



PROFESSIONAL SERVICES AGREEMENT
Financial Advisory Services – Job #16-24-FA

The City of Kirkland, Washington, a municipal corporation ("City") and PFM Financial Advisors LLC, whose address is 107 Spring Street, Seattle, WA 98104 ("Consultant"), in consideration of the mutual benefits and conditions set forth below, agree and contract as follows.

I. SERVICES BY CONSULTANT

- A. The Consultant agrees to perform the services described in the City’s 2024 request for proposal (Job # 16-24-FA) and as more specifically described in Attachment A to this Agreement.
- B. All services and duties shall be conducted and performed diligently, completely and in accordance with professional standards of conduct and performance.

II. COMPENSATION

- A. The total compensation to be paid to Consultant for these services shall not exceed the fees detailed in Attachment B.
- B. Payment to Consultant by the City in accordance with the payment ceiling specified above shall be the total compensation for all services performed under this Agreement and supporting documents hereto as well as all subcontractors’ fees and expenses, supervision, labor, supplies, materials, equipment or the use thereof, reimbursable expenses, and other necessary incidentals.
- C. The Consultant shall be paid on the basis of invoices submitted. Invoicing will be on the basis of percentage complete or on the basis of time, whichever is applicable in accordance with the terms of this Agreement.
- D. The City shall have the right to withhold payment to Consultant for any services not completed in a satisfactory manner until such time as Consultant modifies such services to the satisfaction of the City.
- E. Unless otherwise specified in this Agreement, any payment shall be considered timely if a warrant is mailed or is available within 30 days of the date of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

III. GENERAL ADMINISTRATION AND MANAGEMENT

The Director of Finance and Administration for the City of Kirkland shall review and approve the Consultant’s invoices to the City under this Agreement, shall have primary responsibility for overseeing and approving services to be performed by the Consultant, and shall coordinate all communications with the Consultant from the City.

IV. DURATION

The estimated completion date for the Consultant’s performance of the services specified in Section I is December 31, 2028. For purposes of paying final invoices and finalizing services, this contract expires on March 31, 2029. However, the City may

request one additional one-year extensions as authorized in the City's 2024 request for proposal (Job # 16-24-FA).

Consultant will diligently proceed with the services contracted for, but Consultant shall not be held responsible for delays occasioned by factors beyond its control which could not reasonably have been foreseen at the time of the execution of this Agreement. If such a delay arises, Consultant shall forthwith notify the City.

V. OWNERSHIP OF WORK PRODUCT

- A. Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled or produced as a result of this Agreement, whether or not completed, shall be vested in the City. Any reuse of these materials by the City for projects or purposes other than those which fall within the scope of this Agreement or the project to which it relates, without written concurrence by the Consultant will be at the sole risk of the City.
- B. The City acknowledges the Consultant's plans and specifications as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the City upon completion of the services. The City agrees to hold harmless and indemnify consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of any reuse of such plans and specifications by any third party without the written authorization of the Consultant.
- C. Methodology, materials, software, logic, and systems developed under this Agreement are the property of the Consultant and the City, and may be used as either the Consultant or the City sees fit, including the right to revise or publish the same without limitation.
- D. The Consultant, at such times and in such forms as the City may require, shall furnish to the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement. All of the reports, information, data, and other related materials, prepared or assembled by the Consultant under this Agreement and any information relating to personal, medical, and financial data will be treated as confidential only as allowed by Washington State laws regarding disclosure of public information, including Chapter 42.56 RCW.

The Consultant will, at any time during normal business hours and as often as the City may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement, to the extent that is practicable and upon reasonable notice. The City shall receive a copy of all audit reports made by the agency or firm as to the Consultant's activities. The City may, at its discretion, conduct an audit, at its expense, using its own or outside auditors, of the Consultant's activities which relate, directly or indirectly, to the Agreement.

Consultant will provide all original operation and maintenance manuals, along with all warranties, from the manufacturer for any equipment or items installed or supplied to the City as part of this contracted project.

The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.

The foregoing records shall be maintained for a period of six years after termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by the City.

VI. TERMINATION OF AGREEMENT

The City or the Consultant may terminate or suspend this Agreement at any time, with or without cause, by giving ten (10) days' notice to the other in writing. In the event of termination, all finished or unfinished reports, or other material prepared by the Consultant pursuant to this Agreement, shall be provided to the City. In the event the City terminates prior to completion without cause, consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to receive just and equitable compensation for any satisfactory services completed on the project prior to the date of termination, not to exceed the payment ceiling set forth above.

VII. SUCCESSORS AND ASSIGNS

The Consultant shall not assign, transfer, convey, pledge, or otherwise dispose of this Agreement or any part of this Agreement without prior written consent of the City.

VIII. NONDISCRIMINATION

Consultant shall, in employment made possible or resulting from this Agreement, ensure that there shall be no unlawful discrimination against any employee or applicant for employment in violation of RCW 49.60.180, as currently written or hereafter amended, or other applicable law prohibiting discrimination, unless based upon a bona fide occupational qualification as provided in RCW 49.60.180 or as otherwise permitted by other applicable law. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement in violation of RCW 49.60.215 or other applicable law prohibiting discrimination.

IX. HOLD HARMLESS/INDEMNIFICATION

- A. To the greatest extent allowed by law the Consultant shall defend, indemnify, and hold the City, and its officers, officials, employees, and volunteers (together "Indemnified Parties") harmless from any and all claims, injuries, damages, losses or suits (including reasonable attorney fees and costs), arising out of or in connection with its negligence or otherwise tortious acts, errors, or omissions or breach of its obligations in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Indemnified Parties.
- B. 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 the services or bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Consultant and the Indemnified Parties, the

Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

- C. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Title 51 RCW, Washington's industrial insurance law, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties.
- D. The provisions of this section shall survive the expiration or termination of this Agreement.

X. LIABILITY INSURANCE COVERAGE

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the work hereunder by the Consultant and/or its agents, representatives, or employees. A failure to obtain and maintain such insurance or to file required certificates and endorsements shall be a material breach of this Agreement.

Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or to otherwise limit the City's recourse to any remedy available at law or in equity.

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

1. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap 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 CG 20 26.
 - a. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as 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.
 - a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

- a. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant shall provide the City and all Additional Insureds for the services with written notice of any policy cancellation, within two business days of Consultant's receipt of such notice.

C. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

D. 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 Consultant before commencement of the services.

E. Failure to Maintain Insurance

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of agreement, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the agreement 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.

F. City Full Availability of Consultant Limits

If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

G. Subcontractors

If the Consultant utilizes subcontractors or other independent contractors, Consultant will ensure those subcontractors or other independent contractors obtain and maintain insurance limits and coverages equivalent to the requirements contained herein for the Consultant.

XI. COMPLIANCE WITH LAWS/BUSINESS LICENSE

The Consultant shall comply with all applicable State, Federal, and City laws, ordinances, regulations, and codes. Consultant must obtain a City of Kirkland business license or otherwise comply with Chapter 7.02 of the Kirkland Municipal Code.

XII. FUTURE SUPPORT

The City makes no commitment and assumes no obligations for the support of Consultant activities except as set forth in this Agreement.

XIII. INDEPENDENT CONTRACTOR

Consultant is and shall be at all times during the term of this Agreement an independent contractor and not an employee of the City. Consultant agrees that he or she is solely responsible for the payment of taxes applicable to the services performed under this Agreement and agrees to comply with all federal, state, and local laws regarding the reporting of taxes, maintenance of insurance and records, and all other requirements and obligations imposed on him or her as a result of his or her status as an independent contractor. Consultant is responsible for providing the office space and clerical support necessary for the performance of services 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 or unemployment compensation programs or otherwise assuming the duties of an employer with respect to the Consultant or any employee of Consultant.

XIV. EXTENT OF AGREEMENT/MODIFICATION

This Agreement, together with all attachments and addenda, represents the final and completely integrated Agreement between the parties regarding its subject matter and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument properly signed by both parties.

XV. ADDITIONAL WORK

The City may desire to have the Consultant perform work or render services in connection with the project other than provided for by the express intent of this Agreement. Any such work or services shall be considered as additional work, supplemental to this Agreement. This Agreement may be amended only by written instrument properly signed by both parties.

XVI. NON-ENDORSEMENT

As a result of the selection of a consultant to supply services to the City, the Consultant agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation, or the like without the express written consent of the City. However, notwithstanding the foregoing, the City consents to the Consultant including information describing the Consultant's participation in this project in bids, statements of qualifications, or other similar proposals submitted to other municipal, governmental, or similar project sponsor, so long as the information included is factually accurate.

XVII. NON-COLLUSION

By signature below, the Consultant acknowledges that the person, firm, association, co-partnership or corporation herein named, has not either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in the preparation or submission of a proposal to the City for consideration in the award of a contract on the specifications contained in this Agreement.

XVIII. WAIVER

Waiver by the City of any breach of any term or condition of this Agreement shall not be construed as a waiver of any other breach.

XIX. ASSIGNMENT AND SUBCONTRACT

The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

XX. DEBARMENT

Recipient certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds.

XXI. GOVERNING LAW AND VENUE

This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

XXII. DISPUTE RESOLUTION

All claims, counterclaims, disputes, and other matters in question between City and Consultant arising out of or relating to this Agreement shall be referred to the City Manager or a designee for determination, together with all pertinent facts, documents, data, contentions, and other information. The City Manager or designee shall consult with Consultant's representative and make a determination within thirty (30) calendar days of such referral. No civil action on any claim, counterclaim, or dispute may be commenced until thirty (30) days following such determination. Nothing herein waives any requirements of Chapter 4.96 RCW, if applicable.

XXIII. SEVERABILITY

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken. Unless such stricken provision goes to the essence of the consideration bargained for by a party, all remaining provisions shall continue to be valid and binding upon the parties, and the parties agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

XXIV. EFFECTIVE DATE

This Agreement shall be deemed effective on the last date signed below.

XXV. MUNICIPAL ADVISORY PROVISIONS

Consultant is a registered municipal advisor with the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. The parties agree that if City has designated Contractor as its independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the "IRMA exemption"), the services provided pursuant to such designation shall be the services described in Exhibit A hereto, subject to any limitations provided therein. Verification of independence (as is required under the IRMA exemption) shall be the responsibility of such third party seeking to rely on such IRMA exemption. Consultant shall have the right to review and approve in advance any representation of the Consultant's role as IRMA to the City.

MSRB Rules require that municipal advisors make written disclosures to their clients of all material conflicts of interest, certain legal or disciplinary events and certain regulatory requirements, which are provided in Consultant's Disclosure Statement delivered to the City prior to or together with this Agreement.

XXVI. INFORMATION TO BE FURNISHED TO CONSULTANT

All information, data, reports, and records in the possession of the City or any third party necessary for carrying out any services to be performed under this Agreement ("Data") shall be furnished to the Consultant. The Consultant may rely on the Data in connection with its provision of the services under this Agreement and the provider thereof shall remain solely responsible for the adequacy, accuracy, or completeness of such Data.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates written below:

CONSULTANT:

CITY OF KIRKLAND:

Signature: Thomas Toepfer

Signature: Julie Underwood
Julie Underwood (Jan 2, 2025 11:23 PST)

Printed Name: Thomas Toepfer

Printed Name: Julie Underwood

(Type City Staff Name)

Title: Managing Director

Title: Deputy City Manager

Date: 01/02/2025

Date: 01/02/2025

Attachment A Scope of Work

The services to be provided by the financial advisor shall include, but are not limited to, the following:

A. Participant Assistance:

- Evaluate possible financing options for the City.
- Evaluate potential underwriters for a negotiated sale or define process for competitive sale.
- Evaluate and assist in securing credit enhancement if necessary.
- Evaluate trustee proposals.

B. Participant Financial Condition Review:

- Evaluate participant credit quality and financial strength using typical industry standards.
- Review, evaluate and comment on adequacy of financial forecast studies.
- Prepare written report to the City regarding the feasibility of issuing the bonds and sufficiency of revenues and funds pledged to support the bonds.

C. Bond Document Participation and Review:

- Attend all organizational, document review, and special meetings related to a bond financing.
- Evaluate, advise, and consult with the City and bond counsel regarding financial and non-financial bond covenants of each bond issue.
- Assist in furnishing materials and data to rating agencies, bond insurers, letter of credit providers.
- Assist in structuring bond transaction for competitively sold bond issues.

D. Official Statement Review and Preparation:

- Lead team discussions in conjunction with bond counsel on form, content, and sufficiency of information in the official statement.
- Prepare the official statement in conjunction with bond counsel for competitively sold bond issues.

E. Pricing of Bond Issue Competitive Sale:

- Coordination of pre-sale publicity, call for bids, evaluation of bids, recommendations to the City regarding sufficiency of bids, and awarding of bonds.

F. Negotiated Sale:

- Coordinate pricing meetings and offerings of negotiated issues.
- Recommend structure of underwriting teams; i.e., co-managers, selling group, syndicate, etc.
- Recommend timing of bond pricing.
- Review, monitor, and advise the City regarding proposed negotiated interest rates and spreads.

Note: The financial advisor is precluded from participation in the underwriting as comanager, syndicated member, selling group member, etc.

G. Recommendations to the City:

- Prepare an oral and written recommendation to the City for each Bond issue regarding financial feasibility, bond covenants, and pricing of the bonds.

H. Bond Closing:

- Review closing memorandum with bond counsel to confirm activities at the closing and role of each party.
- Assist participant in evaluating the investment of bond proceeds for construction fund, debt service fund, escrow, etc.

I. Special Meetings of the City:

- Attend all City Council meetings and any special meetings with the City, bond counsel, bond insurers and rating agencies as the City deems necessary.

J. Post Issuance Assistance:

- Advise participant and the City on post issuance changes, credit enhancement, management consultants, etc.
- Conduct post issuance reviews (e.g., remarketing agent performance) as requested by the City.
- Provide a report to the City on the project and the bond issue sale.

K. Program Development:

- Assist staff by evaluating program proposals or changes in policy.

Attachment B Fee Proposal

Transaction Fees

For services related to the issuance of debt, PFM proposes transaction fees using the following sliding fee schedule which would be paid upon successful closing of each issue:

Transaction Fees – All Security Types and Methods of Sale	
Par Value:	Fee
Up to \$25 million	\$1.50 per \$1,000, with a \$30,000 minimum
Over \$25 million to \$75 million	\$37,500 plus \$0.90 per \$1,000 over \$25 million
Over \$75 million	\$82,500 plus \$0.25 per \$1,000 over \$75 million

For multiple financings completed under a common financing plan, we may negotiate a reduced fee, depending on the amount of time between financings. For unusually complex financings, we may negotiate an increased fee. For interim financing, we would anticipate a reduced fee, depending on the nature and structure of the financing, and therefore the time involved. Additionally, for any transaction not completed, PFM would be compensated on an hourly basis, at the rates set forth below, which will in no case exceed the transactional fee that would have otherwise applied. For work unrelated to a new debt transaction (i.e., special projects and ongoing advice), PFM proposes hourly fees provided in response to C.3.

There will be no additional charge for attendance at City meetings. Our proximity to the City allows us to be available for meetings with staff or the Council when necessary. PFM proposes expense reimbursement for reasonable and documented out-of-pocket expenses incurred at cost without markup for expenses of travel outside of the Puget Sound region only if completed at the request of the City. We do not charge for phone conferences. If we are working on a special project other than debt issuance, time spent in meetings and preparation may be charged at hourly rates pursuant to agreement with the City.

Hourly Rates

For services in between transactions – such as debt capacity analysis, credit analysis, staff or City Council education, etc. – PFM will charge hourly fees at the following hourly rates:

Experience Level	Hourly Rate
Managing Director	\$350
Director	\$325
Sr. Managing Consultant	\$300
Sr. Analyst	\$260
Analyst	\$215
Associate (Administrative)	\$195

These hourly rates would be adjusted each contract year based on the All Items Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average. In addition to fees for services, PFM will be reimbursed for necessary, reasonable, and documented out-of-pocket expenses incurred, including travel, meals, lodging, telephone, mail, and other ordinary cost and any actual extraordinary cost for graphics, printing, data processing and computer time which are incurred by PFM. Upon request of the City, documentation of such expenses will be provided. Currently our data fee covering expenses such as access to Bloomberg is \$0.05 per \$1,000 par amount of bond, with a maximum fee of \$5,000. For bank loans and private placement bond transactions, the data fee is \$0.025 per \$1,000 par amount, with a maximum fee of \$2,500.