

Request for Qualifications # 1078  
**City of Lynnwood**  
**Economic Profile**  
Economic Development Strategic Action Plan

**Due Date: June 6, 2003**

The City of Lynnwood is seeking Statements of Qualifications (SOQ) from firms that are interested, experienced and knowledgeable in preparing economic development profiles and economic development strategic action plans.

Lynnwood is located in south Snohomish County at the interchange of Interstate 5 and Interstate 405. The community has a population of approximately 34,000 residents and a geographic size of approximately 7.7 square miles. Lynnwood's trade area and labor force area encompasses north King County.

In 2001, Lynnwood established an economic development department. The department's mission is to serve as a catalyst for economic development that provides healthy businesses, quality employment opportunities and sustainable city revenues. The City Council has authorized the development of an economic profile and a strategic action plan to implement economic development policy and help guide the actions of the department.

Lynnwood desires to engage a consultant to conduct this effort. The City anticipates a multi-phased project as follows:

- Phase I: Economic Development Profile with an Economic Base Analysis, Retail and Non Retail Sales Analysis, and Economic Constraints and Opportunities Issues Paper;
- Phase II: Economic Development Strategic Action Plan with an Economic Development Alternatives Report, and an Economic Development Strategic Plan.

The City intends to select the consultant in June 2003, and to begin work as soon as possible following selection; and continue through each phase on a schedule to be agreed-upon with the finalist as part of the contract negotiation.

A general overview of the Scope of Work is provided (pages 7 and 8). The Scope of Work will be finalized with the consultant, and will then be submitted with the contract for approval by the Mayor and City Council. Lynnwood intends that the contract be for no more than two years in duration, to complete the original tasks under the agreed-upon schedule, and to allow Lynnwood the ability to request additional related tasks if required by Lynnwood to complete the Economic Development profile and plan.

**Firms should submit their interest no later than Friday , June 6, 2003, to the location specified on the following page. The submittal should include the following information:**

1. Complete and submit the Statement of Business Responsibility (page 5). Use the form provided or supply the requested information in an alternative format that integrates into your submittal document.
2. Identify through a narrative discussion, your experience preparing economic development profiles and economic development strategic action plans.
3. Provide resumes of personnel intended to serve on the project team.
4. Provide Client references for similar activities including contact persons, addresses, e-mail address and telephone numbers.
5. Indicate availability for the project including available start date and any other conditions that restrict availability to work on this project.
6. Identify any objections to the standard contract form (attached). Lynnwood shall negotiate the contract with the finalist, however negotiations are intended to agree upon cost, fees, scope of work and/or schedules. Any changes to the standard terms, conditions or insurance requirements should be stated in the firm's submittal response.

**Submittal Information and Instructions:**

For questions or information, call Purchasing & Contract Manager Nancy Locke at 425-670-6602 ([nlocke@ci.lynnwood.wa.us](mailto:nlocke@ci.lynnwood.wa.us)) or Economic Development Director David Kleitsch at 425-670-6651 ([dkleitsch@ci.lynnwood.wa.us](mailto:dkleitsch@ci.lynnwood.wa.us)). Announcements or addendums to this request will be posted on the City website ([ci.lynnwood.wa.us](http://ci.lynnwood.wa.us)).

To respond, provide one unbound original of the SOQ by 5:00 PM, June 6, 2003. Lynnwood will accept mail, e-mail or faxed responses. The method of transmission will not influence evaluation of your response. You may mail, e-mail or fax your response as follows.

City of Lynnwood  
Attention: Nancy Locke  
P.O. Box 5008  
Lynnwood, WA 98037-5008

E-Mail to: [nlocke@ci.lynnwood.wa.us](mailto:nlocke@ci.lynnwood.wa.us)

Fax to: 425-778-5632

**Fees:** The City has budgeted up to \$40,000 for this work. Fees shall be discussed and negotiated with the finalist. You do not need to provide cost information during this phase of the selection process. During the final selection, Lynnwood shall discuss available project funds and proposal approaches.

**Contract Term:** The Contract shall remain in effect for two years, sufficient to complete the original scope of work, and to allow additional work products of a similar nature at the contract rate upon request by Lynnwood and approval of funds and/or work by City Council.

**Signatures:** These documents do not require authorized signature for submittal. Signatures will be required of the selected finalist as part of the contract process.

**Revisions to the Request:** Lynnwood retains the right to modify this request. Lynnwood shall post additional information, changes or revisions on the Lynnwood website at [www.ci.lynnwood.wa.us/Bids](http://www.ci.lynnwood.wa.us/Bids) & Contracts and may additionally provide materials directly to firms that Lynnwood knows may be interested. It shall be the responsibility of the firm, however, to obtain such materials (if any) from the Lynnwood website.

**Acceptance Period:** Submittals shall be good until City Council has completed an award action. Firms that take exception to this will be considered non-responsive and will be rejected.

**Rejection of Submittals:** Lynnwood reserves the right at its sole discretion to reject any or all Submittals, without penalty, and to not issue a contract as a result of this request. Lynnwood also reserves the right at its sole discretion, to waive minor administrative irregularities contained in any submittal.

**Responsible Firms:** Lynnwood shall only considered responsible firms who, in the sole judgment of the Lynnwood Purchasing Manager, have the financial ability, experience, resources, skills, capability, reliability and business integrity necessary to perform the requirements of the contract. Lynnwood may also consider references and other information available to the City, whether specifically provided by the respondent or otherwise. Firms with an owner convicted within the past 10 years of a crime that impugns honesty or integrity, or with unsatisfied tax or judgment liens, are ineligible to participate and shall not submit.

**Costs to Submit:** Lynnwood will not be liable for any costs incurred by any respondent in preparation of a submittal in response to this request, in conduct of a presentation, or any other activities related to response to this SOQ.

**Commitment of Funds:** The Mayor or his delegate is the only individual who may legally commit the City to the expenditure of funds for a contract resulting from this solicitation. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

**Business License:** Consultants who are awarded a City of Lynnwood contract must obtain a City of Lynnwood business license if required pursuant to City Ordinance 5.06.01B and 5.06.04B. This shall be the responsibility of the firm to pursue and complete if required.

**Evaluation and Selection:** The City will select a finalist(s) through a review of submittals and/or interviews. The City will negotiate a contract and costs with the final candidate. City Council may approve the contract for Mayor signature.

**Statement of Business Responsibility – RFQ #1078**

Name of Business: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_ E -mail: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Business Classification (check all that apply):

- Individual
- Partnership
- Corporation
- Women or Minority Owned (does not require certification)

FID/SSN: \_\_\_\_\_

Name of Owner: \_\_\_\_\_

Does firm have insurance as specified below: Yes: \_\_\_\_\_ No: \_\_\_\_\_

*(Note: failure to indicate insurance as specified does not disqualify you from submittal or award. This information will be used by Lynnwood during contract formation). If no, describe differences,.*

*General Liability insurance of \$1,000,000 per occurrence;  
Professional Liability Insurance;  
Automobile liability of at least \$1,000,000 per accident CSL*

Broker Name: \_\_\_\_\_

Broker Phone: \_\_\_\_\_

Are claims pending against this insurance policy? Yes: \_\_\_\_\_ No: \_\_\_\_\_

During the past five years, have you been subject to bond forfeiture, litigation or claims above 10% of the project value? If yes, please attach an explanation. Yes: \_\_\_\_\_ No: \_\_\_\_\_

Has firm been in bankruptcy, reorganization or receivership in the last 5 years? Yes: \_\_\_ No: \_\_\_

Has firm been disqualified by any public agency from public contracts? Yes: \_\_\_ No: \_\_\_

Has firm operated at least 1 year without interruption? Yes: \_\_\_\_\_ No: \_\_\_\_\_

Is there any potential Conflict of Interest: Yes \_\_\_\_\_ No: \_\_\_\_\_ If yes, explain.

*If yes, identify any team member or firm employee who, during the preceding 12 months, was a Lynnwood official, officer or employee. In addition, disclose if firm or an employee of the firm has a business interest or a close family relationship with any Lynnwood official, officer or employee who was, is, or will be involved in the contractor selection, negotiation, drafting, signing, administration, or performance of the Contract. Notify Lynnwood herein of any such condition, so Lynnwood may make determination of whether such interest is consistent with the Lynnwood Ethics Code.*

## **Attachment – Scope of Work Document**

## SCOPE OF WORK

### Introduction

City Council has authorized the preparation of an Economic Development Profile and an Economic Development Strategic Action Plan for the City of Lynnwood. The profile will identify Lynnwood's economic characteristics and the plan will establish priority programs, tasks and activities. These materials will implement economic development policy established in Ordinance No. 2320.

### Objectives

- Provide detailed analysis of City's economic base
- Identify key opportunities to expand and diversify the City's economic base
- Prepare trend analysis of the City's economic strengths and weaknesses
- Prepare fiscal analysis and benefits of development
- Identify opportunities to maximize public revenues
- Identify constraints and opportunities for economic development, e.g. housing supply, limited developable land, infrastructure capacity, redevelopment and financing constraints and potential land value changes
- Prepare strategic action plan to guide implementation

## ECONOMIC DEVELOPMENT PROFILE

### Task 1 Prepare Economic Base Study

Prepare economic base analysis of the City and the surrounding trade area. Develop an understanding of how each business sector contributes to the City's economy. Economic indicators include: number of establishments, employment, annual payroll, taxable sales, and other City revenues, by source, for non-enterprise funds. These indicators will be compared to similar indicators for the County.

The purpose will be to first increase the understanding of the City's current economic structure and then to identify target economic opportunities that are both realistic and compatible. Existing and emerging industries will be identified and discussed in terms of their potential to expand or grow in the City of Lynnwood.

The task will build upon existing documents, such as the Comprehensive Plan, the US Census, the State of Washington employment data, and the City's business license and revenue information.

Task 1 Work Product: Economic Base Analysis

**Task 2 Retail and Non-Retail Sales Analysis**

This task would first analyze the community-wide sales performance by major categories in order to better understand the market dynamics in Lynnwood and the surrounding trade area. The retail and non-retail taxable sales trends would be analyzed based on the City’s taxable sales and business license databases. The potential effect of E-Commerce would be analyzed.

This task would also prepare a retail leakage analysis, i.e., which retail categories are losing competitiveness with other jurisdictions and possible strategies to diversify and gain competitive advantage. This analysis would utilize the information development in Task 1 and provide projections for 5, 8 and 10-mile rings from the City Center.

Task 2 Work Products: Retail and Non-Retail Sales Analysis

**Task 3 Economic Development Constraints and Opportunities**

Constraints and opportunities influence the city’s economic development. These factors include location, access, transportation and transit, housing, available land, infrastructure and public service capacity. Constraints and opportunities will be identified and qualitatively discussed.

Task 3 Work Product: Economic Constraints and Opportunities Issue Paper

**PHASE II ECONOMIC DEVELOPMENT STRATEGIC ACTION PLAN**

**Task 1 Economic Development Alternatives**

This analysis will identify what should be done to address the items identified in the constraints and opportunities issue paper. The focus will be to establish specific alternatives for the retention and attraction of business, quality employment opportunities, and sustainable city revenues. The alternatives will be reviewed in conjunction with adopted city policies.

Task I Work Products: Draft Economic Development Alternatives

**Task 2 Economic Development Strategic Action Plan**

Based upon the alternatives established in Task 1, a strategic action plan will be prepared. Specific programs, activities, and tasks will be identified to implement the economic development alternatives.

Task 2 Work Products: Economic Development Strategic Action Plan

**Attachment – Draft Contract Template**

Note: This contract indicates all terms and conditions required by Lynnwood. All submitting companies agree to this sample contract unless otherwise specified in writing at time of submittal. Lynnwood reserves the right to modify this Contract after award is finalized and negotiations are complete.

#1078

**City of Lynnwood**  
**Economic Development Consultant – Strategic Action Plan Project**

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This Contract, dated as of \_\_\_\_\_, 2003, is made and entered into by and between the City of Lynnwood (“Lynnwood”), a Washington Municipal Corporation, and \_\_\_\_\_, (“Contractor”).

Contractor Business:  
Contractor Name:  
Contractor Address:  
Contractor Phone:  
Contractor Fax:  
Contractor e-mail:  
FID/SSN#:

WHEREAS, the purpose of this contract is to develop a Economic Development Strategic Action Plan for the City of Lynnwood; and

WHEREAS, this Contractor was selected due to special expertise and approved by Council on \_\_\_\_\_; and

WHEREAS, funds for this purpose are authorized through Lynnwood annual budget;

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made a part hereof, Lynnwood and Contractor mutually agree as follows:

**1. Scope of Work.**

Contractor shall provide the following services that are specified below and/or as attached. These services shall be termed “work” herein.

**2. Performance of Work.**

Contractor shall perform Work and accomplish such tasks as identified and designated as the responsibilities of Contractor throughout this Contract. Contractor shall have authority to incur costs and expenses necessary to perform Work and tasks, subject to the limitations specified in the attachments if any, and subject to approval by Lynnwood, including but not limited to, costs and expenses for transcripts, depositions, subpoenas, filing fees, service fees, investigators, expert witnesses, court costs, tapes, and equipment necessary for full performance of this Contract.

**3. Term of Contract.**

The term of this Contract shall be for 2 years. This shall include sufficient time to complete the schedule for the work proposed in the Scope of Work, and to complete additional tasks as identified by Lynnwood following conclusion of the initial work products.

#### **4. Termination.**

All funds for payment by Lynnwood under this Contract are subject to the availability of approved funds. In the event of no approved funding for the work provided under this Contract, Lynnwood may terminate the Contract, without termination charge or other liability.

By Lynnwood: This Contract may be terminated at any date or time specified by Lynnwood, without cause, upon written notice to Contractor. Work that has been completed to the date of the effective termination will be paid, on a prorated basis to the date ordered to stop. Work in progress would be completed at Lynnwood's option.

By either Party For Convenience: During any term, this Contract may be terminated with or without cause by either party, by giving sixty (60) days written notice to the other party. In the event of termination, an equitable adjustment shall be made in the compensation payable to Contractor under this Contract; provided that the percentage of the total compensation payable shall not exceed the percentage of the Work satisfactorily completed at the time of termination. Further, Contractor shall not be entitled to any reallocation of cost, profit or overhead. Contractor shall not in any event be entitled to anticipated profit on Work not performed because of such termination. Contractor shall use its best efforts to minimize the compensation payable under this Contract in the event of such termination.

If Contractor fails to perform in the manner called for herein, or if the Contractor fails to comply with any other provisions of this contract, Lynnwood may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth herein. If it is later determined by Lynnwood that the Contractor had an excusable reason for not performing, such as a strike, fire or flood, events which are not the fault of or are beyond the control of the Contractor, Lynnwood, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination s as a termination for convenience.

#### **5. Communications.**

Notices regarding the contract terms and conditions shall be made to:

City of Lynnwood  
Nancy Locke, Purchasing Manager  
P.O. Box 5008, Lynnwood, WA 98046-5008  
E-Mail: [nlocke@ci.lynnwood.wa.us](mailto:nlocke@ci.lynnwood.wa.us)  
Phone: 425-670-6602  
Fax: 425-778-5632

Communications with Lynnwood regarding project work shall be directed to:

David Kleitsch, Director  
City of Lynnwood, PO Box 5008, Lynnwood WA 98046  
E-Mail: [dkleitsch@ci.lynnwood.wa.us](mailto:dkleitsch@ci.lynnwood.wa.us)  
Phone: 425-670-6651

#### **6. Performance Standard.**

All duties by Contractor or designees shall be performed in a manner consistent with accepted practices for other similar Work, including but not limited to, those practices required by governing courts and the Washington State Bar Association.

## **7. Compensation.**

**Total Compensation.** Lynnwood agrees to pay fees at the rates specified below, in consideration of Contractor performing Work. Payment shall only be made for services performed. Payment shall be made after review and authorization by Lynnwood. Said authorization shall be conditioned upon the submittal of an invoice setting forth a breakdown of the services and costs performed. Such payment shall be full compensation for work performed and/or Work rendered and for all supervision, labor, supplies, materials, equipment or use thereof, and for all other expenses and incidentals necessary to complete all the work. Rate increases during any term of the Contract shall be subject to the conditions, limitations and agreements herein or attached if not otherwise agreed to.

**Contract Value:** Contract value shall not exceed \$\_\_\_\_\_ without approval and authorization in writing by Lynnwood Purchasing Manager. Services performed that exceed that value shall be performed at the sole choice of the Contractor, and shall not be compensated, unless Lynnwood Purchasing Manager has provided a written authorization to the Contractor. Such authorization is to be provided in advance of the work performed.

**Lump Sum Payment:** *Lump sum value not to exceed \$\_\_\_\_\_ consisting of a single, lump sum fee not to exceed \$\_\_\_\_\_ and Reimbursable expenses not to exceed the amount of \$\_\_\_\_\_. There will be no initial or partial payments.*

OR

**Hourly Compensation:** *Compensation shall be an hourly rate, as specified immediately below or as otherwise attached. This hourly rate shall be used for calculating compensation for Work.*

**Additional Work:** Additional work beyond the scope of contract shall be compensated at the same hourly compensation defined above. Such additional work must have prior written approval of Lynnwood Purchasing Manager. When containing additional work not normally associated with the project, the fee may be outside of the above guidelines if agreed to and specified either below or through written addendum otherwise.

**No Rate Increases.** Hourly Rates are firm for the duration of the contract unless changes have been otherwise agreed to and accepted in writing by Lynnwood Purchasing Manager. Price changes will not, in any event, be retroactive unless likewise approved. No increases to this contract compensation are contemplated for the initial term.

**Disputed Work:** Notwithstanding all above, if Lynnwood believes in good faith that some portion of Work has not been completed satisfactorily, Lynnwood may request Contractor to request work prior to Lynnwood payment for such Work. In such event, Lynnwood must clearly and reasonably provide to Contractor an explanation of Lynnwood concern over the Work and the remedy that Lynnwood expects from Contractor. Lynnwood may withhold from any payment otherwise due an amount that Lynnwood in good faith is under dispute, or if the Contractor does not provide a sufficient remedy, Lynnwood may retain the amount equal to the cost to Lynnwood for otherwise correcting or remedying the work not properly completed.

**Method of Payment.** Contractor shall submit a monthly invoice for the compensation after Work has been performed. An itemized billing statement in a form approved by Lynnwood will be submitted to provide a detailed description of the Work performed during the month, the number of hours spent performing such Work, and any reimbursable costs and expenses incurred in connection with such Work. Invoices must have the Blanket Purchase Order

Number clearly marked on the invoice, as provided by the Lynnwood Project Manager (or call Purchasing at 425-670-6601 to learn the number to use). For questions regarding late payment, first call the Project Manager. The Accounts Payable staff may also be able to assist you; call 425-670-6672.

Invoices shall be submitted to the following address:

The City of Lynnwood  
PO Box 5008  
Lynnwood, WA 98046-5008  
Attention: Director David Kleitsch

#### **8. Representations.**

Contractor represents and warrants that it has the requisite training, skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.

#### **9. Independent Contractor.**

It is the intention and understanding of the Parties that Contractor shall be an independent contractor and that Lynnwood shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of the Contractor shall not be deemed to convert this Contract to any employment contract. It is recognized that Contractor may or will be performing professional Work during the term for other parties and that Lynnwood is not the exclusive user of the Work that Contractor will provide.

#### **10. Inspection.**

The Work shall be subject, at all times, to inspection by and with approval of Lynnwood, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Work in accordance with this Contract, notwithstanding Lynnwood's knowledge of defective or noncomplying performance, its substantiality or the ease of its discovery. Contractor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

#### **11. Property and Confidential Information.**

Contractor shall not, without the prior written consent of Lynnwood, disclose to third parties information that is not otherwise subject to public disclosure unless:

- a. The information is known to Contractor prior to receiving the same directly or indirectly in connection with the Work;
- b. The information is in the public domain at the time of disclosure by Consultant; or
- c. The information is received by Contractor from a third party who does not have an obligation to keep the same confidential.

#### **12. Indemnification.**

The Contractor releases and shall defend, indemnify and hold harmless Lynnwood, its elected officials, officers, employees, agents and volunteers for any and all claims, demands, losses, negligent acts or omissions, and liabilities (including costs and all attorney's fees) to or by any and all persons and entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Contract to the extent caused by the negligent acts, errors or omissions of Contractor, its partners, shareholders, agents, employees, or by the Contractor's breach of this Contract.

To the maximum extent permitted by applicable law, this shall apply. However, this shall not require Contractor to indemnify Lynnwood against any liability for damages arising out of bodily injury or property damages caused by or resulting from negligence of Lynnwood. Lynnwood shall protect, defend and indemnify and save harmless the Contractor, its representatives and other employees all costs, claims, judgments or awards of damages arising out of the negligent acts or omissions of Lynnwood, its officers or employees. Further, in the case of concurrent negligence of Contractor on the one hand and Lynnwood on the other hand, each party shall be required to indemnify the other only to the extent of the negligence of the party.

Contractor release and shall defend, indemnify and hold harmless Lynnwood from and against all claims, cost, liabilities, damages, expenses (including but not limited to reasonable attorney fees) and royalties based upon any actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or other intellectual property right by any Work. Further, if any Work infringe or misappropriates any patent, copyright, trade secret, trademark or other intellectual property right, Contractor shall either (a) procure for Lynnwood the right to use such Work; or (b) modify Work so that it no longer infringes or misappropriates any such right.

### **13. Work Product.**

All work product, including records, files, documents, plans, computer disks, magnetic media or material which may be produced or modified by Contractor while performing Work shall belong to the Lynnwood. At the termination or cancellation of this Contract, copies of files containing the written record of the Contractor's Work shall be delivered to Lynnwood upon request. Until at least 12 months following final payment, Contractor shall provide Lynnwood prompt access to (and Lynnwood shall have the right to examine, audit and copy) all of Consultant's books, documents, papers and records related to the Work.

### **14. Contractor to Direct Work.**

Contractor shall control and direct the performance of the work of Contractor pursuant to this Contract, subject to Lynnwood oversight. Lynnwood reserves the right to inspect, review and approve the work of Contractor to assure that it has been completed as specified, before payment.

### **15. Insurance.**

Worker's Compensation and Employer's Liability Coverage: coverage or insurance in accordance with the applicable laws related to worker's compensation, and employer's liability insurance with limits no less than \$1,000,000 including \$1,000,000 for bodily injury by Accident, each accident; and \$1,000,000 bodily injury by disease, each employee; and \$1,000,000 bodily injury, policy limit (including but not limited to, the Washington Industrial Insurance Act and the laws of the state in which any such person was hired), regardless of whether such coverage or insurance is mandatory or merely elective under the law. In case of subcontracted work, Contractor shall require each subcontractor to provide Worker's Compensation insurance for their employees unless Contractor covers such employees.

Consultant's Liability & Property Damage Insurance:

- a. Contractor shall procure and maintain during the life of this Contract and during performance of Work, Professional Liability (Errors and Omissions Insurance) Commercial General Liability, and Automobile Liability Insurance, to protect Lynnwood and Contractor against all claims, damages, losses and expenses arising out or resulting from performance of Work, with insurance companies or through sources approved by the State Insurance Commissioner pursuant to RCW Chapter 48. Lynnwood may require higher

limits if Lynnwood believes it is in the best interest of the public. The cost of any additional increase shall be borne by Lynnwood.

- b. Lynnwood shall be Additional Named Insured on a Primary Basis for the General Liability coverage without limitation, and shall include others if required by the Contract documents.
- c. Certificate of Insurance and a second page that provides the Named Insured Endorsement for the primary policy of commercial general liability insurance shall be filed with Lynnwood after award. This Certificate is subject to approval by Lynnwood. Failure of the Contractor to comply with the requirements regarding insurance shall be considered material breach and be cause of termination of the Contract and of all obligations regarding same.
- d. A Declaration of Professional Liability Insurance shall be filed with Lynnwood after award but before start of contract. This Declaration is subject to approval by Lynnwood. Failure of Contractor to fully comply with the requirements regarding insurance shall be material breach of contract and be cause for immediate termination of Contract and all obligations regarding same. Contractor shall maintain full coverage for a claims made form for at least three years following completion of work.
- e. Contractor shall not begin Work until all required insurance has been obtained and until such insurance has been approved by Lynnwood, nor shall Contractor allow any subcontractor to commence work on its subcontract until the same insurance requirements have been complied with by such subcontractor. Said insurance shall provide coverage to the Contractor, any subcontractor performing work provided by this Contract, and Lynnwood. The coverage so provided shall protect against claims for personal injuries, including accidental death, as well as claims for property damages which may arise from any act or omission of Contractor or the subcontract, or by anyone directly or indirectly involved or employed by either of them.
- f. Approval of the insurance by Lynnwood shall not relieve or decrease the liability of Contractor for any damages arising from Contractor's performance of the Work.
- g. Insurance shall provide, at a minimum, the types of insurance coverage, limits and endorsements stated below and shall be included in all applicable policies and on the Certificate of Insurance. The coverage's below shall protect Contractor and Lynnwood from claims for damages of bodily injury, including death resulting therefrom, as well as claims for property damage, which may arise from operations under this Contract, whether such operation be by itself or by any subcontractor or by anyone directly employed by either of them, it being understood that it is Contractor's obligation to enforce the requirements of this section in respect to any subcontractor employed for this project:

Commercial General Bodily injury and Property Damage Insurance shall include:

- Premises & Operations;
- Owners and Consultants Protective;
- Products Liability including completed Operations Coverage;
- Contractual Liability;
- Broad Form Property Damage;
- Commercial Form (to include Extended Bodily Injury;
- Employees as Additional Insured;
- Explosion, Collapse & Underground Hazard;
- Independent Consultants;
- Personal Injury;

Stop Gap; and  
Cross Liability Clause.

Umbrella Liability Insurance in the amounts specified.

Professional Liability Insurance including Errors and Omissions as appropriate to the Work performed.

Automobile Bodily Injury and Property Damage Insurance sufficient to cover any driving that is directly required for the performance of the stated work.

h. Liability Limits:

General Liability (Commercial General Liability Insurance) shall be written with limits of liability of no less than \$1,000,000 combined single limits, per occurrence and \$2,000,000 in aggregate;

Umbrella Liability Insurance shall be written on a following form basis with limits of, in no case less than, \$2,000,000;

Professional Liability Insurance including Errors and Omissions shall be written on a claims made form basis with limits of in no case less than \$1,000,000; and

Automobile Insurance shall be at the level approved by the Lynnwood.

- i. Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from operations under this Contract.
- j. The coverage provided by the General Liability and the Automobile Liability is primary to any insurance maintained by the Lynnwood.
- k. The inclusion of more than one insured under this policy shall not affect the rights of any insured as respects to any claims, suit or judgment made or brought by or for any other Insured or by or for any employee of any other Insured. This policy shall protect each Insured in the same manner as though a separate policy had been issued to each, except that nothing herein shall operate to increase the company's liability beyond the amount or amounts for which the company would have been liable had only one Insured been named.
- l. The Certificate of Insurance (ACCORD Form 25-S) shall be amended as follows: The cancellation clause shall be revised to read: *Should read "Any of the above described policies be cancelled, changed or reduced in coverage before the expiration date, the issue company will mail 30 day written notice through certified mail, to the certificate holder named at the left"*
- m. Such insurance shall be maintained as required above, and any additional coverage's and limits as Lynnwood may from time to time specify to protect the Lynnwood, its successor and assigns from any claims, losses harm, costs, liabilities, damages, and expenses (including but not limited to reasonable attorney's fees) that may arise out of any property damage, bodily injury (including death) or professional liability elated to the Work performed.

- n. Failure to comply with provisions contained herein shall not waive the responsibility of Contractor to provide the required protection.
- o. The Certificate of Insurance (and the accompanying page with the Named Insured Endorsement) must include the following in the description:
  - Contract Title
  - Contract Number
  - Lynnwood Project Manager
  - Buyer Name

## **16. General Provisions.**

- a. Governing Law. This Contract shall be interpreted, construed, and enforced in all respects in accordance with the laws of the State of Washington.
- b. Full Agreement. This Contract and all attachments form all of the covenants, promises, agreements and conditions, between the parties. All attachments and addendum are incorporated herein by this reference, and shall be a part of this contract instrument. In the event of discrepancy between the documents, addendum and attachments shall prevail over the Contract. This entire contract including all attachments specifies the working relationship between Lynnwood and Contractor and specific obligations of both parties.
- c. Modification. No provisions of this Contract may be amended or modified in writing, signed by both Parties. Lynnwood may, from time to time, unilaterally change the scope of the Work to be performed hereunder. Such changes, including any increase or decrease in Work, shall be made in writing, explicitly identified as an Addendum, and become part of this Contract.
- d. Full Force and Effect. Any provisions of this Contract that is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
- e. Complementary Provisions: All provisions of this Contract are intended to be complementary, and any requirements mentioned by one and not mentioned in another section of this Contract, shall nevertheless be performed, to the same extent as though required by all.
- f. Assignment. Neither the Contractor nor Lynnwood shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other party. No delegation or subcontracting of performance of any of Work, with or without Lynnwood's prior written consent, shall relieve Contractor of responsibility to perform work in accordance with this Contract. Contractor shall be fully responsible for the performance, acts and omissions of Contractor employees, Contractor subcontractors and any other person who performance or furnishes any Services (collectively, the Support).
- g. Attorney Fees. In the event either party brings a lawsuit to enforce the Contract, or arising from breach of this Contract, the prevailing party shall be entitled to its costs and attorneys' fees for bringing or defending the action. The venue for any dispute related to this Contract shall be Snohomish County, Washington.

- h. Survivability. The obligation of Contractor under all provisions of this Agreement, which may reasonably be interpreted or construed as surviving the completion, termination, or cancellation of this Contract, shall survive the completion, termination, or cancellation of this Contract.
- i. Executory Contract. This Contract will be considered valid once signed by both parties.
- j. No Waiver. Failure or delay in Lynnwood to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of Lynnwood to declare one breach or default does not act as a waiver of the Lynnwood's right to declare another breach or default.
- k. Authority. Each individual executing this Contract on behalf of Lynnwood and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Contract on behalf of the Contractor or Lynnwood.
- l. Performance. Time is of the essence of this Contract in each and all of its provisions in which performance is a factor.
- m. Remedies Cumulative. Any remedies provided for under the terms of this Contract are not intended to be exclusive, but shall be cumulative with all other remedies available at Lynnwood at law or in equity.
- n. Titles. The titles to the paragraphs of this Contract are solely for the convenience of the parties and are not an aid in the interpretation of the instrument.
- o. Contractor Obligation. Except as otherwise specifically provided in this Agreement, Contractor shall furnish all that may be required to provide the scope of work as described in the contract and incorporated documents, including any personnel, labor and supervision, technical, professional and other Work, equipment and supplies. Details of the any supplies, equipment, or installation or same, that are necessary to carry out the intent of this Contract, but that are not expressly stated, shall be performed or furnished by the Contractor as part of the Contract, without any increase in the compensation otherwise payable under this Contract.
- p. Binding Effect. The provisions, covenants, and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
- q. No Gifts and Gratuities. Businesses must not offer, nor Lynnwood employees accept, gifts, gratuities, loans, trips, favors, special discounts, Work, or anything of economic value in conjunction with Lynnwood business practices. It is also unlawful for anyone to offer another, to influence or cause him or her to refrain from submitting a bid. Consultants and Lynnwood employees must strictly adhere to the statutes and ordinances for ethics in contracting and purchasing, including Lynnwood Ethics Code, RCW 42.23 (Code of Ethics for Municipal Officers) and RCW 42.52 (Ethics in Public Service). This is applicable to any business practice, whether a contract condition, bid practice, or at any activity related to Lynnwood business.
- r. Involvement of Former City of Lynnwood Employees. Contractor shall promptly notify Lynnwood in writing of any person who is expected to perform any of the Work and who, during the twelve months immediately prior to the expected start of such work, was a Lynnwood elected official, officer or employee. Contractor shall ensure that no Work

related to this contract is performed by such person, to the extent that such work is disallowed by the Lynnwood Ethics Code in the opinion of the Lynnwood City Attorney.

- s. No Conflict of Interest: Contractor confirms that Contractor does not have a business interest or a close family relationship with any Lynnwood elected official, officer or employee who was, is, or will be involved in Contractor selection, negotiation, drafting, signing, administration or evaluating Contractor performance. As used in this section, the term "Contractor" shall include any employee of Contractor who was, is or will be involved in the negotiation, drafting, signing, administration, or performance of the Contract. As used in this section, the term "close family relationship" refers to the following: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law or daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a Lynnwood elected official, officer or employee. Should any such relationship exist, Contractor shall notify the Lynnwood Purchasing Manager in writing, and the Lynnwood City Attorney shall make sole determination as to compliance with the Lynnwood Ethics Code.
- t. Conflict of Interest. Contractor confirms that Contractor does not have a business interest or close family relationship with any Lynnwood officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration or evaluation of the Consultant's performance. In addition, Contractor confirms adherence to Lynnwood policy regarding conflict of interest, Lynnwood Ethics Code, and the RCW as named previous.
- u. Compliance with Laws. Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; and all applicable laws, ordinances, rules, regulations, orders, and other requirements, in effect, of any governmental entity (including but not limited to such requirements as may be imposed upon Lynnwood and applicable to the Contract). Contractors shall furnish documents as may be required to effect or evidence such compliance.
- v. Personal Liability. It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of Lynnwood be in any way liable or responsible for any covenant or Contract herein contained whether express or implied, nor for any statement of representation made herein or in any connection with this Contract.
- w. Nondiscrimination. In all hiring or employment made possible or resulting from this Contract, there shall be no unlawful discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. No person shall be denied or subjected to discrimination in receipt of the benefit of any Work or activities made possible by or resulting from this Contract on the grounds of sex, race, color, creed, national origin, age except minimum age and retirement provisions, marital status, or in the presence of any sensory, mental or physical handicap.

- x. EEO. "The Equal Opportunity Clause" in Section 301 of Executive Order 10925 as amended, and the implementing Rules and Regulations, are herein incorporated by reference for all contracts that include Federal funding.

CITY OF LYNNWOOD:

CONTRACTOR:

\_\_\_\_\_  
Mike McKinnon, Mayor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

ATTEST BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mike Bailey, Finance Director

\_\_\_\_\_  
Date