



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**
 FROM: **Hari Ponnekanti, Public Works Director**
 BY: **Scott Bates, Traffic Engineering Project Manager**
 CC: **Mayor Ekberg**
 DATE: **November 19, 2021**
 SUBJECT: **2022 Overlay and Repair Program**
Project No. 92210401
Design Consultant Selection and Agreement

ISSUE

Execute a contract with KPG, Inc. (KPG) to provide design services for the 2022 Overlay and Repair Program.

BACKGROUND

Three engineering firms were evaluated from the MRSC Consultant Roster to provide design services for the 2021 Overlay and Repair Program (see attached scoring & selection matrix). All of the firms offer baseline qualifications, however KPG has a unique blend of knowledge and understanding of the City’s overlay program that provides efficiency and benefits, which cannot be matched at this time by any other firm. KPG has also performed very well in providing construction management services.

DISCUSSION

KPG has provided a contract, scope of work, and fee estimate to complete the design of the 2022 Overlay and Repair Program and advertise for construction bids. This year’s scope will include updating the Pavement Management priority list and working with staff to select up to ten paving projects. Final project selection will be made after the design cost estimates are completed.

FISCAL IMPACT

	<u>Contract Estimate</u>	<u>2022 Budget</u>
2022 Design Contract	\$149,400.00	\$150,000.00

RECOMMENDATION

Council is being asked to approve the design contract with KPG, Inc. for the 2022 Overlay and Repair Program in the amount of \$149,400.00 and consider this item on the Consent Agenda at the December 6, 2021 Regular Meeting.

Attachments: Consultant Agreement, Scope of Work and Fee Estimate
 Consultant Selection Scoring Matrix
 2021 CIP, Page 12



PROFESSIONAL SERVICES AGREEMENT

(Includes consultants, architects, engineers, accountants, and other professional services)

THIS AGREEMENT is entered into between the City of Tukwila, Washington, hereinafter referred to as “the City”, and KPG, P.S., hereinafter referred to as “the Consultant”, in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. **Project Designation.** The Consultant is retained by the City to perform Engineering services in connection with the project titled 2022 Overlay Program.
2. **Scope of Services.** The Consultant agrees to perform the services, identified on Exhibit “A” attached hereto, including the provision of all labor, materials, equipment and supplies.
3. **Duration of Agreement; Time for Performance.** This Agreement shall be in full force and effect for a period commencing upon execution and ending December 31, 2022, unless sooner terminated under the provisions hereinafter specified. Work under this Agreement shall commence upon written notice by the City to the Consultant to proceed. The Consultant shall perform all services and provide all work product required pursuant to this Agreement no later than December 31, 2022 unless an extension of such time is granted in writing by the City.
4. **Payment.** The Consultant shall be paid by the City for completed work and for services rendered under this Agreement as follows:
 - A. Payment for the work provided by the Consultant shall be made as provided on Exhibit “B” attached hereto, provided that the total amount of payment to the Consultant shall not exceed \$149,400.00 without express written modification of the Agreement signed by the City.
 - B. The Consultant may submit vouchers to the City once per month during the progress of the work for partial payment for that portion of the project completed to date. Such vouchers will be checked by the City and, upon approval thereof, payment shall be made to the Consultant in the amount approved.
 - C. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this Agreement and its acceptance by the City.
 - D. Payment as provided in this section shall be full compensation for work performed, services rendered, and for all materials, supplies, equipment and incidentals necessary to complete the work.
 - E. The Consultant’s records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the City and the state of Washington for a period of three (3) years after final payments. Copies shall be made available upon request.

5. **Ownership and Use of Documents.** All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with the Consultant's endeavors. The Consultant shall not be responsible for any use of the said documents, drawings, specifications or other materials by the City on any project other than the project specified in this Agreement.
6. **Compliance with Laws.** The Consultant shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services rendered under this Agreement.
7. **Indemnification.** The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

8. **Insurance.** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. **Minimum Amounts and Scope of Insurance.** Consultant shall obtain insurance of the types and with the limits described below:

1. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. Automobile Liability insurance shall cover all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. **Commercial General Liability** insurance with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. **Workers' Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.

4. **Professional Liability** with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit. Professional Liability insurance shall be appropriate to the Consultant's profession.
- B. **Public Entity Full Availability of Contractor Limits.** If the Contractor maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Contractor.
- C. **Other Insurance Provision.** The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not be contributed or combined with it.
- D. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- E. **Verification of Coverage.** Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Consultant shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.
- F. **Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
- G. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
9. **Independent Contractor.** The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to the Consultant, or any employee of the Consultant.
10. **Covenant Against Contingent Fees.** The Consultant warrants that he has not employed or retained any company or person, other than a bonafide employee working solely for the Consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the City shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. **Discrimination Prohibited.** Contractor, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.
12. **Assignment.** The Consultant shall not sublet or assign any of the services covered by this Agreement without the express written consent of the City.
13. **Non-Waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.
14. **Termination.**
 - A. The City reserves the right to terminate this Agreement at any time by giving ten (10) days written notice to the Consultant.
 - B. In the event of the death of a member, partner or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this Agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Consultant and the City, if the City so chooses.
15. **Applicable Law; Venue; Attorney's Fees.** This Agreement shall be subject to, and the Consultant shall at all times comply with, all applicable federal, state and local laws, regulations, and rules, including the provisions of the City of Tukwila Municipal Code and ordinances of the City of Tukwila. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit. Venue for any action arising from or related to this Agreement shall be exclusively in King County Superior Court.
16. **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.
17. **Notices.** Notices to the City of Tukwila shall be sent to the following address:

City Clerk
City of Tukwila
6200 Southcenter Boulevard
Tukwila, WA 98188

Notices to Consultant shall be sent to the following address:

3131 Elliot Avenue Suite 400
Seattle, WA 98121
18. **Entire Agreement; Modification.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.

DATED this _____ day of _____, 2021.

CITY OF TUKWILA

CONSULTANT

Allan Ekberg, Mayor

By: Bryce Corrigan

Printed Name: Bryce Corrigan

Title: Project Manager

Attest/Authenticated:

Approved as to Form:

City Clerk, Christy O'Flaherty

Office of the City Attorney

EXHIBIT A
City of Tukwila
2022 Overlay Program
Scope of Work
November 9, 2022

The Consultant shall prepare final Plans, Specifications and Estimates for the 2022 Overlay Program. Specific projects will be determined from the following list of tasks below. It is anticipated between five and eight sites will be included in the final Plans Specifications, and Estimates.

The 2022 Overlay Program will be bid as a single bid package as budget allows. Projects may be re-prioritized or deferred to a future overlay program based on available budget and other considerations. Detailed estimates will be prepared at the 30% design to verify the final project list to be included in the 2022 Overlay Program.

The Consultant shall utilize the data collection and analysis provided by Infrastructure Management Service (IMS) to identify additional roadway segments to be included in the design and construction of the 2022 Overlay Program.

The City of Tukwila may require other services of the consultant. These services could include additional design, right of way, environmental documentation, construction phase services, or other work tasks not included in the scope of work. At the time these services are required, the Consultant will provide the City with a detailed scope of work and an hour and fee estimate. The Consultant will not proceed with the work until the City has authorized the work and issued a Notice to Proceed.

Assumptions for the 2022 Overlay Program Bid Package

- Roadway and utility casting mapping will be based on aerial photography, GIS, and field reviews by the Consultant. Topographic field survey may be required for ADA ramp improvements and will be performed by the Consultant as required.
- Typically, only surface utilities requiring adjustment to grade will be shown.
- No utility upgrades are anticipated in the project design.
- It is assumed there will be approximately thirty (30) plan sheets at 1"=20' scale full size (22" X 34"), 1"=40' at reduced scale (11" X 17").
- Drainage & Water Quality Reports will not be required.

- Environmental Documentation will not be required.
- Consultant shall not be responsible for printing and supplying City or Contractor with hard copies of plans and specifications at interim submittals or contract award.

Deliverables

- Meeting notes during during selection process
- 50% review submittal with Plans and Estimate (electronic copies)
- 90% review submittal with Plans, Specifications, and Estimate (electronic copies)
- Routing of 50% and 90% Plans to utilities for review and comment.
- Bid Documents and Engineer's Estimate for 2022 Overlay Program.
- Coordinate upload of Plans and Specifications to Builders Exchange.
- Bid Analysis and recommendation for award.
- Preconstruction Meeting Attendance.

SCOPE OF WORK

TASK 1 – Project Management

1.1 The Consultant shall provide continuous project management and administration for the duration of the Project. (Estimate 6 months).

- Hold project coordination meetings with the City to update progress and review submittals. Assume (6) meetings.
- The Consultant shall provide monthly status reports and billings.
- The Consultant shall provide independent QA/QC reviews by senior in-house staff of all deliverables prior to submittal to the City.

TASK 2 – Roadway Segment Selection

2.1 The Consultant shall update the IMS EZStreet Analysis spreadsheet and provide a preliminary list of roadway segments to be considered by the City. The list will include up to twelve roadway segments. The Consultant and the City will meet to discuss the feasibility of the roadway segments and provide direction for which segments shall proceed to to Task 3.

Deliverables

- Meeting notes during during selection process.
- Selection of Ten roadway segments

TASK 3 – Preliminary Design

- 3.1 The Consultant shall prepare base maps for up to ten roadway segments identified in Task 2. The basemaps shall be created utilizing field measurements, available record drawings, and/or ortho-photography. Topographic survey will be utilized only at ADA ramp locations where field conditions require it to meet ADA compliance.
- 3.2 The Consultant shall prepare 30% Plans for up to ten roadway segments selected in Task 2.
- 3.3 The Consultant shall calculate quantities and prepare a Preliminary Engineers Estimate of Probable Construction Cost for the 30% Plans. Up to eight roadway segments will be prioritized in collaboration with the City following the Preliminary Design Deliverables of Task 3 to determine final project segments for Task 4.
- 3.4 The Consultant shall distribute 30% review submittals to franchise utility owners for adjustments within the Project limits.

Deliverables

- 30% Plans for up to ten roadway segments
- 30% Cost Estimate
- Selection of up to eight segments

TASK 4 – Final Design

- 4.1 The Consultant shall prepare 90%, and Final Plans for up to eight roadway segments selected in Task 3. The proposed improvements including the following:
- Plans shall be prepared with such provisions in such detail as to permit field layout and construction within a degree of accuracy acceptable to the City and per industry standards.
 - Typical sections and details will be prepared for items not available as standard details from the City, State, or WSDOT standard drawings.
 - Plans will identify curb ramp replacement limits and pedestrian push button modifications in accordance with ADA requirements.
 - The plans shall illustrate complete details of construction of the proposed improvements including limits of construction and removals, utility adjustments, surfacing depths and details, and applicable channelization and signing for the segments selected for final design.

- Plans and specifications will include required criteria for traffic control plans and pedestrian traffic control during construction. Criteria will be developed in collaboration with the City.
- The Consultant shall perform site walkthroughs with the City maintenance staff to determine extent of roadway improvements / resurfacing (Estimate 2 meetings) and to prioritize candidate streets within the available budget.
- Pavement sections will be determined through consultation with the City's maintenance staff and previous experience. No geotechnical investigations are anticipated.

4.2 The Consultant shall calculate quantities and prepare Engineers Estimate of Probable Construction Cost for each review submittal and the Bid Documents.

4.3 The Consultant shall prepare the Contract Specification per 2022 WSDOT Standard Specifications for the 90% Review Submittal and the Bid Documents.

4.4 The Consultant shall distribute 90% review submittals to franchise utility owners for adjustments within the Project limits.

Deliverables

- 90% & Final Plans for up to eight roadway segments
- 90% & Final Cost Estimate
- 90% & Final Contract documents including Project Special Provisions

TASK 5 – Bid Period Services

5.1 The Consultant shall assist the City with Project Advertisement and Award by uploading plans and specifications to bxwa.com, preparing addenda, bid tabulation, and recommendation for award.

EXHIBIT B
PRIME CONSULTANT COST COMPUTATIONS

Client: City of Tukwila
 Project 2022 Overlay Program

DATE: 11/9/2021

Task No.	Task Description	Labor Hour Estimate														Total Hours and Labor Fee Estimate by Task	
		Principal	Engineering Manager	Senior Engineer	Senior Project Engineer	Project Engineer II	Project Engineer I	Design Engineer	Engineering Technician	Engineering Assistant	Senior CAD Technician	CAD Technician	Senior Admin	Office Admin	Office Assistant		
		274	246	203	179	153	140	126	104	90	134	112	112	96	80	Hours	Fee
Task 1 Project Management																	
1.1	Project Management		6			24							6			36	\$ 5,820.00
	Task Total	0	6	0	0	24	0	0	0	0	0	0	6	0	0	36	\$ 5,820.00
Task 2 Roadway Segment Selection																	
2.1	Segment Selection		8			40										48	\$ 8,088.00
	Task Total	0	8	0	0	40	0	0	0	0	0	0	0	0	0	48	\$ 8,088.00
Task 3 Preliminary Design																	
3.1	Prepare 30% Basemap					20		20	20	16	40	40				156	\$ 18,940.00
3.2	Prepare 30% Plans			16		24		60	60	40						200	\$ 24,320.00
3.3	Preapare 30% Cost Estimate			8		8		24	16	16						72	\$ 8,976.00
3.4	Utility Coordination					8		8	8							24	\$ 3,064.00
	Task Total	0	0	24	0	60	0	112	104	72	40	40	0	0	0	452	\$ 55,300.00
Task 4 Final Design																	
4.1	Preapre 90% & Final Plans		4	24		60		80	60	60						296	\$ 38,260.00
4.2	Preapre 90% & Final Cost Estimates		4	8		24		40	20	20						124	\$ 16,704.00
4.3	Prepare 90% & Final Contract Documents		4	24		40		20								96	\$ 16,000.00
4.4	Utility Coordination					16		8	8							32	\$ 4,288.00
	Task Total	0	12	56	0	140	0	148	88	80	0	0	0	0	0	548	\$ 75,252.00
Task 5 Bid Period Services																	
5.1	Advertisement and Award Support		4			16		8								28	\$ 4,440.00
	Task Total	0	4	0	0	16	0	8	0	0	0	0	0	0	0	28	\$ 4,440.00
	Total Labor Hours and Fee	0	30	80	0	280	0	268	192	152	40	40	6	0	0	1,112	\$ 148,900.00
Reimbursable Direct Non-Salary Costs																	
																Mileage at current IRS rate	\$ 500.00
																Total Reimbursable Expense	\$ 500.00
																Total Estimated Budget	\$ 149,400.00

2022 Overlay Program – Contract for Design Services								
	Parametrix	KPFF	KPG, Inc.			MRSC Consultant	SAM Search Prior to Offering Design Contract	
Paving Project Design and Construction Management Experience with the City.	0	3	5	http://www.kpg.com	KPG		Yes	
Knowledge of FHWA, State, and Tukwila Standards and Procedures	5	4	5	http://www.parametrix.com	Parametrix			
Environmental Experience	5	5	5	http://www.kpff.com	KPFF			
Experience with Similar Projects.	3	4	5					
Traffic Control Design Expertise.	4	4	5					
Experienced Design Project Manager.	4	4	5					
Small Scale Project Experience.	2	3	5					
Utilities Coordination Experience.	5	4	5					
Storm water, Drainage, and Detention Design.	4	4	5					
Public Outreach Experience.	3	3	4					
Survey Crew In-House.	4	4	5					
TOTALS	39	42	54					
For each category, highest score is 5 (with the lowest or worst score 1)								
Consultant with the highest score is ranked the best.								
Staff: Scott Bates								
Selection Date: 11/3/21								
Selected Consultant: KPG, Inc.								
Selection Justification: The selected firm has demonstrated relevant pavement overlay design experience on multiple past federal and locally funded paving projects including the City overlay program. KPG has provided excellent design construction management results on City drainage projects as well. They have exceptional familiarity with City Public Works systems, WSDOT and FHWA standards. Based on overall score KPG prevailed. Consultants perceived ability to perform CM services was also reviewed since the design contract could be extended to include those services as well.								

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2021 to 2026

PROJECT: Annual Overlay and Repair Program

Project No. 9xx10401

DESCRIPTION: Select, design and construct asphalt and concrete pavement overlays of arterial and residential streets.
JUSTIFICATION: Preserve and maintain the street structure in a safe and useable state by resurfacing before failure which also minimizes costs. Some individual sites may be coordinated with water, sewer, and surface water projects.
STATUS: Each year various sections of roadway throughout the City are designed and constructed for asphalt overlay.
MAINT. IMPACT: Reduces annual maintenance.
COMMENT: Ongoing project. Only one year actuals shown in first column.

FINANCIAL (in \$000's)	Through Estimated									TOTAL
	2019	2020	2021	2022	2023	2024	2025	2026	BEYOND	
EXPENSES										
Design	209	190	150	150	150	150	150	150	150	1,449
Land (R/W)										0
Const. Mgmt.	121	15	200	200	200	200	200	200	200	1,536
Construction	1,224	312	1,050	1,050	1,050	1,050	1,150	1,150	1,300	9,336
TOTAL EXPENSES	1,554	517	1,400	1,400	1,400	1,400	1,500	1,500	1,650	12,321
FUND SOURCES										
Awarded Grant										0
Proposed Grant										0
Mitigation Actual										0
Mitigation Expected										0
City Oper. Revenue	1,554	517	1,400	1,400	1,400	1,400	1,500	1,500	1,650	12,321
TOTAL SOURCES	1,554	517	1,400	1,400	1,400	1,400	1,500	1,500	1,650	12,321

