Alderwood Water & Wastewater District is requesting proposals from qualified consultants to provide tools and information to assist in making economic decisions about rates and services, and recommend ways of communicating utility system costs and changes in rate structure including options for restructuring utility bill format and information presentation. Specifically, the District is requesting a water and wastewater utility rate study and a study of general facilities charges, for years 2017, 2018 and 2019, and the development of a financial model to be used to project and analyze future changes in the economic environment. Submittals should include:

- General statement of project understanding.
- Project team including proposed sub-consultants.
- The project team’s experience in water and wastewater utility rate studies, studies of general facilities charges, and developing financial models.
- The experience of the proposed project manager and individuals who will be working on the project.
- A description of what reports, models, tools, and information the District will receive as a final product from the project.
- A schedule for completing the project.
- An approach to managing and completing the project.
- An approach to communicating with the client.
- Proposed pricing and/or compensation structure.

Proposals shall be limited to 25 pages or less including any resumes and cover letter. Five (5) paper copies of the proposal and one (1) electronic version shall be delivered to Alderwood Water & Wastewater District, 3626 156th St. SW, Lynnwood, WA 98087, Attn: Gregg Cato. Questions concerning this request should be directed to Gregg Cato at (425) 743-4605 or gcato@awwd.com.

The Request for Proposal is available www.awwd.com. These documents are also available at the District’s Administration Offices.

**Project Title:** Utility Rate Study/General Facilities Charges/Financial Model

**Proposals Due:** 4:00 p.m. February 12, 2016

Any firm failing to submit information in accordance with the procedures set forth in the Request for Proposals may not be considered responsive and will therefore be subject to disqualification by the District.
I. INTRODUCTION

A. This Request for Proposals ("RFP") outlines the information necessary to understand the consultant selection process and the required documentation a Proposer must submit. A general overview of the selection process is as follows:

1. Proposers shall deliver the Submittal to the District no later than 4:00 p.m. on February 12, 2016, after which time they will be reviewed and evaluated. The Submittal shall be delivered to:

   Alderwood Water & Wastewater District  
   3626 156th Street SW  
   Lynnwood, WA 98087-5021  
   Attn: Gregg Cato

2. The District may, at its option, contact a Proposer and ask clarifying questions concerning the Proposer's Submittal.

3. At the District's option, the District may conduct interviews with Proposers selected as finalists.

B. The purpose of this RFP is to obtain a qualified consultant team to provide professional services to conduct cost of service rate studies for the water and wastewater utilities, and the District’s general facilities charges (GFCs). As a part of this work, the consultant team will develop a financial model that the District can use to model various financial scenarios. A preliminary scope of services is provided in Attachment 1.

II. PROJECT BACKGROUND

A. DISTRICT PROFILE

The District is a special purpose district organized under RCW Chapter 57 to provide water and wastewater service to specific areas of south Snohomish County. Snohomish County is situated between northern Puget Sound to the west and the crest line of the North Cascade Range to the east. It shares its northern border with rural Skagit County and its southern border with King County. The District was formed by public election in 1931. As a public agency, it is governed by a five-member Board of Commissioners. Each Commissioner resides within the District service area and is elected by the District’s registered voters to six-year terms.

The District service area is the largest water and sewer district in the State of Washington, serving a population of over 245,000 retail and wholesale customers. The District's retail service area is approximately 44 square miles, and includes unincorporated areas and portions of the cities of Bothell, Lynnwood, Mountlake Terrace, Mill Creek, Mukilteo, and Brier. The District is bordered on the north by the City of Everett and on the northwest by the Mukilteo Water and Wastewater District, on the east by Cross Valley Water District and the Silver Lake Water and Sewer District.

1. The Water System

   The District water system consists roughly 660 miles of pipeline, nine reservoirs and tanks with 97 million gallons of storage, three booster pump stations, with a combined capacity of 94 million
gallons per day ("mgd") and station, four service pressure zones. The average day demand for 2014 was 27.2 mgd with a maximum day demand of 46.6 mgd. The following table shows historical demand for the water system:

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Day Demand (mgd)</th>
<th>Maximum Day Demand (mgd)</th>
<th>Date of Maximum Day Demand</th>
<th>Maximum Day Peaking Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>25.7</td>
<td>44.4</td>
<td>July 26</td>
<td>1.73</td>
</tr>
<tr>
<td>2011</td>
<td>25.5</td>
<td>39.8</td>
<td>September 11</td>
<td>1.56</td>
</tr>
<tr>
<td>2012</td>
<td>26.8</td>
<td>40.8</td>
<td>August 17</td>
<td>1.52</td>
</tr>
<tr>
<td>2013</td>
<td>27.5</td>
<td>44.6</td>
<td>August</td>
<td>1.62</td>
</tr>
<tr>
<td>2014</td>
<td>27.2</td>
<td>46.6</td>
<td>July 12</td>
<td>1.71</td>
</tr>
</tbody>
</table>

Note: These peak and average numbers include all flows from Pump Stations 1 & 2 and the Clearview Pump Station. AWWD shares the flows from the Clearview station with the two other members of the Clearview Water Supply Agency: Silver Lake Water and Sewer District, and Cross Valley Water District.

Service Area and Customers. The District provides retail water service to unincorporated areas of SW Snohomish County, the City of Brier, and portions of the Cities of Lynnwood, Bothell, Mukilteo and Mill Creek. The District provides wholesale water service to the Cities of Mountlake Terrace, Lynnwood, approximately two-thirds of Edmonds, the Clearview Water Supply Agency, Silver Lake Water and Sewer District and the Mukilteo Water & Wastewater District.

As of the end of 2014, the District served 49,950 retail accounts and the wholesale accounts of the agencies listed above. Water consumption by the District's wholesale customers accounts for approximately 50 percent of the total average daily demand. Records indicate that over 93% of the District's accounts are residential and approximately 79% of consumption within the retail service area is from residential accounts.

Contractual Agreements and Water Rights. Since the incorporation of the District in 1931, the District has purchased water from the City of Everett. During the period from 1954 to 1961, the District augmented the Everett water supply with ten deep wells. However, due to increasing demand and the inability to find sufficient water through a test well program, the District signed a long-term agreement with the City of Everett. The current contract with Everett provides water to the District until January 1, 2055.

2. The Wastewater System

Service Area and Customers. In 1966, the District was authorized to provide wastewater service within the unincorporated area of its boundaries. Currently, the District serves these areas and portions of the cities of Bothell, Lynnwood, Mukilteo, and Mill Creek. As of the end of 2014, the District served 37,293 retail wastewater accounts. In addition, the District provides wholesale wastewater transmission service for the City of Brier and the Silver Lake Water and Sewer District.

Of all District retail wastewater accounts, approximately 97% are residential. These accounts contribute approximately 81% of the total revenue in the Wastewater Fund. Approximately 13,000 properties within the District's wastewater service area have septic systems. As these septic systems fail with age, and as lots are redeveloped more densely, we expect the properties that lie within an Urban Growth Area to connect to District wastewater service and we plan for that additional growth in wastewater flows.

Service Contract. Transmission and treatment of sewage is provided by three sources: (1) a contract with King County Department of Natural Resources and Parks (KCDNRP); (2) a contract
with the City of Everett; and (3) the District's own treatment plant. Treatment of sewage in most of the eastern half of the District is provided by the KCDNRP through a long-term contract with the District, which now expires July 1, 2056. In early 2013, the contract with KCDNRP was amended to extend from 2036 to 2056. Contract service is also provided by the City of Everett to the northeast portion of the District; that agreement expires March 31, 2020. KCDNRP treats approximately 80 percent of the District's sewage, 17 percent is treated by the District's plant, and 3 percent is treated by the City of Everett.

**District Facilities.** The District’s renovated Picnic Point Wastewater Treatment Facility became fully operational in 2013. The expanded and state-of-the-art plant is capable of processing 4 million gallons a day (“mgd”) and a maximum peak-hour flow of 8.8 mgd equivalent. The Picnic Point plant serves the northwest portion of the District and is located north of the City of Lynnwood with outfall into Puget Sound. In the near future, the District will modify existing facilities to re-route wastewater flows in specific areas from KCDNRP facilities to the new Picnic Point treatment plant.

The District currently has 10 active sanitary sewer lift stations ranging in capacity from 100 gallons per minute to 2,500 gallons per minute. All stations have a back-up power supply. The District has approximately 440 miles of sanitary sewer mains and laterals for local collection and transmission to treatment facilities.
Water Service Area and Corporate Limits

The District’s corporate boundaries recently changed. The corporate boundaries illustrated above are effective as of November 16, 2015.

III. PROCUREMENT PROCESS

A. General Information

1. Compliance with Legal Requirements.

   a. The procurement of these consultant services will be in accordance with applicable District, federal, state and local laws, regulations and procedures. The District reserves the right to reject any and all Submittals received. Any Proposer failing to submit information in accordance with the procedures set forth herein may be considered nonresponsive and be subject to disqualification by the District.

   b. In accordance with the provisions of this RFP, the District will evaluate the Submittals. The final selection, if any, will be that Consultant Team which, in the opinion of the District, best meets the requirements set forth in the RFP and is determined to be the most highly qualified to provide the services requested.

2. Clear & Concise Submittal. Proposers are discouraged from submitting lengthy Submittals. The District requests that Submittals be concise and clearly written containing only essential information.

3. Costs borne by Proposers. All costs incurred in the preparation of a Submittal and participation in this RFP and negotiation process shall be borne by the proposing firms.
4. **Public Disclosure.** Once in the District's possession, Submittals shall become property of the District and considered public documents under applicable Washington State laws. All documentation that is provided to the District may be subject to disclosure in accordance with Washington State public disclosure laws.

**B. Protests**

1. **Time to File a Protest.**
   a. Any prospective Proposer may file a protest challenging the requirements identified in the RFP provided such protest is received no later than ten (10) calendar days prior to the date established for responding to this solicitation.
   b. A Proposer may file a protest based on evaluation of Submittals provided such protest is received no later than five (5) calendar days after the protesting party knows or should have known of the facts and circumstances upon which the protest is based.
   c. In no event shall a protest be considered if all Submittals are rejected or after execution of this contract.

2. **Form of Protest.** A protest shall be in writing and addressed to: Alderwood Water & Wastewater District, 3626 156th Street SW, Lynnwood, Washington 98087, Attention: Finance Director. The protest shall include the following:
   a. The name, address and telephone number of the party protesting or their representative;
   b. The RFP number and contract title under which the protest is submitted;
   c. A detailed description of the specific grounds for protest and any supporting documentation; and
   d. The specific ruling or relief requested.

3. **Determination of Protest.** Upon receipt of a timely written protest, the Finance Director shall investigate the protest and shall prior to execution of the contract respond in writing to the protest. The Finance Director’s decision shall be considered the final action by the District.

4. **Compliance with Protest Process.** Failure to comply with these protest procedures will render a protest untimely and inadequate and may result in rejection thereof by the District.

5. **Exhaustion of Administrative Remedies.** As a mandatory condition precedent to initiating a lawsuit against the District, a prospective Proposer or a Proposer shall comply with the Protest Procedures defined herein.

6. **Venue.** By responding to this RFP and for the convenience of the parties, the prospective Proposer or a Proposer acknowledges and agrees that a lawsuit or action related to or arising out of this procurement shall be brought in the Superior Court of Snohomish County, Washington.

**C. Schedule**

1. **Anticipated Schedule.** The selection process is anticipated to proceed as outlined below and is subject to change:

<table>
<thead>
<tr>
<th>Date</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 12, 2016</td>
<td>Submittals Due (4:00 p.m.)</td>
</tr>
<tr>
<td>February 16-19</td>
<td>Select Finalists</td>
</tr>
<tr>
<td>February 29 - March 4</td>
<td>Interview, if necessary</td>
</tr>
<tr>
<td>March 7, 2016</td>
<td>AWWD Board approval of selected consultant</td>
</tr>
</tbody>
</table>

2. **Notification.** The District will notify firms of record of changes in the RFP and Notice of Selection.

3. **Addenda.** In the event it becomes necessary to revise any part of the RFP, addenda will
be provided to all firms still under consideration at the time the addendum is issued. If any firm has reason to doubt whether the District is aware of the firm’s interest, it is the responsibility of the firm to notify the District to be sure that addenda are received. Mail or call such notice to Gregg Cato, 425-741-7955, Alderwood Water & Wastewater District, 3626 - 156th Street SW, Lynnwood, Washington 98087.

D. Negotiations

1. At the completion of the selection process, the selected Proposer will enter into contract negotiations with the District. Negotiation of a contract will be in conformance with applicable federal, state and local laws, regulations and procedures. The negotiated cost and pricing data, once agreed to by the District and the Consultant, shall form the basis for a billing/payment provision.

2. If the District and selected Proposer cannot come to terms the District may discontinue negotiations and go to next highest ranked Proposer.

E. Contract Terms and Conditions

1. A copy of the draft agreement for professional services is included in Attachment 2. By submitting a proposal, the Consultant represents that it has carefully read the terms and conditions of the agreement and agrees to be bound by them.

F. Cost and Pricing Data

1. The selected consultant shall provide complete cost and pricing information within five (5) business days after Notice of Selection has been received. Failure to provide such information in a timely manner may result in the District determining to discontinue negotiations with the selected Proposer and start negotiations with the next highest ranked Proposer. The pricing must include estimates for the cost of the services proposed.

IV. INSURANCE REQUIREMENTS

A. The Proposer shall purchase and maintain at all times an insurance policy from an insurance company which has an A.M. Best rating of "A VII" or better commercial general liability and automobile liability insurance against liability the Proposer and the District employees for negligent injury to person or property resulting from performance, supervision, or inspection of the work. Proof of the existence of such insurance shall be provided to the District in a form acceptable to the District.

B. The minimum limits of coverage shall be as follows unless approved in writing by the District:

- General Aggregate $2,000,000
- Products - Comp/OPS Aggregate $1,000,000
- Personal Injury $1,000,000
- Each Occurrence $1,000,000
- Automobile Liability $1,000,000

C. All current policies shall be provided before work can occur.

D. The General Aggregate requirement may be fulfilled with an umbrella policy with equivalent limits.

E. The details of insurance requirements will be included in the contract that the successful Proposer will sign with the District.

V. EVALUATION AND SELECTION CRITERIA

A. All Submittals will be evaluated by a Consultant Selection Panel ("Panel"), which will be responsible for ranking of the Submittals. The criteria outlined in Section VII below will be
used in evaluating the Submittals and determining the most qualified Proposer. A total of 100 points (excluding a potential interview) has been assigned to the Evaluation Criteria. The maximum points possible will follow each criterion listed. The points indicate relative weight or importance given to each criterion. Evaluators will use the points to score each Submittal. Each evaluator will put the scores in rank order, with the highest scored Proposer 1st, the second-highest scored Proposer 2nd, etc. This ranking will then be totaled. From the ranking, the District intends to recommend the most qualified Proposer to the Board of Commissioners for approval to begin negotiations.

B. The District may determine that an interview with the top ranked firms is necessary. Interviews will have a maximum of 50 points. The number of Proposers to participate in interviews, if any, will be determined by the District based on the recommendation of the Panel. The District may choose to use different criteria for the interview, in which case the finalists will be so notified in writing. The interview process may or may not include a Consultant presentation.

VI. DOCUMENTATION

A. The prime Proposer shall submit five (5) bound copies of the Submittal and 1 (one) electronic copy.
B. Submittals shall be 25 pages or less, including any resumes and cover letter.
C. The Submittal shall consist of the following parts:
   1. Letter of Interest.
      • RFP Title.
      • Proposer's name, mailing address, contact person, telephone and fax numbers.
      • Complete list of proposed sub-consultants.
   2. Qualifications Statement.
      • General statement of the understanding of the scope of services.
      • An approach to the project.
      • The project team's experience in water and wastewater utility rate studies and GFC calculations, including examples of similar projects completed for other organizations.
      • The experience of the proposed project manager and individuals who will be working on the project.
      • A description of the reports, models, tools, and information the District will receive as a final product from the project.
      • A schedule for completing the project.
      • An approach to managing and completing the project.
      • An approach to communicating with the client.
      • Proposed pricing and/or compensation structure.

The submittal shall be presented in a clear, comprehensive and concise manner and shall be submitted in a complete package.

VII. EVALUATION CRITERIA AND SUBMITTAL INFORMATION

A. Experience and Technical Competence 30 Points

The District will evaluate the experience and technical competence of the Proposer's project team and overall organization of the team. Emphasis will be placed on firms that specialize in Cost of Service rate analysis and long-range financial planning, recent experience and expertise in performing the required services on projects with a scope of work similar in size and complexity to this Project.
B. Work Plan/Level of Effort (LOE) 30 Points

The District will evaluate the proposed Work Plan/Level of Effort (LOE) to determine the Proposer's understanding of the scope of work, allocation of skilled personnel to specified tasks, appropriate utilization of sub-consultants, and overall project approach. The Work Plan/LOE is an opportunity for the Proposer to demonstrate its understanding of scope and propose ideas for the Project.

C. Record of Past Performance & Project Examples 40 Points

1. The District will evaluate the project team's record of performance on previous projects with consideration given to quality of work, ability to meet schedules and budgets, cooperation, responsiveness, and other managerial considerations.

2. The District will evaluate the project examples provided with respect to the project team's experience with similar projects and the amount of involvement the project team members had with the project examples. The project examples provided should demonstrate the project team members' experience in providing services similar in scope to this Project.

D. Interviews 50 Points (if conducted)

1. The District may or may not conduct interviews. If the District determines that interviews are necessary, the District will conduct interviews with the short listed Proposers (finalists).

2. Proposers will be notified in writing of the request and provided the date, place, and time of the interview. The interview process may or may not include a Consultant presentation. The District may choose to use different criteria for the interview, in which case the Finalists will be so notified in writing.

3. Failure to participate in the interview process shall result in a Proposer's disqualification from further consideration.
Attachment 1 - Scope of Services

The District is requesting proposals to conduct a comprehensive water and wastewater rate study, including evaluation and development of general facilities charges (GFCs) and development of an interactive financial model. The intent of the study is to independently evaluate the District’s existing rate structure, provide recommendations and to create the foundation for developing a financial model that the District can use to further plan and evaluate future financial impacts. Any proposed recommendation must adequately fund water and wastewater utility operations, capital costs, and current and planned debt while fairly and equitably setting rates. The project should further the District’s mission of providing high quality, reliable water and wastewater services at fair and reasonable rates to meet the current and future needs of our community.

OBJECTIVES

- Provide a comparison of District water and wastewater system costs against appropriate industry benchmarks.
- Provide information to the District on alternative water and wastewater rate structures which may better suit the District’s goals regarding fairness, conservation and affordability. Assist the District in evaluating potential alternatives to be developed and presented as the final recommended rate structure.
- Develop a computer model to help the District assess the fiscal impacts of changing circumstances such as a drought, accelerated capital spending, etc.
- Recommend ways of communicating utility system costs and changes in rate structure including options for restructuring utility bill format and information presentation.

REQUIREMENTS

The water and wastewater rate study, including the proposed general facilities charges (GFCs), must consider and when appropriate comply with the following policy direction in regards to the final recommended rate and GFC structure(s):

- The structure must be based on cost of service and provide sufficient revenue to meet District requirements.
- The structure must be consistent with industry practice and consistent with legal requirements of the State of Washington.
- The structure must be easy to understand and administer.
- The study shall document the benefits and justifications for the final recommended structure, including consideration of the impacts to ratepayers or classes of ratepayers.
- The recommended structure should consider and make provisions for the following factors:
  - Current and future costs of providing water and wastewater service in accordance with established and anticipated standards and regulations.
  - Projected demands for service and the cost of providing future capacity.
  - Seasonal fluctuations and the potential impact of those fluctuations on the District’s cost of providing services.
  - Necessity for repair and replacement of existing infrastructure.
  - Necessity for expanded or upgraded infrastructure in order to accommodate growth and potential changes in regulations.
- Funding requirements for infrastructure costs, including all current and long-term liabilities and debt obligations.

The financial model should be built on the same revenue requirements established in the final recommended rate and GFC structures and provide financial planning options for up to 30 years in the future. The objective of the model is to allow District staff to conduct preliminary planning for changes in economic conditions, including but not limited to increases or decreases in cost of providing services; significant changes in the capital needs of the District; changes in amount of debt necessary to support the District operations; increases or decreases in volume of water or wastewater services provided; and unanticipated expenses.

SERVICE EXPECTATIONS

Rate Study

A preliminary draft will be presented to District staff for review and feedback. Draft and final deliverables of the rate study are to be provided to the District in the following formats:

1. Five bound copies.
2. One electronic copy (Microsoft Word and/or Excel and PDF).
3. In person presentation, if requested by the District.

The final deliverables shall include the following elements:

- Assessment of the current rate structure as a baseline for comparing recommended changes.
- Equity to all classes of ratepayers.
- Annual revenue requirements which incorporates all elements of cost of service.
- Recommended reserve funds and target balances.
- Impacts to conservation goals and objectives of the District, including cost/benefits of such conservation programs.
- Data to support conclusions, observations and recommendations.
- Recommended implementation plan for presenting and communicating utility costs and the proposed rate structure to ratepayers and members of the public.

Financial Model

The financial model shall be provided to the District in a mutually agreed upon electronic format that is compatible with standard District software such as Microsoft Excel or Access. In addition to the electronic model, the District shall be provided documentation on how the model was developed, assumptions made and directions for updating and changing scenarios. In person training will be provided to instruct District staff on how to operate the financial model.

Presentations

In addition to the deliverables, and at the request of the District, the Selected Consultant will prepare and present the recommendations of any preliminary or final rate studies to the District’s Board of Commissioners, members of the public and/or staff. Requested public presentations may include public hearings regarding proposed changes to the rate structure. Electronic and bound copies of the presentation materials will be provided to the District prior to any presentation.
ATTACHMENT 2
ALDERWOOD WATER & WASTEWATER DISTRICT
PROFESSIONAL SERVICES AGREEMENT

Project/Contract No. _________

This Agreement is entered into by ALDERWOOD WATER & WASTEWATER DISTRICT ("District"), a Washington municipal corporation, and ___________________ ("Consultant") for the purposes set forth below.

1. **Background.**

   1.1. The District desires to obtain professional services for work related to the following project:_____________________. The District has solicited for such professional services as required by law, including RCW 39.80, if applicable.

   1.2. Consultant represents that it is available and able to provide qualified personnel and facilities necessary for the work and services contemplated by this Agreement, and can accomplish the work and services within the required time period and in accordance with the District's specifications and professional standards.

2. **Scope of Services.** District retains Consultant to perform the work and services generally described as___________________, under the terms of this Agreement. The scope of services ("Services") is more fully described on Exhibit A.

3. **Compensation and Payment.** The District shall pay Consultant for the time, materials, and expenses for authorized and satisfactorily completed work and services performed under this agreements as set forth below *(check one box)*:

   - **Hourly:** at the hourly rates and expenses as set forth on Exhibit B, but not to exceed the amount of: $_____________________.

   - **Guaranteed Maximum:** at the hourly rates and expenses as set forth on Exhibit B, but not to exceed the amount of: $_________________.

   - **Fixed Sum:** $_________________.

   - **Other:** $_________________.

3.1. Consultant shall submit a detailed monthly billing for all services provided describing in reasonable and understandable detail the services rendered, work completed, fees charged, and expenses incurred by Consultant during the previous month in accordance with the billing standards set forth on Exhibit B. The District shall pay the invoice within forty-five (45) days of receipt in accordance with the District’s usual payment procedures, except as to any disputed amounts.
3.2. Acceptance of any payment by Consultant shall constitute a release of all payment claims against District arising under this Agreement as to such portion of the Services. No payment to Consultant, whether periodic or final, shall constitute a waiver or release by District of any claim, right, or remedy it may have against Consultant regarding performance of the Services as required by this Agreement.

4. **Time of Performance.** Consultant agrees that the Services shall begin immediately upon the Effective Date or the District's issuance of a Notice to Proceed, whichever is applicable, and Consultant shall continue to perform the Services with due diligence. Work shall be concluded by ______________. Rates, expenses, and time for performance of the Services shall not be increased because of any delays or costs attributable to Consultant. In the event of a delay not attributable to Consultant which could not be reasonably anticipated and which results in an increase in costs to perform the Services, the District may at its discretion, through the execution of an amendment or supplemental agreement, increase the compensation and/or time for performance of the Services.

5. **District's Representative.** ______________ shall be the District's representative and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices under this Agreement.

6. **Subcontracting/Assignment.** The Consultant shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of the District. “Subcontract” shall mean any agreement between the Consultant and a sub-consultant or between sub-consultants that is based on this Contract, provided that the term “subcontract” does not include the purchase of (i) support services not related to the subject matter of this contract, or (ii) supplies.

7. **Relationship of Parties.** Consultant is an independent contractor under this Agreement, and the parties intend that an independent contractor-client relationship is the only relationship created by this Agreement. No employee, agent, representative or sub-consultant of Consultant shall be or shall be deemed to be the employee, agent representative or sub-consultant of District. Consultant has no authority, and will not represent itself to have authority, to legally bind District or otherwise act for, or on District's behalf. None of the compensation or other benefits provided by District to its employees shall be available to Consultant's employees, agents, representatives or sub-consultants. Consultant shall be solely responsible for all compensation, taxes, withholding, and other benefits due to its employees, agents, representatives and sub-consultants. Consultant shall be solely responsible for its acts and omissions and for the acts and omissions of Consultant's agents, employees, representatives and sub-consultants during performance of this Agreement. On or before the Effective Date, Consultant shall file, maintain and/or open all necessary records with the Internal Revenue Service and the State of Washington, and as may be required by RCW 51.08.195, to establish Consultant's status as an independent contractor.

8. **Supervision, Inspection and Performance.**

8.1. Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the Services, the Services must meet the approval
of District and shall be subject to District's general right of inspection and supervision to secure the satisfactory completion of this Agreement.

8.2. Consultant represents that it has or will obtain all personnel necessary to perform the Services and that such personnel shall be qualified, experienced, and licensed as may be necessary or required by applicable laws and regulations to perform the Services. All Services shall be performed by Consultant, its employees, or by sub-consultants whose selection has been authorized by District; provided that District's authorization shall not relieve Consultant or its sub-consultants from any duties or obligations under this Agreement, or at law, to perform the Services in a satisfactory and competent manner. Consultant shall not replace its key personnel on this project without District's written approval.

The Consultant shall provide sufficient advance notice of any intention to remove or reassign key personnel. Notice for the substitution of key personnel shall include: An explanation of the reason for the reassignment or removal; the name of the person proposed to replace the individual; and identification of the experience and qualifications of the individual proposed.

The Consultant recognizes and agrees that if a change is made substituting or changing assigned key personnel, the Consultant shall be responsible for any and all costs associated with "Transfer of Knowledge and Information". The Transfer of Knowledge and Information shall be defined to include the labor hours spent reviewing project documentation, participating in meetings with Project personnel, and participating in site visits to familiarize oneself with the Project and project location(s). The District shall not pay for any time spent for the "Transfer of Knowledge and Information".

8.3. Consultant shall ensure that all contractual duties, requirements and obligations that Consultant owes to District shall also be owed to District by Consultant's sub-consultants retained to perform the Services.

8.4. Consultant shall be responsible for the professional quality, technical adequacy, accuracy, timely completion, and coordination of the Services and all plans, designs, drawings, specifications, reports, and other work performed pursuant to this Agreement. Consultant shall perform the Services so that the Services conform to the highest professional standards. Consultant shall be responsible for the professional standards, performance, and actions of all persons and firms performing the Services. Consultant shall, without additional compensation, correct any specific breach of a contractual obligation in the Services and revise any errors or omissions in any plans, designs, drawings, specifications, reports, and other products prepared under this Agreement.

9. **Changes in Scope of Services.** The District may require changes or modifications in the scope of services to be performed under this Agreement. Any such changes or modifications shall be in writing and signed by the parties to this Agreement.

10. **Indemnification.**
10.1. The Consultant shall protect, defend, indemnify, and hold harmless the District, its officers, employees, and agents from any and all costs, fees (including attorney fees), claims, actions, lawsuits, judgments, awards of damages or liability of any kind, arising out of or in any way resulting from the negligent acts or omissions of the consultant, its officers, employees, sub-consultants of any tier and/or agents.

10.2. The Consultant agrees that its obligations under this paragraph extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees, sub-consultants of any tier or agents. In addition to injuries to persons and damage to property, the term “claims,” for purposes of this paragraph, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in unfair trade practice.

10.3. For purposes of this paragraph, the Consultant, by mutual negotiation, hereby waives, as respects the District only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

10.4. In the event the District incurs attorney fees and/or costs in the defense of claims within the scope of this paragraph, such attorney fees and costs shall be recoverable from the Consultant. In addition District shall be entitled to recover from the Consultant its attorney fees, and costs incurred to enforce the provisions of this section.

10.5. The indemnification, protection, defense and hold harmless obligations contained in this paragraph shall survive the expiration, abandonment or termination of this Contract.

11. **Records, Documents and Audits.**

11.1. Original documents, drawings, designs and reports developed under this Agreement, whether in written or electronic format, shall belong to and become the property of District, and shall be promptly delivered to District as required by the Services or at the termination of this Agreement. All written information submitted by District to Consultant in connection with the Services will be safeguarded by Consultant to at least the same extent as Consultant safeguards like information relating to its own business. If such information is publicly available, is already in Consultant's possession or known to it, or is rightfully obtained by Consultant from third parties, Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

11.2. All documents, drawings, specifications, designs, computer programs, software, reports and other work product (collectively referred to as "Work Product") developed or produced by Consultant for the District in connection with the services rendered under this Agreement shall be owned by the District. Consultant shall provide such Work Product to the District on a data disk compatible with the District's computer equipment and programs. As between the Consultant and the District, the District shall own any and all copyrights to such Work Product and Consultant agrees to assign all ownership rights to such Work Product to the District.
11.3. District acknowledges that the documents prepared by Consultant are prepared specific
to this project. If District modifies or uses any of said documents for other projects or
purposes without the written approval of Consultant, District releases Consultant from
all responsibility for any errors or omissions therein with respect to such modification or
other use.

11.4. Consultant and its sub-consultants shall maintain books, records, documents, and other
evidence directly pertinent to performance of the Services in accordance with generally
accepted accounting principles and practices consistently applied. District or any duly
authorized representative shall have access to and be permitted to inspect such books,
records, documents, and other evidence for the purpose of audit, examination and
copying for a period of six (6) years after completion of the project or termination of the
Agreement, whichever is later. Audits conducted under this Section shall be in
accordance with generally accepted auditing standards and established procedures and
guidelines of the reviewing or auditing agency.

11.5. Upon written request by the Project Representative, the Consultant shall provide the
District with access to all documents and correspondence, including e-mail
communications, memoranda, and all other written materials prepared or used in
performance of work on this Project.

11.6. The Consultant is advised that communications and documentation submitted to the
District may become a public record in accordance with the Revised Code of
Washington and may not be exempt from disclosure under the Washington State Public
Disclosure Act.

11.7. The Consultant acknowledges that unauthorized disclosure of information or
documentation concerning this Project may cause substantial economic loss or harm to
the District. Except as otherwise required by Court Order or subpoena, the Consultant
shall not without prior written authorization by the Project Representative allow the
release, dissemination, distribution, sharing, or otherwise publication or disclosure of
information or documentation obtained, discovered, shared or produced pursuant to this
Agreement.

12. **Insurance.** By the date of execution of this Contract, the Consultant shall procure and
maintain for the duration of this Contract, insurance against claims for injuries to persons or
damages to property, including products-completed operations which may arise from, or in
connection with, the performance of work hereunder by the Consultant, its agents,
representative, employees, and/or sub-consultants. The Consultant or sub-consultant shall
pay the cost of such insurance. The Consultant may furnish separate certificates of insurance
and policy endorsements from each sub-consultant as evidence of compliance with the
insurance requirements of this Contract. Consultant shall carry and provide proof of
coverage and limits upon request by the District for the following insurance:

12.1. **Automobile Liability Insurance.** Limits no less than $1,000,000 combined single limit
per accident for bodily injury and property damage. Coverage shall be as broad as
Insurance Services Office form number (CA 00 01) covering Business Auto Coverage,
symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.
12.2. Commercial General Liability. Limits no less than $1,000,000 combined single limit per occurrence. Coverage shall be as broad as Insurance Services Office form number (CG 00 01) covering Commercial General Liability.

12.3. Professional Liability. Limits no less than $1,000,000 per occurrence and aggregate.

12.4. Before commencing work and services, Consultant shall provide to the District a Certificate of Insurance evidencing the required insurance. All certificates of insurance shall be current for the duration of the contract and shall include on each page the Project/Contract Name and Number.

12.5. The District shall be named as an additional insured on the Commercial General Liability Insurance Policy with regard to work and services performed by or on behalf of Consultant, and a copy of the endorsement naming the District as an additional insured be attached to the Certificate of Insurance. All certificates of insurance shall include on each page the Project/Contract Name and Number.

12.6. The insurance policies (1) shall state that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; (2) shall be primary insurance with regard to the District; and (3) shall state that the District will be given at least 30 days' prior written notice of any cancellation, suspension or material change in coverage.

12.7. Any payment of deductible or self-insured retention shall be the sole responsibility of Consultant, and shall not limit or apply to the Consultant's liability to the District.

13. Termination of Agreement.

13.1. Termination by District for Convenience. District may terminate this Agreement, in whole or in part and at any time, for the convenience of District. District shall terminate by delivery to Consultant a notice of termination specifying the extent of the termination and the effective date of termination. If District terminates this Agreement for convenience, District shall pay Consultant the amount otherwise due in accordance with this Agreement for Services satisfactorily performed to the date of termination.

13.2. Termination by District for Consultant's Default. District may terminate this Agreement, in whole or in part and at any time, in writing if Consultant substantially fails to fulfill any or all of its material obligations through no fault of District. If District terminates all or part of this Agreement for default, District shall determine the amount of Services satisfactorily performed to the date of termination and the amount owing to Consultant using the criteria set forth below; provided that no amount shall be allowed for anticipated profit on unperformed Services or other work, and any payment due to Consultant at the time of termination may be adjusted to the extent of any additional costs District incurs or will incur because of Consultant's default. If District terminates all or part of this Agreement for default, District shall consider: (a) the actual costs incurred by Consultant in performing the Services to the date of termination; (b) the amount of Services originally required which was satisfactorily completed to the date of termination; (c) whether the Services or deliverables were in a form or of a type which is
usable and suitable to District at the date of termination; (d) the cost, time, and inconvenience to District of either completing the Services itself or employing another firm to complete the Services; and (e) other factors which affect the value to District of the Services performed to the date of termination. Under no circumstances shall payments made under this provision exceed the compensation provided for in paragraph 3. This provision shall not preclude District from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by withheld payments.

13.3. **Termination by Consultant.** Consultant may terminate this Agreement in the case of a material breach and upon failure of District to remedy said breach within ten (10) days of written notice by Consultant of such breach Consultant's notice of termination shall be in writing.

14. **Dispute Resolution.**

14.1. If any dispute, controversy, or claim arises out of or relates to this Agreement, the parties agree first to try to attempt to settle the dispute by non-binding mediation with the assistance of a recognized professional mediation service. The parties shall bear equally all expenses, exclusive of attorneys' fees, associated with the mediation.

14.2. Owner shall have the exclusive and unilateral right, at its option, to require that any dispute arising out of or relating to this Agreement be resolved in litigation or arbitration, provided the arbitration is independent and impartial. If arbitration is selected by Owner and the parties cannot agree on the arbitrator or arbitration rules, the dispute shall be decided in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. Venue for litigation and arbitration is Snohomish County Superior Court.

14.3. The parties agree that all parties necessary to resolve a dispute shall be parties to the same litigation or arbitration proceeding. Appropriate provisions shall be included by the Owner and the Consultant in all other contracts relating to the Project to provide for the consolidation of arbitration or litigation.

14.4. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

14.5. In the event of an arbitration or litigation relating to the performance, enforcement or breach of this Agreement, the prevailing party in such action shall be entitled to attorneys' fees and costs, including such fees or costs incurred on appeal.

15. **General Provisions.**

15.1. **Notices.** Any notice or demand desired or required to be given under this Agreement shall be in writing and deemed given when personally delivered, sent by facsimile machine, or deposited in the United States Mail or with an express courier, postage prepaid, sent certified or registered mail, and addressed to the parties as set forth below or to another address that either party shall have previously designated by such a notice:
15.2. Entire Agreement. This Agreement and its attachments contain the entire understanding between the District and Consultant relating to the consulting services which are the subject of this Agreement. This Agreement merges all prior discussions, negotiations, letters of understanding or other promises whether oral or in writing. Subsequent modification or amendment of this Agreement shall be in writing and signed by the parties to this Agreement.

15.3. Modification. No modification of this Agreement and no waiver of rights under this Agreement shall be valid or binding on the parties unless the same is in writing.

15.4. Waiver. Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

15.5. No Third Party Beneficiary. This Agreement is made only for the benefit of the District and Consultant and successors in interest and no third party or person shall have any rights hereunder whether by agency or as a third party beneficiary.

15.6. Severability. If any term, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in effect.

15.7. Effective Date. The effective date of this Agreement shall be the last date that the Agreement has been signed by authorized representatives of both parties.

ALDERWOOD WATER & WASTEWATER DISTRICT
("DISTRICT")

By: ____________________________
Typed Name: ______________________
Its: ______________________________
Date: ____________________________

("CONSULTANT")

By: ____________________________
Typed Name: ______________________
Its: ______________________________
Date: ____________________________