

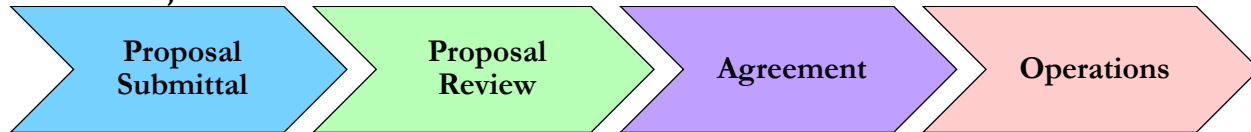


**Department of Transportation**  
 Metro Transit  
 Innovative Mobility Program  
 201 South Jackson Street  
 Seattle, WA 98104

**Shared Employer Shuttle Authorization Process  
 Solicitation Document \*Updated August 1, 2018**

<b>Service Proposals Submittal</b>	
Submittal window opens:	August 1, 2018, 8:00 am PT Window is open for the foreseeable future, until further notice.
Submittal address:	<a href="mailto:sharedshuttles@kingcounty.gov">sharedshuttles@kingcounty.gov</a>
<b>Additional info:</b>	<a href="http://www.kingcounty.gov/metro/sharedshuttles">www.kingcounty.gov/metro/sharedshuttles</a>
<b>Informational Conference</b>	
Date:	August 15, 2018
Time:	3:30 pm – 5:00 pm PT
Location	Room 4C, 201 South Jackson Street Seattle, WA 98104
Conference Call:	1-206-263-8114 (Conference ID: 6689784)

**General Project Timeline**



Proposal Submittal	From Aug 1, 2018 onwards, and open indefinitely.	Beginning August 1, Metro opens the window for proposal submittal indefinitely. Interested parties are encouraged to submit questions and participate in the informational conference if any clarifications are needed. Proposals will be accepted by email only.
Proposal Review	3 to 5 weeks	Metro reviews proposals to ensure that the proposed service meets a series of technical criteria and other basic requirements. Metro’s intent is to collaborate with all of those interested in this concept and help develop the best solutions possible. As such, if Metro is unable to approve a proposal after a first review, Metro will provide feedback to the proponents with an option for resubmittal of an updated proposal for additional technical review.
Agreement	Following proposal approval	Upon approval of the proposal, Metro and the shared employer shuttle consortium will sign an agreement authorizing the shared employer shuttle service for a 12-month period. Metro will require payment of a processing fee.
Operations	Following agreement completion	Service will launch on an agreed upon date by Metro and the shared employer shuttle consortium. Throughout the 12-month period, the consortium will provide monthly operational reports to Metro, and coordinate with Metro prior to any key service changes. Metro will evaluate the service before the end of the 12-month period to determine next steps.

## 1. Introduction

King County Metro (Metro) intends to collaborate with employers and private mobility providers to develop new options for employers looking to provide transportation alternatives for their workforces. Under this program, Metro will authorize the operation of shared employer shuttle services for a 12-month period.

## 2. Background

Metro's long range plan, Metro Connects, adopted in January 2017, calls for the exploration of innovative ways to deliver transportation services in order to meet the varying transportation needs of customers. In recognition of the rapidly changing transportation and mobility landscape, Metro is interested in exploring a range of creative new transportation options and solutions that may better match service with identified transportation needs. To help employers meet growing transportation demands, Metro intends to authorize shared employer shuttle services for 12-month periods.

## 3. The Service

### a. Service Concept

Metro's intent is to collaborate with all of those interested in this concept and help develop the best solutions possible. Metro's conceptual vision for the shared employer shuttle service to be developed through this process is as follows:

- Shared employer shuttles are transportation services that will be offered to the workforce members of at least two and up to five participating employers. Workforce members are employees of the organization as well as contractors whose assigned worksite is that of the organization. Fares will not be collected from individual workforce members at the time of boarding, but employers may collect a service usage fee from participating workforce members.
- Only workforce members of participating employers will be eligible to use the shared employer shuttle service, which will not be available to the public at large.
- Shared employer shuttle routes and schedules will complement existing public transit services in King County and will not duplicate existing transit services. As such, Metro's proposal review process will aim to identify and authorize shared employer shuttle services that:
  - Connect markets for which existing transit services require long walking distances or inefficient transfers.
  - Provide considerable travel time savings when compared to existing transit service.
  - Provide services at times of the day when existing transit services are infrequent.
- Shared employer shuttle service must be authorized by Metro and may be operated only pursuant to the terms of an authorizing agreement between Metro and selected service providers.
- Metro will not pay service providers or any other party for the provision of shared employer shuttle services. Third party service providers will be paid directly by participating employers. Shared Employer Shuttle service will not utilize Metro vehicles.

### b. Participating Employer Consortia

A shared employer shuttle consortium will be comprised of two or more organizations that share a common interest in providing transportation services to their workforce members through the shared employer shuttle service concept and have committed to participating in the 12-month service. It is anticipated that most consortiums will propose to operate the service through contract with a third party that will provide the vehicles and operate the service. It is possible, however, that a consortium could propose to acquire the vehicles and operate the service on their own.

c. Service Beneficiaries, Fares and Compensation

The shared employer shuttle service will only be offered to the workforce members of participating employers. Eligibility to use the service extends only to such workforce members and no other persons will have access to the service, whether or not they are related to a participating employer organization in another capacity. A per-ride fare will not be charged to individual workforce members upon boarding the service, but employers may collect a service usage fee from participating workforce members.

d. Service Elements

A shared employer shuttle service proposal will clearly identify the following elements:

- Riders: The workforce members of those employers participating in a shared employer shuttle service consortium; i.e., the people that will be eligible to use the service.
- Stops: Designated points along a shuttle route where drivers will stop to pick up or drop off riders.<sup>1</sup>
- Route: The specific path that will be followed by the shared employer shuttle service along the street network from origin to final destination, identifying all designated stop locations. Proposed shuttle service routes must be approved by Metro.<sup>2</sup>
- Hours of Operation: Identifies the days of the week and hours of the day during which the Shared Employer Shuttle service will be operational. Proposed hours of operation must be approved by Metro.
- Schedule: Identifies the specific times of the day at which the Shared Employer Shuttle service vehicles plan to reach each of the designated stops to pick up or drop off passengers. Proposed schedules must be approved by Metro.<sup>3</sup>
- Vehicle Capacity: The number of seated riders that the shared employer shuttle service vehicles can carry at their maximum capacity.
- Vehicle Fleet: The total number of vehicles assigned to provide the Shared Employer Shuttle service.
- Projected Ridership: The total number of riders that a participating employer consortium projects will use its proposed shared employer shuttle service after a demand ramp-up period of 3 months.

e. Vehicles

Each participating shared employer shuttle consortium will ensure that the vehicles used for the service operations meet the following requirements:

- All vehicles will be maintained in a commercially reasonable and safe operating condition in accordance with applicable federal, state and local laws and regulations.
- All vehicles will be regularly inspected, maintained, and repaired, both interior and exterior, including any necessary labor, tools, parts, materials, paint, vehicle washing, cleaning, tires, and other applicable maintenance services.

f. Drivers

Each participating shared employer shuttle consortium will ensure that all drivers meet the following requirements:

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<sup>1</sup> Metro is willing to consider alternative service concepts with flexible routes, stops, and schedules; proponents are expected to provide a clear service description that facilitates Metro's review process.

<sup>2</sup> See footnote #1.

<sup>3</sup> See footnote #1.

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- Drivers will at all times hold a valid Washington State driver's license, including a commercial driver's license (CDL) if required, providing legal authority to operate the vehicle type to be used for the proposed Shared Employer Shuttle service.
- Drivers will have approved criminal and identity background checks, reference check, and negative pre-employment drug and alcohol screens. The costs of all background checks will be borne by the consortium.
- Drivers shall be fully trained in the operation of the vehicles and services to be provided, will be supervised in accordance with standard industry practices, and will comply with all applicable laws and regulations.
- Drivers will observe all applicable federal, state and local laws, regulations and ordinances governing the safe operation of a commercial vehicle. Drivers will at all times operate their vehicles with safety as a first priority.
- Drivers may be subject to random and post-accident drug and alcohol tests.
- Drivers and backup drivers are to receive additional instructions and onsite training on the assigned service area.

g. Accessibility

Each participating employer in the consortium will be responsible for identifying riders that need a wheelchair accessible vehicle (WAV) and for developing a service solution that will provide such riders with approximately equivalent service to that provided to other riders using the proposed shared employer shuttle service. Solutions may vary from deploying a vehicle fleet of only WAVs and having all riders use the same service, to deploying a smaller fleet of WAVs available only to those riders that require them.

h. Program Management, Data Sharing and Surveys

Each participating shared employer shuttle consortium will identify a Program Manager, responsible for being the point of contact between the consortium and Metro, leading general communications with Metro Staff such as phone calls, emails, and meetings, and submitting monthly reports to Metro as detailed below:

- At the end of every month, a report detailing service operations for the month that just ended, detailing for every vehicle run the vehicle and driver assigned to it, a comparison of arrival times at each stop in relation to the approved schedule, and passenger boardings and alightings at each stop.
- At the end of every month, for Metro's consideration, the proposed schedule for the month ahead, vehicle fleet, and driver roster, and/or any proposed changes to the agreed upon service elements. The consortium shall only implement the proposed changes following Metro's approval.

Additionally, after 9 months of service operations, the consortium will distribute to all workforce members participating in the shared employer shuttle service a survey instrument developed by Metro to evaluate the service.

#### **4. Proposal Submittal and Review Process**

a. Expression of Interest

Any organization interested in participating or tracking the implementation of the solicitation process should notify Metro by sending an email to [sharedshuttles@kingcounty.gov](mailto:sharedshuttles@kingcounty.gov). Only those organizations that expressed their interest will receive notifications about question clarifications, addenda, and other relevant information.

b. Cancellation of Solicitation or Extension of Submittal Window

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Metro reserves the right to cancel this solicitation at any time. Metro may change the date and time for submitting proposals prior to the date and time established for submittal.

c. Addenda

If at any time, Metro changes, revises, deletes, clarifies, increases, or otherwise modifies the solicitation document, Metro will issue a written Addendum to the solicitation document.

d. Proposal Submittal

All proposals must be submitted by email to [sharedshuttles@kingcounty.gov](mailto:sharedshuttles@kingcounty.gov). Proposals must be submitted as an attachment in PDF format, and must consist of detailed information and answers to the following:

*i. Composition of Consortium*

- Identify each participating organization that is or will be a member of the shared employer consortium. Explain the anticipated roles of each member organization, e.g. employer, 3<sup>rd</sup> party provider.
- Explain whether the consortium proposes to provide shared shuttle service through a third party service provider or with its own vehicles and drivers.
- Proposals must be signed by authorized representatives of each organization that is or will be a member of the Consortium indicating each organization's support for and commitment to the proposal and the project, otherwise the proposal will be considered invalid.

*ii. General Service Goals*

- Describe the perceived need for the proposed Shared Employer Shuttle service and explain any other service goals expected to be derived from the proposed service.
- Explain how the proposed Shared Employer Shuttle would complement existing public transit service and identify any gaps in existing public transit service that could be addressed by implementation of Shared Employer Shuttle service.

*iii. Service Beneficiaries, Fares and Compensation*

- Describe what measures will be put in place to ensure that the shared employer shuttle service will only be available to workforce members of participating employers.
- Confirm that fares will not be collected from individual workforce members at the time of boarding or alighting.

*iv. Service Proposal*

- Provide a detailed description of all the service elements listed in Section 3d for the proposed shared employer shuttle service.
- Do note that although proposals must include preferred routes and schedules, Metro will approve all final routing and scheduling determinations.

*v. Vehicles*

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- Identify the vehicles that will be used to provide the shared employer shuttle service (the proposed fleet) and their corresponding license plate numbers. Provide a description of each proposed fleet vehicle, including make, model, capacity, and age.
- Describe the protocols and procedures that will be put in place to meet the inspection, maintenance, and repair requirements described in Section 3e.

*vi. Drivers*

- Identify the driver roster, including names, Washington State driver's license number, and CDL number, if required.
- Describe the protocols and procedures that will be put in place to meet all the driver requirements described in Section 3f.

*vii. Field Operations and Supervision*

- Describe how field supervision will be provided for the proposed service, including a detailed description of how communications will be maintained with drivers (e.g., radios, cell phones, etc.).
- Describe how the shared employer shuttle consortium will respond to vehicle accidents or incidents, including breakdowns. What is your proposed maximum response time for providing a replacement vehicle on the route if necessary?

*viii. Customer Service Standards*

- Provide a detailed explanation of your shared employer shuttle consortium's proposed customer (rider) service plan for the proposed shared employer shuttle service.
- Describe how drivers and any other employees that interface with riders will be trained on customer service delivery.

*ix. Accessibility*

- Describe the shared employer shuttle consortium's plan to provide wheelchair accessible services to those that require it as detailed in Section 3g.
- How many workforce members within the proposed shared employer shuttle route currently require a WAV? How was this number obtained and how will the service provider ensure that adequate WAVs will be available for the service if that number changes over time?
- How will the level of service offered in the WAV service compare to the regular shared employer shuttle service?
- Describe how you will ensure that passenger pick-up and drop-off points are accessible.

*x. Insurance and Indemnification*

- Describe the shared employer shuttle consortium's ability to comply with all the listed minimum insurance and indemnification requirements listed in the attached sample agreement (Exhibit 1).

*xi. Program Management, Data Sharing and Surveys*

- Describe the shared employer shuttle consortium's proposal for complying with the project management, data sharing, and survey requirements listed in Section 3h.

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*xii. Marketing and Promotion*

- Describe the shared employer shuttle consortium's proposal for marketing and promoting the service among eligible workforce members of the participating employers.

*xiii. Contract Review*

- Identify any exceptions to the attached sample agreement (Exhibit 1) that the shared employer shuttle consortium may have prior to signing.

NOTE TO PROPOSERS: This proposed contract is not an offer, and may be modified by the County after evaluation of responses to requests for proposal.

Exhibit 1- Sample Agreement



Department of Executive Services  
Finance and Business Operations  
Division **Procurement and Payables  
Section**  
206-263-9400 TTY Relay: 711

**THIS CONTRACT #** \_\_\_\_\_ ("Contract") is entered into by **KING COUNTY**, Washington, a home rule charter county and a political subdivision of the State of Washington (the "County"), and \_\_\_\_\_, [insert legal status] (the "Contractor"), whose principal place of business is \_\_\_\_\_. The County is undertaking certain activities related to, \_\_\_\_\_ 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:
  - Scope of Work .... Exhibit A [to be developed after evaluation of responses to solicitation document]
  - Consultant Disclosure Form (if applicable) ..... Exhibit C
  - Certificate(s) of Insurance and Policy Endorsement ..... Exhibit D
  - Other Exhibits and attachments (if applicable)

II. **CONTRACT TERM**

This Contract shall be effective when countersigned by King County and shall expire twelve (12) months after the date of the County's signature, unless extended or terminated earlier pursuant to the terms and conditions of this Contract.

III. **ACKNOWLEDGEMENT AND AUTHORITY**

The parties acknowledge that they have consulted with their respective attorneys and have had the opportunity to review this Contract. Therefore, the parties expressly agree



that this Contract shall be given full force and effect according to each and all of its express terms and provisions and the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract.

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: \_\_\_\_\_

Approved as to form only:

King County Prosecuting Attorney

## TERMS AND CONDITIONS

### SECTION 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.

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, unless otherwise specified.

KCC: The King County Code, now or as hereafter amended.

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     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.

### **2.3     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.

### **2.4     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 Section 2.3, Contract Amendment.

### **2.5     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.

### **2.6     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	CONTRACTOR
Project Manager -	
Seattle, WA	
206-	
<a href="mailto:xxxxxx@kingcounty.gov">xxxxxx@kingcounty.gov</a>	

**2.7 Certification Regarding Debarment, Suspension and Other Responsibility Matters**

Under King County Code 2.93.170, the King County Executive may debar a Consultant from consideration for award of contracts with the County for up to two years, and may suspend a Consultant from consideration for award of contracts with the County if there is probable cause for debarment for up to six months; for the following:

- A. Conviction within the five years preceding commencement of the debarment or suspension for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- B. Conviction within the five years preceding commencement of the debarment or suspension under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects responsibility as a consultant to the county;
- C. Conviction within the five years preceding commencement of the debarment or suspension under state or federal antitrust statutes arising out of the submission of bids or proposals;
- D. Violation of state wage payment laws;
- E. Violation of ethical standards set forth in contracts with the County;
- F. Violation of contract provisions, such as the following, of a character that is regarded by the Executive to be so serious as to justify debarment action:
  - 1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
  - 2. Substantial failure to comply with commitments to and contractual requirement for participation by minority and women’s business enterprises and equal employment opportunity; or
  - 3. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, though failure to perform or unsatisfactory performance caused by acts beyond the control of the Consultant shall not be considered to be a basis for debarment; or

G. Any other cause that the Executive determines to be so serious and compelling as to affect responsibility as a Consultant to the county, including debarment by another governmental entity for any cause similar to those in this subsection;

The King County Executive may issue an Order of Suspension/Debarment under King County Code 2.93.170 and Executive Policies and Procedures CON 7-20(PR). Rights and remedies of the County under these provisions are besides other rights and remedies provided by law or under the Agreement.

## **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 file with the County evidence of insurance and endorsements from the insurer(s) certifying to the coverage of all insurance required herein. All evidence of insurance shall be certified by a properly authorized officer, agent, general agent or qualified representative of the insurer(s) and shall certify the name of the insured, the type and amount of insurance, the location and operations to which the insurance applies, the expiration date, and that

the County shall receive notice at least forty-five (45) Days prior to the effective date of any cancellation, lapse or material change in the policy.

- B. The Contractor shall, upon request of the County, deliver to the County all such policies of insurance, and all endorsements and riders, and the receipts for payment of premiums thereon.
- 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 provisions regarding "Termination for Convenience/Default/Non-appropriation." Suspension or termination of this Contract shall not relieve the Contractor from its insurance obligations hereunder.
- D. Contractor assumes all risk of damage to its property and/or the loss by theft or otherwise, of any property of Contractor, its employees, subcontractors, invitees, or guests

### **3.4 Insurance Requirements**

Upon execution of this Contract, the Contractor, at its own cost, shall have procured and will maintain for the duration of this Contract, insurance as specified in the Minimum Scope and Limits of Insurance. The Contractor shall furnish the County with certificates of insurance and endorsements required by this Contract. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

Each insurance policy shall be written on an "occurrence" form; except that professional liability, errors and omissions, will be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the Work which is the subject of this Contract.

By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will 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.

#### **A. Minimum Scope and Limits of Insurance**

The Contractor shall maintain limits no less than,

1. General Liability: \$3,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$3,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations
2. Automobile Liability: Providing coverage for bodily injury and property damage. Insurance Services Office form number (CA 0 01) covering Business Auto Coverage, Symbol 1 “any auto”, or the appropriate coverage provided by Symbols 2, 7, 8, 9. Automobile Liability combined single limit per accident in accordance with the following table:

Passengers per vehicle	Minimum Limits per accident
1-2	\$1,000,000
3-5	\$3,000,000
6-9	\$5,000,000
10-15	\$10,000,000
Greater than 15	\$15,000,000

3. Workers’ Compensation: Statutory requirements of the State of residency, and
4. Employers’ Liability or “Stop Gap” coverage: \$1,000,000

B. Other Insurance Provisions and Requirements

The insurance coverage(s) required in this Contract are to contain, or be endorsed to contain the following provisions

All Liability Policies except Workers Compensation:

1. The County, its officers, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Contract. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, “CG 2010 11/85” or its equivalent is required. King County shall be additional insured regarding the total limits of liability maintained by Contractor. **The County requires this Endorsement to complete the Contract.**

All Policies:

1. The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.



2. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor
3. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after forty-five (45) Days prior written notice, has been given to the County.
4. Insurance coverage is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

If at any time any of the foregoing policies fail to meet minimum requirements, the 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 approval.

C. Subcontractors

The Contractor shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. **Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Contract not provided by the Contractor, shall be subject to all of the requirements stated herein.**

D. 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.

## **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.

### **5.2 Federal Funding Audit**

If the Contractor expended a total of \$750,000.00 or more in federal awards during its fiscal year, and is a non-profit organization, and is, under this Contract, carrying out or administering a program or portion of a program, it shall have an independent audit conducted in accordance with OMB Circular A-133, which shall comply with the requirements of GAAS (generally accepted auditing standards), GAO's Government Audit Standards and OMB Circular A-133, as amended and as applicable. Contractors expending federal awards from more than one source shall be responsible for determining if the combined financial awards are equal to or greater than \$750,000.00. The Contractor shall provide one copy of the audit report to each County division providing federal awards to the Contractor no later than nine (9) months subsequent to the end of the Contractor's fiscal year.

### **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 take whatever action it deems necessary to protect its interests. 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. Small Contractors and Suppliers Policy.

**Policy.** It is King County policy that Small Contractors and Suppliers (SCS) have equitable opportunities to participate in the performance of goods and services contracts issued by King County, and that contractors and subcontractors shall afford equal opportunity in employment while providing supplies and services for and to King County.

**Inquiries and Information Regarding King County Certified SCS Firms.** Direct inquiries on how to apply for SCS certification, or obtain a list of King County Certified Firms to the King County Business Development and Contract Compliance (BDCC) office by email at [SCSCertification@kingcounty.gov](mailto:SCSCertification@kingcounty.gov). Information about becoming a King County Certified SCS Firm, as well as a Directory of King County Certified Firms is available at: [www.kingcounty.gov/bdcc](http://www.kingcounty.gov/bdcc).

**Definitions.** The following definitions shall apply throughout this Section.

1. "Administrator" means the Director of Finance.
2. "Certified SCS Firm" means a business that has applied for participation in King County's Contracting Opportunities Program, and has been certified as an SCS by the King County BDCC office.
3. "Small Contractor or Supplier" or "(SCS)" means that a business and the person or persons who own and control it are in a financial condition, which puts the business at a substantial disadvantage in attempting to compete for public contracts. The relevant financial condition for eligibility under the Contracting Opportunities Program is based on a dollar ceiling for standard business classifications that is set at fifty percent (50%) of the Federal Small Business Administration (SBA) small business size standards using the North American Industrial Classification System (NAICS), and an Owners' Personal Net Worth less than \$1,320,000.

G. Required Submittals During Work.

The Contractor shall collect, enter, submit and update the submittals listed below for itself, its Subcontractors and any sub tier Subcontractors and suppliers to BDCC using the Contracts and Apprenticeship Report Tracking Services (CARTS) online reporting website located at [www.kingcounty.gov/bdcc](http://www.kingcounty.gov/bdcc). Report forms are available on the website. Assistance may be obtained by contacting BDCC staff at [SCSCertification@kingcounty.gov](mailto:SCSCertification@kingcounty.gov).

1. Subcontractor List. The Contractor shall create and maintain a master list of all Subcontractors on this Contract. The Contractor shall continually maintain the Subcontractorslist.

H. 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 7.1.H 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.

I. 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/depts/finance-business-operations/procurement/about-us/Living-Wage.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 in law.

## **SECTION 8           DISPUTE RESOLUTION**

### **8.1     Mediation and Arbitration**

If a dispute arises out of or relates to this Contract, or the breach thereof, 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.

### **8.2     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.

#### **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 2.10. 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 2.10 setting forth the manner in which the Contractor is in default and the effective date of termination.
3.    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.

## **SECTION 10 MISCELLANEOUS**

### **10.1 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.

### **10.2 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.

### **10.3 Environmentally Preferable Product Procurement Policy**

Contractors able to supply products containing recycled and environmentally preferable materials that meet performance requirements are encouraged to offer them in bids and proposals.

The Contractor shall use recycled paper for all printed and photocopied documents related to the submission of this solicitation and fulfillment of the Contract and shall, whenever practicable, use both sides of the paper.

Ref: KCC 18.20 and King County Executive Policy 7-1-2.

### **10.4 HIPAA – Protecting Patient Privacy (use when contractor may encounter health information)**

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: [www.hhs.gov/ocr/hipaa/](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 party.

**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 Contractor Payment of County Costs**

Contractor shall, within fourteen (14) days of receipt from the County of an invoice of the County's costs and expenses incurred in reviewing Contractor's response to Request for Proposal and in negotiating the Contract, pay such invoice to the County as instructed.

**END OF TERMS AND CONDITIONS**

NOTE TO PROPOSERS: This proposed contract is not an offer, and may be modified by the County after evaluation of responses to requests for proposal.