



City of Bellevue  
450 110<sup>th</sup> Ave. NE  
Bellevue, WA 98004

## Professional Services Contract

### City of Bellevue Contract Identification Information:

Contract Title: [<Enter Here>](#)

This AGREEMENT is entered into between the **City of Bellevue, Washington ("CITY")** and [<Vendor Name>](#)-**("CONSULTANT")**.

### 1. SERVICES BY CONSULTANT

- A. Performance of Services. The Consultant shall perform the services described in the Scope of Services, which is attached hereto as Attachment "A" and by this reference is incorporated herein. All Services will be rendered to the best of the Consultant's ability and in a timely and professional manner in compliance with all standards and rules reasonably established by the City.
- B. Modification. The City periodically may make changes to the Services that are within the general scope of the Agreement, by giving the Consultant written notice of such changes. If any change results in an increase or a reduction in the work that was contemplated to be performed by the Consultant as described in Attachment "A", the Consultant's compensation hereunder shall be modified accordingly.

### 2. PAYMENT

The City will be paying the Consultant for such services:

- Hourly Rate: [<Hourly Rate>](#) per hour, but not more than a total of [<Contract Total>](#).
  - Fixed Sum: A total amount of [<Contract Total>](#): , to be paid per invoice schedule.
  - Other: [<Other Contract Arrangement>](#),  
for all services performed, and expenses incurred under this agreement.
- B. The Consultant shall maintain time and expense records, report them to the City monthly and shall submit invoices to the City monthly for payment of work performed to the date of the invoice. Invoices shall be in a format acceptable to the City.
  - C. The City shall pay all invoices from the Consultant by mailing a City warrant within 30 days of receipt of a properly completed invoice after approval of the Consultant's completed tasks/deliverables to the date of the invoice or monthly report, as appropriate.
  - D. All records and accounts pertaining to this Contract are to be kept available for inspection by representatives of the City for a period of three (3) years after final payment. Copies shall be made available to the City upon request.
  - E. If during the course of the Contract, the work performed does not meet the requirements set forth in the Contract, the Consultant shall correct or modify the work to comply with the Contract requirements and the City shall have the right to withhold payment for such work until it meets the requirements of the Contract.

### 3. DISCRIMINATION AND COMPLIANCE WITH LAWS

- A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state,

or local law or ordinance, except for a bona fide occupational disqualification. Without limiting the foregoing, Consultant agrees to comply with the provisions of Attachment "C", attached hereto and incorporated herein by this reference.

- B. The Consultant shall comply with all current federal, state, and local laws and ordinances applicable to the work to be done under this Agreement, including where applicable Bellevue City Code 4.28.143.
- C. Violation of this Section 3 shall be a material breach of this Agreement and grounds for cancellation, termination or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

#### **4. TERM AND TERMINATION OF AGREEMENT**

- A. Term. This Agreement shall remain in effect until completion of the services described in Attachment "A" and final payment therefor unless terminated earlier in accordance with Paragraph 4.B. of this Agreement.
- B. Rights Upon Termination. This Agreement may be terminated by either party without cause upon thirty days' written notice, in which event all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation at the rate set forth in Paragraph 2 for any satisfactory work completed prior to the date of termination.
- C. Non-Interference with Business. During the course of the Consultant's performance of the Services for the City and for period of twelve (12) months after the completion of such Services, the Consultant will not interfere with the City's business in any manner, including without limitation, encouraging anyone to leave the City's employ or encouraging any employee or independent Consultant to sever that person's relationship with the City.

#### **5. OWNERSHIP OF WORK PRODUCT**

- A. All data, materials, reports, memoranda and other documents developed under this Agreement whether finished or not shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if it uses products prepared by the Consultant for purposes other than those intended in this Agreement, it does so at its sole risk and it agrees to hold the Consultant harmless therefor.

#### **6. GENERAL ADMINISTRATION AND MANAGEMENT**

The director of the <Enter Department Name> Department, or his/her designee, shall be the City's representative, and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices, under this Agreement.

#### **7. INDEMNIFICATION AND HOLD HARMLESS**

- A. The Consultant shall protect, defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the Consultant. The Consultant agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the Consultant, by mutual negotiation, hereby waives, as respects the City only, any immunity that would otherwise be available against such claims under the industrial insurance provision of Title 51 RCW. In the event the City obtains any judgment or award, and/or incurs any cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Consultant.
- B. The City shall protect, defend, indemnify and save harmless the Consultant, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City. The City agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the City, by mutual negotiation, hereby waives, as respects the Consultant only, any immunity that would otherwise be available against such claims under the industrial insurance provision of Title 51 RCW. In the event the Consultant obtains any judgment or award, and/or incurs

any cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the City.

- C. The Consultant will indemnify, defend, and hold the City (and its elected officials, officers, employees, successors, assigns, insurers, licensees, distributors, independent Consultants, and agents) harmless from all claims, damages, losses, and expenses (including reasonable attorney's fee's incurred on such claims and in proving the right to indemnification) arising out of or resulting from any claim, action, or other proceeding that is based upon (a) the Consultant's breach of any obligations, representations, or warranties under the Agreement, (b) the Consultant's outside business activities, or (c) the infringement or misappropriation by the Consultant of any foreign or United States patent, copyright, trade secret, or other proprietary right in results.

## **8. INSURANCE; RISK OF LOSS**

The Consultant shall maintain insurance that is sufficient to protect the Consultant's business against all applicable risks, as set forth in Attachment "B". The Consultant will cause the indemnified parties, as described in Section 7, above, to be named as additional insureds on the policy required under the Agreement and shall cause its insurance to be primary to any insurance carried by the indemnified parties. The Consultant will provide the City with certificates of insurance and other supporting materials as the City reasonably may request to evidence Consultant's continuing compliance with this Section 8. The Consultant will be liable for all loss or damage, other than ordinary wear and tear, to the City's property in the Consultant possession or control that is caused by the Consultant. In the event of any such loss or damage, the Consultant will pay the City the full current replacement cost of such equipment or property within thirty (30) days after its loss or damage.

## **9. INDEPENDENT CONTRACTOR**

- A. Nature of Relationship. The Consultant shall be and act as an independent Contractor (and not as the employee, agent, or representative of the City) in the performance of the Services for the City. The Agreement shall not be interpreted or construed as creating or evidencing an association, joint venture, partnership or franchise relationship among the parties or as imposing any partnership, franchise, obligation, or liability on any party. The Consultant will not represent himself/herself as an employee of the City. The Consultant shall not be entitled to, and shall not attempt to, create or assume any obligation, express or implied, on behalf of the City. So long as the Consultant is able to adequately perform all of the Consultant's obligations under the Agreement in a skilled and workmanlike manner, the Consultant shall not be required to devote the Consultant's full time to the performance of the Services called for under the Agreement, and it is acknowledged that the Consultant has other clients and/or offers services to the general public. Since the Consultant will not be an employee of the City, the Consultant will not be entitled to any of the benefits that the City may make available to its employees, such as but not limited to vacation leave, sick leave, or insurance programs, including group health insurance or retirement benefits; nor shall the Consultant permit or cause any of the Consultant's employees, agents or subcontractors to perform any services under the Agreement in such a way as to cause or enable them to become, or claim to have become, employees, common law or otherwise, of the City. In addition, the Consultant acknowledges that as an independent Contractor, he/she/it and/or his/her/its agents, servants or employees are not eligible to recover worker's compensation benefits from or through the City in the event of injury.
- B. Consultant Responsible for Taxes and Records. The Consultant will be solely responsible for and will file, on a timely basis, all tax returns and payment required to be filed with or made to any federal, state or local tax authority with respect to the Consultant's performance of the Services and receipt of fees under the Agreement. The Consultant will be solely responsible for and must maintain adequate records of expenses incurred in the course of performing the Services under the Agreement. No part of the Consultant's compensation will be subject to withholding by the City for the payment of any social security, federal, state or any other employee payroll taxes; nor shall the City be obligated to make any such withholdings and/or payments on behalf of any employee, subcontractors, supplier, or other person working for or engaged by the Consultant to perform the Consultant's obligations under the Agreement. The City will regularly report amounts paid to the Consultant by filing Form 1099-MISC with the Internal Revenue Service as required by law.

**10. FUTURE SUPPORT**

The City makes no commitment and assumes no obligations for the support of the Consultant's activities except as set forth in this Agreement.

**11. GENERAL PROVISIONS**

- A. Governing Law; Forum. The Agreement will be governed by the laws of Washington and its choice of law rules. The Consultant irrevocably consents to the exclusive personal jurisdiction and venue of the federal and state courts located in King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.
- B. Severability. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provision will continue in full force without being impaired or invalidated in any way. The City and the Consultant agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- C. Nonwaiver. Any failure by the City to enforce strict performance of any provision of the Agreement will not constitute a waiver of the City's right to subsequently enforce such provision or any other provision of the Agreement.
- D. No Assignment. Neither the Agreement nor any of the rights or obligations of the Consultant arising under the Agreement may be assigned, without the City's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- E. City Marks. The Consultant will not use any trade name, trademark, service mark, or log of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.
- F. Notices. All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in this agreement.
- G. Legal Fees. In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.
- H. Counterparts. The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

**12. EXTENT OF CONTRACT/MODIFICATION**

This Contract, together with the attachments and/or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties hereto.

In witness whereof, the parties have executed this Agreement and it shall be effective as of the last date written below.

**<Enter Vendor Name>**

By: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Tax ID: \_\_\_\_\_  
 UBI Number: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_

**City of Bellevue:**

By: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Approved as to  
 form by: \_\_\_\_\_

**Attachment "A"**  
**Scope of Work**

<Enter Scope of Work here>

SAMPLE

## **Attachment "C"**

### **Title VI Requirements**

#### **GENERAL INSTRUCTIONS**

**Application:** The following materials pertain to the regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, part 21. All contractors, subcontractors, consultants, suppliers and manufacturers who contract with the City must comply with these requirements.

**Affidavit:** Before being considered for a contract, all contractors, etc will be required to submit the "Affidavit of Title VI Compliance" as a part of their proposal for upon the request of the Purchasing Manager.

**Compliance:** The City of Bellevue reserves the right to randomly select contractors, subcontractors, consultants, vendors or suppliers to be audited for compliance of the requirements listed. During this audit, the contractors, etc. will be asked for a specific demonstration of compliance with the requirements.

**Non-Compliance:** A finding of non-compliance may be considered a breach of contract and suspension or termination of the contract may follow.

**City Contact:** The City's Compliance Officer is the Purchasing Manager, and specific questions pertaining to this section may be directed to the Purchasing Division at 425.452.7246.

#### **ASSURANCES FOR CONTRACTORS, SUBCONTRACTORS, CONSULTANTS, SUPPLIERS AND MANUFACTURERS.**

- **Compliance with Regulations:** The Consultant shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- **Nondiscrimination:** The Consultant, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- **Solicitations for Subcontracts, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex or national origin.
- **Information and Reports:** The Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities

as may be determined by the City of Bellevue or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the City of Bellevue or the Washington State Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

- **Sanctions for Noncompliance.** In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the City of Bellevue and the Washington State Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the contractor complies, and/or;
  - b. Cancellation, termination, or suspension of the contract, in whole or in part.
- **Incorporation of Provisions.** The Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontractor or procurement as the City of Bellevue or the US Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the City of Bellevue enter into such litigation to protect the interests of the City and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.