



**60 Washington Ave, Suite 200
Bremerton, WA 98337
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REQUEST FOR PROPOSALS

ON-DEMAND SERVICES SOFTWARE AND PLANNING

RFP KT 23-839

May 12, 2023

Proposals are due June 2, 2023 @ 2:00 P.M.

Kitsap Transit, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat., 252.42 U.S.C. 2000d to 2000-4 and Title 49, Code of Federal Regulations Department of Transportation, subtitle A, of the Secretary, Part 21, nondiscrimination in federally assisted programs of the DOT issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

Kitsap Transit reserves the right to reject any and all Proposals without cause and to waive any informalities or irregularities.



Bidder's Checklist

Solicitation Number: KT 23-839
Solicitation Name: On-Demand Services Software and Planning
Due Date and Time: June 2, 2023 @ 2:00 PM via Email

The following checklist is provided as a guide to all documents and exhibits that **MUST** be submitted with your Bid to be considered responsive and complete. Failure to provide **ANY** of these documents could render your Bid nonresponsive and may cause it to be rejected.

Letter of Transmittal	
Firms Background	
Description of Solution and Services	
Schedule/Timeline	
Key Personnel	
Past Performance (3) minimum	
Cost Proposal	
Bidder's Affidavit	

I, the below signee, have reviewed this checklist and have provided all of the requested documents. I understand that failure to provide the requested documents could render my Bid non-responsive and may cause its rejection.

Signature: _____ Date: _____

Printed Name and Title: _____

Section 1: Announcement

Request for Proposals

KT # 23-839 On-Demand Services Software and Planning

Scope of Work: Kitsap Transit is soliciting proposals from qualified vendors to provide a software solution to manage Kitsap Transit's On-Demand services. It is anticipated that there will be a phased implementation beginning September 2023. Vendors are to provide a software solution only; Kitsap Transit will provide drivers.

Bidding Documents: Plans, specifications and addenda for this project are available by contacting Patrick Rogers at patrickr@kitsaptransit.com.

Anticipated Calendar of Events: The activities and dates listed below represent the anticipated procurement schedule. Kitsap Transit will provide changes to the Pre-Bid date and Bid Due date via Addenda. Dates preceded by an asterisk (*) are estimated.

Activity	Date and Time
Request for Proposals Released	May 12, 2023
Request for Clarification/Substitutions Due	5:00 PM May 24, 2023
Proposals Due Date	June 2, 2023 @ 2:00 Via Email
Board of Commissioners Award	July 6, 2023
Anticipated Notice to Proceed	* Week of Jul 17, 2023

Plan Holders List: All prospective Proposers should register as "Plan Holders" to receive addenda or clarifications regarding the solicitation. It is recommended that Proposers notify Patrick Rogers of their intent to submit a proposal and register with Kitsap Transit's Plan Holders List in order to receive electronic or facsimile notification of issued Addenda. Proposers that do not register will not be notified of Addenda and will need to periodically check for Addenda on KT's website at: <http://www.kitsaptransit.com/agencyinformation/procurement> during the Proposal period and before submitting your Proposal.

All submitted proposals and attachments become the property of KT and shall remain in effect for at least ninety (90) days after Proposal Due Date. The accepted Proposal shall remain in effect until the Contract is fully executed and will then become a part of the Contract, including any addenda and all attachments.

Pre-Proposal Meeting: A Pre-Proposal meeting is not being offered for this project

Questions and Request for Clarifications: To be given consideration, any and all communications requesting information, material substitutions, clarifications, and inquiries concerning this solicitation must be emailed and received NO LATER THAN **5:00 P.M.** on **May 24, 2023** at: patrickr@kitsaptransit.com.

Proposers who seek to obtain information, clarification, or interpretations from contacts other than the Kitsap Transit Purchasing Coordinator are advised that such material is used at the Proposer's

own risk. Kitsap Transit will not provide binding oral interpretations, explanations, or instructions as to the meaning or interpretation of the solicitation documents. This process will be the only opportunity for Proposers to ask questions. Kitsap Transit staff will not answer questions regarding this RFP verbally. All questions must be submitted via email.

Time for Completion: It is anticipated that the Contractor shall work diligently on the completion of the scope of work. Proposals should contain a realistic schedule for the tasks and deliverables reflecting a start date of July 17, 2023 and incorporating the identified milestone dates. The presented schedule will be used to measure Contractor compliance. No work shall begin on this Contract until a receipt of the Notice to Proceed. Contractors beginning Work before the Notice is received, do so at their own risk.

Proposal Due Date: Proposals shall be emailed to: patrickr@kitsaptransit.com . All Proposals must be received before **2:00 PM June 2, 2023**. Late Proposals will not be considered. Proposers will receive a confirmation of receipt when Proposal is received. Proposals shall be in the form of a PDF, Word, or similar documents. Kitsap Transit will not download ZIP files or Proposals from third party file storage sites.

EQUAL OPPORTUNITY: It is Kitsap Transit's policy to ensure full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin or sex in the provision of benefits and services resulting from Federally assisted programs of the Department of Transportation and in the Award and administration of all Contracts.

END OF SECTION 1

Section 2: Instructions to Proposers

Addenda: A written or graphic document issued to all Bidders and identified as an Addendum prior to Bid opening, which modifies or supplements the Bid Documents and becomes a part of the Contract.

ARO: After Receipt of Order/Purchase Order

Bid/Proposal: The offer of a Bidder on a properly completed Bid Form to perform the Contract.

Bidder/Proposer: means a person, firm or corporation that has made an offer in response to the IFB

Bid Documents: means the solicitation (IFB) in its entirety, including the Plans provided under separate cover

Contract: The written agreement between Kitsap Transit and the Contractor. The Contract includes, Contract Agreement, these solicitation documents, any and all Addenda issued, varies certifications and affidavits, supplemental agreements, change orders, and all Contractor.

Contractor: means the Successful Bidder who was awarded the Contract and has subsequently executed the Contract with Kitsap Transit.

RFP: is an abbreviation meaning Request for Proposals.

Subcontractor: An individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor.

Successful Bidder/Proposer: means the lowest responsive and responsible Bidder to whom Award of the Contract shall be made

Surety: A company that is bound with the Contractor to ensure performance of the Contract, payment of all obligations pertaining to the Work, and fulfillment of such other conditions as are specified in the Contract as required by law.

Work: The provisions of all labor, materials, tolls, equipment and everything needed to successfully complete a project according to the Contract.

2.1 Payment

Kitsap Transit is a public agency. KT cannot pay for services that have not been received. Therefore, we cannot provide a deposit or advance payment.

At the execution of the contract KT will issue a contract for the full value of the project. Payments will be made against that total upon successful completion and acceptance of the total or a portion of the work and receipt of an invoice from the Contractor.

All payments to Contractor shall be remitted by US mail.

Invoices shall be mailed to:

Kitsap Transit,
Attn: Accounts Payable
60 Washington Ave, Suite 200
Bremerton WA 98337

No payment, whether monthly or final, to the Contractor for any services shall constitute a waiver or release by KT of any claims, rights, or remedies it may have against the Contractor under this Contract or by law, nor shall such payment constitute a waiver, remission, or discharge by KT of any failure or fault of the Contractor to satisfactorily perform the services as required under this Contract.

2.2 Disadvantaged Business Enterprise Goal

The purpose of the Disadvantaged Business Enterprise (DBE) overall goal is to achieve a “level playing field” for ready, willing and able DBEs seeking to participate in federally-assisted contracts. Kitsap Transit’s DBE goal for federal fiscal year 2023 is 2.93%, the full text of which may be found at <http://www.kitsaptransit.com/agency-information/procurement>.

2.3 Title VI

It is the policy of Kitsap Transit to assure that no person shall, on the grounds of race, color, national origin and sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or otherwise be discriminated against under any of its federally funded programs and activities.

See <http://www.kitsaptransit.com/uploads/pdf/projects/executedtitleviijune2011.pdf> for the full text of the above Civil Rights statements.

2.4 General Information for Proposers

KT reserves the right, if necessary, to invite all firms in the competitive range to participate in an interview with the Evaluation Committee. The interviews will be scored and the scores will be added to the technical and cost proposal to determine the “best value” to Kitsap Transit.

KT reserves the right, if necessary, to request a Best and Final Offer (BAFO) from all firms in the competitive range. Each BAFO will be evaluated by the Committee and scored in accordance with the listed criteria. Firms are advised that Award of this solicitation may be made based solely on the information provided in their Proposal.

KT reserves the right to accept or reject any and all submitted proposals, portions or parts thereof; to waive informalities and minor irregularities in proposals; to decline award based on available funding for the Contract; and to award in whole or in part to the most responsive and responsible Proposer, whichever is in the best interest of KT.

In consideration for KT’s review and evaluation of its proposal, the Proposer waives and releases any claims against KT arising from any rejection of any or all proposals, including any claim for costs incurred by Proposers in the preparation of proposals submitted in response to this solicitation.

If KT determines that collusion has occurred among Proposers, none of the proposals of the participants in such collusion will be considered. KT’s determination shall be final.

KT may obtain clarification of any point in submitted proposals or request additional information, if necessary, to properly evaluate proposals. Proposers must be prepared to present necessary evidence of experience, ability, service facilities and financial standing to satisfactorily meet the requirements set forth or implied in the Proposal. Failure of a Proposer to respond to such a request for additional information or clarification may result in rejection of that proposal.

2.5 Cancellation or Extension

KT reserves the right to cancel this solicitation or extend the Proposal Due Date and time, by written Addendum, at any time *prior to* the set Proposal Due Date and time, or in the event only a single proposal or no proposals are received. If a Proposer pursues a protest or a request for reconsideration, its proposal is deemed extended until KT executes the Contract, or until the protest or request for reconsideration is withdrawn by the Proposer.

2.6 Modifications

Proposers will not be allowed to alter proposals *after* the Proposal Due Date and time. Submitted proposals may only be changed if a written request is received by KT *before* the set Proposal Due Date and time. Such requests must be signed by an individual authorized to submit proposals on behalf of the firm. All proposal modifications shall be made in writing, executed and submitted in the same form and manner as the original proposal. Nothing in this section shall be construed to permit the Proposer to alter its proposal *after* it has been submitted pursuant to the terms of this solicitation.

2.7 Withdrawal

Proposers will not be allowed to withdraw proposals *after* the Proposal Due Date and time unless the award is delayed for a period exceeding ninety (90) days. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide KT the services described herein, or until one or more of the proposals have been approved by KT, whichever occurs first.

2.8 Award

Kitsap Transit reserves the right to make award within ninety (90) calendar days from the Proposal Due Date. Should award, in whole or part, be delayed beyond the period of ninety (90) days, such award shall be conditioned upon Proposer's acceptance.

Submitted Proposals shall be conclusive evidence to KT that the Proposer has thoroughly examined and understands all requirements of the Proposal and the work to complete the Contract. The failure or neglect of a Proposer to receive or examine any proposal document or any part thereof, work site, statutes, regulations, ordinances or resolutions shall in no way relieve the Proposer from the obligations with respect to its Proposal or to the Contract. No claim for additional compensation shall be allowed which is based upon a lack of knowledge thereof. KT will not be responsible for any costs incurred by Proposers in preparing, submitting, or presenting their response to this RFP.

All proposals and submissions become the property of KT and are subject to public disclosure, unless certain provisions as described in Section 4 pertain.

2.9 Kitsap Transit Protest and Appeals Policy

A. Purpose

To establish policies for vendor or service provider complaints and protests to ensure fair and open competition.

B. Protest and Appeal Policy

Who May Protest or Appeal

A potential bidder demonstrating a substantial economic interest in Kitsap Transit's competitive bid process.

Timing of Protest

A protest must be filed within five business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner.

Basis of Protest

Protests must be based on the following criteria:

1. A matter of bias, discrimination, or conflict of interest
2. Non-compliance with procedures described in the procurement documents
3. Error in computing scores

Protest Form and Content

1. Protests must be in writing
2. Protests must be addressed to the Purchasing Coordinator
3. Protests must clearly articulate specific grounds for the protest and include supporting documentation
4. Protests must include proposed remedy

Protest Procedure

A protest must be filed with Kitsap Transit's Purchasing Coordinator within five business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner. Upon receipt of a timely written protest, the Purchasing Coordinator will consider the protest in accordance with established procedures and issue a written decision within five business days stating the reasons for the action taken and informing the allegedly aggrieved vendor or service provider (Protesting Vendor) of his/her right to appeal the decision.

Appeal Procedure

An appeal must be filed within five business days of the Purchasing Coordinator decision. The Finance Director and the procurements originating Department Director will consider the appeal and issue a written decision within five business days informing the Protesting Vendor of his/her right to further appeal the decision.

In the event the Protesting Vendor elects to continue the appeal process, a request for a second appeal must be filed within five business days of the decision of the first appeal. The Executive Director and general counsel will consider the appeal and issue a written decision within ten business days. The decision of the second appeal will be final and conclusive.

Failure to Comply with Requirements

Failure to comply with the protest and appeal requirements will render a protest or an appeal untimely or inadequate and may result in rejection thereof.

Exhausted Administrative Remedies

A Protesting Vendor may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protesting Vendor rights, if any, to commence litigation.

END OF SECTION 2

Section 3: Proposal Contents and Evaluation

Content and completeness are most important. Clear and effective presentations are preferred, with elaborate, decorative or extraneous materials strongly discouraged. The proposal shall be submitted via email either in a PDF or Microsoft Word format. Kitsap Transit will not open Zip files, links to online storage sites, or other file sharing sources. Failure to submit a Proposal in the required format may cause the Proposal to be rejected.

All proposals must be submitted as specified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal.

This section describes mandatory descriptions and submittals that must be addressed in or included with each proposal. Failure to address or include all items discussed in this section may subject the proposal to immediate rejection. Kitsap Transit will be the final authority in determining the responsiveness of a proposal. The RFP will be evaluated based on the criteria listed in the evaluation criteria.

PROPOSAL CONTENT

All proposals and submissions will become the property of Kitsap Transit and will not be returned to the Proposer. All elements that request a signature may be signed electronically. By submitting a Proposal with electronic or scanned ink signatures, the Proposer agrees to be legally bound by all terms, conditions, clauses, regulations, and other requirements of this solicitation.

Each Proposal shall contain the following items:

1. Letter of Transmittal

The letter of transmittal should be written in the form of a standard business letter and must be signed by an individual authorized to legally bind the Proposer's firm to Kitsap Transit.

The letter should include:

- A statement introducing the Proposer
- Legal name, address, phone number and email of the Proposer's firm
- Name, phone number and email address of the Proposer's Point of Contact for questions regarding the submitted Proposal
- A statement outlining any exceptions that the Proposer takes to the Contract Documents including the attached Sample Agreement
- A statement outlining any assumption that were made while developing the Proposal
- A statement acknowledging the receipt of any issued addenda

2. Firms Background (not scored)

The Proposer shall provide a brief narrative description of their firm. The narrative should outline how the firm's capabilities, capacity, and how long the firm has been actively engaged in providing the services outlined in the Scope of Services section of this solicitation.

3. Description of Solution and Services

This section should include a detailed narrative describing the firm's solution and associated services, including how the solution works and any specific nuances that may be of

relevance to Kitsap Transit. Proposers should clearly outline how the solution meets or exceeds the requirements outlined in the Scope of Work. Proposals should provide a solution to all of the considerations list in: General Requirements, Deliverables and Data Ownership, Specifications Program Management, Rider Specifications, Trip Routing and Dispatching Platform, Driver Specifications, and Understanding of Project Goals and Service Concepts.

4. Schedule/Timeline

The Proposer shall discuss the schedule and timeline for accomplishing each task's deliverable and how the proposed schedule will lead to the timely fulfillment of the project's goals and objectives. This section at a minimum should include:

- Detailed timeline for each task and the overall project and should assume a Contract start date of July 17,2023
- Schedules should take into consideration the anticipated dates listed Exhibit A Scope of Work
- Identification of relationships between tasks and include review time for Kitsap Transit
- Outline of the major steps of each component and a schedule estimating the length of time required to complete each step

5. Key Personnel

Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide a resume for the named staff including information on their particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The consultant must commit that staff identified in its proposal will actually perform the assigned work.

6. Past Performance

Proposers shall identify a minimum of three (3) similar projects that the Proposer has completed in last five (5) years. For each project, the Proposer shall identify the name of the agency, point of contact including name, phone and email. The Proposer shall also provide a narrative description of the services provided, timeline of the project, unanticipated road block encountered and how the Proposer negotiated these obstacles (if applicable).

Proposer shall also list all on-demand or micro transit projects the vendor has piloted and deployed; Agency and Point of Contact

7. Cost Proposal

Proposer shall submit a Cost Proposal on company letterhead that outlines the total cost for all labor, equipment, implementation, integration, warranty, extended warranty, training of agency personnel, service manuals, and technical support. The Cost Proposal should also outline any ongoing costs such as software licenses, upgrading fees, storage fees, maintenance, and any other fees associated with a fully functioning solution.

The evaluation process is designed to award this procurement not necessarily to the consultant of least cost, but rather to the consultant whose proposal best meets the requirements of this RFP. The proposal must specifically set forth the firm/consultant's professional fees and anticipated expenses in a "not to exceed" amount.

Identify all costs, including expenses, to be charged for performing the services necessary to accomplish the objectives of the contract. The consultant is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Costs for subcontractors are to be broken out separately.

All proposed prices shall remain firm for a minimum of ninety (90) days from the submittal date of the proposal. Prices quoted by the successful Proposer shall remain valid for the duration of the Contract term.

PROPOSAL EVALUATION

An evaluation committee of qualified Kitsap Transit staff and/or other persons selected by Kitsap Transit will conduct evaluations of the proposals. The committee will evaluate all responsive proposals based upon the information and references contained in the proposals as submitted.

Kitsap Transit reserves the right, before awarding the contract, to require a Proposer to submit evidence of its qualifications, as Kitsap Transit deems necessary. In addition, Kitsap Transit may consider any evidence available of financial, technical and other qualifications and capabilities; including performance experience with past and present users.

Kitsap Transit reserves the right to award the contract to that Proposer who will best serve the interest of Kitsap Transit. Kitsap Transit reserves the right based upon its deliberations and in its opinion, to accept or reject any or all proposals. Kitsap Transit also reserves the right to waive minor irregularities or variations to the specifications and in the bidding process.

EVALUATION CRITERIA

The following criteria will be used to evaluate the Proposals. Each Proposal will be evaluated based on the Proposals own merits not as a comparison to other proposals. Criteria are listed in order of importance.

1. Description of Solution and Services 500 Points
2. Schedule/Timeline 200 Points
3. Key Personnel 200 Points
4. Past Experience with similar projects 200 Points
5. Cost 500 Points

END OF SECTION 3

Section 4: Proposal as Public Records

By submitting a proposal, the Proposer has thereby agreed to the provision of this Section. Except to the extent permitted by Washington State public disclosure laws RCW Chapter 42.56, KT will regard proposals as public records which will be available for public inspection and/or copying following contract award, regardless of any markings or notices contained in the proposal documents. Information will not be released by KT *prior to* contract award in order to protect the integrity of the procurement process, unless otherwise required by law. All proposals will remain confidential until a contract is awarded and fully executed by all parties involved.

If a Proposer considers portions of its proposal to be protected under Washington State law, the Proposer shall clearly identify and mark such portions as “CONFIDENTIAL” or “PROPRIETARY” and submit such portions in a sealed envelope separate from the rest of the proposal. It is not usually reasonable or legally defensible to mark an entire proposal as “confidential” or “proprietary”. Marking the entire proposal as such will not be honored and the proposal may be rejected as non-responsive. KT shall not release or divulge such information to third parties without the consent of the Proposer, unless required to do so by applicable law or order of a court of competent jurisdiction. If a member of the public demands to review portions of a proposal marked “Confidential”, KT will notify the affected Proposer of the request and the date that such records will be released unless the Proposer obtains a court order enjoining that disclosure.

It will be the responsibility of the Proposer to protect the confidentiality of any information submitted in the Proposal and the Proposer shall take such legal actions as it may determine to be necessary to protect its interest. If the Proposer has not commenced such action within five (5) calendar days after receipt of the notice, KT will make the requested portions available to the Requestor. The Proposer, asserting that portions of its proposal are legally protected, will assume all liability and responsibility for any information declared confidential and shall defend and hold KT harmless for any cost, penalties, and/or fees (including reasonable attorney fees) incurred in any action regarding the disclosure of said information. KT assumes no responsibility or liability for any losses or damages which may result from the information contained in the proposal.

By submitting a proposal, the Proposer has thereby agreed to the provision of this Section.

END OF SECTION 4

Section 5: General Provisions

These General Provisions are complementary to the Contract which is required to properly define and delineate the responsibilities and rights of the parties to this Contract.

5.1 Conflicts of Interest

Current and Former Employees: KT seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former KT employees in transactions with KT. Consistent with this policy, no current or former KT employee may contract with, influence, advocate, advise, or consult with a third party about a KT transaction, or assist with preparation of bids submitted to KT while employed by KT or after leaving KT's employment, if he/she was substantially involved in determining the Work to be done or process to be followed while a KT employee.

Organizational Conflicts of Interest

An organizational conflict of interest is a situation in which, because of other activities, relationships, or contracts, a contractor or subcontractor is unable, or potentially unable, to render impartial assistance or advice to KT; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage. KT will evaluate future procurements related to this Contract to determine if there is an organizational conflict of interest. If an organizational conflict of interest exists, KT may prohibit the contractor and any of its subcontractors from participating in such related procurements/projects.

5.2 Debarment and Suspension

Contractor must not be debarred or suspended in order to conduct business with KT. Upon the Proposal Due Date and for the full duration of the Contract, the Contractor will not be debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or State department or agency or from bidding on any public contract; and shall not be presently indicted for, or otherwise criminally or civilly charged by, a governmental entity (federal, State or local) with commission of any of the offenses enumerated in below.

Within a three (3) year period preceding this proposal, Contractor shall not have been convicted of or had a civil judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract; Violation of federal or State anti-trust statutes; Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or had one or more public transactions (federal, State or local) terminated for cause or default. If it is later determined that the Contractor knowingly rendered an erroneous certification under the Affidavit submitted with its proposal, or failed to notify KT immediately of circumstances which made the original certification no longer valid, KT may immediately terminate the Contract.

5.3 Defective Materials or Services

When and as often as KT determines that the products or services furnished under the Contract are not fully and completely in accordance with any requirement of the Contract, KT may give

written notice and description of such non-compliance to the Contractor. Within seven (7) calendar days of receiving such written notification, Contractor must supply KT with a written detailed plan of action that indicates the time and methods needed to bring the products or services within acceptable limits under the Contract. KT may reject or accept this plan at its discretion.

In the event this plan is rejected or the defect has not been remedied within thirty (30) days of Contractor's receipt of notice, the products or services will be deemed not accepted and returned to the Contractor at the Contractor's expense. KT, in its sole discretion, may purchase a replacement from another source and charge-back the cost for such warranty replacement to the Contractor. This procedure to remedy defects is not intended to limit or preclude any other remedies available to KT by law, including those available under the Uniform Commercial Code, Title 62A RCW.

5.4 Subcontracts

Any Subcontractors and outside associates or consulting firms or individuals, including any substitutions thereof, required by the Contractor in connection with work to be provided under this Contract will be subject to prior authorization by KT. Each subcontract and a cost summary, therefore, shall be subject to review by KT prior to the Subcontractor proceeding with the work. The Contractor shall be responsible for the professional standards, performance, and actions of all persons and firms performing subcontract work. The Contractor shall be responsible for the completion and submission of any federally required forms that may be required of the Subcontractor. The Contractor, at the request and direction of KT, will provide copies of any written agreements showing their contractual relationship.

5.5 Insurance Requirements

The Contractor shall, at its sole cost and expense, obtain and maintain during the entire term of this Contract the minimum insurance set forth below. In the event the Contractor is a Joint Venture, these insurance requirements shall apply to each Joint Venture member separately. By requiring such minimum insurance, KT shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including without limitation, liability under the indemnity provisions of this Contract. Damages recoverable by KT shall not be limited to the amount of the required insurance coverage.

- Worker's Compensation Insurance in compliance with the laws of the State of Washington covering all CONSULTANT's employees who perform under this Agreement.
- Comprehensive Auto Liability Insurance on all vehicles used in connection with this Agreement whether owned, non-owned, or hired; with limits for bodily injury or death not less than \$100,000.00 per person and \$300,000.00 per occurrence, and property damage limits of not less than \$50,000.00; or in the alternative, not less than \$300,000.00 combined single limit coverage.
- Comprehensive General Liability Insurance with limits for bodily injury and property damage of not less than \$300,000.00 per incident and \$600,000.00 aggregate. A certificate of such insurance or a copy of such insurance policy or policies shall be provided to TRANSIT within one week after the execution of this Agreement. CONSULTANT' shall agree to give TRANSIT thirty (30) days written notice of cancellation in coverage below the limits set forth herein.

Coverage in the minimum amount set forth herein shall not be construed to relieve CONSULTANT from liability in excess of such coverage. TRANSIT shall be specifically included as an additional insured in the insurance coverage required by this section.

Notwithstanding, TRANSIT reserves all claims or rights of action against CONSULTANT as if TRANSIT were not named in the subject policy or policies.

Taking into account the Scope of Work and Services to be performed by a Subcontractor, the Contractor shall prudently determine whether, and in what amounts, each Subcontractor shall obtain and maintain public liability, professional liability, and any other insurance coverage. Any insurance required of Subcontractors shall, where appropriate and/or applicable, name KT as an additional insured.

The Contractor and its insurers shall endorse the required insurance policy (ies) to waive their right of subrogation against KT. The Contractor and its insurers also waive their right of subrogation against KT for loss of its owned or leased property or property under its care, custody and control.

No provision in this Section shall be construed to limit the liability of the Contractor for services not done in accordance with the Contract, or express or implied warranties. The Contractor's liability for the services shall extend as far as the appropriate periods of limitation provided by law and up to any legal limits.

The Contractor may obtain any combination of coverage or limits that effectively provides the same or better amounts and types of coverage as stipulated above, subject to review and approval by KT.

The Contractor warrants that this Contract has been thoroughly reviewed by the Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Contract.

5.6 Limitation of Liability

A. Non-conforming Services – For any services which fail to conform to the scope of the Contract and such failure is caused solely by the negligence of the Contractor, no charge will be invoiced to KT. If both parties are negligent, they agree to apportion between them the damage attributable to the actions of each.

B. Damages – Neither party will seek damages, either direct, consequential, or otherwise against the other in addition to the remedies stated herein.

3. Third Party Claims – In the event that either party is found liable for damages to third parties as a result of the performance of services under this Contract, each party will be financially responsible for the portion of damages attributable to its own acts and responsibilities under this Contract.

5.7 Taxes

Any Contract wholly for professional or other applicable services is generally not subject to Retail Sales Tax and therefore, the Consultant shall not collect Retail Sales Tax from Kitsap Transit on

those Contracts. Any incidental taxes paid as part of providing the services shall be included in the payments under the contract. .

No adjustments will be made in the amount to be paid by KT under the Contract because of any misunderstanding or any lack of knowledge of the Proposer as to liability for, or the amount of, any taxes or assessments which the Proposer may be liable or responsible for by law.

5.8 Confidentiality

After the Proposal due date and until a Contract is awarded, no information will be discussed with the competitors or anyone outside the Evaluation Committee. No Proposer or other member of the public will be told of the rankings among Proposers, nor the number of firms within the competitive range. Proposers will only be told that their proposal was ranked within the competitive range. Names of firms, cost data, or other information from Proposers submitted in response to this RFQ shall remain strictly confidential until after contract award.

5.9 Contract Documents

The successful Proposer will receive an award package from KT that includes the Final Award Notice, two original duplicates of the Contract for signature, and other documents as required. Contractor must immediately sign and return all requested documents to KT within ten (10) calendar days, unless indicated otherwise, or KT may utilize their right to cancel the award and go to the next highest scoring Proposer. Proposers should already have preparations in place to notify their insurance broker and/or bonding agent to immediately obtain the required documents. *A sample contract for services is provided to inform submitters of the expected terms and conditions required by Kitsap Transit. The contract is provided for information only and does need to be returned with the proposal submission. (See Attachment D)*

5.10 Failure to Execute Contract

Should the awarded Contractor fail to execute the Contract within ten (10) days from the Final Award Notice date, KT may withdraw the award and present the award to the next highest scoring Proposer. Should events give rise to this instance, the Proposer failing to execute a contract may be removed from KT's bid list for any future contracting opportunities.

END OF SECTION 5

KITSAP TRANSIT
REQUEST FOR PROPOSALS # KT 23-839
FOR
ON-DEMAND SERVICES SOFTWARE AND PLANNING
EXHIBIT A
SCOPE OF WORK

Exhibit A

Project Summary

Kitsap Transit is seeking proposals from qualified vendors to provide a software solution to manage Kitsap Transit's On-Demand Sunday service. It is anticipated that there will be a phased implementation beginning September 2023. Vendors are to provide a software solution only, Kitsap Transit will provide drivers.

General Requirements

- 1) Anticipated date of contract finalization is August 1, 2023. The service term of this contract is for three years, commencing on August 1, 2023. Upon mutual agreement, the term can be extended on an annual basis for up to two additional years.
- 2) Proposals must provide services within the service area outlined in Exhibit 1 from 8:00 am to 4:00 pm, Sunday service only. Additionally, proposals must provide services within the service areas outlined in Exhibit 2 to cover our current BI Ride, Kingston, and SK Ride service Monday thru Saturday. Days, service area, and hours of service may be expanded based on system needs and/or demand.
- 3) Anticipated phases of service transition:
 - a) Phase 1 – Sunday Service Bremerton (4 on demand vehicles) – **HARD START Date: September 24, 2023**
 - b) Phase 2 – Sunday Service Port Orchard, Poulsbo and Silverdale (6 on demand vehicles) – **Target Date December: 2023**
 - c) Phase 3 – Transition current on demand Monday thru Saturday service (6 on demand vehicles) – **HARD START Date January 7, 2024**
 - d) Phase 4 – Sunday Service Bainbridge Island (2 on demand vehicles)– **Target Date February: 2024**
- 4) Sunday Service parameters, phases 1, 2, and 4.
 - a) Up to 18 buses
 - b) Up to 4.5 Driver FTEs
 - c) Up to 180 service hours each Sunday
- 5) Kitsap Transit's Key Performance Indicators (KPIs) consists of the following ten metrics:
 - a) Passengers per vehicle revenue hour > 5.
 - b) Passengers per vehicle revenue mile > .50
 - c) On-Time-Performance > 94%
 - d) Rider satisfaction average of 9/10.
 - e) Median wait time < 20 minutes.
 - f) Operator satisfaction 9/10.
 - g) Percent of total on demand trips booked through App > 60%.
 - h) Number of trips unfulfilled that didn't successfully rebook within 20 minutes < 5%.

- i) Average call resolve time, latency of software can not result in an average resolve time greater than 90 seconds.
 - j) Connections to multiple modes of transportation must be made on average > 95%, other modes include routed service, deviated fixed route, Kitsap Transit fast ferries, Washington State Ferries per published schedule, and Dial-A-Ride.
- 6) The fare collection process and software will be managed by Kitsap Transit and vendors are only to **propose PCI compliant credit card payment fare solutions**. Kitsap Transit reserves the right to choose an alternative solution to the proposer's credit card payment fare solution.
 - 7) Drivers are Kitsap Transit employees and proposers should not propose their own drivers.
 - 8) Operator tablets will be provided and maintained by Kitsap Transit. Preference will be given to proposers that provide software that can toggle from our Trapeze paratransit software to the proposer's software on the same tablet. The Kitsap Transit Android tablets provided will integrate with existing Kitsap Transit onboard network via. Though Wi-Fi/ Ethernet via DHCP.
 - 9) Proposals must offer a smartphone app (compatible with the last 3 major versions for both iOS and Android and updated to be compatible as new versions of iOS and Android are released) as the primary tool to request service.
 - 10) Proposals must offer an app-based customer interface via which customers may change, reserve and/or cancel their seat(s) on their desired trip in advance.
 - 11) Proposals must offer an option for passengers to request a ride for those without access to a smartphone.
 - 12) Higher value will be placed on proposals that deploy a centralized software platform able to complete the following tasks in a fully automated manner without human intervention:
 - a. Receiving all trip requests through the smartphone app.
 - b. Assigning and dispatching a vehicle to complete each trip on the most efficient route while ensuring that the agreed upon KPIs for all customers in that vehicle will be met.
 - c. Routing the Operator around closed roads, construction detours, and areas determined as off limits (example, military bases).
 - d. Matching riders into trips so that the number of vehicle miles traveled is minimized and the occupancy to vehicle capacity ratio is maximized per defined KPIs.
 - e. Determining capacity needs for personal care attendants and mobility aids.
 - f. Providing an accurate and real-time estimation for both time of pick-up and time of arrival to the customers.
 - g. Providing customers, the ability to track their travel, through the App, for the entire trip across all mode(s) of transport, including Kitsap Transit ferries.
 - h. Providing an accurate estimation of the pickup location so the customer knows from which direction the vehicle will approach and allow the passenger to visually track, via an App, the approach of their vehicle.
 - i. Providing an interface to follow up with customers to

- i. rate their experience,
 - ii. answer questions related to trip(s) purpose(s),
 - iii. answer questions related to personal transportation mode shifts, and
 - iv. communicate regarding lost and found items.
 - j. Identifying eligible trips, defined as trips within the service area, and identifying ineligible trips, defined as trips entirely outside the service area and trips beginning or ending outside the service area.
 - k. Pooling users with similar origins/destinations and departure times.
- 13) Proposals must include Proposer's ability to share data on on-time performance.
 - 14) Proposals must provide a mechanism (e.g., Application Programming Interface (API), File Transfer Protocol (FTP), etc.) for making the mobility data listed below, in DELIVERABLES AND DATA OWNERSHIP, available for use by Kitsap Transit for run-cutting, dispatching, real-time information dissemination and trip planning.
 - 15) Proposals should provide for reports formatted correctly for NTD reporting requirements.
 - 16) Providing reports that identify the highest demand areas for customer pick-ups and drop offs.
 - 17) Proposals must maintain schedules and OTP even in geographies of low cell reception.
 - 18) Proposals must allow riders have consistent wait and on-board times even as routes go through areas of poor cell reception.
 - 19) It is desired that proposals provide a solution to ensure vehicles are routed to the correct side of the street for pickups and drop-offs.
 - 20) Proposals must provide a fixed time stop solution that will allow at minimum two timed stops for each on demand route.
 - a) Proposers' solution must be able to account for passenger capacity issues that may occur with timed stops and currently booked trips.
 - b) Proposer's must provide a solution to ensure that unscheduled riders that board at timed stops do not create a capacity issue for existing scheduled trips.
 - 21) Proposals must include Proposer's ability to share data on cancellation rates and how they may relate to other factors such as wait time.
 - 22) Proposals must include Proposer's ability to share data on unique new riders (for example tourists, # app downloads, average monthly trips per unique rider, top pickups and destinations, and how riders pay (credit card, on bus) and statistics on rider retention over time.
 - 23) Proposals must include Proposer's plan to comply with ADA.
 - 24) The Proposal fleet is defined as the pool of vehicles made available to provide the proposed service. These vehicles will be owned and insured by Kitsap Transit. Note, that Kitsap Transit's fleet will change through the life of the contract and that the proposer may be asked to provide input on capacity needs for future vehicle orders.
 - 25) Proposals must explain their disaster recovery plan and processes
 - 26) Proposals must provide information on the ability to add vehicles temporarily upon Kitsap Transit's request for large local and regional events, emergency, and/or other needs.

DELIVERABLES AND DATA OWNERSHIP

- 1) Kitsap Transit owns the data.
- 2) Proposer shall provide Kitsap Transit monthly reports and data to include but not be limited to:
 - a. User-friendly reporting with the ability to create custom reports for Kitsap Transit needs.
 - b. Provide ongoing standard NTD and custom ad-hoc reporting analysis to Kitsap Transit on an agreed upon basis (weekly, monthly, etc.)
 - c. The peak number of vehicles operating each day by service area.
 - d. The vehicle-hours and vehicle-miles operated in service (excluding deadhead travel) and total vehicle-hours and vehicle-miles (including deadhead travel), consistent with FTA National Transit Database definitions by vehicle and by day.
 - e. The total number of users segregated into new users and returning customers.
 - f. Data related to ridership connection via app, telephone, etc.
 - g. On-time performance.
 - h. In-vehicle ride time.
 - i. Number of missed trips.
 - j. Data on cancellation rates and wait time and its effect on retention.
 - k. The ridership by hour.
 - l. Detailed miles traveled report of cost per mile and cost per hour, and passengers per hour and passengers per mile.
 - m. Average boardings by day.
 - n. Ability to track detailed fare information
 - o. Ability to create and export a GTFS and/or GTFS-Flex feeds for scheduled stops, deviated fixed route, and fixed route services.
 - p. User demographics specifying rider age, and gender.
 - q. Ability to separate paratransit and on-demand trips.
 - r. Lat/long point data of planned pickup and planned drop-off with timestamps.

SPECIFICATIONS | PROGRAM MANAGEMENT

- 1) Proposals must offer a program team charged with collaborating with Kitsap Transit in all matters related to the planning and implementation phases of the program, including attending video and/or phone conferences, in-person meetings, conducting on-site analyses, preparing reports as required, and invoicing Kitsap Transit for the services provided.
- 2) The Proposer and Kitsap Transit will agree on a marketing and promotional plan prior to project launch. There cannot be marketing partnerships between the Proposer and any third parties without prior approval of Kitsap Transit. Kitsap Transit will review any material

prepared prior to its use by a third-party, reserving the right of final approval. Kitsap Transit reserves the right to prepare and post information about services provided by the Proposer.

- 3) Rider app allows agencies to include their own branding and design within the rider interface including a splash screen, service names, logos, color-schemes, vehicle icons, and weblinks.
- 4) Daily management should allow users the following capabilities:
 - a) Platform should allow Kitsap staff to adjust different service hours for different service areas.
 - b) Platform should allow different levels of authorization for various levels of the daily management team, including administrators, dispatch staff, etc.
 - c) Platform should allow users to add and remove vehicles as demand requires.
 - d) Platform should allow administrators to modify or limit maximum vehicle passenger loads.
 - e) Platform should include replay controls to playback trips from the very first day of service through the present.
 - f) Platform should provide information about offline and not in service vehicles.
 - g) Platform's algorithm must be able to route on-demand services within a geo-fenced service area.
 - h) Platform must have scalability of service, with the ability to modify existing zones and create new zones within and outside of the service area(s). These functions must be available to the agency within the software.
 - i) Platform is cloud based - no back-office hardware should be required. The software should be an internet browser-based SaaS and compatible with widely available browsers, such as Google Chrome.
 - j) Platform must allow users to set and easily modify service including point-to-point on-demand service, fixed-route service, and deviated fixed-route service.
 - k) Platform must allow users to create scheduled stops to connect with fixed-route and ferry arrivals and departures.
 - l) Platform allow Kitsap Transit to include fixed-route transit data in GTFS format to facilitate connections between flexible services and the fixed-route network.
 - m) Platform should include a simulation tool capable of forecasting the number of vehicles to meet preset service parameters like average wait times and trip times.
 - n) Platform must allow users assign and remove vehicles to/from the service
 - o) Platform must allow users to add configurable mobility aid accessibility options (such as wheelchair, stroller, or bike) within the dashboard.
 - p) Platform must allow for role-based access controls
 - q) Platform must allow for MFA

RIDER | SPECIFICATIONS

- 1) Riders use just one application for trip planning and for trip booking.

- 2) Riders see multi-modal alternatives for your end-to-end trip planning and pick the trip(s) that are best for them.
- 3) See on-demand, flex routes, and fixed-routes (and combinations thereof) for your end-to-end multimodal trip.
- 4) Trip estimates are published through GTFS-Flex to be incorporated into route planners such as Google Maps
- 5) Rider is shown in-app that a transit connection can be made at their destination.
- 6) Riders can see scheduled times for connections using Static GTFS Feed.
- 7) Riders should have guaranteed connections to/from the transfer even if the connection is running ahead of / behind schedule (using GTFS-real-time feed) and riders should be able to identify which bus, fixed route, or ferry route they want to connect to.
- 8) Riders should be provided walking directions to the pickup point.
- 9) App should provide riders with the bus/ferry scheduled times and drop off locations.
- 10) App should allow riders to book pre-schedule trips up to a week in advance.
- 11) Platform should allow Kitsap Transit riders the ability to provide either pooled stops or door-to-door/Curb to Curb stops, including walking directions for riders in the event of pooled stops.
- 12) Rider app must allow riders to book in advance.
- 13) Rider app must allow riders to book for multiple riders.
- 14) Rider app must allow riders to book trips on demand.
- 15) Rider app must provide ETA prior to confirming a trip.
- 16) Rider app should allow riders to see scheduled and real-time connections to local fixed-route bus and/or ferry services, backed by static and real-time GTFS feeds.
- 17) Rider app must show vehicles in real-time moving on the map.
- 18) Rider app must be available for download from the Google Play Store and Apple App Store at no cost to users and must be compatible for all recent Android and iOS devices.
- 19) Rider app should display a map showing the current location of the requested vehicle, estimated time of arrival for pick up, and descriptive information about the vehicle such as vehicle number and vehicle make or model prior to the passenger boarding.
- 20) Rider app must allow riders to select boarding locations by either entering a street address into a search bar, searching for a Point of Interest, directly selecting locations displayed on a map, placing a pin on a map, or by using the customer's current location.
- 21) Rider app must be available in multiple languages.

TRIP ROUTING AND DISPATCHING PLATFORM

- 1) Describe the smartphone app proposed by your company to submit trip requests.
- 2) For on-demand services, describe tools made available for on-demand customers to know in real-time their estimated pick-up time and estimated time of-arrival at their destination.
- 3) For on-demand and shared ride services, describe how the platform can match the most trips as possible into one vehicle to maximize efficiency and minimize vehicle miles traveled.

- 4) For all services, describe tools available to allow customers to rate their trips, report problems and answer short survey questions.
- 5) For all services, describe your method of handling platform upgrades, service outages and requests for customizations.
- 6) List the hardware and software that will be installed in each vehicle related to this project.
- 7) Describe what parameters the transit agency can modify to adjust service delivery and describe the main parameters of your system that cannot be modified.

DRIVER | SPECIFICATIONS

- 1) Driver app should have a simple sign on/sign off process.
- 2) Driver app should allow drivers to pre-select times for mid-trip relief sign on/off.
- 3) Driver app must provide drivers with clear guidance on where to stop and ensure they are picking and dropping on the correct side of the street .
- 4) Driver app must display a map showing the current location of the vehicle alongside routing directions to boarding and alighting locations.
- 5) Driver app must provide continuous routing and itinerary optimization to improve operational efficiency as new rides are requested.
- 6) Driver app must provide turn-by-turn directions with street names and mileage until next movement while the operator is enroute to a passenger boarding location and while a trip is in progress.
- 7) Driver app must alert the driver when off route, and automatically provides new, updated directions.
- 8) Driver app should prevent distracted driving including mechanisms such as audio directions.
- 9) Driver app must provide a “can’t see rider/no show” option after a configurable waiting period expires through an on-screen countdown.
- 10) Driver app must show an itinerary including next trip or next several trips. If the platform adds a passenger trip while a trip is in progress, the driving directions will automatically update with minimal input from the operator.
- 11) Driver app must require driver to confirm that the rider has been picked up

Understanding of Project Goals and Service Concepts

- 1) Summarize your understanding of the project goals and objectives and your company’s general fit to meet such goals and objectives.
- 2) Summarize the service or services that your company wishes to operate including your understanding of and suggestions related to the service concepts provided herein.
- 3) Summarize the process via which Kitsap Transit may request the addition of service hours and/or vehicles for unforeseen circumstances, including unit cost and lead time required.

End of Scope

KITSAP TRANSIT
REQUEST FOR PROPOSALS # KT 23-839
FOR
ON-DEMAND SERVICES SOFTWARE AND PLANNING
EXHIBIT B
BIDDER'S AFFIDAVIT

EXHIBIT B

BIDDERS AFFIDAVIT

BIDDER'S AFFIDAVIT PROJECT KT #23-839

NON-COLLUSION

The Bidder affirms that, in connection with this Bid, the prices or cost data have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition and that the proposal herewith submitted is a genuine and not a sham or collusive Bid, or made in the interest or on behalf of any person not therein named; and further says that the said Bidder has not directly, or indirectly, induced or solicited any Bidder on the above Work or supplies to put a sham Proposal, or any other person or corporation to refrain from Bidding; and that said Bidder has not in any manner sought by collusion to secure to himself/herself an advantage over any other Bidders.

CONFLICTS OF INTEREST & ANTI-KICKBACKS

In regards to any performance of the Work or the provision of services or materials under the Contract resulting from this solicitation the Bidder affirms that:

1. It has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, which conflicts in any manner or degree with the services required to be performed under this Contract and that it shall not employ any person or agent having such interest. In the event that the Bidder, as Contractor, or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to Kitsap Transit and take immediate action to eliminate the conflict or to withdraw from said Contract as Kitsap Transit may require.
2. No officer, employee, Board member, agent of Kitsap Transit, or family member of same shall have or acquire any personal interest in this submittal, or have solicited, accepted or granted a present or future gift, favor, service, or other thing of value from or to any person involved in this submittal and that no such gratuities were offered or given by the Bidder or any of its agents, employees or representatives, to any official, member or employee of Kitsap Transit or other governmental agency with a view toward securing a Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the Award or performance of this Contract.

CONTINGENT FEES AND GRATUITIES

The Bidder affirms that in connection with this Bid:

1. No person or selling agency, except bona fide employees or designated agents or representatives of the Bidder, has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid.
2. No gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the

Contractor or any of its agents, employees or representatives, to any official, member or employee of Kitsap Transit 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.

SEGREGATED FACILITIES

The Bidder certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under its control where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity or Civil Rights clause in any Contract resulting from acceptance of this Bid. As used in this Certification, the term “segregated facilities” means any waiting rooms, Work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise.

DEBARMENT AND SUSPENSION

The Proposer shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment” 2 C.F.R part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)”, 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the bidder shall verify that its principles, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participating in any federally assisted Award;
- f) Disqualified from participating in any federally assisted Award.

By signing and submitting its bid, the bidder certifies as follows:

The certification in this clause is a material representation of fact relied upon by Kitsap Transit. If it is later determined by Kitsap Transit that the bidder knowingly rendered an erroneous certification, in addition to remedies available to Kitsap Transit, the Federal Government may pursue available remedies afforded by 31 U.S.C. § 3802, including but not limited to suspension and/or debarment. The bidder agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the

period of any contract that may arise from the offer. The bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

If Bidder is unable to certify to any of the statements in this certification, the Bidder shall attach an explanation to this Section.

Note: The penalty for making false statements in offers is described in 18 U.S.C. 1001.

THE BIDDER CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3802, *ET SEQ.*, ARE APPLICABLE THERETO.

Authorized Signature _____ Date _____

Printed Name & Title _____

Company Name _____

****THIS FORM MUST BE SIGNED AND SUBMITTED WITH YOUR BID****

KITSAP TRANSIT
INVITATION FOR BIDS # KT 23-839
FOR
ON-DEMAND SERVICES SOFTWARE AND PLANNING
EXHIBIT C
SAMPLE AGREEMENT

KITSAP TRANSIT

CONSULTANT AGREEMENT

KT # 23-XXX

{Project Title}

KITSAP TRANSIT

60 Washington Ave., Ste. 200
Bremerton, Washington 98337
(360) 824-4905
(360) 377-7086 Facsimile

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KITSAP TRANSIT

CONSULTANT AGREEMENT

THIS AGREEMENT, made and entered into in duplicate this ___ day of MONTH, 20___, by and between KITSAP TRANSIT, a Washington municipal corporation, hereinafter referred to as "TRANSIT", and **CONTRACTOR**, hereinafter referred to as "CONSULTANT."

WITNESSETH:

WHEREAS, TRANSIT desires to have certain services and/or tasks performed as hereinafter set forth requiring specialized skills and other supportive capabilities, hereinafter referred to as the "Project," and

WHEREAS, CONSULTANT represents that CONSULTANT is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, TRANSIT and CONSULTANT agree as follows:

ARTICLE 1 **OVERALL PROJECT**

1.1 RELATIONSHIP OF PARTIES

The CONSULTANT covenants with TRANSIT to furnish the CONSULTANT's reasonable skill and judgment in furthering the interests of TRANSIT. The CONSULTANT shall furnish memos, reports, spreadsheets or other appropriate documents, and use the consultant's best effort to perform the work in this Agreement in an expeditious and economical manner consistent with the interest of TRANSIT. The CONSULTANT shall endeavor to promote harmony and cooperation with the other governmental parties and agencies involved with the Project, TRANSIT, and other persons or entities essential to the Project.

1.2 GENERAL SCOPE OF SERVICES

CONSULTANT shall perform such services and accomplish such tasks, including the furnishing of all materials, documentation, and equipment necessary for full performance thereof, as are identified and designated as CONSULTANT responsibilities throughout this Agreement and as detailed in exhibits attached hereto and incorporated herein.

Exhibit A: Request for Proposals, Project KT #xx-xxx

Released: 00/00/20__

Exhibit B: Addenda 1 Project KT #xx-xxx

Released: 00/00/20__

Exhibit C: {Consultant} Proposal to RFP KT #xx-xxx

Issued: 00/00/20__

1.3 TERM OF THE AGREEMENT

CONSULTANT shall not begin work under the terms of this Agreement until authorized by the signing of this Agreement. The services under this Agreement are directly related to and shall be coordinated with the Project Schedule. The established completion time shall not be extended because of any delays attributable to CONSULTANT, but may be extended by TRANSIT in the event

of a delay attributable to TRANSIT or because of unavoidable delays caused by an Act of God, governmental actions, pandemic, or other conditions beyond the control of CONSULTANT.

ARTICLE 2

GENERAL PROVISION

2.1 ASSIGNMENT/SUBCONTRACTING

- A. CONSULTANT shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of TRANSIT, and it is further agreed that said consent must be sought in writing by CONSULTANT not less than seven days prior to the date of any proposed assignment. TRANSIT reserves the right to reject without cause any such assignment.
- B. TRANSIT permits subcontracts for those items of work as shown in EXHIBIT (X) attached hereto and made a part hereof. The parties understand that subconsultants may be added or deleted during the course of the Agreement. EXHIBIT (X) may be amended as the need arises, upon mutual agreement of the parties, without a formal amendment to this Agreement. All terms, conditions, covenants and performances contained herein by and between the CONSULTANT and TRANSIT shall be required of the subconsultant and made part of any subconsultant agreement.

2.2 ATTORNEYS FEES AND COSTS

If any legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the covenants, terms, conditions, OR provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and costs incurred in such action or proceeding.

2.3 CHANGES

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing, and signed by both parties. Such amendments shall be attached to and made a part of this Agreement.

CONSULTANT shall not incur additional cost which would modify the amount of the compensation established in EXHIBIT (X), except as TRANSIT may specifically authorize in writing.

CONSULTANT shall make all such changes and revisions in the completed work of this Agreement as are necessary to correct errors appearing therein, when required to do so by TRANSIT, without additional compensation therefore.

2.4 COMMUNICATIONS

Communications in connection with this Agreement shall be in writing and shall be delivered personally; or by facsimile, or by regular, registered, or certified mail addressed to the TRANSIT Representative designated to receive such communications. Communications shall be considered received at the time actually received by the addressee. Telephone calls may be used to expedite communications but shall not be official communication unless confirmed in writing. All telephone communication shall be directed to the Project Manager (designated representative) as appropriate.

2.5 DISPUTE RESOLUTION

TRANSIT's Protest and Appeal Procedures are to be used for the resolution of disputes.

2.6 JURISDICTION

- A. This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Kitsap County, Washington.

2.7 RESERVED

2.8 MEDIATION

As a condition precedent to the hearing of any trial or arbitration, the Parties shall submit any and all disputes between them to non-binding mediation with the assistance of an experienced mediator. The Parties shall each designate a representative with full settlement authority who will participate for at least four hours in mediation. The Parties shall share equally all expenses, exclusive of attorney's fees, associated with the mediation.

2.9 NOTICE

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

2.10 REQUESTS FOR ARBITRATION

Requests for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A request for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the request for arbitration be made after the date when institution of legal or equitable proceedings based on such claims, dispute or other matter in question would be barred by the applicable statutes of limitations.

The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

2.11 SEVERABILITY

- A. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is held by the courts to be illegal, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision, which may conflict therewith, shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

2.12 TERMINATION

- A. **TERMINATION FOR CONVENIENCE:** The performance of work under this Agreement may be terminated by TRANSIT in accordance with this clause in whole, or from time-to-time in part, whenever TRANSIT shall determine that such termination is in its best interests. Any such termination shall be effected by delivery to the CONSULTANT of a Notice of Termination specifying the extent to which performance of service under the Agreement is terminated, and the date upon which such termination will become effective.

After receipt of a Notice of Termination, and except as otherwise directed by TRANSIT, the CONSULTANT shall stop work under the Agreement on the date and to the extent specified in the Notice of Termination.

Settlement of claims by the CONSULTANT under this Termination of Convenience clause shall be in accordance with the provisions set forth in the Federal Acquisition Regulations, except that wherever the word "Government" appears it shall be deleted and the words "KITSAP TRANSIT" shall be substituted in lieu thereof.

- B. TERMINATION FOR DEFAULT:** TRANSIT may, by written notice of default to the CONSULTANT, terminate the whole or any part of this Agreement if the CONSULTANT fails to perform the services within the time specified herein or any extension thereof; or if the CONSULTANT fails to perform any of the provisions of the contract, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not cause such failure to be corrected within a period of ten (10) business days (or such longer period as TRANSIT may authorize in writing) after receipt of notice from TRANSIT specifying such failure.

If the Agreement is terminated in whole or in part for default, TRANSIT may procure, upon such terms and in such manner, as TRANSIT may deem appropriate, supplies or services similar or those so terminated. The CONSULTANT may be liable to TRANSIT for excess costs for such similar services and shall continue the performance of this Agreement to the extent not terminated under the provisions of this clause.

Except with respect to defaults of sub-consultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform the Agreement arises out of cause beyond the control and without the negligence of the CONSULTANT. If the failure to perform is caused by the default of a sub-consultant, and if such default arises out of causes beyond the control of both the CONSULTANT and the sub-consultant, and without the negligence of either of them, the CONSULTANT shall not be liable for any excess costs for failure to perform, unless the services to be furnished by the sub-consultant were obtainable from other sources to provide the services required.

Payment for services and accepted by TRANSIT shall be at the price specified in the Agreement. TRANSIT may withhold from amounts otherwise due the CONSULTANT for services provided such sum as TRANSIT determines to be necessary to protect TRANSIT against loss because of outstanding liens or claims of former lien holders.

If, after Notice of Termination of this Agreement under the provisions of this clause, it is determined for any reason that the CONSULTANT was not in default under the provisions of this clause, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to Termination of Convenience of TRANSIT.

The rights and remedies of TRANSIT provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

2.13 TREATMENT OF ASSETS

Title to all property furnished by TRANSIT shall remain in the name of TRANSIT and TRANSIT shall become the owner of the work product and other documents, if any, prepared by CONSULTANT pursuant to this Agreement unless otherwise expressly provided herein.

ARTICLE 3
COMPENSATION, PAYMENTS AND RECORDS

3.1 ACCOUNTING RECORDS

The CONSULTANT shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this agreement; the accounting and control systems shall be satisfactory to TRANSIT. The CONSULTANT shall preserve records, books, correspondence, instructions, drawings, subcontracts, purchase orders, memoranda and other data relating to this Agreement for a period of three years after final payment, or for such longer period as may be required by law.

3.2 AUDIT AND INSPECTION OF RECORDS

TRANSIT, the State Auditor, the Comptroller General for the United States, or any of their duly authorized representatives, shall, until three (3) years after final payment under this Agreement or for any shorter period specified, have access to and the right to examine any of the CONSULTANT's directly pertinent books, documents, papers or other records involving transactions related to this Agreement, and may request copies of specific documents at no charge to TRANSIT. These same requirements apply for any subconsultant.

3.3 CHANGE ORDER PROCEDURE

A. Oral change orders are not permitted. No change in this Agreement shall be made unless Kitsap Transit's Project Manager (designated representative) gives his/her prior written approval thereto. The CONSULTANT shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the Agreement and signed by Kitsap Transit's Capital Development Director.

B. Exhibit (X) includes a firm fixed fee price and the schedule for the work to be performed. This proposal is accepted and may be modified by negotiations between the CONSULTANT and Kitsap Transit's Project Manager. At that time, both parties shall execute a detailed modification in writing.

Disagreements that cannot be resolved within negotiations shall be resolved in accordance with the Agreements Dispute Resolution Clause.

C. Any proposed change in this Agreement shall be submitted to Kitsap Transit, or designated members thereof, for prior written approval. Subject to this prior approval, Kitsap Transit's designated representative may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this agreement, and/or the drawings, designs or specifications.

If such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Agreement, whether changed or not changed by any such order, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified in writing accordingly. Any claim by the CONSULTANT for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the CONSULTANT of the notification of change; provided, however, that Kitsap Transit's designated representative, if she or he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this Agreement.

3.4 COMPENSATION AND METHOD OF PAYMENT

- A. Payments for services provided hereunder shall be made following the performance of such service, unless otherwise permitted by law and approved in writing by TRANSIT. No payment shall be made for any service rendered by CONSULTANT except for services identified and set forth in this Agreement.
- B. TRANSIT shall pay CONSULTANT for work performed under this Agreement compensation on a fixed fee not-to-exceed basis as described in EXHIBIT (X) attached hereto and made a part hereof.
- C. Payments shall be made following presentation of CONSULTANT invoices and progress report. Invoices shall be prepared monthly on the basis of the work described in EXHIBIT X estimated to be completed that month and at a percentage of the total cost of services to be performed.

Payments are due and payable within thirty (30) days from the date the CONSULTANT's invoice is received by the TRANSIT.

3.5 OWNERSHIP OF DOCUMENTS

The original documentation and data furnished to CONSULTANT by TRANSIT shall be returned. All designs, drawings, specifications, documents, and other work products prepared by CONSULTANT are instruments of service for this Agreement, and are property of TRANSIT. Reuse by TRANSIT or by others acting through or on behalf of TRANSIT of any such instruments of service not occurring, as a part of this Agreement shall be without liability or legal exposure to CONSULTANT.

The drawings, specifications and any other design and planning documents produced by or provided to the CONSULTANT, and other key professionals employed by the CONSULTANT shall become the property of TRANSIT, but the use of these documents shall be approved in writing by the CONSULTANT and reasonable request for release from liability by the CONSULTANT shall be granted by TRANSIT.

All designs, drawings, specifications, technical data and other documents or information produced by CONSULTANT in the performance of this Agreement shall be the sole property of TRANSIT, and TRANSIT is vested with all rights therein of whatever kind and however created, provided however any design documents not stamped and signed by appropriate registered professional architects or engineers shall be deemed to be incomplete and requiring further review or design completion.

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

TRANSIT shall not reuse any documents, reports, materials, or other subject matter provided by CONSULTANT hereunder for other than the project defined by the Agreement without prior written consent of CONSULTANT, which shall not be unreasonably withheld. TRANSIT shall, in any event, indemnify, defend and hold CONSULTANT harmless from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages and liability caused by, resulting from, or arising out of such reuse. CONSULTANT is not liable for TRANSIT or third party misuse of any documents, reports, records, plans, or materials prepared, procured, or produced in the rendition of services under this Agreement.

3.6 PATENT RIGHTS

Any patentable result arising out of this Agreement, as well as all information, designs, specifications, know-how, data, and findings shall be made available to the Government for public

use, unless TRANSIT shall, in a specific case where it is legally permissible, determine that it is in the public interest that it not be so made available.

3.7 INDEPENDENT CONSULTANT RELATIONSHIP

- A. The parties intend that an independent CONSULTANT/TRANSIT relationship will be created by this Agreement. TRANSIT is interested primarily in the results to be achieved; subject to the provisions herein, the implementation of services will lie solely with the discretion of CONSULTANT. No agent, employee, servant or representative of CONSULTANT shall be deemed to be an employee, agent, servant or representative of TRANSIT for any purpose, and the employees of CONSULTANT are not entitled to any of the benefits TRANSIT provides to its employees. CONSULTANT will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subconsultants or representatives during the performance of this Agreement.
- B. In the performance of the services herein contemplated, CONSULTANT is an independent consultant with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of TRANSIT and shall be subject to TRANSIT's general rights of inspection and review to secure the satisfactory completion thereof.

3.8 WARRANTY OF TITLE

CONSULTANT shall warranty to TRANSIT its successors and assigns, that the deliverables covered by the Agreement, when delivered to TRANSIT or to its successors or assigns, is free from all liens and encumbrances.

ARTICLE 4

TRANSIT PROVISIONS

4.1 RESERVED

4.2 INFORMATION

TRANSIT shall provide full information in a timely manner regarding the requirements of the Project, including any additional information about its program which sets forth TRANSIT's objectives, constraints and criteria, including preliminary space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

4.3 STATEMENT OF FINANCIAL ASSISTANCE

This Agreement is subject to receipt of financial assistance by TRANSIT from the Federal Transit Administration. TRANSIT shall arrange such assistance or other funding prior to authorizing the work of this Agreement to start. In the event the work of this Agreement is started and such financial assistance or other funding is not available, TRANSIT may terminate this Agreement in accordance with Article 2.12 Termination for Convenience.

4.4 TRANSIT'S DESIGNATED REPRESENTATIVE

TRANSIT shall designate a Project Manager who shall have express authority to bind TRANSIT with respect to all matters requiring TRANSIT approval or authorization. This representative shall have the authority to make decisions on behalf of TRANSIT subject to TRANSIT board approvals as required, concerning scope of work, schedules, review of budgets, and changes in the work of this Agreement without further formal TRANSIT action, and shall render such decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay of the CONSULTANT and the Project.

ARTICLE 5
INSURANCE PROVISIONS

CONSULTANT shall obtain and keep in force during the full term of this Agreement the following insurance coverage's:

- 5.1.** Worker's Compensation Insurance in compliance with the laws of the State of Washington covering all CONSULTANT's employees who perform under this Agreement.
- 5.2** Comprehensive Auto Liability Insurance on all vehicles used in connection with this Agreement whether owned, non-owned, or hired; with limits for bodily injury or death not less than \$100,000.00 per person and \$300,000.00 per occurrence, and property damage limits of not less than \$50,000.00; or in the alternative, not less than \$300,000.00 combined single limit coverage.
- 5.3** Comprehensive General Liability Insurance with limits for bodily injury and property damage of not less than \$300,000.00 per incident and \$600,000.00 aggregate. A certificate of such insurance or a copy of such insurance policy or policies shall be provided to TRANSIT within one week after the execution of this Agreement. CONSULTANT' shall agree to give TRANSIT thirty -(30) days written notice of cancellation in coverage below the limits set forth herein. Coverage in the minimum amount set forth herein shall not be construed to relieve CONSULTANT from liability in excess of such coverage. TRANSIT shall be specifically included as an additional insured in the insurance coverage required by this section. Notwithstanding, TRANSIT reserves all claims or rights of action against CONSULTANT as if TRANSIT were not named in the subject policy or policies.
- 5.4** Professional liability insurance appropriate to the Consultant's profession with limits of no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

ARTICLE 6
SCHEDULE

6.1 SCHEDULE FOR THE WORK

The work of this Agreement shall be commenced upon receipt of a written Notice to Proceed. The services under this Agreement are directly related to and shall be coordinated with the Project Manager.

6.2 NOTIFICATION OF DELAY

The CONSULTANT shall notify the TRANSIT designated representative as soon as the CONSULTANT has, or should have, knowledge that an event has occurred, which will delay deliveries. Within five (5) calendar days, the CONSULTANT shall confirm such notice in writing, furnishing as much detail as possible.

ARTICLE 7
LABOR PROVISIONS

7.1 SAFETY AND HEALTH STANDARDS

CONSULTANT shall be responsible for safety of CONSULTANT's employees and shall cause its Subconsultants to be responsible for the safety of its employees. CONSULTANT is not responsible for the safety of any other person working on this Project.

7.2 DISADVANTAGED BUSINESS ENTERPRISES

A. In connection with the performance of this contract, CONSULTANT will cooperate with TRANSIT in meeting its aspirational goal with regard to the maximum utilization of disadvantaged businesses and will use good faith efforts to ensure that disadvantaged businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract. The agency's overall goal for DBE participation is 2.93% for 2019.

B. Further, TRANSIT and CONSULTANT agree to ensure that disadvantaged businesses as defined in 49 CFR, Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, TRANSIT and CONSULTANT shall take all necessary and reasonable steps in accordance with 49 CFR, Part 23, to ensure that disadvantaged businesses have the maximum opportunity to compete for and perform contracts. TRANSIT and CONSULTANT shall not discriminate on the basis of race, color, religion, national origin, sex, disability, or age, and in employment or business opportunity. CONSULTANT shall complete Contractor Good Faith Effort DBE Certification on the signing of this agreement **and again at its completion.**

C. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. The successful bidder/offeror will be required to complete a DBE participation report at the beginning of construction, completion of construction, and at times there is a change in DBE subcontractors.

D. **PROMPT PAYMENT:** The contractor is required to pay its Subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Kitsap Transit. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of the contract, the suspension of retainage of this contract or such other remedy as Kitsap Transit deems appropriate.

E. The contractor must report when a DBE subcontractor previously reported to Kitsap Transit to be performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform the work.

F. Kitsap Transit reserves the right to monitor reported DBE participation or the contractors required performance with respect to DBE's as Kitsap Transit deems appropriate.

ARTICLE 8 **CONSULTANT PROVISIONS**

8.1 CONSULTANT RESPONSIBILITY FOR QUALITY

A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the CONSULTANT under this contract. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings,

specifications, and other services which shall mean such services not meeting the standard of care as defined in Section 1.2 of this Agreement.

- B. Neither TRANSIT's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.

8.2 COMPLIANCE WITH LAWS

- A. CONSULTANT, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs, accreditation, and licensing of individuals. The CONSULTANT shall comply with any other standards or criteria as described in this Agreement to assure quality of services.
- B. CONSULTANT specifically agrees to pay any applicable business and occupation (B&O) taxes, which may be due on account of this Agreement.
- C. This Agreement shall be governed by the pertinent requirements included in Federal Transit Administration Circular 4220.1F as amended and the attached CERTIFICATIONS

8.3 DEBARRED BIDDERS

Neither CONSULTANT, nor any officer or controlling interest holder of CONSULTANT, is currently, or has been previously, on any debarred bidders list maintained by the United States Government.

8.4 HOLD HARMLESS AND INDEMNIFICATION

CONSULTANT shall defend, protect, indemnify and hold harmless TRANSIT and its agents, employees and/or officers from and against any and all claims, suits, actions, damages, and liability whatsoever, which TRANSIT may incur by reason of any negligent act, action, neglect, omission or default on the part of CONSULTANT provided, however, that if such liability is caused by or results from the concurrent negligence of TRANSIT, its agents, employees, and/or officers, and CONSULTANT or its agents and employees, this provision shall be valid and enforceable only to the extent of CONSULTANT's negligence.

If a lawsuit subject to this hold harmless provision ensues, the CONSULTANT shall appear and defend that lawsuit at its own cost and expense to the extent of its negligence.

8.5 PAROL AGREEMENT

All prior or contemporaneous communications, representations or agreements, whether oral or written, with respect to the subject matter thereof which are inconsistent with this Agreement are hereby superseded. No amendment hereafter made between the Parties shall be binding on either Party unless reduced to writing and signed by an authorized representative of the Party sought to be bound thereby. No provision of this Agreement is intended or shall be construed to be for the benefit of any third party.

8.6 PROHIBITED INTEREST

No member, officer or employee of TRANSIT shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

8.7 SEVERABILITY

Should an part, term, or provision of this Agreement be decided by the Courts to be illegal or in conflict with any applicable statute or regulation, the validity of the remaining portions or provision shall not be affected thereby.

8.8 SUCCESSORS

TRANSIT and CONSULTANT respectively bind themselves, their partners, successors, assigns and legal representatives to the other party in respect to covenants, agreement and obligations contained in the Agreement. Neither party to the Agreement shall assign the Agreement as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Agreement.

8.9 SURETIES

If at any time during the continuance of the Agreement, the sureties, or any of them, shall in the opinion of TRANSIT become untrustworthy, TRANSIT shall have the right to require additional and sufficient sureties, which the CONSULTANT shall furnish to the satisfaction of TRANSIT within ten (10) days after notice.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the exoneration of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first herein above written.

KITSAP TRANSIT

CONTRACTOR

By: _____
John W. Clauson

By: _____

Its: _____
Executive Director

Its: _____

Address: 60 Washington Ave., Ste. 200
Bremerton, WA 98337

Address:

Date: _____

Date: _____