the Project Coordinators and official contacts for County and the District. Any notice, request, approval, direction, invoice, statement, or other communication which may, or are required to be given under this Agreement shall be in writing and shall be deemed to have been given if hand delivered, sent by a nationally recognized overnight delivery service, or if deposited in the U.S. mail and sent by certified mail, return receipt requested, postage prepaid to the Project Coordinators:

For County: Eric Baker
Policy Manager
Kitsap County
614 Division Street MS-4
Port Orchard, WA 98366
Phone: 360-337-4495
Email: ebaker@co.kitsap.wa.us

For the District: Michael Walton
Executive Director
Kitsap Public Facilities District
9230 Bay Shore Drive NW, Suite 101
Silverdale, WA 98383
Phone: 360-698-1885
Email: mwalton@kitsap-pfd.org

All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

8. **Non-Assignability.** Neither party may assign any interest in this Agreement and shall not transfer any interest in this Agreement without the prior written consent of the other party.

9. **Independent Governments – No Liability.** Each party is and shall remain an independent government. This Agreement does not create a partnership or other similar arrangement. The parties shall not be liable for the acts or omissions of the other party or their respective public officials, employees, or agents.

10. **Term of Agreement.** Except as may otherwise be stated herein, the term of this Agreement shall commence upon execution by both parties and shall continue until December 31, 2021. This Agreement shall be reasonably extended by the parties as may be necessary to complete the Assignment Tasks, as the parties otherwise agree.

10.1 **Early Termination – Nonpayment.** Notwithstanding the foregoing, this Agreement is contingent upon funding from the District. In the event that the District's expected funding payable to County hereunder is withdrawn, reduced, limited, or not received after the effective date of this Agreement, this Agreement may be terminated

by County by delivering thirty (30) days written notice to the District. The termination notice shall specify the date on which the Agreement shall terminate.

10.2 **District Early Termination.** The District may terminate this Agreement at any time by delivering thirty (30) days written notice to County, subject to the payment obligations set forth in Section 5.6 of this Agreement; i.e., pay for all work performed or in progress at the time of the notice.

11. **Amendment.** No modification or amendment of this Agreement may be made except by a written document signed by both parties.

12. **Counterparts and Electronic Transmission.** This Agreement may be signed in counterparts. Electronic transmission of any signed original document, and retransmission of any signed electronic transmission shall be the same as delivery of an original document.

13. **Governing Law.** This Agreement, and the right of the parties hereto shall be governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action, jurisdiction and venue shall lie exclusively in Kitsap County, Washington.

14. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

15. **Interpretation.** Each party participated in this Agreement and has had this Agreement reviewed by legal counsel. Therefore, any language herein shall not be construed against either party on the basis of which party drafted the particular language.

16. **True and Full Value.** The County and the District have each independently determined as to itself that (i) it has the authority to enter into this Agreement and (ii) the promises and covenants received from the other party represent "true and full value" received by it pursuant to RCW 43.09.210.

17. **Survivability.** All obligations contained herein shall survive termination until fully performed.

18. **Entire Agreement.** This Agreement, including all predicate paragraphs and exhibits which are incorporated into this agreement, contains all of the understandings between the parties. Each party represents that no promises, representations, or commitments have been made by the other as a basis for this Agreement, which have not been reduced to writing herein. No oral promises or representations shall be binding upon any party whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a written modification of this Agreement executed by both parties.

IN WITNESS WHEREOF, the County and the District have executed this Agreement as of the date last written below.

Dated this 4th day of December, 2020

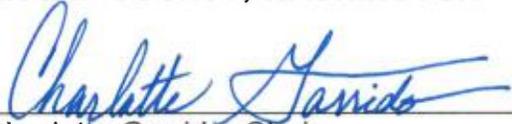
Dated this 22nd day of January, 2020

KITSAP PUBLIC FACILITIES DISTRICT

**BOARD OF COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

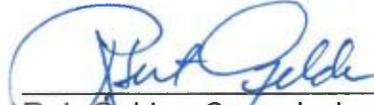


Daron Jagodzinske, Chair



Charlotte Garrido, Chair



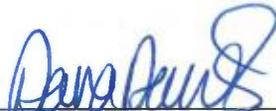


Rob Gelder, Commissioner



Edward E. Wolfe, Commissioner

ATTEST:



Dana Daniels, Clerk of the Board

EXHIBIT "A"

PROJECT SUMMARY/DESCRIPTION

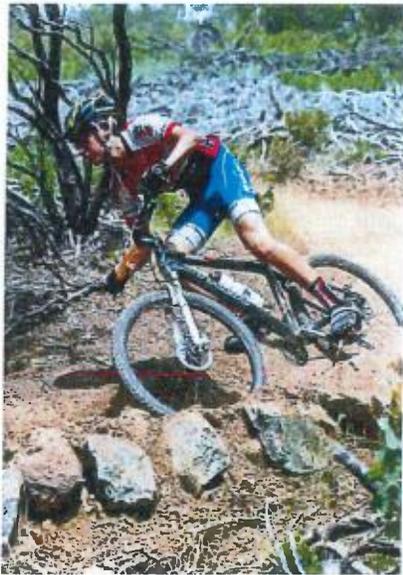
EXHIBIT A

PROJECT SUMMARY/DESCRIPTION

PORT GAMBLE RIDE PARK

The over 160-acre Ride Park, acquired in 2017, is proposed as an active-recreation facility for multiple generations with a variety of mountain biking skill levels. Patterned after the Duthie Hills Bike Park in Issaquah, it will include over 10 miles of new trails serving different interests as well as a skills course for mountain bike training and introduction for beginning riders. The skills course will feature obstacles, a pump track and other challenges not found in Kitsap County. Access to the Park via Port Gamble as well as the Sound to Olympics Trail will be provided as well as bathroom and parking facilities.

Design and development will be in close coordination with the Evergreen Mountain Bike Alliance whose expertise and volunteer capabilities are foremost in the region.



This Ride Park, coupled with the existing 60 miles of trails in the Port Gamble Heritage Forest Park, will be a leading regional destination for mountain biking day use and competitions.



SOUND TO OLYMPICS TRAIL

The Sound to Olympics (STO) Trail is the missing regional connection in a statewide trail from Idaho to the Pacific Ocean. This 10-12-foot, two-lane paved trail, will connect the Discovery Trail on the Olympic Peninsula with the eastside of Puget Sound through Kingston and Bainbridge Island.

Just this Fall, the STO was designated as the final route for the national Great American Rail Trail, which once constructed, will bring residents from around the region and nation to our community.



Below is a summary of project stages. Stage 1 and 2 are included in the current ILA. See Exhibit B for a full schedule and cost estimates.

STAGE 1 (2010 - OCT 2019)

Land Acquisition

Ride Park, STO Trail Corridor and Open Space

Completed

\$11,000,000



STAGE 2 (NOV 2019 – DEC 2021)

Ride Park

Design, permitting and construction of trails, training area, bathrooms, parking and access.

\$1,443,000



Sound to Olympics Trail – Final Design & Permitting

Design and permitting of Trail Segments A, B and D

\$504,481

Design, permitting and construction of Stottlemeyer parking area

\$220,000

Master Plan

Development and completion

\$375,375



STAGE 3 (2022-2023)

Sound to Olympics Trail – Construction

Construction of Trail Segments A, B and D

\$2,745,833

Design and Permitting Trail Southern Remainder to Stottlemeyer



\$428,213

Master Plan Recommendations – Future Development

Scoping and Design

\$\$ - To Be Determined



STAGE 4 (2023-2024)

Sound to Olympics Trail – Construct Final Segment

Construction Southern Remainder to Stottlemeyer

\$2,954,667

STAGE 5 (2025-)

Master Plan Recommendations – Future Development

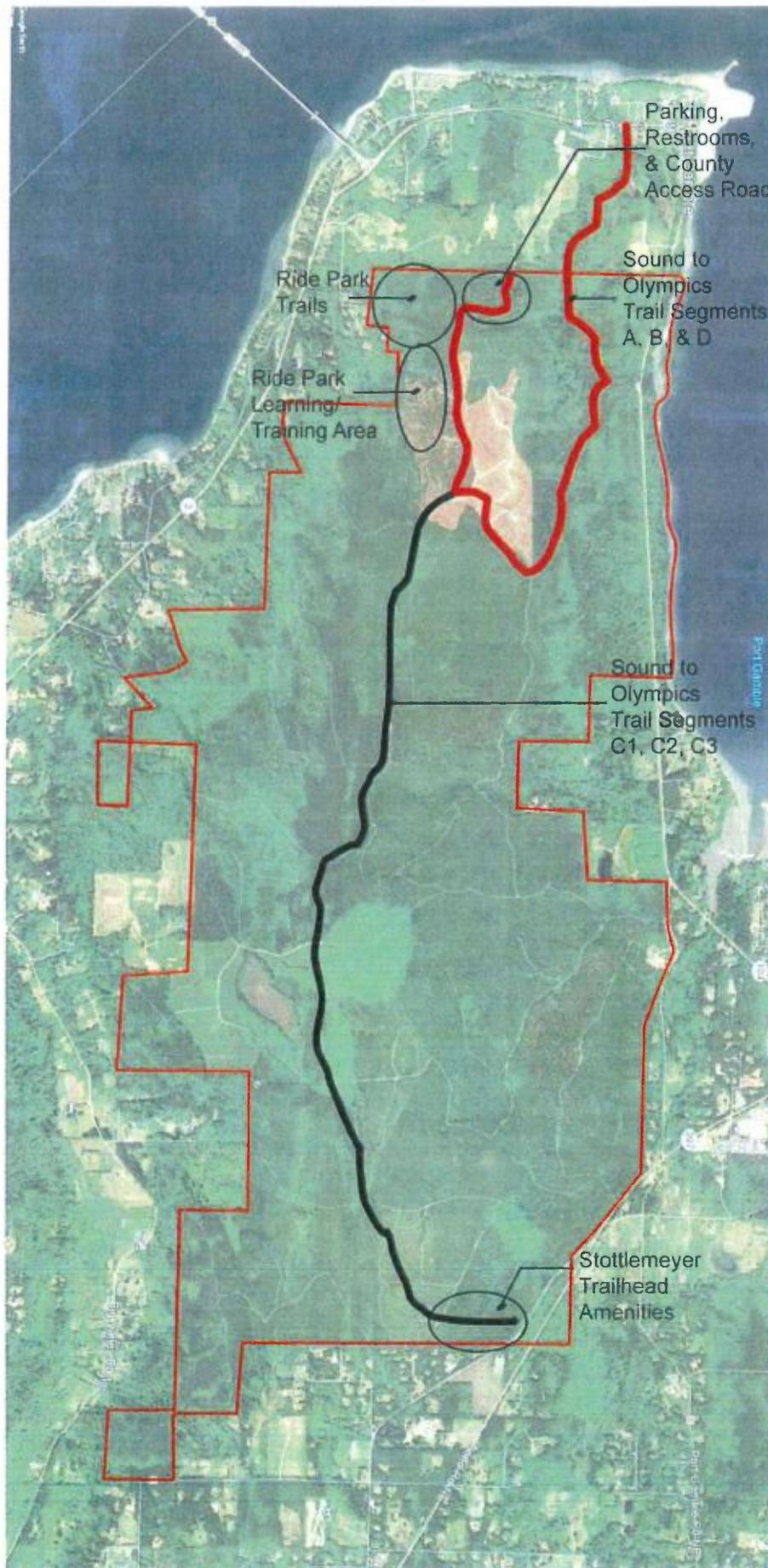
Construction

\$\$ - To Be Determined



EXHIBIT "B"

COUNTY AGREEMENT TASKS
(With budgets and timing schedule)



PORT GAMBLE FOREST HERITAGE PARK
EXHIBIT B-1

11/11/2019



ATTACHMENT B
Meeting Date:
Agenda Item No:

<u>Kitsap County Board of Commissioners</u>			
Office/Department:		[County OfficeDept]	
Staff Contact:		[Contract Administrator]	
Agenda Item Title:		[Contract Number] - [Contract Name]	
Recommended Action: [Recommended Action] [Contract Number] - [Contract Name]			
Summary:			
Attachments:		1. Contract Review Sheet 2.	
Fiscal Impact for this Specific Action			
Expenditure required for this specific action:		[\$[Contract Amount]	
Related Revenue for this specific action:		[\$[Contract Related Rev]	
Cost Savings for this specific action:		[\$[Cost Savings]	
Net Fiscal Impact:		[\$[Net Fiscal Impact]	
Source of Funds:		[Funds Source]	
Fiscal Impact for Total Project			
Project Costs:		[\$[Project Costs]	
Project Costs Savings:		[\$[Project Cost Savings]	
Project Related Revenue:		[\$[Project Related Rev]	
Project Net Total:		[\$[Project Net Total]	
<u>Fiscal Impact (DAS) Review</u>			
Office/Department Review & Coordination			
Office/Department		Elected Official/Department Director	
[County OfficeDept]			
Contract Information			
Contract Number	Date Original Contract or Amendment Approved	Amount of Original Contract Amendment	Total Amount of Amended Contract
[Contract Number]			



Kitsap County
CONTRACT REVIEW SHEET
(Chapter 3.56 KCC)

A. CONTRACT INFORMATION					
1. Contractor	[Contractor Name]				
2. Purpose	_____				
3. Contract Amount	[\$[Contract Amount]]	Disburse	<input type="checkbox"/>	Receive	<input type="checkbox"/>
4. Contract Term	_____				
5. Contract Administrator	[County Rep Name]	Phone	[County Rep Phone]		
Approved:	_____	Date	_____		
	Department Director				
B. AUDITOR – ACCOUNTING INFORMATION					
1. Contract Control Number	[Contract Number]				
2. Fund Name	[Funds Source]				
3. Payment from-Revenue to CC/Account Nbr	_____				
4. Encumbered By	_____	Date	_____		
C. AUDITOR'S ACCOUNTING – GRANTS REVIEW <i>Signature required only if contract is grant funded</i>					
1.	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	_____		
Reviewer	_____		Date	_____	
2. Comments:	_____				
D. ADMINISTRATIVE SERVICES DEPARTMENT – RISK MANAGER REVIEW					
1.	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	_____		
Reviewer	_____		Date	_____	
2. Comments:	_____				
E. ADMINISTRATIVE SERVICES DEPARTMENT – BUDGET MANAGER REVIEW <i>Signature required only if contract is for \$50,000 or more, OR it will be signed by board of commissioners (regardless of dollar amount)</i>					
1.	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	_____		
Reviewer	_____		Date	_____	
2. Comments:	_____				
F. PERSONNEL DEPARTMENT – PERSONNEL DIRECTOR REVIEW <i>Signature required only if union or employment contract</i>					
1.	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	_____		
Reviewer	_____		Date	_____	
2. Comments:	_____				
G. PROSECUTING ATTORNEY					
1.	<input type="checkbox"/> Approved as to Form	<input type="checkbox"/> Not Approved as to Form	_____		
Reviewer	_____		Date	_____	
2. Comments:	_____				
H. CERTIFICATION BY CONTRACT ADMINISTRATOR: THIS CONTRACT IS READY FOR CONSIDERATION BY THE AUTHORIZED CONTRACT SIGNER. <i>(For contract signing authority, see KCC 3.56.075)</i>					

Date Approved by Authorized Contract Signer: _____ Date _____
RETURN SIGNED ORIGINALS TO: [Contract Preparer] @ MS- _____

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 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

Print Name

Title

Dated this ____ day of _____, 20__

Dated this ____ day of _____, 20__

CONTRACTOR NAME

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

Signature

ROBERT GELDER, CHAIR

Print Name

EDWARD E. WOLFE, COMMISSIONER

Title

CHARLOTTE GARRIDO, 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