



2024-2025 ENERGIZE! CONTRACTOR ROSTER
ENERGIZE! CONTRACTOR AGREEMENT

DEPARTMENT/DIVISION: Executive Climate Office (ECO)

CONTRACTOR NAME: _____

AWARD AMOUNT: Amount
 Awarded CONTRACT#: Contract Number

TERM PERIOD: Effective
 Date To End Date

THIS CONTRACT ("Contract") (CPA 6XXXXXX) is entered into by **KING COUNTY**, Washington, a political subdivision of the State of Washington (the "County"), and _____ (the "Contractor"), whose address is _____. The County is undertaking certain activities related to **Energize! Contractor Roster** and, the County desires to engage the Contractor to provide Work in connection with such undertakings of the County,

NOW, THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

I. CONTRACT DOCUMENTS

The Contractor shall provide all Work described in this Contract, which consists of the following documents and attached exhibits, each of which are made a part hereof by this reference in the following order of precedence:

1. Contract Amendment(s)
2. Contract, which consists of this page, the Terms and Conditions, and the following:
 - Statement of Work Exhibit A
 - Price Attachment Exhibit B
 - Certificate(s) of Insurance and Policy Endorsement Exhibit C
3. Request for Proposal (as modified by any addenda)
 - King County Roster Application Exhibit D
4. Contractor's Proposal
 - _____ Proposal Exhibit E

II. CONTRACT TERM

This Contract shall be effective when countersigned by King County and shall expire on **December 31, 2025**, unless extended or terminated earlier pursuant to the terms and conditions of this Contract.

III. CONTRACT AMOUNT

The County shall reimburse the Contractor upon Acceptance of the Work specified in this Contract in an amount not to exceed \$_____, payable as set forth in Exhibit B.

The parties executing this Contract have authority to sign and bind its represented party to this Contract.

COMPANY NAME

KING COUNTY

Authorized Signature

Authorized Signature

Name and Title (Print or Type)

Name and Title (Print or Type)

Date Accepted: _____

Date Accepted: _____

DRAFT

TERMS AND CONDITIONS

Section 1 DEFINITIONS

1.1 Definitions

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

ACCEPTANCE OR ACCEPTED	A written determination by the County that the Contractor has completed the Work in accordance with the Contract.
CONTRACT AMENDMENT	A written change to the Contract modifying, deleting or adding to the terms and conditions or Scope of Work, signed by both parties, with or without notice to the sureties.
CONTRACTOR	The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with the County for the performance of Work under the Contract.
DAY	Calendar day.
KCC	The King County Code.
MEASURABLE AMOUNT OF WORK	A definitive allocation of an employee's time that can be attributed to Work performed under this Contract, but that is not less than a total of one hour in any one week period.
PERSON	Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.
PROJECT MANAGER	The individual designated by the County to manage the project on a daily basis and who may represent the County for Contract administration.
RCW	The Revised Code of Washington.
SCOPE OF WORK (SOW)	An exhibit to the Contract consisting of a written description of the Work to be performed.
SUBCONTRACTOR	The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Contractor to perform any portion of the Work covered by this Contract.
WORK	Everything to be provided and done for the fulfillment of the Contract and shall include services, goods and supplies specified under this Contract, including Contract Amendments.

Section 2 GENERAL PROVISIONS

2.1 Administration

The Contractor shall be responsible for performing the Work. The County is not a party to defining the division of Work between the Contractor and its Subcontractors, if any.

The Contractor represents that it has or shall obtain all personnel, materials and equipment required to perform the Work under this Contract.

2.2 Acceptance of Work

Upon completion of the Contract or a purchase order issued under the Contract, the Contractor shall give the County written "notice of completion" of Work. The County shall review the Work for Acceptance. In addition, the County may Accept Work by phase or milestone. In such case, the Contractor will give the County written "notice of completion" of Work related to a specific phase or milestone following the Contractor's completion of all such Work in accordance with the payment schedule and delivery requirements in the Contract.

2.3 Warranty

Contractor warrants that the Work shall in all material respects conform to the requirements of this Contract. Contractor further warrants that qualified professional personnel with in-depth knowledge shall perform the Work in a timely and professional manner, and that the Work shall conform to the standards generally observed in the industry for similar Work.

2.4 Contractor Name or Tax Structure Change

If at any time during the Contract term the Contractor experiences a change in its name or federal tax status either through acquisition, novation, assignment, re-organization or some other change that affects its Taxpayer Identification Number (TIN) or Tax Reporting Name, it shall notify King County immediately upon the information becoming publicly available. This notification shall be sent by the Contractor to the current King County Contract Specialist via email along with:

- A. Any official announcements from the firm's representative(s) regarding the changes;
- B. A new King County W-9, located at:
<https://www.kingcounty.gov/~media/depts/finance/procurement/forms/KC-W9.ashx?la=en>. Instructions for completing the document can be found at:
https://www.kingcounty.gov/~media/depts/finance/procurement/forms/KC-W9_Instructions_for_Business.ashx?la=en
- C. A current statement, listing of unfilled orders and electronic versions of all outstanding invoices and credit memos at the time of the change shall be provided to the Contract Specialist as soon as possible.

Any delay on the part of the Contractor to provide these items to the Contract Specialist may result in the delay of payment and orders. The County may create a new contract number to replace the existing one. All future orders and Contracts Amendments will reference the new contract number.

2.5 Payment Procedures; Prompt Payment of Subcontractors

For Work Accepted by the County the Contractor shall furnish invoices to King County [insert agency, contact name, phone, email and mailing address] and invoices.ap@kingcounty.gov . All invoices shall contain the following information:

- A. Invoice date
- B. Purchase order number (if provided by King County)
- C. Ship to address/location
- D. Remit address
- E. Date(s) of service(s)
- F. Item number(s)
- G. Description of supplies or services
- H. Quantities
- I. Unit prices
- J. Subtotal and totals amount
- K. Discount terms or amount, if applicable
- L. Applicable sales tax with correct tax rate based on destination

For each item invoiced, provide the complete description of the products, services, phases or milestones Accepted, hours worked and Contract hourly rates, or authorized fees.

For services, identify specific deliverables, and/or hourly rates, hours worked, total hours or related fees.

The Contractor shall send the original invoice to the Bill-To address on the purchase order. The County will take advantage of any prompt payment discount terms bid. Discount periods shall be extended if the invoice is returned for credit or correction.

When a purchase order is issued against the Contract that has the potential for multiple or partial deliveries, a separate invoice shall be generated for each completed delivery accepted by the County.

Failure to comply with these requirements or to provide an invoice in conformance with the Contract may delay payment.

The County will not be bound by prices contained in an invoice that are higher than those in **Exhibit B**, or if not used as part of this Contract, then the current price list for this Contract approved by the County. Within thirty (30) Days after receipt of an invoice, the County shall pay the Contractor for Accepted Work, upon acceptance of payment Contractor waives any claims for the Work covered by the invoice.

If the Contractor is registered with the State of Washington it shall add all applicable State sales or use taxes to each invoice and upon receipt of the payment promptly remit appropriate amounts to the State of Washington, or the County will make payment directly to the State.

The Contractor agrees to pay each Subcontractor under this Contract for satisfactory performance of its Subcontract within ten (10) Days from the receipt of each payment the Contractor receives from the County.

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. No advance payment shall be made for the goods or services furnished by Contractor pursuant to the Contract.

King County will not be bound by prices contained in an invoice that are higher than those in the currently approved price list. If a price increase has not been accepted in writing by King County, the invoice may be rejected and returned to the Contractor for a correction.

2.6 Pricing

Prices shall remain firm for the duration of the Contract. The Contractor may request a price change(s) in writing delivered to the county. The Contractor shall provide documentation satisfactory to the County in support of its request, such as changes to the Producers Price Index for the commodity, the Consumer Price Index for the Seattle-Tacoma-Bellevue area, or a manufacturer's published notification of price change(s). The County reserves the right, in its sole discretion, to grant the request as submitted, engage the Contractor in a discussion about modifications to the request, or deny the request in its entirety. Any change in pricing granted by the County shall be affected through a Contract Amendment instituting the price adjustment and establishing an effective date.

2.7 Price Change Clause

Each contract anniversary, Contractor and subcontractors shall review the current Prevailing Wage Rates.

- A. The Contractor shall increase wages paid if required to meet no less than the current prevailing wage rates for those positions that are covered by such wage rates, in effect at the time of the contract anniversary. Contractor and subcontractors shall file an affidavit and new intent prior to contract extension.
- B. Any price or rate increases made because of a change in the prevailing wages will be compensated by the County on a pass-through basis if the Contractor requests a price increase under the price increase request requirements provided earlier within this agreement.
- C. The Contractor must follow the contract instructions for pricing increases, by notifying the Contract Specialist at least 30 days prior to the contract anniversary date of any resulting price increase and documenting the increase.

2.8 Shipping Charges

All prices shall include freight FOB to the designated delivery point. The County shall reject requests for additional compensation for freight charges.

2.9 Contract Amendment

All changes to the Contract shall be made in writing through a Contract Amendment. No oral statement or other conduct by the County shall change or modify the Contract. The County may perform an analysis of cost, price or schedule to determine the reasonableness of the proposed change to the Contract.

2.10 Changed Requirements

New federal, state and county laws, regulations, ordinances, policies and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, the Contractor agrees to accept all changed requirements that apply to this Contract and require Subcontractors to comply with

revised requirements as well. Changed requirements shall be implemented through Contract Amendment Section.

2.11 Taxes, Licenses, and Certificate Requirements

If, for any reason, the Contractor's required licenses or certificates are terminated, suspended, revoked or in any manner modified from their status at the time this Contract becomes effective, the Contractor shall notify the County immediately of such condition in writing. The Contractor and Subcontractor(s) shall maintain and be liable for payment of all applicable taxes (except sales/use taxes), fees, licenses permits and costs as may be required by applicable federal, state or local laws and regulations as may be required to provide the Work under this Contract.

2.12 Notices

Unless otherwise specified in the Contract, all notices or documentation required or provided pursuant to this Contract shall be in writing and shall be deemed duly given when received at the addresses first set forth below via certified or registered first class mail, return receipt requested, personal delivery or electronic mail. However, if any of the following occur: "notice to cure" a default, Contractor communication in connection with an alleged default, or notice of termination, such notice or communication shall only be delivered personally, or by certified or registered first class mail, return receipt requested.

KING COUNTY	COMPANY NAME
Project Manager Name-	[Contact Name]
Address	Address
Address	Address
Seattle, WA	[City], [State]
206-	[Telephone Number]
xxxxxx@kingcounty.gov	[Email Address]
	[Fax Number]

2.13 Certification Regarding Debarment, Suspension and Other Responsibility Matters

If this Contract is a covered transaction for purposes of federally funded grant requirements, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting this Contract, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by King County. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to King County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while performing this Contract and further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Section 3 LEGAL RELATIONS; INDEMNITY AND INSURANCE

3.1 Independent Status of Contractor

In the performance of this Contract, the parties shall be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship shall be created by this Contract. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, wages, benefits, or other compensation by or on behalf of the Contractor and its employees. The Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

3.2 Indemnification and Hold Harmless

To the maximum extent permitted by law and except to the extent caused by the sole negligence of the County, the Contractor shall indemnify and hold harmless the County, its officers, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incident to the Work provided by or on behalf of the Contractor. This indemnification obligation shall include, but is not limited to, all claims against the County by an employee or former employee of the Contractor or its Subcontractors, and the Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the County only, under any industrial insurance act, including Title 51 RCW, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. In addition, the Contractor shall protect and assume the defense of the County and its officers, agents and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such Work; and shall pay all defense expenses, including reasonable attorney's fees, expert fees and costs incurred by the County on account of such litigation or claims. In the event that the County incurs any judgment, award and/or expense or cost, including attorney fees, arising from the provisions of this Section 3.2, or to enforce the provisions of this Section 3.2, any such judgment, award, fees, expenses and costs shall be recoverable from the Contractor.

The indemnification, hold harmless, protection and defense obligations contained herein shall survive the expiration, abandonment or termination of this Contract.

Nothing contained within this Section 3.2 shall affect and/or alter the application of any other section contained within this Contract.

3.3 Evidence and Cancellation of Insurance

A. Prior to execution of the Contract, the Contractor shall furnish the County certificates of insurance and endorsements certifying the issuance of all insurance required by this Contract. All evidence of insurance shall be signed by a properly authorized officer, agent, general agent or qualified representative of the insurer(s), shall certify the name of the insured(s), the type and amount of insurance, the location and operations to which the insurance applies, the inception and expiration dates, contract or RFP number, shall specify the form number of any endorsements issued to satisfy this Contract's insurance requirements, and shall state that the County shall receive notice at least thirty (30) Days prior to the effective date of any cancellation, lapse or material change in the policy. Similar documentation confirming renewal of required insurance shall be provided on each insurance renewal date. All insurance renewal certificates shall be sent to the County Project Manager.

- B. The County reserves the right to require complete, certified copies of all required insurance policies, including all endorsements and riders, which may be redacted of any confidential or proprietary information. Contractor shall deliver such polices to the County within five (5) Days of County's request.
- C. Failure to provide such insurance in a timeframe acceptable to the County shall enable the County to suspend or terminate the Contractor's Work hereunder in accordance with Contract provision regarding "Termination for Convenience/Default/Non-appropriation."
- D. County's receipt or acceptance of Contractor's or any Subcontractor's evidence of insurance at any time without comment or objection, or County's failure to request certified copies of such insurance, does not waive, alter, modify, or invalidate any of the insurance requirements set forth in this Section or, consequently, constitute County's acceptance of the adequacy of Contractor's or any Subcontractor's insurance or preclude or prevent any action by County against Contractor for breach of the requirements of this Section.

3.4 Insurance Requirements

- A. Contractor shall purchase and maintain, at its sole cost and expense, the minimum insurance set forth below. By requiring such minimum insurance, County does not and shall not be deemed or construed to have assessed the risks that may be applicable to Contractor, or any Subcontractor, under this Contract, or in any way limit County's potential recovery to insurance limits required hereunder. To the contrary, this Contract's insurance requirements may not in any way be construed as limiting any potential liability to County or County's potential recovery from Contractor. Contractor and any Subcontractor shall assess their own risks and if they deem appropriate and/or prudent, maintain greater limits and/or broader coverage.
- B. Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage shall apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.
- C. Each insurance policy shall be written on an "occurrence" basis/form; excepting insurance for professional liability (errors and omissions), and/or pollution liability; and/or cyber liability (technology errors and omissions). Professional liability (errors and omissions), pollution liability, and cyber liability (technology errors and omissions) required by this Contract is acceptable on a "claims made" basis/form.
- D. If coverage is approved and purchased on a "claims made" basis/form, the coverage provided under that insurance shall be maintained through: (i) consecutive policy renewals for not less than three (3) years from the date of completion of the Work which is subject of this Contract or, if such renewals are unavailable, (ii) the purchase of a tail/extended reporting period for not less than three (3) years from the date of completion of the Work which is the subject of this Contract. All insurance written on a "claims made" basis/form must have its policy inception or retroactive date be no later than the Effective Date of the Contract, unless otherwise approved in writing by the County's Risk Management Office.

E. Minimum Scope and Limits of Insurance

The Contractor shall maintain the following types of insurance and minimum insurance limits:

1. Commercial General Liability: \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to premises liability, products and completed operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for the County.
 - a. A per project aggregate endorsement shall apply to the General Liability policy.
 - b. If Work involves underground construction, drilling or boring of any kind, Explosion, Collapse, and Underground Damage (XCU) coverage shall be included.
2. If Work involved requires any services provided by a licensed professional or those services that require a professional standard of care, Professional Liability (Errors and Omissions): \$1,000,000.00 per claim and in the aggregate.
3. Automobile Liability: \$1,000,000.00 combined single limit per accident for bodily injury and property damage. Statutory Limits per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 01 covering **BUSINESS AUTO COVERAGE**, symbol 1 “any auto”; or the combination of symbols 2, 8, and 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy. Policy shall be endorsed to include endorsement CA 9948 (or its substantive equivalent).
4. Workers Compensation: Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this Work by applicable Federal or “Other States” State Law.
5. Employers Liability or “Stop Gap” coverage: \$1,000,000.00 each occurrence and shall be at least as broad as the protection provided by the Workers Compensation policy Part 2 (Employers Liability), or, in monopolistic states including but not limited to Washington, the protection provided by the “Stop Gap” endorsement to the commercial general liability policy.
6. If Work requires underground work, Pollution Liability: \$1,000,000 per occurrence or claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage to include the destruction of tangible property, loss of use, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.

F. Other Insurance Provisions and Requirements

All insurance policies purchased and maintained by Contractor and any Subcontractor required in this Contract shall contain, or be endorsed to contain the following provisions:

With respect to all liability policies except professional liability (errors and omissions), cyber liability (technology errors and omissions, and workers compensation:

1. The County, its officials, employees and agents shall be covered as additional insured for full coverage and policy limits as respects liability arising out of activities performed by or on behalf of the Contractor, its agents, representatives, employees, contractor(s), or subcontractor(s) in connection with this Contract. Additional Insured status shall include products-completed operations CG 20 10 11/85 or its substantive equivalent. **The County requires a copy of the additional insured endorsement(s) to complete the Contract.**

With respect to all liability policies (except workers compensation):

- a. Coverage shall be primary insurance as respects the County, its officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officials, employees or agents shall not contribute with any Contractor's or Subcontractor's insurance or benefit the Contractor or any Subcontractor, or their respective insurers in any way.
 - b. Insurance shall expressly state that it applies separately to each insured and additional insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of insurer's liability.
- G. **Deductibles/Self-Insured Retentions**
Any deductible and/or self-insured retention of the policies shall not in any way limit County's right to coverage under the required insurance, or to Contractor's or any Subcontractor's liability to the County, and shall in all instances be the sole responsibility of Contractor and any Subcontractor, even if no claim has actually been made or asserted against Contractor or Subcontractor.
- H. **Acceptability of Insurers**
Unless otherwise approved by the County, insurance is to be placed with insurers with an A.M. Best rating of no less than A:VIII.

Professional Liability (errors and omissions) insurance may be placed with insurers with an A.M. Best rating of no less than B+:VII.

If at any time any of the foregoing policies fail to meet the above stated requirements, Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for review.

I. **Subcontractors**

Contractor shall include all Subcontractors as insureds under its policies or, alternatively, the Contractor must require each of its Subcontractors to procure and maintain appropriate and reasonable insurance coverage and insurance limits to cover each of the Subcontractor's liabilities given the Subcontractor's scope of work and the services being provided herein. To the extent reasonably commercially available, insurance maintained by any Subcontractor must comply with the specified requirements of Sections 3.3 and 3.4 (inclusive) above, including the requirement that all liability insurance policies (except professional liability and workers compensation) provided by the Subcontractor(s) must include County, its officials, agents and employees as additional insured for full coverage and policy limits. Contractor is obligated to require and verify that each Subcontractor maintains the required insurance and ensure County is included as additional insured. Upon request by the County, and within five (5) business days, Contractor must provide evidence of each Subcontractor(s) insurance coverage, including endorsements.

J. Work Site Safety

The Contractor shall have the “right to control” and bear the sole responsibility for the job site conditions, and job site safety. The Contractor shall comply with all applicable federal, state and local safety regulations governing the job site, employees and Subcontractors. The Contractor shall be responsible for the Subcontractor’s compliance with these provisions.

Section 4 CONFLICTS OF INTEREST AND NON-COMPETITIVE PRACTICES

4.1 Conflicts of Interest and Non-Competitive Practices

- A. Conflict of Interest - By entering into this Contract to perform Work, the Contractor represents that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, that conflicts in any manner or degree with the Work required to be performed under this Contract. The Contractor shall not employ any Person or agent having any conflict of interest. In the event that the Contractor or its agents, employees or officers hereafter acquires such a conflict of interest, it shall immediately disclose such conflict to the County. The County shall require that the Contractor take immediate action to eliminate the conflict.
- B. Contingent Fees and Gratuities - By entering into this Contract to perform Work, the Contractor represents that:
 - 1. No Persons except as designated by Contractor shall be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid.
 - 2. No gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its officers, agents, employees or representatives, to any official, member or employee of the County or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.
 - 3. Any Person having an existing contract with the County or seeking to obtain a contract who willfully attempts to secure preferential treatment in his or her dealings with the County by offering any valuable consideration, thing or promise, in any form to any County official or employee shall have his or her current contracts with the County canceled and shall not be able to bid on any other County contracts for a period of two (2) years.
- C. Disclosure of Current and Former County Employees - To avoid any actual or potential conflict of interest or unethical conduct:
 - 1. County employees or former County employees are prohibited from assisting with the preparation of proposals or contracting with, influencing, advocating, advising or consulting with a third party, including Contractor, while employed by the County or within one (1) year after leaving County employment if he/she participated in determining the Work to be done or processes to be followed while a County employee.
 - 2. Contractor shall identify at the time of offer current or former County employees involved in the preparation of proposals or the anticipated performance of Work if

awarded the Contract. Failure to identify current or former County employees involved in this Contract may result in termination of this Contract.

3. After Contract award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.
- D. King County Consultant Disclosure - In accordance with King County Code 3.04.120, as a condition of award of a professional or technical services contract, the Contractor agrees that, unless otherwise specified, any information required to be disclosed below shall cover the period twenty four months before and including the date of filing the sworn statement.
1. No County employee or any member of the County employee's immediate family holds an office or directorship in the Contractor;
 2. No County employee or any member of the County employee's immediate family has a financial interest in the Contractor as identified below:
 - a. Ownership of over five percent of the stock or other form of interest in the Contractor; and
 - b. Receipt of any compensation, gift or thing of value from the Contractor;
 3. No officer or director of the Contractor has had a position on any County board or commission, whether salaried or unsalaried, in the five years immediately preceding the present Contract.
 4. Absent authorization for alternative compliance as referenced below, failure to comply with this provision shall be considered a material breach of this Contract, and may subject the Contractor to administrative sanctions and remedies for breach.
 5. Any other information known to the Contractor about any interest or relationship whatsoever between any County employee, including any member of his or her immediate family, and the Contractor, other than what is designated above.
 6. Alternative Compliance. If a Contractor is seeking authorization from King County for alternative compliance with the requirements of the King County Consultant Disclosure, the Contractor must complete and return a King County Consultant Disclosure Form to King County. The Consultant Disclosure Form can be found at: <https://kingcounty.gov/~media/depts/risk-management/documents/financial-disclosure-consultant.ashx?la=en>
 7. All contracts between the Contractor and the County in the five years immediately preceding the presently contemplated contract, including the amount of money paid by the County to the Contractor, is maintained by Procurement & Payables.

Section 5 RECORDS AND AUDITS

5.1 Retention of Records, Audit Access and Proof of Compliance with Contract

A. Retention of Records

The Contractor and its Subcontractors shall maintain books, records and documents of its performance under this Contract in accordance with generally accepted accounting

principles. The Contractor shall retain for six (6) years after the date of final payment under the Contract all financial information, data and records for all Work.

B. Audit Access

The Contractor shall provide access to its facilities, including those of any Subcontractors, to the County, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the Work provided under this Contract. The County shall give reasonable notice to the Contractor of the date on which the audit shall begin.

5.2 Audit Exception

The Contractor agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception that occurs due to the negligence, intentional act and/or failure for any reason to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives. This duty to repay shall survive the expiration or termination of this Contract.

5.3 Public Records Requests

This Contract shall be considered a public document and will be available for inspection and copying by the public in accordance with the Public Records Act, chapter 42.56 RCW (the "Act").

If the Contractor considers any portion of any record provided to the County under this Contract, whether in electronic or hard copy form, to be protected under law, the Contractor shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such portion, the County will determine whether the material should be made available under the Act. If the County determines that the material is subject to disclosure, the County will notify the Contractor of the request and allow the Contractor ten (10) business days to obtain an injunction in accordance with RCW 42.56.540. If the Contractor fails or neglects to take such action within said period, the County will release the portions of record(s) deemed by the County to be subject to disclosure. The County shall not be liable to the Contractor for inadvertently releasing records pursuant to a disclosure request not clearly identified by the Contractor as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET."

Section 6 INTELLECTUAL PROPERTY

6.1 Patents, Copyrights and Rights in Subject Data

Any patentable result or materials suitable for copyright arising out of this Contract shall be owned and retained by the County. The County in its sole discretion shall determine whether it is in the public's interest to release or make available any patent or copyright.

The Contractor agrees that the ownership of any plans, drawing, designs, Scope of Work, computer programs, technical reports, operating manuals, calculations, notes and other work submitted or which is specified to be delivered under this Contract, whether or not complete (referred to in this subsection as "Subject Data") shall be vested in the County.

All such Subject Data furnished by the Contractor pursuant to this Contract, other than documents exclusively for internal use by the County, shall carry such notations on the front

cover or a title page (or in such case of maps, in the name block), as may be requested by the County. The Contractor shall also place its endorsement on all Contractor-furnished Subject Data. All such identification details shall be subject to approval by the County prior to printing.

The Contractor shall ensure that the substance of foregoing subsections is included in each subcontract for the Work under this Contract.

6.2 Nondisclosure of Data

Data provided by the County either before or after Contract award shall only be used for its intended purpose. Contractors and Subcontractors shall not utilize nor distribute the County data in any form without the prior express written approval of the County.

6.3 Non-Disclosure Obligation

While performing the Work under this Contract, the Contractor may encounter personal information, licensed technology, drawings, schematics, manuals, data and other materials described as "Confidential", "Proprietary" or "Business Secret". The Contractor shall not disclose or publish the information and material received or used in performance of this Contract. This obligation is perpetual. The Contract imposes no obligation upon the Contractor with respect to confidential information which the Contractor can establish that: a) was in the possession of, or was rightfully known by the Contractor without an obligation to maintain its confidentiality prior to receipt from the County or a third party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by the Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by the Contractor without the participation of individuals who have had access to the County's or the third party's confidential information. If the Contractor is required by law to disclose confidential information the Contractor shall notify the County of such requirement prior to disclosure.

Section 7 NONDISCRIMINATION AND PAYMENT OF A LIVING WAGE

7.1 Nondiscrimination and Equal Employment Opportunity

A. Nondiscrimination in Employment

During performance of this Contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of the employee or applicant's sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

B. Equal Employment Opportunity Efforts

The Contractor will undertake, and require all Subcontractors to undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age. Equal employment opportunity efforts shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Contractor agrees to post, and to require Subcontractors to post in conspicuous places available to employees and applicants for employment

notices setting forth this nondiscrimination clause. In accordance with KCC 12.16.010.J, "equal employment opportunity efforts" shall mean active efforts to ensure equal opportunity in employment that is free from all forms of discrimination.

Ref: KCC 12.16.020.

C. Equal Benefits to Employees with Domestic Partners

In accordance with King County Ordinance 14823, as a condition of award of a contract valued at \$25,000 or more, the Contractor agrees that it shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners during the performance of this Contract. Absent authorization for delayed or alternative compliance, failure to comply with this provision shall be considered a material breach of this Contract, and may subject the Contractor to administrative sanctions and remedies for breach.

When the contract is valued at \$25,000 or more, by signing the Contract/Bid Submittal the Contractor is indicating compliance with this requirement or with the terms of an authorization for delayed or alternative compliance.

D. Nondiscrimination in Subcontracting Practices

During the term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

E. Compliance with Laws and Regulations

The Contractor and all Subcontractors shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit discrimination. These laws include, but are not limited to, Chapter 49.60 RCW, Titles VI and VII of the Civil Rights Act of 1964, the American with Disabilities Act, and the Restoration Act of 1987. KCC chapters 12.16, 12.17 and 12.18 are incorporated herein by reference and the requirements in these code sections shall specifically apply to this Contract. The Contractor and all Subcontractors shall further comply fully with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

F. Compliance with Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) and the American with Disabilities Act of 1990 as amended (ADA).

Pursuant to Title II of the ADA, and Section 504, King County must not discriminate against people with disabilities in providing services, programs or activities even if those services, programs or activities are carried out by contractors. The Contractor agrees that it shall provide all programs, services, and activities to County employees or members of the public under this Contract in the same manner as King County is obligated to under Title II of the ADA, and Section 504 and shall not deny participation of the benefits of such services, programs, or activities to people with disabilities on the basis of such disability.

Failure to comply with this Section shall be a material breach of, and grounds for the immediate termination of, this Contract.

The Contractor agrees to provide to persons with disabilities access to programs, activities and services provided under the Contract, as required by the disability access laws as defined by KCC 12.16.

The Contractor shall not discriminate against persons with disabilities in providing the Work. In any subcontracts for the programs, activities and services under their Contract, the Contractor shall include the requirement that the Subcontractor provide to persons with disabilities access to programs, activities and services provided under the Contract, as required by the disability access laws as defined by KCC 12.16; that the Subcontractor shall not discriminate against persons with disabilities in providing the Work under the Contract; and that the Subcontractor shall provide that the County is a third party beneficiary to that required provision.

- G. Sanctions for Violations - Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of Contract, for which the Contractor may be subject to damages, withholding payment and any other sanctions provided for by Contract and by applicable law.

7.2 Requirements of King County Living Wage Ordinance

In accordance with King County Ordinance 17909, as a condition of award for contracts for services with an initial or amended value of \$100,000 or more, the Contractor agrees that it shall pay and require all Subcontractors to pay a living wage as described in the ordinance, to employees for each hour the employee performs a Measurable Amount of Work on this Contract. The requirements of the ordinance, including payment schedules, are detailed at <http://www.kingcounty.gov/operations/procurement/Resources/ordinance-17909.aspx>.

Violations of this requirement may result in disqualification of the Contractor from bidding on or being awarded a County contract for up to two years; contractual remedies including, but not limited to, liquidated damages and/or termination of the Contract; remedial action as set forth in public rule; and other civil remedies and sanctions allowed by law.

Section 8 CLAIMS AND APPEALS / DISPUTE RESOLUTION

8.1 Claims and Appeals

The Contractor shall address claims for additional time or compensation under the Contract in writing to the Contract Specialist and Project Manager within ten (10) Days of the date in which the Contractor knows or should know of the basis for the claim. Claims shall be accompanied by supporting documentation and citation to applicable provisions in the Contract documents. The County reserves the right to request additional documentation necessary to adequately review the claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. The Contract Specialist and Project Manager shall ordinarily respond to the Contractor in writing with a decision issued jointly, but absent such written response, the claim shall be deemed denied upon the tenth (10th) Day following receipt by the Contract Specialist and Project Manager of the claim, or requested additional documentation, whichever is later.

In the event the Contractor disagrees with the determination of the Contract Specialist and Project Manager, the Contractor shall, within five (5) Days of the date of such determination, appeal the determination in writing to the Procurement and Contract Services Section

Manager. Such written notice of appeal shall include all information necessary to substantiate the appeal. The Procurement and Contract Services Section Manager shall review the appeal and make a determination in writing, which shall be final. Appeal to the Procurement and Contract Services Section Manager on claims for additional time or compensation shall be a condition precedent to litigation.

At all times, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the direction of the Contract Specialist or Project Manager. Failure to comply precisely with the time deadlines under this Section 8.1 as to any claim and appeal shall operate as a waiver and release of that claim and appeal and an acknowledgment of prejudice to the County.

8.2 Mediation and Arbitration

If a dispute arises out of or relates to this Contract, or the breach thereof, including any Contractor claim, that is not resolved through the required claims and appeal process set forth in Section 8.1, the parties may, upon mutual agreement, endeavor to settle the dispute in an amicable manner by mediation or other agreed form of alternative dispute resolution process prior to commencing litigation.

8.3 Applicable Law and Forum

This Contract shall be governed by and construed according to the laws of the State of Washington. Any claim or suit between the parties arising out of this Contract may only be filed and prosecuted in King County Superior Court or U.S. District for the Western District of Washington, in Seattle.

Section 9 TERMINATION

9.1 Termination for Convenience/Default/Non-Appropriation

A. Termination for Convenience

This Contract may be terminated by the County without cause, in whole or in part, upon providing the Contractor ten (10) Days' advance written notice of the termination. If the Contract is terminated pursuant to this Section 9.1.A, the County will be liable only for payment in accordance with the terms of this Contract for Work performed and Accepted prior to the effective date of termination.

B. Termination for Default

If the Contractor does not perform the Work, or the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any material provisions of the Contract, the County may terminate this Contract, in whole or in part, for default as follows:

1. A "notice to cure" shall be served on the Contractor by certified or registered first class mail in accordance with Section 2.12. The Contractor shall have ten (10) Days from the date of receipt to cure the default or provide the County with a detailed written plan for review and acceptance, which indicates the time and methods needed to bring the Work into compliance and cure the default.
2. If the Contractor has not cured the default or the plan to cure the default is not acceptable to the County, the County may terminate the Contract by serving a

"notice of termination" in accordance with Section 2.12 setting forth the manner in which the Contractor is in default and the effective date of termination.

3. The Contractor shall only be paid for Work performed and Accepted less any damages to the County caused by or arising from such default. All termination payment requests are subject to an analysis of cost or price by the County to verify compliance with the Contract, applicable laws and regulations.
4. The termination of this Contract shall in no way relieve the Contractor from any of its obligations under this Contract nor limit the rights and remedies of the County hereunder in any manner.

C. Termination for Non-Appropriation

1. If expected or actual funding is withdrawn, reduced or limited in any way prior to [Final Acceptance and/or Completion of the Project], the County may, upon written notice to the Contractor, terminate this Contract in whole or in part for lack of appropriation. Such termination shall be in addition to the County's rights to terminate for convenience or default. In the event of termination under this section the following shall apply:
 - a. Subject to subsection b., the County will be liable only for payment in accordance with the terms of this Contract for Work performed prior to the effective date of termination;
 - b. Payment, if any, associated with such termination shall not exceed the appropriation for the biennium in which termination occurs; and
 - c. The Contractor shall be released from any obligation to provide further Work under the Contract affected by the termination.
2. Notwithstanding subsection 1., funding of this Contract beyond the current biennium is conditional upon the appropriation by the County Council of sufficient funds to support the Work described in this Contract. Otherwise, the Contract shall terminate on December 31 of the current biennium.

Section 10 MISCELLANEOUS

10.1 Other Public Agency Orders

Other federal, state, county and local entities may utilize the terms and conditions established by this Contract if agreeable to all parties. The County does not accept any responsibility or involvement in the purchase orders or contracts issued by other public agencies.

10.2 Assignment

Neither party shall assign any interest, obligation or benefit under or in this Contract or transfer any interest in the same, whether by assignment or novation, without prior written consent of the other party. If assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of the assigning party. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender so long as King County Policy Fin10-1 (AP), section 6.1.3 is followed. If an assignment is approved, it shall be effective upon the posting of all required bonds, securities and the like by the assignee and the written agreement by assignee to assume and be responsible for the obligations and liabilities of the Contract, known and unknown, and applicable law.

10.3 Force Majeure

The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, terrorism, fire, accidents, shutdowns for purpose of emergency repairs, industrial, civil or public disturbances, causing the inability to perform the requirements of this Contract. If any party is rendered unable, wholly or in part, by a force majeure event to perform or comply with any obligation or condition of this Contract, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations. In the event the Contractor ceases to be excused pursuant to this provision, then the County shall be entitled to exercise any remedies otherwise provided for in this Contract, including termination for default.

10.4 HIPAA – Protecting Patient Privacy

The Work under this Contract may require compliance with "The Health Insurance Portability and Accountability Act of 1996" (HIPAA). Information on this Act can be found at the U.S. Office of Civil Rights website: <http://www.hhs.gov/ocr/hipaa/>.

10.5 No Third-Party Beneficiary

This Contract is for the sole and exclusive benefit of the County and the Contractor and shall not create a contractual relationship with, or cause of action in favor of, any third parties.

10.6 Severability

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision.

10.7 Non-Waiver of Breach

No action or failure to act by the County shall constitute a waiver of any right or duty afforded to the County under the Contract; nor shall any such action or failure to act by the County constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by the County in writing.

10.8 Background Checks

Contractor warrants and represents that each and every Contractor employee can meet the following requirements: (a) No convictions within the past ten (10) years for crimes involving computers, moral turpitude, including fraud, perjury, dishonesty; and (b) No adverse employment actions within the past ten (10) years regarding dishonesty or the use or misuse of computers.

Contractor personnel needing access to secure areas, records, or systems may be required to complete a security/background check by the County. The County may require Contractor's employees, agents, consultants or Subcontractors to complete a brief questionnaire and complete fingerprinting as part of the investigation process. The required background check will review and evaluate driving records, criminal records, employment histories, military records, personal and employment references and related information. Contractor staff failing the background check may, at the sole discretion of the County, be restricted from working within secured areas or with County systems in any capacity. The Contractor will assign

alternative staff who have passed the background check to meet the requirements of the Contract.

End of Terms and Conditions

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