

Request for Qualifications (RFQ)



City of Lynnwood Procurement Division
19100 44th Ave W Lynnwood, WA 98036

PUBLISHED DATE: OCTOBER 8, 2019

Request for Qualifications Title: On-Call Planning Services

RFQ Number: 3164

Due Date: November 5, 2019 - 2:00 p.m.

Buyer: Ginny Meads | gmeads@lynnwoodwa.gov | 425-670-5149

Alternate Buyer: Brady Schach | bschach@lynnwoodwa.gov | 425-670-5168

Pre-submittal Conference:

No Pre-submittal Conference will be held.

Submittals are hereby solicited and will **only** be received by:

City of Lynnwood

Procurement Services Section
19100 44th Ave West
Lynnwood, WA 98036

We acknowledge that all Addenda issued for this RFQ have been examined as part of the Qualification documents.

Company Name

Address

City/State /Postal Code

Signature

Authorized Representative / Title

Email

Phone

Fax

Contact Name:

Phone

Email

DEFINITION OF WORDS AND TERMS APPLICABLE ONLY TO INSTRUCTION OF THE RFQ

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.

Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications or corrections to the solicitation documents issued by the City during the Qualification period and prior to contract award.

Best and Final Offer: Best and Final Offer shall consist of the revised submittal and any supplemental information requested during the evaluation of qualifications. In the event of any conflict or inconsistency in the items submitted by the Submitter, the items submitted last govern.

Competitive Range: The Competitive Range consists of the Submitters that have a reasonable chance of selection for contract award. The Evaluators (PE) shall conduct the initial evaluation of the submittals considering price and Evaluation Factors established in the RFQ. The Buyer and Project Manager/PE together shall compare the evaluations and determine the Competitive Range. The Competitive Range may be reduced after the evaluation of additional information, Best and Final Offers and negotiations.

Criteria, Evaluation Criteria or Evaluation Factors: The elements cited in the RFQ that the City shall examine to determine the Submitters understanding of the requirements; technical, business and management approach; key personnel; qualification and experience of the Submitter; potential for successfully accomplishing the Contract; risk allocation and the probable cost to the City.

Days: Calendar days.

Evaluators (PE): Team of people appointed by the City to evaluate the submittals, conduct discussions, call for Best and Final Offers, score the submittals and make recommendations.

Submitter: Individual, association, partnership, firm, company, corporation or a combination thereof, including joint ventures, submitting a submittal to perform the Work.

RFQ: Request for Submittals, also known as the solicitation document.

Reference Documents: Reports, Specifications, and drawings which are available to Submitters for information and reference in preparing submittals but not as part of this Contract.

SECTION 1 SUBMITTAL PREPARATION

1.1 Submittal Submission

Submitters are encouraged to use recycled paper in the preparation of additional documents submitted with this solicitation and shall use both sides of paper sheets where practicable.

Sealed submittals shall contain all required attachments and information and be submitted to The City (hereinafter "City") no later than the date, time and place stated on the front of this RFQ or as amended. The submittals shall show the title and number, the due date specified, and the name and address of the Submitter on the face of the envelope. Submitters are cautioned that failure to comply may result in non-acceptance of the submittal. The Submitter accepts all risks of late delivery of mailed submittals or of misdelivery regardless of fault. Submittals properly and timely submitted will be publicly opened.

Submittals will only be accepted from Consultants able to complete the delivery of goods or services described in the specifications. Joint ventures shall submit one submittal for the team, with accompanying proof of the joint venture agreement.

If a company chooses not to submit a submittal, the City requests the company advise the Buyer by email if they desire to remain listed for the subject of this RFQ and state the reason they did not submit a submittal.

1.2 Late Submittals

Submittals, modifications of submittals, received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered.

1.3 Cancellation of RFQ or Postponement of Submittal Opening

The City reserves the right to cancel this RFQ at any time. The City may change the date and time for submitting submittals prior to the date and time established for submittal.

1.4 Submittal Signature

Each submittal shall include a completed Submittal response form, the first page of this document, signed by an authorized representative of the Submitter.

1.5 Addenda

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

1.6 Questions and Interpretation of the RFQ

No oral interpretations of the RFQ will be made to any Submitter. All questions and any explanations must be requested in writing and directed to the Buyer no later than **five (5) Days** prior to the due date specified in the solicitation. Oral explanations or instructions are not binding. Communications concerning this RFQ with other than the listed Buyer or Procurement staff may cause the Submitter to be disqualified. Any information modifying a solicitation will be furnished to all Submitters by addendum. **Communications concerning this submittal, with other than the listed Buyer may cause the Submitter to be disqualified.**

1.7 Schedule

Day/Month/Year	Event
<u>October 8, 2019</u>	Public announcement of Request for Submittals
<u>October 30, 2019</u>	Questions due, in writing
<u>November 5, 2019</u>	Submittals due by 2:00 p.m.
<u>November 6, 2019</u>	*Begin Evaluation of Submittals
<u>Week of 11/18/19</u>	*Begin Interviews, if conducted
<u>Week of 12/2/19</u>	*Execute Contract

*NOTE: Dates preceded by an asterisk are estimated dates. Estimated dates are for information only.

1.8 Examination of Submittal and Contract Documents

The submission of a submittal shall constitute an acknowledgement upon which the City may rely that the Submitter has thoroughly examined and is familiar with all requirements and documents pursuant with the RFQ, including any addenda and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods or services to be provided hereunder.

The failure of a Submitter to comply with the above requirement shall in no way relieve the Submitter from any obligations with respect to its submittal or to any Contract awarded pursuant to this RFQ. No claim for additional compensation shall be allowed which is based upon a lack of knowledge or misunderstanding of this RFQ.

1.9 Cost of Submittals and Samples

The City is not liable for any costs incurred by Submitter in the preparation and evaluation of submittals submitted. Samples of items required must be submitted to location and at time specified. Unless otherwise specified, samples shall be submitted with no expense to the City. If not destroyed by testing, samples may be returned at the Submitter's request and expense unless otherwise specified.

1.10 Modifications of Submittal or Withdrawal of Submittal Prior to Submittal Due Date

At any time before the time and date set for submittal of submittals, a Submitter may submit a modification of a submittal previously submitted to the City. All submittal modifications shall be made in writing, executed and submitted in the same form and manner as the original submittal.

Submittals may be withdrawn by written notice received prior to the exact hour and date specified for receipt of submittals. A submittal also may be withdrawn in person by a Submitter or authorized representative provided their identity is made known and they sign a receipt for the submittal, but only if the withdrawal is made prior to the exact hour and date set for receipt of submittals. All requests for modification or withdrawal of submittals, whether in person or written, shall not reveal the amount of the original submittal.

1.11 Submittal Withdrawal After Public Opening

Except for claims of error granted by the City, no Submitter may withdraw a submittal after the date and time established for submitting submittals, or before the award and execution of a Contract pursuant to this RFQ, unless the award is delayed for a period exceeding the period for submittal effectiveness.

Requests to withdraw a submittal due to error must be submitted in writing along with supporting evidence for such claim for review by the City. Evidence must be delivered to the City within two (2)

Days after request to withdraw. The City reserves the right to require additional records or information to evaluate the request. Any review by the City of a submittal and/or any review of such a claim of error, including supporting evidence, creates no duty or liability on the City to discover any other submittal error or mistake, and the sole liability for any submittal error or mistake rests with the Submitter.

1.12 Error and Administrative Corrections

The City shall not be responsible for any errors in submittals. Submitters shall only be allowed to alter submittals after the submittal deadline in response to requests for clarifications or Best and Final Offers by the City.

The City reserves the rights to allow corrections or amendments to be made that are due to minor administrative errors or irregularities, such as errors in typing, transposition or similar administrative errors.

1.13 Submittal Content Requirements

A. The submittal shall contain the following items and follow the sequence outlined below:

Section 1 & 2 Instructions and Information about the RFQ Process

Cover sheet with Submitter's Signature - MANDATORY

Section 3 Scope of Work and Submittal Requirements

Describe how your firm sets itself apart or makes it particularly well-suited to provide the proposed planning services and desired qualifications outlined in Section 3 – Scope of Work. This section is limited to no more than 20 single-sided or 10 double-sided pages, with graphics.

Firm Information: Firm name, address, primary contact(s), including titles, phone numbers and email addresses. Include a brief history and general overview of the firm, its years in business and firm's location. Identify who will serve as the primary point of contact to the City.

Firm's Experience and Qualifications: Provide up to three (3) examples that best showcase the firm's experience in planning and implementation, sub-area planning, transit-oriented development or suburban redevelopment. If the example project(s) included additional partners, please identify them and the roles of each firm. Include client's name, project's completion date and roles/responsibilities for each project.

Project Manager's Experience and Qualifications: Provide up to three (3) examples for the proposed Project Manager that demonstrate his/her experience and qualifications with one or more roles/responsibilities on similar projects and/or elements of such projects. Include client's name, project's completion date and roles/responsibilities for each project.

Key Team Personnel and Experience and Qualifications: List key personnel for your proposed Lynnwood Project Team and their role/responsibility on individual projects. Provide relevant experience and qualifications of these key personnel and provide up to three (3) examples of prior experience on similar projects. Include project name, owner/client, dates of project, short description, roles and responsibility of key personnel, and how the project team and key personnel met those goals.

Diversity, Equity and Inclusion: Demonstrate the firm's or partnering firm's experience working with communities of color, non-native English-speaking

communities and low-income populations. Examples should demonstrate an ability to plan for and produce equitable outcomes. Small and disadvantaged firms are encouraged to partner with larger firms to form teams that are diverse and represent the communities we wish to serve.

Design & Graphics: Provide examples of the firm's ability to develop well-designed publications including photos, layout of text, graphics, coloring, cartography and general readability.

Section 4 Compliance with Contract Terms and Conditions identify any exceptions to terms and conditions and attachments with a signed letter from an attorney or authorized representative.

- B. Submit one original [marked ORIGINAL] unbound submittal and (5) copies of the submittal and attachments.
1. Submitters shall submit with their submittal an exact duplicate of the original submittal, compact disk or flash drive Adobe Acrobat™ format, and in native format.

1.14 Compliance with RFQ Terms, Attachments and Addenda

- A. The City intends to award a Contract based on the terms, conditions, attachments and addenda contained in this RFQ. Submitters shall submit submittals, which respond to the requirements of the RFQ.
- B. Submitters are strongly advised to not take exceptions to the terms, conditions, attachments and addenda; exceptions may result in rejection of the submittal. An exception is not a response to a submittal requirement. If an exception is taken, a 'Notice of Exception' must be submitted with the submittal. The 'Notice of Exception' must identify the specific point or points of exception and provide an alternative.
- C. The City reserves the right to reject any submittal for any reason including, but not limited to, the following –
- Any submittal, which is incomplete, obscure, irregular or lacking necessary detail and specificity;
 - Any submittal that has any qualification, limitation, exception or provision attached to the submittal;
 - Any submittal from Submitters who (in the sole judgment of the City) lack the qualifications or responsibility necessary to perform the Work;
 - Any submittal submitted by a Submitter which is not registered or licensed as may be required by the laws of the state of Washington or local government agencies;
 - Any submittal, from Submitters who are not approved as being compliant with the requirements for equal employment opportunity; and
 - Any submittal for which a Submitter fails or neglects to complete and submit any qualifications information within the time specified by the City.
- D. The City may, at its sole discretion, determine that a submittal with a 'Notice of Exception' merits evaluation. A submittal with a 'Notice of Exception' not immediately rejected may be evaluated, but its competitive scoring shall be reduced to reflect the importance of the exception. Evaluation and negotiation shall only continue with the Submitter if the City determines that the submittal continues to be advantageous to the City.

- E. In consideration for the City's review and evaluation of its submittal, the Submitter waives and releases any claims against the City arising from any rejection of any or all submittals, including any claim for costs incurred by Submitters in the preparation and presentation of submittals submitted in response to this RFQ.
- F. Submittals shall address all requirements identified in this RFQ. In addition, the City may consider submittal alternatives submitted by Submitters that provide cost savings or enhancements beyond the RFQ requirements. Submittal alternatives may be considered if deemed to be in the City's best interests. Submittal alternatives shall be clearly identified.

1.15 Acceptance of Contract, Attachments and Addenda

Submitter(s) shall review the Contract, and all its attachments, and submit a signed letter by their attorney or authorized legal representative stating they intend to comply with all the terms and conditions. The signed letter shall be submitted with the submittal.

If there are exceptions taken to the terms and conditions in Attachment A Contract and any of its attachments, the Submitter's attorney or authorized legal representative shall sign an exception letter describing reasoning for the exceptions and include the exception letter and Attachment A Contract as an attachment to the submittal, identifying the exceptions and proposed changes. All proposed changes shall be tracked the Contract using the tracking changes feature in Microsoft Word®.

The project schedule is such that it requires a very efficient submittal review and negotiation period. It is very important that any possible roadblocks or issues the Submitter may have with the terms and conditions are identified during the submittal process and resolved prior to proceeding with the Contract negotiations.

1.16 Forms Required before Contract Signing

- The Submitter shall submit within five (5) Days of notification from the City the insurance certificate and endorsement meeting the levels of coverage set forth in this RFQ.
- W-9 if not already on file with the City.

1.17 Collusion

If the City determines that collusion has occurred among Submitters, none of the submittals from the participants in such collusion shall be considered. The City's determination shall be final.

1.18 Protest Procedures

The City has a process in place for receiving protests based upon the RFQ or contract awards. The [protest procedure](http://www.lynnwoodwa.gov/City-Services/Bids-Submittals.htm) is available at <http://www.lynnwoodwa.gov/City-Services/Bids-Submittals.htm> .

SECTION 2 SUBMITTAL EVALUATION AND CONTRACT AWARD

2.1 Submittal Evaluation

- A. The City will evaluate submittals using the criteria set forth in this RFQ. If deemed necessary, written and/or oral discussions, site visits or any other type of clarification of submittal information may be conducted with those Submitters whose submittals are found to be potentially acceptable. Identified deficiencies, technical requirements, terms and conditions of the RFQ, and clarifications may be included among the items for discussion. The discussions are intended to give Submitters a reasonable opportunity to resolve deficiencies, uncertainties and clarifications as requested by the City and to make revisions required by the resulting changes. In addition, the City may request additional business and administrative information.
- B. The City may find that a Submitter appears fully qualified to perform the Contract or it may require additional information or actions from a Submitter. In the event the City determines that the submittal is not the most qualified the City shall eliminate the submittal from further consideration.
- C. The most qualified firm will be invited into negotiations for a contract. Negotiation of a Contract shall be in conformance with applicable federal, state and local laws, regulations and procedures. The objective of the negotiations shall be to reach agreement on all provisions of the proposed Contract. In the event negotiations are not successful, the City may cancel negotiations and commence negotiations with the next qualified submitter.
- D. The City is not required to award a Contract and shall have no obligations until a Contract is signed between the Submitter and the City.

2.2 Responsive and Responsible

Responsive

The City will consider all the material submitted by the Submitter, and other evidence it may obtain otherwise, to determine whether the Submitter is in compliance with the terms and conditions set forth in this RFQ.

Responsible

In determining the responsibility of the Submitter, the City may consider:

- the ability, capacity and skill to perform the Contract and provide the service required;
- the character, integrity, reputation, judgment and efficiency;
- financial resources to perform the Contract properly and within the times proposed;
- the quality and timeliness of performance on previous contracts with the City and other agencies, including, but not limited to, the effort necessarily expended by the City and other agencies in securing satisfactory performance and resolving claims;
- compliance with federal, state and local laws and ordinances relating to public contracts;
- other information having a bearing on the decision to award the Contract.

Failure of a Submitter to be deemed responsible or responsive may result in the rejection of a submittal.

2.3 Evaluation Criteria and Submittal Scoring

Each submittal has a total possible score **125** points with the points assigned as follows:

	Qualification Evaluation Criteria	Points
Firm Information	Firm Information: Firm name, address, primary contact(s), including titles, phone numbers and email addresses. Include a brief history and general overview of the firm, its years in business and firm's location. Identify who will serve as the primary point of contact to the City.	5
Firm's Experience and Qualifications	Firm's Experience and Qualifications: Provide up to three (3) examples that best showcase the firm's experience and qualifications in planning and implementation, sub-area planning, transit-oriented development or suburban redevelopment. If the example project(s) included additional partners, please identify them and the roles of each firm. Include client's name, project's completion date and roles/responsibilities for each project.	25
Project Manager's Experience and Qualifications	Project Manager's Experience and Qualifications: Provide up to three (3) examples for the proposed Project Manager that demonstrate his/her experience and qualifications with one or more roles/responsibilities on similar projects and/or elements of such projects. Include client's name, short description, project's completion date and roles/responsibilities for each project.	25
Key Team Personnel and Experience and Qualifications	Key Team Personnel and Experience and Qualifications: List key personnel for your proposed Lynnwood Project Team and their role/responsibility on individual projects. Provide relevant experience and qualifications of these key personnel and provide up to three (3) examples of prior experience on similar projects. Include project name, owner/client, dates of project, short description, roles and responsibility of key personnel, and how the project team and key personnel met those goals.	25
Diversity, Equity and Inclusion	Diversity, Equity and Inclusion: Demonstrate the firm's or partnering firm's experience working with communities of color, non-native English-speaking communities and low-income populations. Examples should demonstrate an ability to plan for and produce equitable outcomes. Small and disadvantaged firms are encouraged to partner with larger firms to form teams that are diverse and represent the communities we wish to serve.	20
Design & Graphics	Design & Graphics: Provide examples of the firm's ability to develop well-designed publications including photos, layout of text, graphics, coloring, cartography and general readability.	15
Terms and Conditions	Compliance with Contract Terms and Conditions identify any exceptions to terms and conditions and attachments with a signed letter from an attorney or authorized representative.	10
	Total possible Written	125
	Interview, if conducted	25
	Total Evaluation	150

2.4 Public Disclosure of Submittals


This procurement is subject to the Washington Public Records Act, RCW (Revised Code of Washington) 42.56 et seq. Submittals submitted under this RFQ shall be considered public documents

unless the documents are exempt under the public disclosure laws. After a decision to award the contract has been made, the submittals shall be available for inspection and copying by the public.

If a Submitter considers any portion of its submittal to be protected under the law, the Submitter shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If the City determines that the material is not exempt from public disclosure law, the City will notify the Submitter of the request and allow the Submitter ten (10) Days to take whatever action it deems necessary to protect its interests. If the Submitter does not take such action within said period, the City will release the portions of the submittal deemed subject to disclosure. By submitting a submittal, the Submitter assents to the procedure outlined in this subsection and shall have no claim against the City on account taken under such procedure.

SUBMITTAL LABEL

Complete the form below (or reasonable facsimile) and affix to the exterior lower left-hand corner of the submission envelope(s), box(es), etc.

URGENT – SEALED SUBMITTAL ENCLOSED Do Not Delay – Deliver Immediately		
U R G E N T		City of Lynnwood Procurement and Central Services Division 19100 44 th Ave W Lynnwood, WA 98046
	RFQ Number.	3164/G.MEADS
	Title	On-Call Planning Services
	Opening Date	November 5, 2019, 2:00 p.m.
	Firm Name	
U R G E N T		

SECTION 3 SCOPE OF WORK

3.1 BACKGROUND

The City of Lynnwood is soliciting Statements of Qualifications (SOQ) from qualified firms to provide On-Call Planning Services. Selected consultants will augment and support City staff on an as-needed basis. One or more firms may be selected to enter into a contract with the City, as a result of this RFQ process. The City does not guarantee that firms will receive a specific volume of work or total contract amount.

The City of Lynnwood is a growing community of more than 38,000 residents. The success of Alderwood Mall and car dealerships along Highway 99 are a staple for this community. Sound Transit's Link Light Rail will open in Lynnwood in 2024 and its further expansion of ST3 Everett Link in 2036 positions the City to reimagine future growth. The City initially prepared for this growth through the City Center Sub-Area Plan, but as market conditions continue to evolve, Lynnwood is reviewing its readiness for redevelopment.

The City envisions this redevelopment to be accommodated through a framework of sub-area plans, environmental impact statements and new planning initiatives. This framework is to ensure adverse impacts of growth are mitigated while providing clarity for development. Each sub-area plan has its own unique planning needs and environmental review requirements. The City is seeking Statements of Qualifications (SOQ) from talented and experienced firms to provide these services. The City anticipates generating an on-call list of qualified firms to support projects which may include, but are not limited to the following:

PRIORITY PROJECTS

City Center EIS and Sub-Area Update:

One of the City's strategic planning priorities is to fulfill the community vision and implement the City Center Program. The City Center is located within the Regional Growth Center and is home to the future Lynnwood Link Light Rail Station. To date, the City Center Sub-Area Plan was adopted in 2005; Park Master Plan was adopted in 2007; Planned Action Ordinance was passed in 2012 and a Master Streetscape Plan was established in 2014 to implement and support the City Center program. Fifteen years after initial planning, a reassessment and update of the existing Environmental Impact Statement (EIS) and update to the Sub-Area Plan is needed. A massing model exercise is currently underway by Houseal Lavigne to determine likely development scenarios.

Anticipated planning services may include an environmental review process, new development principles around transit-oriented development and adoption of an updated EIS. This project is anticipated to commence in 2020.

Regional Growth Center Development Scenario and EIS:

The remainder of the Regional Growth Center (RGC) includes the Alderwood Mall, former Lynnwood High School site and areas south of the City Center. Private investment has jump-started redevelopment at and around the mall. As the retail environment continues to evolve, reuse and redevelopment of large sites is likely within this area. Previously, the City implemented zoning revisions to maximize opportunities for redevelopment while also protecting adjacent neighborhoods by adopting transitional zones. This area is critical to the City's financial sustainability as real estate and sales tax contributes a significant tax base.

The arrival of a West Alderwood Station, as part of the Sound Transit's Everett Link requires a review of existing documents and strategies to assess opportunities for the RGC, including up to a sub-area plan and EIS. This project is expected to commence in 2021 and run concurrently with Sound Transit's ST3 planning efforts.

2023 Comprehensive Plan:

An EIS for the Comprehensive Plan was last conducted in 1995. Over time, the EIS has been supplemented with the inclusion of various sub-area plans around the City Center. Pending outcomes of the 2021 Buildable Lands Analysis and revisions to the assumed densities may be required to support future demand for housing and jobs.

Changes to assumed densities may require revisiting the 1995 EIS for accuracy and a possible update. Due to the City's intent to adopt an EIS for the City Center and Regional Growth Center, an update to the 1995 EIS may not be required. However, if needed, a review and update to the Comprehensive Plan EIS will begin in 2021 and be completed by 2023 in conjunction with the adoption of the 2023 Comprehensive Plan.

Sub-Area Implementation:

Sub-Area planning efforts have been adopted to address unique geographic opportunities. As market conditions change, the City may seek services to ensure that each adopted sub-area plan is an actionable document. Sub-Area plans include the College District Sub-Area Plan adopted in 2002; Highway 99 Sub-Area Plan adopted in 2011; and the currently underway South Lynnwood Sub-Area Plan. Additional planning services such as review and analysis of recommendations, environmental review and subsequent planned action ordinances may be required to implement plan goals.

3.2 REPRESENTATIVE SCOPE OF CONSULTANT ACTIVITIES:

The qualified firm(s) will be responsible for development and advancement of various aspects of the environmental review and sub-area planning work. The following items are examples of deliverables that may be need to addressed, depending on the project and sub-area. It is expected the City and consultant will execute individual task orders for each project based on their priority, available City staffing and resources. Other deliverables may be added at the discretion of the City or by recommendation of the consulting firm:

1. **Project Management:** Manage subconsultants independently or in conjunction with the City. The City currently has access to several firms through on-call service contracts. The City may require the consultant to use these firms to supplement the project. The City currently has on-call consultants for utility planning, traffic modeling, economic analysis and GIS modeling.
2. **Public Engagement Plan:** Develop a Public Engagement Plan, which may include residents, business owners, developers and other stakeholders. Public engagement methods may include, but are not limited to; focus groups, stakeholder groups, workshops, guidance taskforce or other methods to effectively gather the required level of public involvement in a short period of time. The proposed engagement process should result in equitable opportunities for meaningful engagement vs. an engagement process guided by the loudest and most involved voices.
3. **Existing Conditions Survey:** Conduct surveys of existing conditions such as: demographics, land uses, housing profiles, economic analysis, workforce and jobs, critical areas and environmental surveys.

4. **Development Scenarios:** Representations of development scenarios may be required to determine likely outcomes of development regulations and market conditions. These scenarios may include: visual models such as building massing and demonstrations of street-level impacts, or numerical projections of job and housing growth/demand, trip generation, transportation demand and identification of park and open space opportunities, critical area protections, pedestrian and bicycles improvements and other variable features. These scenarios will illustrate likely future conditions and identify possible adverse impacts for mitigation measures.
5. **Multimodal Planning & Transportation Planning:** Development scenarios may have adverse impacts on the existing transportation system. If necessary, the City may task the firm with providing detailed traffic modeling beyond the basic development scenarios as described above. The City currently has an on-call traffic modeling consultant, which may be a resource for the firm. The firm will coordinate traffic modeling and develop practical mitigation measures to limit adverse impacts.
6. **Sub-Area Planning:** Provide additional support in drafting or revising sub-area plans, including providing recommendations on land use, housing, land use density, parks and open space needs, placemaking, transportation improvements for all modes, environmental sustainability, design standards and economic development priorities. Sub-area planning will require additional public outreach to determine the community vision for the area.
7. **Reporting and Documentation:** Prepare draft reports including EIS and supplemental studies. The City and firm will work collaboratively on the development of these documents. The firm may also be expected to present the findings in public meetings. Documents produced by the firm are expected to use graphics and text that is understandable by community members of varying educational levels and cultural backgrounds.
8. **Implementation Strategies:** Identify methods for prioritization, implementation and on-going monitoring of plans and outcomes. This may require a review of possible incentives and requirements for private development to support implementation of plans and policies. Additional implementation and monitoring strategies may require review of existing regulations and codes to determine barriers to implementation.
9. **Policy and Code Amendments:** Support City staff in updating the policy and regulatory framework such as; research, code development, economic performance and development feasibility.
10. **Graphics:** Produce high-quality renderings, info-graphics and other publications within the branding principles of the City to communicate with the public and decision makers. Graphics may require use of GIS, Adobe Creative Suite, Google Sketch Up or other software.

3.3 DESIRED QUALIFICATIONS:

1. Public outreach experience including using a variety of methods for reaching a wide range of individuals.
2. Experience in drafting and adopting Environmental Impact Statements (EIS) and Washington State Environmental Protection Act (SEPA).
3. Transit-oriented development experience. *Experience working with Sound Transit is highly desired, but not required.*

4. Policy and regulatory development including compliance with Washington Growth Management Act (GMA).
5. Land use planning processes experience, including a range of commercial development types and housing densities.
6. Background in housing development including, but not limited to, policies and implementation strategies, outreach and programming for housing affordability and developing incentive-based inclusionary development.
7. Redevelopment experience, including environmental clean-up.
8. Producing equitable outcomes in communities of color, non-native English communities and low-income populations.
9. Federal, state and local funding strategies and grant assistance experience.
10. Multi-modal planning with a focus on pedestrian and bicycle networks and facilities.

3.4 TASK ORDER REQUESTS & TASK ORDER PROPOSALS:

The City of Lynnwood is developing an on-call list of qualified firms to execute task orders (see Attachment A for Sample Task Order Request form) on a project-by-project basis. Each Task Order Request shall outline the scope, schedule and deliverables required by the City. All firms will be invited to provide a proposal and Task Order Proposals will be awarded based on the firms' proposed approach, staff/schedule and price that best meets the needs of the City of Lynnwood. Task Order Proposals shall be priced as lump sum or lump sum by milestone.

Task Order Proposals will be approved and signed by the City of Lynnwood's Project Manager, in consultation with Procurement as a Notice to Proceed. The City does not guarantee that firms will receive a specific volume of work or total contract amount.

Maximum contract amount with any one vendor shall be limited to a total of \$250,000 for the life of the contact.

3.5 PROPOSED PERSONNEL:

The firm agrees to provide all professional staff necessary to perform the scope of work including key personnel named in their Task Order Proposal. These key personnel shall remain assigned for the duration of the Task Order, unless otherwise agreed to, in writing, by the City. In the event the firm proposes to substitute any key personnel listed in their Task Order Proposal, the individual(s) proposed must demonstrate similar qualifications and experience as required to successfully perform the duties identified in the Task Order. The City shall have the sole right to determine whether key personnel proposed as substitutes are qualified to perform the work.

3.6 TERM:

The City intends to enter into a two (2) year agreement, with three (3) optional, one (1) - year renewal terms for a total of five (5) years.

3.7 RESOURCES & REFERENCE DOCUMENTS

Please see **Attachment B** for access to documents for your review of the City's previous efforts to date.



THIS CONTRACT # _____ ("Contract") is entered into by the City of Lynnwood Washington, (the "City"), and _____ (the "Consultant"), whose address is _____. The City is undertaking certain activities related to, _____ and, the City desires to engage the Consultant to provide Work in connection with such undertakings of the City,

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 Consultant 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 WorkExhibit A
 - Price AttachmentExhibit B
 - Certificate(s) of Insurance and Policy Endorsement.....Exhibit C
 - Other Exhibits and attachments (if applicable)
3. Request for Submittal (if applicable - as modified by any addenda)
4. Consultant's Submittal (if applicable)

II. CONTRACT TERM

This Contract shall be effective when countersigned by The City and shall expire two (2) years after the date of the City's signature, with three (3) optional one (1)-year agreements for a total maximum contract term of five (5) years, unless extended or terminated earlier pursuant to the terms and conditions of this Contract.

IV. ACKNOWLEDGEMENT AND AUTHORITY

The parties acknowledge that they 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

THE CITY

Authorized Signature

Authorized Signature

Name and Title (Print or Type)

Name and Title (Print or Type)

Date Accepted: _____

Date Accepted: _____

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.

Acceptance or Accepted: A written determination by the City that the Consultant 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.

Consultant: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with the City for the performance of Work under the Contract.

Day: Calendar day.

LMC: The Lynnwood Municipal 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 City to manage the project on a daily basis and who may represent the City 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.

Subconsultant: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Consultant 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 Consultant shall be responsible for performing the Work. The City is not a party to defining the division of Work between the Consultant and its Subconsultants, if any.

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

2.2 Warranty

Consultant warrants that the Work shall in all material respects conform to the requirements of this Contract. Consultant 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 Payment Procedures; Prompt Payment of Subconsultants

For Work Accepted by the City the Consultant shall furnish invoices to the project manager identified in notices section of this contract. All invoices shall contain the complete description of the products, services, phases or milestones Accepted, hours worked and Contract hourly rates, or authorized fees.

The City 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 City. Within thirty (30) Days after receipt of an invoice, the City shall pay the Consultant for Accepted Work, upon acceptance of payment Consultant waives any claims for the Work covered by the invoice.

If the Consultant 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 City will make payment directly to the State.

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

2.4 Pricing

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

2.5 Contract Amendment

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

2.6 Changed Requirements

New federal, state and City 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 Consultant agrees to accept all changed requirements that apply to this Contract and require Subconsultants to comply with revised requirements as well.

Changed requirements shall be implemented through Section 2.7, Contract Amendment.

2.7 Taxes, Licenses, and Certificate Requirements

If, for any reason, the Consultant'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 Consultant shall notify the City immediately of such condition in writing. The Consultant and Subconsultant(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.

2.8 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, Consultant 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.

THE CITY	CONSULTANT
Project Manager – Ashley Winchell	
Economic Development	
20816 44 th Avenue W. Suite 230	
Lynnwood, WA 98036	
425-670-5411	

2.9 Certification Regarding Debarment, Suspension and Other Responsibility Matters

This Contract is a covered transaction for purposes of the Code of Federal Regulations and the Consultant is required to verify that none of the Consultant, its principals, or affiliates, are excluded or disqualified from receiving contract award by the Federal Government. The Consultant is required to comply with CFR and must include the requirement to comply with the CFR in any lower tier covered transaction it enters into. By signing and submitting this Contract, the Consultant certifies as follows:

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

2.10 Compliance with Laws and Regulations

The Consultant 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, RCW Chapter 49.60, Titles VI and VII of the Civil Rights Act of 1964, the American with Disabilities Act, and the Restoration Act of 1987. The Consultant 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.

SECTION 3 LEGAL RELATIONS; INDEMNITY AND INSURANCE

3.1 Independent Status of Consultant

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 Consultant relationship shall be created by this Contract. The Consultant shall be responsible for all federal and/or state tax, industrial insurance, wages, benefits, or other compensation by or on behalf of the Consultant and its employees. The Consultant 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 of (a) the City's sole negligence or (b) the City's negligence where there is concurrent negligence of the City and the Consultant, the Consultant shall indemnify and hold harmless the City, 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 Consultant. This indemnification obligation shall include, but is not limited to, all claims against the City by an employee or former employee of the Consultant or its Subconsultants, and the Consultant, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the City 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 Consultant shall protect and assume the defense of the City 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 City on account of such litigation or claims. In the event that the City 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 Consultant.

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 Consultant shall file with the City 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 City 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 Consultant shall, upon demand of the City, deliver to the City 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 City shall enable the City to suspend or terminate the Consultant'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 Consultant from its insurance obligations hereunder.

3.4 Insurance Requirements

Upon execution of this Contract, the Consultant, 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 Consultant shall furnish the City with certificates of insurance and endorsements required by this Contract. The City 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 Consultant 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 City shall not be deemed or construed to have assessed the risks that may be applicable to the Consultant under this Contract. The Consultant 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 Consultant shall maintain limits no less than,

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1.
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 and Professional Liability:

1. The City, 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 Consultant in connection with this Contract. Such coverage shall be primary and non-contributory insurance as respects the City, 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. **The City requires this Endorsement to complete the Contract.**

All Policies:

1. The Consultant'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. Any deductibles or self-insured retentions must be declared to, and approved by, the City. The deductible and/or self-insured retention of the policies shall not limit or apply to the Consultant's liability to the City and shall be the sole responsibility of the Consultant
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 City.
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. Professional Liability, Errors and Omissions insurance coverage may be placed with insurers with a Bests' rating of B+:VII. Any exception must be approved by the City.

If at any time any of the foregoing policies fail to meet minimum requirements, the Consultant shall, upon notice to that effect from the City, promptly obtain a new policy, and shall submit the same to the City, with the appropriate certificates and endorsements, for approval.

C. Subconsultants

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

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 Consultant 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 Consultant shall not employ any Person or agent having any conflict of interest. In the event that the Consultant or its agents, employees or officers hereafter acquires such a conflict of interest, it shall immediately disclose such conflict to the City. The City shall require that the Consultant take immediate action to eliminate the conflict.
- B. Contingent Fees and Gratuities - By entering into this Contract to perform Work, the Consultant represents that:
 1. No Persons except as designated by Consultant 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 Consultant or any of its officers, agents, employees or representatives, to any official, member or employee of the City 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 City or seeking to obtain a contract who willfully attempts to secure preferential treatment in his or her dealings with the City by offering any valuable consideration, thing or promise, in any form to any City official or employee shall have his or her current contracts with the City canceled and shall not be able to bid on any other City contracts for a period of two (2) years.
- C. Disclosure of Current and Former City Employees - To avoid any actual or potential conflict of interest or unethical conduct:
1. City employees or former City employees are prohibited from assisting with the preparation of submittals or contracting with, influencing, advocating, advising or consulting with a third party, including Consultant, while employed by the City or within one (1) year after leaving City employment if he/she participated in determining the Work to be done or processes to be followed while a City employee.
 2. Consultant shall identify at the time of offer current or former City employees involved in the preparation of submittals or the anticipated performance of Work if awarded the Contract. Failure to identify current or former City employees involved in this Contract may result in termination of this Contract.
 3. After Contract award, the Consultant is responsible for notifying the City's Project Manager of current or former City 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 Consultant and its Subconsultants shall maintain books, records and documents of its performance under this Contract in accordance with generally accepted accounting principles. The Consultant 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 Consultant shall provide access to its facilities, including those of any Subconsultants, to the City, 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 City shall give reasonable notice to the Consultant of the date on which the audit shall begin.

5.2 Audit Exception

The Consultant agrees that it is financially responsible for and will repay the City 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 Consultant, its officers, employees, agents, and/or representatives. This duty to repay shall survive the expiration or termination of this Contract.

5.3 Federal Funding Audit

If the Consultant expended a total of \$500,000.00 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.

Consultants expending federal awards from more than one source shall be responsible for determining

if the combined financial awards are equal to or greater than \$500,000.00. The Consultant shall provide one copy of the audit report to each City division providing federal awards to the Consultant no later than nine (9) months subsequent to the end of the Consultant's fiscal year.

5.4 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 Consultant considers any portion of any record provided to the City under this Contract, whether in electronic or hard copy form, to be protected under law, the Consultant 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 City will determine whether the material should be made available under the Act. If the City determines that the material is subject to disclosure, the City will notify the Consultant of the request and allow the Consultant ten (10) business days to take whatever action it deems necessary to protect its interests. If the Consultant fails or neglects to take such action within said period, the City will release the portions of record(s) deemed by the City to be subject to disclosure. The City shall not be liable to the Consultant for inadvertently releasing records pursuant to a disclosure request not clearly identified by the Consultant 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 City. The City in its sole discretion shall determine whether it is in the public's interest to release or make available any patent or copyright.

The Consultant 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 City.

All such Subject Data furnished by the Consultant pursuant to this Contract, other than documents exclusively for internal use by the City, 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 City. The Consultant shall also place its endorsement on all Consultant-furnished Subject Data. All such identification details shall be subject to approval by the City prior to printing.

The Consultant 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 City either before or after Contract award shall only be used for its intended purpose. Consultants and Subconsultants shall not utilize nor distribute the City data in any form without the prior express written approval of the City.

6.3 Non-Disclosure Obligation

While performing the Work under this Contract, the Consultant may encounter personal information, licensed technology, drawings, schematics, manuals, data and other materials described as

“Confidential”, “Proprietary” or “Business Secret”. The Consultant 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 Consultant with respect to confidential information which the Consultant can establish that: a) was in the possession of, or was rightfully known by the Consultant without an obligation to maintain its confidentiality prior to receipt from the City or a third party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by the Consultant 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 Consultant without the participation of individuals who have had access to the City’s or the third party’s confidential information. If the Consultant is required by law to disclose confidential information the Consultant shall notify the City of such requirement prior to disclosure.

SECTION 7 CLAIMS AND APPEALS; DISPUTE RESOLUTION

7.1 Claims and Appeals

The Consultant shall address claims for additional time or compensation under the Contract in writing to the Buyer and Project Manager within ten (10) Days of the date in which the Consultant 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 City reserves the right to request additional documentation necessary to adequately review the claim. No claim by the Consultant shall be allowed if asserted after final payment under this Contract. The Buyer and Project Manager shall ordinarily respond to the Consultant 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 Buyer and Project Manager of the claim, or requested additional documentation, whichever is later.

In the event the Consultant disagrees with the determination of the Buyer and Project Manager, the Consultant shall, within five (5) Days of the date of such determination, appeal the determination in writing to the Procurement and Central Services Division 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 Consultant shall proceed diligently with the performance of the Contract and in accordance with the direction of the Buyer 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 City.

7.2 Mediation and Arbitration

If a dispute arises out of or relates to this Contract, or the breach thereof, including any Consultant claim, that is not resolved through the required claims and appeal process set forth in Section 7.1, 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.

7.3 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 The Snohomish County Superior Court or U.S. District for the Western District of Washington, in Seattle.

SECTION 8 TERMINATION

8.1 Termination for Convenience/Default/Non-Appropriation

A. Termination for Convenience

This Contract may be terminated by the City without cause, in whole or in part, upon providing the Consultant ten (10) Days' advance written notice of the termination. If the Contract is terminated pursuant to this Section 9.1.A, the City 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 Consultant does not perform the Work or the Consultant fails to perform in the manner called for in the Contract, or if the Consultant fails to comply with any material provisions of the Contract, the City may terminate this Contract, in whole or in part, for default as follows:

1. A "notice to cure" shall be served on the Consultant by certified or registered first class mail in accordance with Section 2.10. The Consultant shall have ten (10) Days from the date of receipt to cure the default or provide the City 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 Consultant has not cured the default or the plan to cure the default is not acceptable to the City, the City may terminate the Contract by serving a "notice of termination" in accordance with Section 2.10 setting forth the manner in which the Consultant is in default and the effective date of termination.
3. The Consultant shall only be paid for Work performed and Accepted less any damages to the City caused by or arising from such default. All termination payment requests are subject to an analysis of cost or price by the City to verify compliance with the Contract, applicable laws and regulations.
4. The termination of this Contract shall in no way relieve the Consultant from any of its obligations under this Contract nor limit the rights and remedies of the City 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 the termination date set forth in this Contract or in any Contract Amendment hereto, the City may, upon written notice to the Consultant, terminate this Contract in whole or in part. If the Contract is terminated pursuant to this Section 9.1.C: 1) the City shall 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; and, 2) the Consultant shall be released from any obligation under this Contract affected by the termination or a related purchase order to provide further Work pursuant to the Contract.
2. Notwithstanding any provision to the contrary, funding under this Contract beyond the current appropriation year is conditional upon the appropriation by the City Council of sufficient funds to support the Work described in this Contract. Should such an appropriation not be approved, the Contract shall terminate at the close of the current appropriation year.

SECTION 9 MISCELLANEOUS

9.1 Other Public Agency Orders

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

9.2 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 Consultant from pledging any proceeds from this Contract as security to a lender. 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.

9.3 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 Consultant ceases to be excused pursuant to this provision, then the City shall be entitled to exercise any remedies otherwise provided for in this Contract, including termination for default.

9.4 No Third-Party Beneficiary

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

9.5 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.

9.6 Non-Waiver of Breach

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

END OF TERMS AND CONDITIONS

ATTACHMENT A – SAMPLE TASK ORDER FORM

ATTACHMENT B – RESOURCES AND REFERENCE DOCUMENTS

RESOURCES & REFERENCE DOCUMENTS: The following resource and reference documents are identified to support your review of the City's previous efforts to date and to better inform your Statement of Qualifications.

1. [Comprehensive Plan](#)
2. [Zoning Map](#)
3. [Zoning Code](#)
 - a. Chapter 21.46 Commercial Zones
 - b. Chapter 21.48 Planned Regional Shopping Center Zone
 - c. Chapter 21.57 College Mixed Use (CDM) Zone
 - d. Chapter 21.60 City Center District (CC) Zone
 - e. Chapter 21.61 Alderwood-City Center Transition Area (ACC) Zone
 - f. Chapter 21.62 Highway 99 Mixed Use Zone
4. Adopted Plans and Agreements:
 - a. [The College District Plan \(2002\)](#)
 - b. [Highway 99 Subarea Plan \(2011\)](#)
 - c. [City Center Documents](#)
 - i. [City Center Parks Master Plan Update \(2018\)](#)
 - ii. [City Center Sub-Area Implementation Strategies Report \(2017\)](#)
 - iii. [FTA Transit-Oriented Development Technical Assistance Report \(2016\)](#)
 - iv. [Lynnwood Transit Center Multimodal Accessibility Plan \(2016\)](#)
 - v. [Streetscape Plan \(2014\)](#)
 - vi. [Resolution No.2014-15 to Prioritize City Center Infrastructure \(2014\)](#)
 - vii. [City Center Project Prioritization \(2014\)](#)
 - viii. [City Center Planned Action Ordinance 2943 \(2012\)](#)
 - ix. [Lynnwood Link City Center Extension Study \(2011\)](#)
 - x. [Street Master Plan \(2009\)](#)
 - xi. [City Center Mode Split Transit Analysis \(2009\)](#)
 - xii. [City Center Local Improvement District \(LID\) Feasibility Study \(2008\)](#)
 - xiii. [Parks Master Plan \(2007\)](#)
 - xiv. [City Center Market Analysis and Absorption Study \(2007\)](#)
 - xv. [City Center Access Study - Part 1 \(2007\)](#)
 - xvi. [City Center Access Study - Part 2 \(2007\)](#)
 - xvii. [City Center Sub-Area Plan \(Adopted by Ordinance #2553, 2005\)](#)
 - xviii. [City Center Final Environmental Impact Statement \(2004\)](#)
 - d. [Lynnwood Place Development Agreement](#)
 - i. [Lynnwood Place/Costco](#)
 - ii. [Lynnwood Place Phase II](#)
 - e. [Cosmos Development Agreement](#)
5. [PARC Plan \(2018\)](#)
6. [Lynnwood Housing Report](#)
7. [Puget Sound Regional Council Growth Centers](#)