



## INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**  
 FROM: **Hari Ponnekanti, Public Works Director/ City Engineer**  
 BY: **Sherry Edquid, Project Manager**  
 CC: **Mayor Allan Ekberg**  
 DATE: **January 14, 2022**  
 SUBJECT: **Surface Water Fund - 2022 Annual Small Drainage Program**  
**Design Consultant Selection and Agreement**

### **ISSUE**

Approve a contract with KPG, Inc. (KPG) to design the 2022 Annual Small Drainage Program.

### **BACKGROUND**

The Annual Small Drainage Program repairs and installs needed surface water infrastructure that is identified through maintenance activities as well as citizen complaints. For the 2022 Annual Small Drainage Program, staff is proposing the design of five projects for possible construction in 2022.

### **DISCUSSION**

The current MRSC Consultant Roster was reviewed and three firms were short-listed to provide design services. The firms were KPG, Blue Trident, and RH2 Engineering. The Summary of Qualifications for project design and construction management were evaluated from each firm and KPG was selected as the firm that best met the requirements. KPG has designed the Annual Small Drainage Program since 1991 and Public Works continues to be very satisfied with their work. KPG also worked on the 2021 Annual Small Drainage Program and is knowledgeable of the sites. At the City’s discretion, KPG may be contracted to provide Construction Management (CM) services during construction.

Public Works staff reviewed the list of known system deficiencies and compiled a list of five projects for design in 2022. The design projects are:

- |   |  |
|---|--|
| 1. 40 <sup>th</sup> Ave S Drainage System                                 | 4. 49 <sup>th</sup> Ave S. from S 124 <sup>th</sup> to S 122 <sup>nd</sup> Streets |
| 2. 37 <sup>th</sup> Ave S at S 142 <sup>nd</sup> Street                   | 5. 48 <sup>th</sup> Ave S. from S 124 <sup>th</sup> to S 122 <sup>nd</sup> Streets |
| 3. 37 <sup>th</sup> Ave S from S 126 <sup>th</sup> to S 128 <sup>th</sup> |  |

### **FINANCIAL IMPACT**

KPG’s contract estimate for the 2022 Small Drainage Program’s design services is \$99,512.00.

	<b><u>Cost Estimate</u></b>	<b><u>2022 Budget</u></b>
KPG Design Contract	\$99,512.00	\$100,000.00

### **RECOMMENDATION**

Council is being asked to approve the design consultant agreement with KPG, Inc. in the amount of \$99,512.00 for the 2022 Small Drainage Program and consider this item on the Consent Agenda at the January 24, 2022 Special Meeting.

Attachments: 2021 CIP, page 78  
KPG Consultant Agreement

## CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2021 to 2026

**PROJECT:** Annual Small Drainage Program

Project No. 9xx41201  
81241207

**DESCRIPTION:** Select, design, and construct small drainage projects throughout the City.

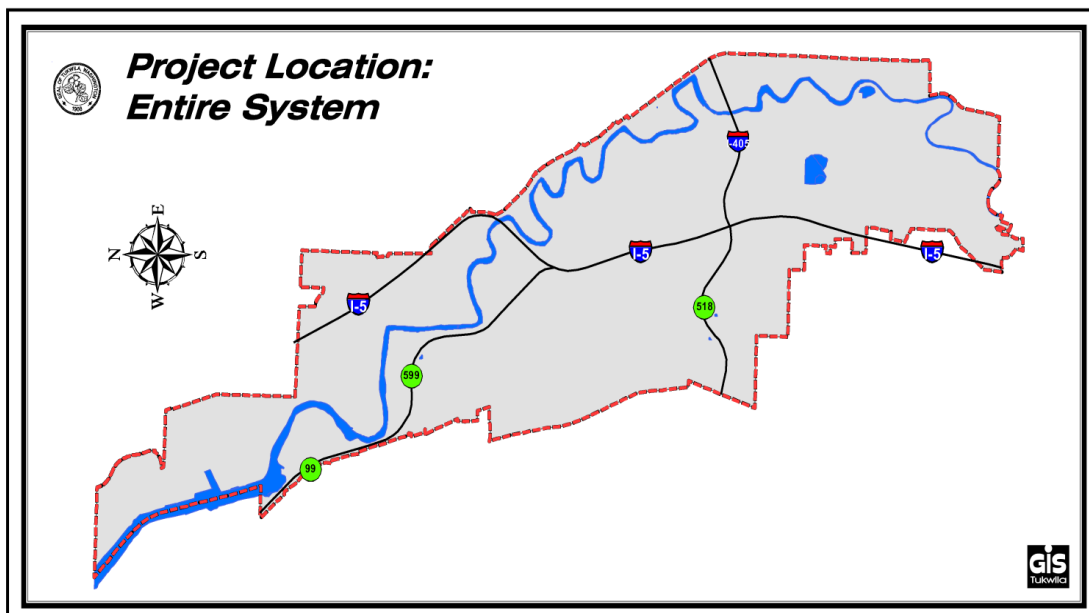
**JUSTIFICATION:** Provide drainage corrections for existing/ongoing drainage problems throughout the City, including culvert replacements, drain extensions, and pavement upgrades.

**STATUS:** Projects for this annual program are taken from Small Drainage Project List.

**MAINT. IMPACT:** Reduces maintenance.

**COMMENT:** Ongoing project, only one year shown in first column. Construction expenses may occur over two calendar years.

FINANCIAL (in \$000's)	Through Estimated									TOTAL
	2019	2020	2021	2022	2023	2024	2025	2026	BEYOND	
<b>EXPENSES</b>										
Design	74	92	100	100	100	100	110	110	80	866
Const. Mgmt.	40	68	100	100	100	100	110	110	80	808
Construction	108	515	700	700	700	700	750	750	513	5,436
<b>TOTAL EXPENSES</b>	<b>222</b>	<b>675</b>	<b>900</b>	<b>900</b>	<b>900</b>	<b>900</b>	<b>970</b>	<b>970</b>	<b>673</b>	<b>7,110</b>
<b>FUND SOURCES</b>										
Awarded Grant										0
Proposed Grant	65									65
Mitigation Actual										0
Mitigation Expected										0
Utility Revenue	157	675	900	900	900	900	970	970	673	7,045
<b>TOTAL SOURCES</b>	<b>222</b>	<b>675</b>	<b>900</b>	<b>900</b>	<b>900</b>	<b>900</b>	<b>970</b>	<b>970</b>	<b>673</b>	<b>7,110</b>





**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 Small Drainage 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 \$99,512.00 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 \_\_\_\_\_, 2022.

CITY OF TUKWILA

CONSULTANT

\_\_\_\_\_  
Allan Ekberg, Mayor

By: Kelsey Anderson

Printed Name: Kelsey Anderson

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 Small Drainage Program

City Project Number: 9204XXXX

KPG Project Number: XXXXX

#### Scope of Work

January 5, 2022

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### PROJECT DESCRIPTION

The Consultant shall prepare final Plans, Specifications and Estimates for the 2022 Small Drainage Program. The project will include the following sites:

Sites 1: 48<sup>th</sup> Ave S from S 124<sup>th</sup> St to S 122<sup>nd</sup> St Drainage System  
*Install storm drain system approximately 820 LF starting the northside of S 124<sup>th</sup> St and down 48<sup>th</sup> Ave S. Tie into the existing system along S 122<sup>nd</sup> St. This site location was partially designed as part of the 2020 Small Drainage Program.*

Sites 2: 49<sup>th</sup> Ave S from S 124<sup>th</sup> St to S 122<sup>nd</sup> St Drainage System  
*Install storm drain system approximately 760 LF starting from the northside of S 124<sup>th</sup> St and traveling down 49<sup>th</sup> Ave S to tie-into the existing system along S 122<sup>nd</sup> St. This site location was partially designed as part of the 2021 Small Drainage Program.*

Site 3: 13601 40<sup>th</sup> Ave S Drainage System  
*Replace and install new storm drain system approximately 90 LF of 18" CMP and 80 LF of 12" concrete pipe along with three drainage structures. Tie into the existing system at 40<sup>th</sup> Ave S. This site may require a SEPA and City of Tukwila Special Permissions Permit with project limits within Type 3 Watercourse Buffer. This site location was partially designed as part of the 2021 Small Drainage Program.*

Site 4: 37<sup>th</sup> Ave S from S 126<sup>th</sup> St to S 128<sup>th</sup> St Drainage System  
*Remove existing 12" concrete pipe and structures and install new storm drain system approximately 285 LF of 12" pipe along with four drainage structures. Tie into the existing system at 37<sup>th</sup> Ave S and S 126<sup>th</sup> St.*

Site 5: 37<sup>th</sup> Ave S (2) from S 142<sup>nd</sup> St to S 144<sup>th</sup> St Drainage System  
*Install storm drain system approximately 385 LF of 12" pipe and six structures on the eastside of 37<sup>th</sup> Ave S. Tie into the existing system along the westside of 37<sup>th</sup> Ave S at the low point of the roadway crossing.*



## EXHIBIT A

The Consultant shall provide necessary surveying, project design, quantity and cost estimates, and utility notification and design coordination required to complete final bid documents. It is anticipated that sites will be bid as a single bid package for the 2022 Small Drainage Program as budget or other considerations allow.

The Consultant shall provide surveyed base maps with horizontal utility locations, or base maps created from field measurements, ortho-photography, and GIS data as necessary for each site. If necessary, surveyed base maps will include right-of-way line work based on available public records. Project horizontal and vertical datum will be NAD83/2011 and NAVD88 respectively on all sites.

The Consultant shall prepare a SEPA checklist and Special Permissions Permit when required at Site 3. No additional permits are anticipated. The budget assumes a straightforward approval process with no special studies or extensive coordination.

It is the Consultants understanding that none of the 2022 Small Drainage Program sites require biological assessments, additional permits beyond those listed, wetland delineations, geotechnical review, detention facilities, or water quality treatment facilities. The budget assumes a straightforward approval process with no special studies or extensive coordination.

It is the Consultants understanding that aside from the proposed Site 3, all work will be completed within City right of way, existing easements, and/or approved right of entry, and no further easement acquisition is anticipated.

It is the Consultants understanding that the City will coordinate and secure right of entry and temporary access for any work for property restoration with the property owners. It is assumed this work will be completed during daytime working hours and a noise variance permit will not be required.

It is the Consultants understanding that the City will coordinate and review any franchise utility submitted right of way use permits, construction permits, and temporary access for any work for utility location and relocation required to install the drainage improvements.

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## SCOPE OF WORK

### TASK 1 – 2022 Small Drainage Program Design

#### 1.1 MANAGEMENT/COORDINATION/ADMINISTRATION

- The Consultant shall provide continuous project management and administration for the duration of the Project. (Estimate 12 months).
- Hold project coordination meetings with the City to update progress and review submittals. Assume (3) 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.

## EXHIBIT A

- 1.2 Previously obtained mapping for Sites 1, 2, & 3 will be utilized. The Consultant shall prepare supplemental survey to Site 3 where design storm alignment is altered, and limits are extended. The Consultant shall prepare a topographic base map for Sites 4 and 5.
- 1.3 For Site 3, based on approved 50% preliminary design layout, the Consultant shall prepare necessary easement and legal descriptions to acquire utility easement to existing City storm facilities. The City will review the project and easement needs to obtain approval from the property owner. The Consultant shall make necessary revisions to design based on easement conditions negotiated between the City and property owner and include the final design into the Bid Documents.
  - *Deliverables*
    - Legal Description and figure(s) for City Utility Easement (assume one (1) private parcel.) (pdf).
- 1.4 The Consultant has previously prepared preliminary designs for Sites 1 & 2. Minor updates and revisions are anticipated after Franchise Utility coordination review and will be included in the 50%, 90% and final design.
- 1.5 For Site 3, the Consultant shall prepare 50%, 90%, and final design.
- 1.6 For Site 4, the Consultant shall prepare 50%, 90%, and final design.
- 1.7 For Site 5, the Consultant shall prepare 50%, 90%, and final design.
- 1.8 The Consultant shall prepare 50% and 90% plan review submittal sets for all sites.
- 1.9 The Consultant shall prepare a SEPA checklist for the 2022 Small Drainage Program containing information on all sites requiring SEPA review. This is anticipated to be Site 3.
- 1.10 The Consultant shall prepare City Special Permissions Permit for the 2022 Small Drainage Program containing information on all sites requiring Special City review. This is anticipated to be Site 3 where project site location is within existing Type 3 watercourse Stream buffer.
- 1.11 The Consultant shall prepare the Contract Specification per 2022 WSDOT Standard Specifications for the 90% Review Submittal and the Bid Documents.
- 1.12 The Consultant shall calculate quantities and prepare Engineers Estimate of Probable Construction Cost for the 50% and 90% Submittal as well as the Bid Documents.
- 1.13 The Consultant shall distribute preliminary mapping and 50% review submittals to franchise utility owners to identify potential conflicts within the Project limits. Notification and design coordination will continue through final design. (Assume one (1) site visit with franchise utilities).
- 1.14 The Consultant shall prepare final Bid Documents for the proposed improvements including the following:

## EXHIBIT A

- 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.
- Details will be prepared for items not available as standard details from the City, State, or WSDOT standard drawings.
- The plans shall illustrate complete details of construction of the proposed improvements including limits of construction and removals, proposed invert elevations, rim elevations and required construction materials.
- Drainage designs will be determined through consultation with City staff and from previous experience rather than detailed basin modeling.

1.15 The Consultant shall provide bid period services to include responses to bidder inquiries, preparation of addenda, attendance at bid opening, preparation of bid tabulation, and recommendation to award or reject the apparent low bidder. The budget assumes a straight forward review process with the low bidder receiving the contract award.

- *Assumptions*

- No federal funding is anticipated for the Project engineering or construction.
- No utility upgrades beyond storm conveyance are anticipated in the project design.
- Drainage & Water Quality Reports will not be required.
- Geotechnical engineering services will not be required.
- Environmental documentation will not be required except as noted within tasks.
- City to submit any environmental permitting applications.
- Potholing of existing underground utilities will be completed by franchise utilities. The approval and construction and right of way permit reviews will be completed by City.
- City to obtain easement approval and record easement for Site 3.
- Any fees for BXWA.com will be paid by the City.

- *Deliverables*

- SEPA Checklist for Site 3.
- Special Permissions Permit for Site 3.
- 50% review submittal with Plans and Estimate (pdf).
- 90% review submittal with Plans, Specifications, and Estimate (4 sets + pdf).
- Bid Documents and Engineer's Estimate (6 sets ½ size plans, specs, and estimate)
- Coordinate upload of Plans and Specifications to Builders Exchange.

### **Additional Services**

The City of Tukwila may require other services of the consultant. These services could include additional design, right of way, utility potholing, environmental documentation, geotechnical exploration, 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.

