

# Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: \_\_\_\_\_

Firm/Organization Legal Name (do not use dba's):	
Address	Federal Aid Number
UBI Number	Federal TIN
Execution Date	Completion Date
1099 Form Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input type="checkbox"/> No
Project Title	
Description of Work	
<input type="checkbox"/> Yes <input type="checkbox"/> No DBE Participation <input type="checkbox"/> Yes <input type="checkbox"/> No MBE Participation <input type="checkbox"/> Yes <input type="checkbox"/> No WBE Participation <input type="checkbox"/> Yes <input type="checkbox"/> No SBE Participation	Maximum Amount Payable:

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THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the \_\_\_\_\_, hereinafter called the “AGENCY,” and the “Firm / Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name:  
Agency:  
Address:  
City: State: Zip:  
Email:  
Phone:  
Facsimile:

If to CONSULTANT:

Name:  
Agency:  
Address:  
City: State: Zip:  
Email:  
Phone:  
Facsimile:

  
Add Phone number?

#### IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fee.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

## VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT’s failure to perform is without the CONSULTANT’s or its employee’s fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT



to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker’s compensation and employer’s liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any “Auto” (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker’s Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the “AIs”), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT’s and the sub-consultant’s and/or subcontractor’s insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name:  
 Agency:  
 Address:  
 City:                                  State:                  Zip:  
 Email:  
 Phone:  
 Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT’s professional liability to the AGENCY, including that which may arise in reference to section IX “Termination of Agreement” of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT’s professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V “Payment Provisions” until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

### **XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENTS over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENTS over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

### **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT’s contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes (“State’s Confidential Information”). The “State’s Confidential Information” includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver’s license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State’s Confidential Information in strictest confidence and not to make use of the State’s Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY’s express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State’s Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY’s option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State’s Confidential Information; or (ii) returned all of the State’s Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State’s Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State’s Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State’s Confidential Information was received; who received, maintained, and used the State’s Confidential Information; and the final disposition of the State’s Confidential Information. The CONSULTANT’s records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State’s Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State’s Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as “Confidential” and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*

# ***Exhibit A Scope of Work***

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Project No.

See Exhibit A, Scope of Work attached hereto commencing on the following page.

The City does not anticipate receiving Federal Funding for the insert project name project. As such, the Consultant will not have access to the WSDOT Diversity Compliance program and is exempt from all reporting requirements within [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program.

## INTRODUCTION

The overall objective of this project is to prepare a bid package for a project that will add buffered bike lanes using pavement striping to Bel-Red Road from West Lake Sammamish Parkway to NE 30th Street. This will be accomplished by restriping the road to remove the second uphill travel lane. The project will be constrained within the existing ROW and within the existing curb to curb width as much as possible. The work will primarily be to re-channelize the existing roadway along with appropriate ADA ramp upgrades. A pavement grind and overlay is anticipated for the bike lane area or the entire street between WLSP and NE 40th Street due to poor existing pavement condition. Select storm drainage pipes and catch basins will be replaced. Elements of this project will include the details and plans for the roadway and intersection improvements, curb ramps improvements, signal improvements, stormwater improvements, environmental permitting and documentation, easement documents, and traffic analyses.

The Toole Design team is comprised of the following team members.

- Toole Design will lead general project management of the project, scoping and initial concept, and lead development of the plans, project manual, and opinion of cost. Toole Design will lead the signing, striping, and curb ramp design.
- David Evans and Associates who will provide survey, environmental and civil engineering support services.
- Concord Engineering will provide traffic analyses and design services.
- HWA Geosciences will provide geotechnical engineering and pavement analyses and design services.

Toole Design Team's services will be limited to those expressly set forth herein. If the service is not specifically identified herein, it is expressly excluded. The Toole Design Team will have no other obligations, duties, or responsibilities associated with the project except as expressly provided in this Agreement.

Transferring Budget within Contract Maximum: The level of effort is specified in the scope of services. The budget may be transferred between discipline tasks at the discretion of Toole Design, provided that the total contracted amount is not exceeded. The Toole Design Team will have the flexibility to manage budget within a given discipline on a subtask level.

All major deliverables will be submitted via the City's SharePoint site.

Services provided by the Toole Design Team will consist of:

## GENERAL SCOPE OF SERVICES/SCOPE OF WORK

This Scope of Services describes the work elements to be accomplished by the Toole Design Team as summarized under each Task. This scope consists of the following elements:

- Task 1 – Project Management and Coordination
- Task 2 – Scoping and Initial Concept
- Task 3 – Utility Coordination
- Task 4 – Survey
- Task 5 – Right-of-Way Support



- Task 6 – Geotechnical Investigations and Pavement Design Support
- Task 7 – Environmental Support
- Task 8 – Drainage Design
- Task 9 – Traffic Analyses
- Task 10 – 30% Design, Plans and Opinion of Cost
- Task 11 – 60% Plans, Specifications, and Opinion of Costs
- Task 12 – 90% Plans, Specifications, and Opinion of Costs
- Task 13 – 100%/ Ad-Ready Plans, Specifications, and Opinion of Costs
- Task 14 – Bid Support
- Task 15 – Public Engagement Support
- Task 16 – Critical Areas Report (Optional Task)

This Scope of Services is defined in the tasks below.

## **SCOPE OF SERVICES DEFINED**

### **Task 1 – Project Management and Coordination**

Overall project management and coordination work elements include:

#### *1.1 Kickoff Meeting and Project Coordination with the City*

The Toole Design Team will attend and document a kickoff meeting to discuss the existing conditions along the corridor, including constraints and any ongoing planning or construction projects, as well as the City’s goals and vision for the project. The Team will discuss and agree upon a detailed schedule to advance the project forward in accordance with the City’s needs and the practical considerations of stakeholder involvement.

The Toole Design Team will coordinate with the City on a regular basis to keep the City’s project manager informed about project progress, project issues and schedule. The Toole Design Team will attend and document bi-weekly meetings (via Teams call) with the City throughout the duration of the project to review progress and discuss project action items and next steps.

To facilitate timely decision-making, this task will also include preparing and maintaining an Action Items Tracking Matrix describing key decisions and actions needed to drive the project forward. Each required action item will be assigned to an individual Toole Design Team member and, where applicable, to appropriate City, agency, and/or stakeholder personnel. It will be the Toole Design Team’s responsibility to follow up with appropriate agency or stakeholder staff between meetings to ensure that action items are closed out in a timely manner.

The Toole Design Team will attend one (1) project kickoff meeting with the City and up to eighteen (18) bi-weekly project status meetings. These meetings under this work element will include the following participation by the Toole Design Team:

- Kickoff meeting attended by up to six (6) staff from the Toole Design team.
- Up to eighteen (18) meetings attended by up to two (2) staff from the Toole Design team.
- Kickoff meeting will include subconsultants, DEA (up to two (2) staff), Concord (up to one [1] staff), and HWA (up to one [1] staff).
- Subconsultant attendance at meetings related to design work will be included under those individual design tasks.
- The Toole Design Team will prepare agendas and meeting notes/action items and distribute to attendees.

#### *1.2 Project Schedule, Budget, and Team Management*

The Toole Design Team will develop an overall project schedule which will include a schedule by task through bid advertisement for the full project. The Toole Design Team will prepare a draft and final schedule for the City review, and then the Toole Design Team will prepare schedule updates as the project progresses, when requested by the City. The Toole Design Team will also manage the overall project budgets, monitor staff and subconsultants, manage change and prepare amendments, and monitor work progress under this work element.

### **1.3 Progress Reports and Invoices**

As part of the project, the Toole Design Team will prepare monthly progress reports that describe the work items that were accomplished during a given month, as well as a forecast of work to be completed over the following month. Progress report will include a status of budget, spent, and remaining for each individual task on the City-provided template. The monthly progress reports will also identify other issues or problems that may occur in any given month, if any. The Toole Design Team will submit these monthly progress reports to the City's Project Manager with the monthly invoices. The monthly invoices will bill by individual tasks. The Toole Design Team's Project Manager will notify City's Project Manager, in writing (memo format), of any out of scope and/or budgetary issues that are inconsistent with this Scope of Services.

#### **Assumptions:**

- This contract duration of the design phase shall be no longer than 9 months
- Project kickoff meeting will be held in person at City of Redmond. The kickoff meeting will be followed by a site walk with City staff to review the corridor.
- Bi-weekly meetings will be held on Teams.
- Meetings between Subconsultants will be conducted under other scope tasks.

#### **Deliverables:**

- Kickoff Meeting Agenda and Meeting Notes/Action Items
- Bi-weekly Project Meeting Agendas for up to 18 meetings and notes/action items
- Action Items Tracking Matrix
- Project Schedule (Microsoft Project format)
- Monthly Invoices and Progress Reports

### **Task 2 – Scoping and Initial Concept**

The Toole Design Team will update the conceptual designs that Toole Design previously prepared under a past contract based on discussions with the City. Toole Design will submit the revised concept for review and participate and attend a meeting with City staff as described below. The goal of this task is to refine the concept design, determine the preferred cross-sections, establish the expected scale of improvements along the corridor and establish the minimum design criteria.

#### **2.1 Concept refinement**

The Toole Design Team will review the previous concepts prepared by Toole Design and provide written comments on the PDFs to communicate the team's understanding of how the project will vary from these past concepts. The Toole Design team will meet with City staff to review these comments and confirm or discuss the team's understanding. Following this meeting, the Toole Design team will update the concept designs based on the consultant and City team's shared understanding. The Toole Design team will submit the refined concept drawings for City review and one round of comments and revisions is expected.

#### **Assumptions:**

- No additional base mapping will take place during this task. The previous GIS and aerial photo basemap will be used. The refined concepts will be at the same level of detail and appearance as the previous concepts.
- The Toole Design team will perform a site visit following the kickoff meeting in Task 1 with City staff to compare the previous concepts and potential revisions with site conditions.
- The 30% design phase will be based on the Final Refined Concept Drawings and Draft Basis of Design (Task 2.2).
- An opinion of cost will not be developed under this task.

#### **Deliverables:**

- Toole Design team comments on previous design concepts (PDF)
- Draft and Final Refined Concept Drawings

#### **2.2 Draft Basis of Design**

Based on discussions with the City, the Toole Design Team will prepare a list of minimum design criteria, including minimum facility widths, and known constraints which will dictate the final roadway configuration, including utility, ROW, design and control vehicles, property access, and/or tree constraints.

#### **Assumptions:**

- Traffic Analysis is not included as part of the concept refinement or Draft Basis of Design development. Traffic analyses will be performed during the 30% design phase under other tasks.
- The Draft Basis of Design will be expanded on in Task 10.
- The Basis of Design will identify preferred vertical elements to the bike lane buffer that are capable of being added and maintained by current City equipment after construction.

#### **Deliverables:**

- Draft Basis of Design memo (PDF)

#### **Task 3 – Utility Coordination**

The Toole Design Team will assist the City in managing the utility coordination process for the project, which will include providing utility franchises and City owned utilities with project information, copies of each PS&E submittal, and identification of potential utility conflicts.

The Toole Design Team will coordinate and manage the potholing efforts through the design phase. The Toole Design Team will identify potential utility conflicts and pothole locations based on the 60% or 90% plans and coordinate with the applicable utility franchises to perform potholing explorations. Pothole data will be incorporated into the plans and added as an appendix to the Project Manual.

#### **Assumptions:**

- The City will distribute internally the plans sets for City owned utilities for review.
- A preliminary budget of \$20,000 has been included in this scope to contract with a utility locate company to perform potholes for City-owned and franchise utilities.
- It is assumed that no new electrical service is required.

#### **Deliverables:**

- Manage pothole program on behalf of franchise utilities and City. The Toole Design Team will identify potholing needs by preparing an exhibit of recommended potholing locations.

- Utilize a utility potholing service for those locations that will not be provided by a franchise utility.

#### **Task 4 – Survey**

Outside of the six intersections and stormwater repair area identified below for survey, GIS information will be used to develop a basemap.

The intersections that will have full survey, and the approximate survey limits, are shown in the figures below.



**Figure 1 : West Lake Sammamish Parkway**



Figure 2: NE 46th Street



Figure 3: NE 44th Way



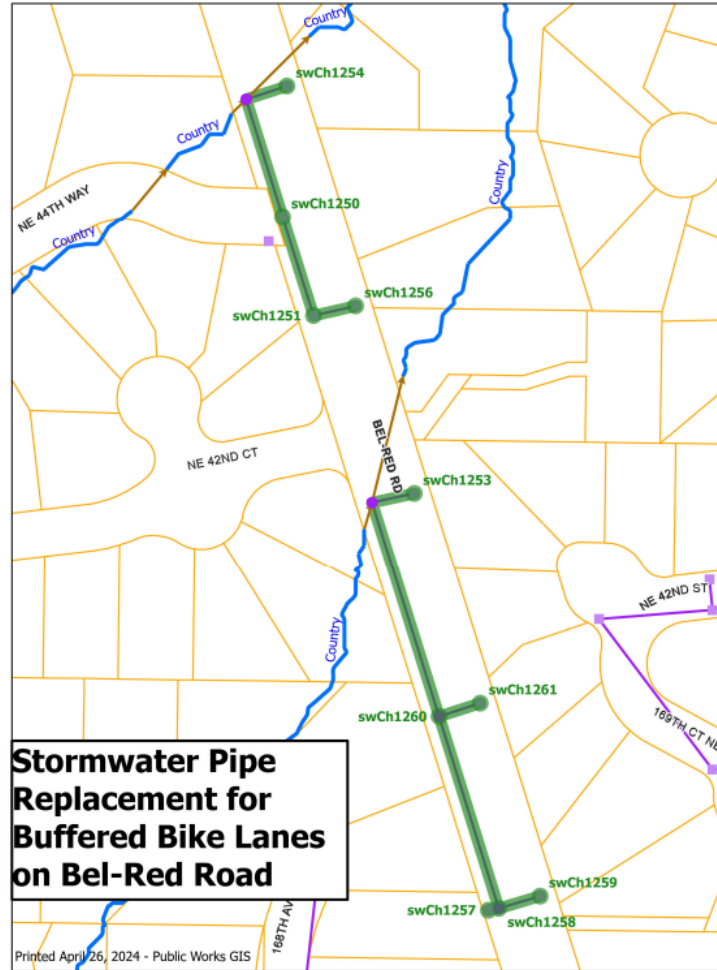
Figure 4: NE 42nd Court



Figure 5: NE 40th Street



Figure 6: 165th PI NE



**Figure 7: Drainage Repair Area. Outside of the NE 44<sup>th</sup> Way and NE 42<sup>nd</sup> Court areas identified in Figures 3 and 4, this area will be surveyed from back of sidewalk to back of sidewalk only.**

#### **4.1 Field Review**

The CONSULTANT project team will conduct a field review at the outset of the project to identify key field conditions that may impact the design including the location and/or presence of driveways and roadways, trees, utilities (underground and overhead) and drainage issues.

#### **4.2 Data Collection**

The CONSULTANT will research and collect existing roadway, ROW, utility, and land survey information from the City and respective utility agencies for inclusion in the mapping.

#### **4.3 Horizontal and Vertical Control Network**

The CONSULTANT shall use City provided survey data, including the horizontal control notebook and interactive vertical map, to establish supplemental horizontal and vertical control points as needed for performing surveying services. Horizontal and vertical control points shall be based on at least two local control monuments referenced in the final drawings. These monuments shall serve as the basis of the horizontal coordinates and control of the site.

#### **4.4 Establish Road Centerline Alignments and Rights-of-Way (Base Map)**



The CONSULTANT shall utilize previously established centerlines and rights of way within the six areas shown above. For other areas, Redmond's GIS data will be used for rights of way. This combination will be used to establish a ROW base map for this project. Parcel lines for adjacent properties will be shown as near as possible to their actual locations but will be solely based upon readily available public records and maps. The base map will be used to validate the location of existing improvements located by the topographic survey. The base map will show located street monuments and property corner markers found that were used to create this map.

#### **4.5 Topographic Survey**

The CONSULTANT shall prepare a project topographic base map at the identified intersections only. The base map will incorporate City and franchise utility 'as-built' information, ROWs and road centerlines, property lines, and other existing features within the project limits including:

- Pavement limits
- Driveways
- Fences
- Storm drainage structures with pipe invert elevations
- Sanitary sewer manholes with pipe invert elevations
- Water valves, fire hydrants, and associated features with nut elevations
- Electrical power vaults and associated surface features
- Overhead utility lines
- Telephone manholes and pedestals
- Natural gas valves, meters, and warning markers
- Cable TV pedestals
- Street lighting
- Signage
- Utility poles
- Overhead wires, guy wires
- Meters
- Road channelization
- Trees
- Street markings

The CONSULTANT shall contract with an underground utility locate service to set paint marks as the surface location of the underground utilities. The CONSULTANT will also request locates via One Call. The CONSULTANT will use these marks as evidence to depict the underground location of these utilities.

The CONSULTANT shall prepare the final topographic survey map with a one-foot contour interval within the paved surfaces of the roadway prism and a two-foot contour interval on non-paved surfaces outside the roadway prism. The mapping shall be plotted at a scale of one-inch equals twenty feet (1" =20') with a one-foot contour interval.

#### **Deliverables:**

- Electronic copy of the topographic base map, right-of-way centerline, parcel lines, and data points in AutoCAD and PDF format.

#### **Assumptions:**

- The topographic basemap will contain calculated parcel lines and applicable existing easements at the identified intersections and approximate parcel lines elsewhere along the corridor. These parcel lines will

be provided on separate layers such that the design team can understand the accuracy of the parcel lines along the corridor.

- One additional day of survey field work is assumed to survey wetland and stream delineation flags located in Task 16.

## **Task 5 – Right-of-Way Support**

The purpose of this task is to provide support to the City in acquiring easements required to construct the project. This task includes preparing legal descriptions and exhibits for City use in acquiring temporary or permanent construction easements.

### **5.1 Legal Descriptions and Depictions**

The Legal Descriptions and Depictions work element includes the efforts necessary to draft the depictions and write the legal descriptions required for property takes and/or easements.

#### **Assumptions:**

- Title Reports will be provided by the City.
- One (1) draft and one (1) revised, final Easement Legal Description and Depiction per parcel is anticipated. Up to 13 parcels are anticipated.
- Recording and filing of the easements, if required, will be handled by the City.
- Right-of-Way Plans will not be prepared.
- The City will be the point of contact for property owners.
- Real estate legal services and negotiations will be provided by City staff.
- Parcel exhibits will be prepared for the appraisals, for negotiations with property owners, and for final acquisition documents.
- Acquisition services including overall coordination with property owners and/or legal staff are not included.
- Negotiations (including pre-negotiation), Right of Entry, Relocation and Closing Services are not included.

#### **Deliverables:**

- Up to thirteen (13) Draft and Final Easement Legal Descriptions and Depictions

## **Task 6 – Geotechnical Investigations and Pavement Design Support**

The CONSULTANT will perform a site visit and walk the corridor with City staff to identify locations to recommend for pavement repair or for further subsurface investigation. The CONSULTANT will perform up to 10 pavement cores along the corridor, analyze these cores and recommend pavement repair or rehabilitation methods and locations. The findings of the site walk and recommendations for pavement repair will be summarized in a pavement recommendations memo and on exhibits using aerial photographs.

There is potential for short walls to accommodate grading on the project. If short walls are required, the CONSULTANT will provide high level input on wall type via email. It is assumed that walls, if any, will be modular block walls or rockeries to be designed by the contractor's selected wall manufacturer or per standard plan.

#### **Deliverables:**

- Pavement recommendations memo
- Up to 10 pavement cores
- Wall type input via email

#### **Assumptions:**

- Geotechnical recommendations will be limited to pavement repair only and not include surface water or other recommendations.
- Wall type input will be limited to high level input on short (<4-feet tall) wall type

## **Task 7 – Environmental Support**

### **7.1 SEPA Support**

The CONSULTANT will support the City by filling out the SEPA application and SEPA checklist and by providing necessary documents to support the SEPA checklist such as the stormwater checklist. Traffic analyses required as part of SEPA will be performed under Task 9. The SEPA checklist will support the HPA and Bellevue right-of-way use permit.

### **7.2 HPA Support**

Storm drainage pipe replacements are anticipated to connect to structures that contain existing streams. A Hydraulic Project Approval (HPA) permit will be required. The CONSULTANT will lead coordination with the Washington Department of Fish & Wildlife and prepare permit application materials.

### **7.2 City of Bellevue Right-of-Way Use Permit**

Several hundred feet of the project is within the City of Bellevue city limits near NE 30<sup>th</sup> Street. Therefore, a City of Bellevue Right-of-Way Use Permit will be required for the project. The CONSULTANT will fill out the permit application and submit the permit on behalf of the City of Redmond. City staff will coordinate any other Bellevue review during the design phase.

## **Task 8 – Drainage Design**

### **8.1 Conveyance System Repair**

The City has identified storm drainage pipes and catch basins within the corridor that should be replaced. Work under this task includes all design related to replacement of the pipes identified in the exhibit below.

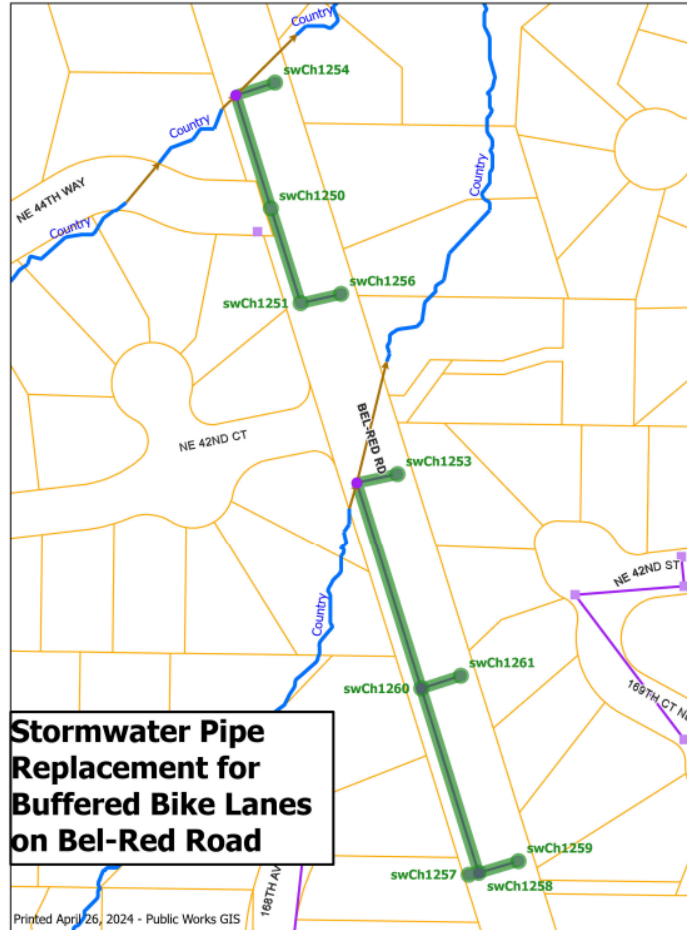


Figure 8: Storm Drainage Replacement Locations

**Assumptions:**

- Design efforts related to minor drainage modifications required due to intersections modifications are included under Tasks 10-14.
- Stormwater analyses, reports, or calculations are not expected to be required and are not included in this scope of work.

**Deliverables:**

- Plans, special provisions, and opinion of costs related to storm drainage pipe replacement to be included in Tasks 10-14 deliverables.

**8.2 Stormwater Memo**

Replacement of sidewalk, curb ramps, and pavement will likely cause the project to exceed 2,000 square feet of new plus replaced hard surface, triggering the requirement for a stormwater memo to document compliance with Minimum Requirements 1 through 5 of the 2019 Department of Ecology Surface Water Manual for Western Washington and the 2022 City of Redmond Stormwater Technical Notebook.

**Assumptions:**

- The project will be exempt from Minimum Requirements 6 through 9.
- TESC features will be shown on the Site Preparation and Demolition plans.

- If needed, the project specifications will require the contractor to prepare a SWPPP.
- The project will not create any net new pollution generating impervious surface.
- Additional stormwater analyses, reports, or calculations are not expected to be required and are not included in this scope of work.

**Deliverables:**

- Draft and final stormwater memo documenting compliance with Minimum Requirements 1 through 5 (PDF).

**Task 9 – Traffic Analyses**

The CONSULTANT will perform traffic analyses for the project to be included in the SEPA permit application.

**Assumptions:**

- All traffic analysis will be based on existing conditions for vehicle volume for the AM and PM peak hours.
- Traffic Analysis report may include Synchro analysis as needed. VISSIM analysis is not included in this scope of work.
- The City will provide all data including traffic signal timing and turning movement counts for the traffic analysis.
- Intersection capacity analysis will be completed for up to 3 signalized intersections for existing condition, and up to 2 alternatives, using Synchro.
- Vehicle level of service and turn lane length analyses will be calculated at Bel-Red Road and WLSP, NE 40th Street and NE 30th Street.
- Intersection capacity and lane capacity analyses based on City-provided TMC and ADT along the corridor

**Deliverables:**

- Brief traffic analysis report detailing the traffic data for the corridor, the proposed improvements, and anticipated impacts.

**Task 10 – 30% Design, Plans, and Opinion of Costs**

Upon confirmation of the refined design concept, the Toole Design Team will prepare the 30% design level construction plans and opinion of costs and submit them to the City for review and comment. A final basis of design memorandum will also be prepared to document the established project design criteria.

The plans will include the following improvements:

- Revisions to pavement markings and signs on Bel-Red Road from West Lake Sammamish Parkway to NE 30<sup>th</sup> Street
- Grinding and resurfacing pavement in select locations.
- Select storm and utility lid and frame upgrades.
- Storm drainage pipes and structure replacement between West Lake Sammamish Parkway and NE 40<sup>th</sup> St:
  - Pipes would be replaced at the same location and with the same diameter except for 8-inch laterals may be upsized to 12-inch laterals. Approximately 1,000 linear feet of pipe replacement and 10 structure replacements are expected.
  - Storm drainage pipe and structure replacement will require some curb and gutter and sidewalk replacement.
  - Storm drains revisions at NE 40<sup>th</sup> St to accommodate intersection geometry changes
- It is anticipated that pavement grinding and resurfacing, and intersection improvements will trigger ADA curb ramp upgrades at the following locations (up to 18 ramps):

- Bel-Red Road and West Lake Sammamish Parkway
  - This intersection has a planned roundabout project in the future but up to two curb ramp replacements may be required as part of this project to accommodate bicycle movements or due to pavement repair.
- Bel-Red Road and NE 46<sup>th</sup> St - Tee Intersection
  - Up to two curb ramps – SW and NW corners
  - Crossings will not be provided across Bel-Red Road
- Bel-Red Road and NE 44<sup>th</sup> Way - Tee Intersection
  - Up to two curb ramps – SW and NW corners
  - Crossing will not be provided across Bel-Red Road
- Bel-Red Road and NE 42<sup>nd</sup> Court/Driveway - 4-way Intersection
  - Up to two curb ramps – SW and NW corners
  - Crossing will not be provided across Bel-Red Road
- Bel-Red Road and NE 40<sup>th</sup> Street – 4-way intersection
  - Up to eight curb ramps – All 4 corners
  - A future bike facility project is planned on NE 40<sup>th</sup> Street that goes through this intersection. The intersection improvements will be designed to accommodate this future project as much as feasible, assuming that the signal cabinet will not be relocated, the project will not be adding any net new pollution generating impervious surface and any addition of non-pollution generating impervious surface will remain exempt from flow control requirements
- Bel-Red Road and 165th Place NE – West side tee intersection
  - Up to two curb ramps – NW and SW corners
  - A crossing will not be provided across Bel-Red Road
- Bel-Red Road and 165th Place NE – East side tee intersection
  - No curb ramps
- Bel-Red Road and NE 30<sup>th</sup> Street
  - No curb ramps
- Signal modifications at the following signalized intersections:
  - It is assumed that all the traffic signal cabinets will be maintained without upgrades.
  - It is assumed that up to one (1) traffic signal pole will be replaced.
  - Bel-Red Road and West Lake Sammamish Parkway
    - Potential APS pushbutton upgrades, addition of bike signals and bicycle detection.
  - Bel-Red Road and NE 40<sup>th</sup> Street
    - Potential APS pushbutton upgrades, new pushbutton posts to meet the ADA requirements, detection upgrades due to lane shifts, addition of bike signals and bicycle detection. Potential new mast arm poles to accommodate future bicycle facility project.
  - Bel-Red Road and NE 30<sup>th</sup> Street
    - Potential signal work would be relocating signal heads, detection modification and addition of bike signals
- Lighting modifications:
  - Lighting analysis and design will be included for up to one (1) signalized intersection at Bel-Red Road and NE 40<sup>th</sup> Street.
  - Lighting design will be shown in traffic signal plan, no separate lighting plan will be prepared.

### **10.1 Site Walk and Survey Review**

The Toole Design Team will perform a field review of the project base plan information to verify the location of existing features, including noting legends on all warning, regulatory and route marker signs, and ensuring the

base plans provide sufficient information regarding existing drainage and sewer systems, as well as cross section elements include existing features such as walls, hydrants, poles, trees, sills, wells, ledge, layout lines, cross culverts, bridge structures, sills, high-tension lines, benchmarks, etc.

During the survey review walk, the Toole Design Team will observe the general site conditions, traffic patterns, traffic management, potential detour routes, wetland and cultural resources, vegetation, proximity of abutters and other relevant features. Photographs and video of the existing facility and surrounding environment will be collected.

### **10.1 Basis of Design**

The Toole Design Team will expand on the Draft Basis of Design prepared under Task 2 and document the design criteria and standards that will be used as the basis for the PS&E design.

The Basis of Design Memorandum will include:

- Descriptions of the basis of design for each project element and a list of proposed design deviations (if any)
- Project description and background
- Summary of existing conditions, opportunities, and environmental and physical constraints (including trees)
- Summary of anticipated permitting requirements
- Summary of impacted properties
- Summary of impacted utilities
- Summary of stakeholders

#### **Assumptions:**

- Sight Distance Analysis will be performed; however, Sight Distance Exhibits will not be prepared.
- AutoTURN analysis will be performed; however, AutoTURN exhibits will not be produced.

#### **Deliverables:**

- Draft and Final Basis of Design Document (PDF Format)

### **10.2 30% Plans**

It is anticipated that the 30% plans will consist of the following sheets (38 sheets):

- Cover Sheet w/Vicinity Map and Index (1 sheet)
- Legend and Abbreviations (1 sheet)
- General Notes (1 Sheet)
- Typical Roadway Sections (2 sheets)
- Drainage Plans (3 sheets) (prepared under Task 8)
  - » 2 plan sheets for storm pipe and structure replacements identified in Task 8
  - » 1 plan sheet for storm system revisions at NE 40th St
- Roadway Paving Plans (13 Sheets)
- Preliminary Signing and Striping Plans (13 sheets)
- Preliminary Traffic Signal Plans (4 sheets)
  - » Traffic signal general notes
  - » West Lake Sammamish Parkway
  - » NE 40th Street
  - » NE 30th St

**Assumptions:**

- No major changes are anticipated to the horizontal (curb to curb) or vertical geometry
- The Toole Design team assumes mill & overlay pavement treatment with spot locations for full depth replacement
- Plans will be prepared using AutoCAD software.
- The concept drawings refined in Task 2 will be updated following the 30% submittal for use in public outreach and website materials. No further updates of the concept drawings will be provided.
- Outside of the surveyed areas, utility lids will be shown schematically based on GIS data and a site walk in order to develop adjustment quantities and storm drain lid replacement quantities.
- If needed, walls will be shown on plan and profile schematically and will be called out as modular block, rockeries, or structural earth block walls to be designed by the contractor's selected wall manufacturer. Performance specifications will be included as well as design parameters provided in Task 6.

**Deliverables:**

- Electronic copy of the 30% plan set in PDF format
- Updated concept drawings in PDF format

**10.3 30% Opinion of Costs and Outline of Special Provisions**

The preliminary (30%) design level opinion of cost will focus on high cost and high quantity bid items that have the most impact on overall project cost. Other bid items that have not yet been designed will be temporarily shown as lump sums (e.g. erosion and sediment control, maintenance of traffic). A large contingency will be included at this stage due to limited design information. The Toole Design Team will document all quantity takeoffs based upon the 30% plans and assign costs using current unit bid prices. Quantity takeoffs will be prepared in a manner that is understandable, clear, and reproducible by someone other than the preparer. For non-standard items, the 30% submission will also include a list of anticipated bid items that will require the development of a special provision.

**Assumptions:**

- A bid schedule is not included.

**Deliverables:**

- Electronic copy of the 30% opinion of cost summary submitted in PDF format
- Electronic copy of the list of anticipated items requiring special provisions submitted in PDF format

In providing opinions of probable construction cost, the City understands that the Toole Design Team has no control over the cost or availability of labor, equipment or materials, market conditions or the Contractor's method of pricing, and that the Toole Design Team's opinions of probable construction costs are made on the basis of the Toole Design Team's professional judgment and experience. The Toole Design Team makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from the Toole Design Team's opinion of probable construction cost.

**10.4 30% Traffic Signal Design**

The Toole Design Team will conduct a site investigation to review existing traffic signal facilities. The Toole Design Team will coordinate with the City's Traffic Signal Technicians to investigate existing junction boxes, conduit, wiring, and controller cabinets. The coordination will include identifying deficiencies in the current system and maintenance concerns, by the City, if any. The 30% design will incorporate the results from the field investigation, as-builts, and survey information. The plans will include existing information, traffic signal phasing as provided by the traffic analysis, and preliminary signal pole and vehicle head layout.

**Assumptions:**



- City's Traffic Signal Technicians will be available for field reconnaissance.
- The City will provide as-built information for traffic signals.
- Traffic analysis may be required for traffic signal intersection phasing

**Deliverables:**

- Preliminary Traffic Signal Plans to be submitted with the 30% Plan set

**10.8 30% QA/QC of Deliverables**

The Toole Design Team will conduct a quality assurance/quality control review of deliverables, as well as confirmation that comments received have been addressed. A record of comments received will be maintained. Response to each comment received will be tracked to confirm that they have been addressed.

**Task 11 – 60% Plans, Specifications, and Opinion of Costs**

The Toole Design Team will prepare 60% plans, specifications, and opinion of costs for the construction contract, and incorporate applicable comments received from the City based on the 30% submittal deliverables. The plans, specifications, opinion of cost, will be submitted to the City for review and comment.

**11.1 Response to 30% Comments**

Within ten (10) days of receipt of the 30% comments, the Toole Design Team will review and provide written responses to the City comments. Any comments requiring discussion will be flagged. Approximately, one week later, the Toole Design Team will attend one (1) comment review meeting with the City staff to review all responses, paying close attention to those requiring additional input/clarification. Responses will be provided to the comment documents provided by the City.

**Assumptions:**

- 30% plan review comments from City staff will be consolidated by the City and conflicting comments will be resolved by City staff prior to transmitting to the Toole Design Team.
- The Toole Design Team's responses will be provided on the original comment document the City provided to the Toole Design Team.
- The Toole Design Team will attend one (1) comment review meeting at the City offices (or virtually).

**Deliverables:**

- Draft written responses to 30% comments (PDF)
- Final written responses to 30% comments (PDF)

**11.2 60% Plans**

It is anticipated that the 60% plans will consist of the following sheets (67 sheets):

- Cover Sheet w/Vicinity Map and Index (1 sheet)
- Legend and Abbreviations (1 sheet)
- General Notes (1 Sheet)
- Alignment and Survey Control (6 sheets)
- Site Preparation and Demolition Plan (7 sheets)
  - » Sheets will only be provided at locations with surveys. Six intersections and storm repair location.
- Typical Roadway Sections (2 sheets)
- Drainage Plan and Profile (3 sheets) (prepared under Task 8)
  - » 2 plan sheets for storm pipe and structure replacements identified in Task 8
  - » 1 plan sheet for storm system revisions at NE 40th St
- Roadway Paving Plans (13 Sheets)

- Drainage Details (1 sheet)
- Miscellaneous Roadway Details (1 sheet)
- Curb Ramp Grading Sheets (7 sheets)
- Signing and Striping Plans (13 sheets)
- Signing and Striping Details (2 sheets)
- Traffic Signal Plans and Details (9 sheets)

**Assumptions:**

- Toole Design does not anticipate that traffic detours will be required to construct the project and will utilize standard traffic control figures included as an appendix to the project manual and a traffic control narrative to address the maintenance and protection of traffic (including pedestrians).
- Major revisions to the cross-section or other major design elements are not anticipated.
- Driveway profiles will not be provided
- The landscaping and irrigation approach will be to restore existing and will be shown as a hatch on the roadway and drainage plan.

**Deliverables:**

- Electronic copy of the 60% plan set in PDF format

**11.3 60% Opinion of Costs**

The Toole Design Team will calculate 60% level quantities and opinion of construction costs based upon the 60% construction plans and current unit bid prices. The Toole Design Team will address applicable 30% review comments and make revisions as necessary.

**Deliverables:**

- Electronic copy of the 60% opinion of cost summary submitted in PDF format

**11.4 60% Special Provisions**

The Toole Design Team will prepare Special Provisions for the 60% submittal. These will include detailed descriptions for the items of work that are not covered by the current City Standard Specifications. Bid forms will not be included in the 60% submittal.

**Assumptions:**

- It is assumed that the City will provide the Toole Design Team with any City General Special Provisions and Requirements to be used on the project.
- It is assumed that the City will provide the Toole Design Team with their standard, current, boilerplate contract language (“front end docs”) to be used for the project.

**Deliverables:**

- Electronic copy of the 60% Special Provisions in Microsoft Word format

**11.5 60% QA/QC and Constructability Review of Deliverables**

An internal Toole Design Team quality assurance/quality control review of deliverables will be conducted, as well as confirmation that comments received have been addressed. A record of comments received will be maintained. Response to each comment received will be tracked to confirm that they have been addressed.

**Task 12 – 90% Plans, Specifications, and Opinion of Costs**

The Toole Design Team will prepare 90% plans, specifications, and opinion of costs for the construction contract, and incorporate applicable comments received from the City based on the 60% submittal deliverables. The plans, specifications, and opinion of cost will be submitted to the City for review and comment.

### **12.1 Response to 60% Comments**

Within ten (10) days of receipt of the 60% comments, the Toole Design Team will review and provide written responses to the City's comments. Any comments requiring discussion will be flagged. Approximately, one week later, the Toole Design Team will attend one (1) comment review meeting with the City staff to review all responses, paying close attention to those requiring additional input/clarification. Responses will be provided to the comment documents provided by the City.

#### **Assumptions:**

- 60% plan review comments from City staff will be consolidated by the City and conflicting comments will be resolved by City staff prior to transmitting to the Toole Design Team.
- The Toole Design Team's responses will be provided on the original comment document the City provided to the Toole Design Team
- The Toole Design Team will attend one (1) comment review meeting at the City offices.

#### **Deliverables:**

- Draft Written responses to 60% comments (PDF)
- Final written responses to 60% comments/Decision of Record (PDF)

### **12.2 90% Plans**

The Plan sheets will be the same as those identified under the 60% design phase except there will be four additional signal plan sheets at 90% for a total of 71 plan sheets.

#### **Deliverables:**

- Electronic copy of the 90% plan set in PDF format

### **12.3 90% Opinion of Costs**

The Toole Design Team will calculate 90% level quantities and opinion of construction costs based upon the approved 90% construction plans and current unit bid prices. The Toole Design Team will address applicable 60% review comments and make revisions as necessary.

#### **Deliverables:**

- Electronic copy of the 90% opinion of cost summary submitted in PDF format

### **12.4 90% Special Provisions**

The Toole Design Team will prepare 90% level special provisions based upon the 90% design. The Toole Design Team will address applicable 60% review comments and make revisions as necessary.

#### **Deliverables:**

- Electronic copy of the 90% special provisions in Microsoft Word format including bid schedule.

### **12.5 90% PS&E QA/QC and Constructability Review of Deliverables**

An internal Toole Design Team quality assurance/quality control review of deliverables will be conducted, as well as confirmation that comments received have been addressed. A record of comments received will be maintained. Response to each comment received will be tracked to confirm that they have been addressed.

### **Task 13 – 100%/Ad-Ready Plans, Specifications, and Opinion of Costs**

The Toole Design Team will finalize the 90% plans, specifications and opinion of cost estimate based on the Client review comments and prepare final, ad ready, Bid Documents. It is assumed that 90% review comments will be minor in nature and not reflect any changes to the design.

The Toole Design Team will provide the Client with a final set of bid documents for approval.

#### **Assumptions:**

- The fee effort for this task assumes the City will provide one (1) set of compiled and consolidated comments reflective of all City comments from the final check set submittal. It is assumed that pre-final review comments will be minor in nature and not reflect any changes to design. If additional comments are made, or if any comments are made that alter the design, and it is determined that addressing them would cause significant changes to the plans, this may be considered additional work to be included in a supplement.
- Prior to bid advertisement, the Toole Design Team may make minor revisions to the Plans, Special Provisions, and Opinion of Costs.
- Comments that are to be incorporated into the contract documents that are a significant change to the design or finalization of the ad-ready contract documents will be considered an additional service and may need a supplement to this Agreement.

#### **Deliverables:**

- Electronic copy of the final plans, in PDF format
- Electronic copy of the opinion of cost summary submitted in PDF and Excel format
- Electronic copy of the final bid documents Contract Specifications, including the Bid Schedule, submitted in PDF format
- Written responses to the Final review comments

### **Task 14 – Bid Support**

The Toole Design Team will support the City during the bidding phase of the project. The Toole Design Team will respond to requests for clarifications and prepare Addendums.

#### **14.1 Provide Bid Clarifications**

The Toole Design Team will respond to Contractor questions as requested by the City during the bidding process. The Toole Design Team will provide clarifications to the City, which may include Plan sheet revisions, Special Provision language, or information clarification.

#### **Deliverables:**

- Written clarifications to bid questions, including text and plan sheet revisions if applicable (email format)

#### **14.2 Addenda**

The Toole Design Team will assist the City with preparing materials to be included with up to two (2) Addenda, as required.

#### **Assumptions:**

- The City will prepare addendums for distribution during the bidding process.
- The City will prepare the bid tabulation.
- The City will determine if the bids are responsive or not.
- The City will track bid questions and communicate with bidders.

- The City will produce bid sets.
- The City will review bid tabulations against the opinion of cost.

**Deliverables:**

- Materials to be included with addenda, as requested, for up to two (2) Addenda

**Task 15 – Public Engagement Support**

The Toole Design Team will support the City by attending the following meetings.

- Attendance at up to two public meetings which may include public open houses or City boards/commissions.

**Assumptions:**

- Up to 4 hours is budgeted for up to two team members per meeting.

**Deliverables:**

- Meeting attendance

**Task 16 – Critical Areas Report (Optional Task)**

*16.1 Wetland and Stream Delineation*

Review of Available Information

A review of available reports and online information associated with the site will be conducted prior to field reconnaissance. This includes information provided from the City, as well as any local, state, and federal resources. Findings from this review will be incorporated into the Critical Areas Report.

Wetland and Stream Delineation

Two DEA biologists will conduct a site visit to delineate the boundaries of the wetlands or streams near the intersection of Bel-Red Road and NE 40<sup>th</sup> Street . The boundaries of the wetlands and streams will be flagged, and the locations of the flags will be mapped by survey crews under Task 4. Work will include inspecting representative data plots to document the wetland and stream boundary locations per appropriate local, state, and federal delineation methods. Location of the data plots will be flagged as well. The vegetation, soils, and hydrology of each wetland will be examined according to the Western Mountains and Valleys Regional Supplement (Corps 2010) to the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual. Wetlands will be rated using the most recent Washington State Wetland Rating System for Western Washington Manual.

**Assumptions:**

- Any existing available information will be provided by the City.
- City will provide property access.
- Delineation will be limited to no more than one location along the project corridor where streams and/or wetlands occur. Additional sites will require a contract change order supplement.
- Work does not include assessment of critical areas other than wetlands and streams.

**Deliverables:**

- Wetland and stream sketch map with GPS flag points for survey to use.

*16.2 Critical Areas Report*

Using the results of the site visit, as well as existing background information, the CONSULTANT will prepare a draft and final technical report that documents the results of the delineation. The report will include review of

existing information and wetland and stream delineation findings, wetland and stream classifications and ratings, and description of dominant vegetation communities, soil conditions, and hydrology. The report will include wetland and stream data forms and ratings forms, as well as figures and color photographs. The report will also document regulatory buffers required, and how much of the property they occupy. Assessment of impacts and necessary mitigation will be discussed in the report at a high-level based on preliminary design plans.

**Assumptions:**

- There will be one round of review on the draft Critical Areas Report by the City.

**Deliverables:**

- One draft report delivered in electronic format (.doc and .pdf). The draft report will receive one round of comments from the City.
- One final report delivered in electronic format (.doc and .pdf).
- Electronic shapefiles of delineated features compatible with ESRI ArcGIS.

**Additional (Optional) Services**

The Toole Design Team may provide additional services as directed by the City which are not identified in this Scope of Services. Additional services shall not commence without written authorization and approval from the City and a supplement to the contract.

**Services Not Included in this Scope of Services**

1. Gutter flow calculations and inlet capacity calculations
2. Right of Way Plans
3. Stormwater report
4. Level 1 to Level 3 downstream analysis.
5. Backwater conveyance analysis for downstream pipe systems.
6. Drainage design above what is described in this scope of services.
7. Prepare a Notice of Intent application and supporting documentation for the construction NPDES permitting process.
8. Construction management services.

**Items to be furnished by Others**

The City shall furnish the following:

1. All available “As-Built” information, including for traffic signals and the existing illumination systems.
2. Updated underground utility information relative to the City owned utilities.
3. Any applicable preliminary design reports, geotechnical reports, environmental reports, and identified up and downstream problems.
4. Updated City General Provisions.

Engineer and its consultants may reasonably use and rely upon information and design elements furnished by Owner or customarily furnished by others including, but not limited to, other design professionals, specialty contractors, manufacturers, suppliers and publishers of technical standards.

The City shall furnish, at the City's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. The Toole Design Team may use such information, requirements, reports, data, surveys, and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. Further, the City agrees that the Toole Design Team shall have no responsibility for any portion of the Project designed by other consultants engaged by the City.

### **Design Criteria**

As of the date this Agreement is signed, design file, reports, documents, and plans prepared as part of this Scope of Services, to the extent feasible, will be developed in accordance with the latest edition and amendments to the following documents:

1. Standard Specifications for Road, Bridge, and Municipal Construction, 2025 Edition, published by WSDOT/APWA
2. WSDOT Standard Plans for Road, Bridge, and Municipal Construction
3. AASHTO: A Policy on Geometric Design of Highways and Streets (2011 Edition)
4. 2009 Manual on Uniform Traffic Control Devices (MUTCD)
5. AASHTO Guide for the Development of Bicycle Facilities, 4th Edition
6. The Revised Draft Guidelines for Accessible Public Rights-of-Way (PROWAG), November 23, 2005 (2005 PROWAG)
7. City Standard Plans and Policies
8. City of Redmond Bicycle Facility Design Manual
9. Relevant Stormwater Manual/Regulations, etc.

Changes in any design standards or requirements after services have begun may result in extra work, and require a supplement to the Agreement.

## ***Exhibit B*** ***DBE Participation Plan***

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In the absence of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

There is no mandatory DBE goal as there is no federal funding for the project. Below is the voluntary DBE/SBE participation of the project.

Concord - 23% of contract

HWA Geosciences - 5% of contract

Total DBE/SBE participation - 28% of contract



**Preparation and Delivery of Electronic Engineering and Other Data**

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

Standard: City of Redmond Datum Control, State Plan Coordinate System  
Format: Basemap in CAD/Civil3D 2013 or higher  
Transmission: Email, SharePoint

B. Roadway Design Files

Standard: City of Redmond Datum Control, State Plan Coordinate System  
Format: Basemap in CAD/Civil3D 2013 or higher  
Transmission: Email, SharePoint

C. Computer Aided Drafting Files

Standard: City of Redmond Datum Control, State Plan Coordinate System  
Format: Basemap in CAD/Civil3D 2013 or higher  
Transmission: Email, SharePoint

D. Specify the Agency's Right to Review Product with the Consultant

Agency will retain the right to review all deliverable referenced in the Scope of Work Exhibit A

E. Specify the Electronic Deliverables to Be Provided to the Agency

Deliverables outlined in Scope of Work Exhibit A

F. Specify What Agency Furnished Services and Information Is to Be Provided

Agency furnished services and information outlined in Scope of Work Exhibit A

II. Any Other Electronic Files to Be Provided

Excel Spreadsheets  
Word Documents  
PDFs

III. Methods to Electronically Exchange Data

Email, Sharepoint

A. Agency Software Suite

N/A

B. Electronic Messaging System

N/A

C. File Transfers Format

PDF, Zip Files, Word, Excel, CAD

**Exhibit D**  
**Prime Consultant Cost Computations**

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See Exhibit D, Fee Estimate attached hereto commencing on the following page.

**Exhibit D**

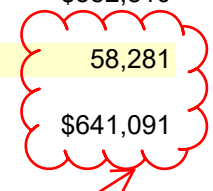
**Consultant Fee Determination**

Project Name: Buffered Bike Lanes - Bel-Red (WLSP to 30th)  
 Project Number: 2329-316  
 Consultant: Toole Design

**NEGOTIATED HOURLY RATES**

Classification	Hours	DSC	Overhead 162%	Fee (Profit) 29%	Total Hourly Rate	Total	
Engineering Lead III	31	\$ 86.00	\$139.49	\$24.85	\$250	\$7,761	
Engineering Lead II	239	\$ 80.00	\$129.76	\$23.12	\$233	\$55,658	
Project Engineer	605	\$ 53.00	\$85.97	\$15.32	\$154	\$93,341	
Engineer III	190	\$ 42.00	\$68.12	\$12.14	\$122	\$23,230	
Engineer II	173	\$ 39.00	\$63.26	\$11.27	\$114	\$19,641	
Engineer		\$ 36.00	\$58.39	\$10.40	\$105		
<b>Total Hours</b>						1,238	
						<b>Subtotal:</b>	\$199,631
<b>REIMBURSABLES</b>							
Mileage						\$250	
Potholing						\$20,000	
						<b>Subtotal:</b>	\$20,250
<b>SUBCONSULTANT COSTS (See Exhibit E)</b>							
DEA						\$196,253	
Concord						\$136,926	
HWA						\$29,750	
						<b>Subtotal:</b>	\$362,929

**Total:** \$582,810  
**Contingency:** 58,281 62,190  
**GRAND TOTAL:** \$641,091 645,000



Increase contingency slightly to round up total contract to \$645,000`



**Washington State  
Department of Transportation**

**Development Division**  
Contract Services Office  
PO Box 47408  
Olympia, WA 98504-7408  
7345 Linderson Way SW  
Tumwater, WA 98501-6504

TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

August 30, 2023

Toole Design Group, LLC  
8484 Georgia Avenue, Suite 800  
Silver Springs, MD 20910

Subject: Acceptance FYE 2022 ICR – Cognizant Review

Dear Lakshya Sobti:

We have accepted your firms FYE 2022 Indirect Cost Rate (ICR) of 162.20% of direct labor (rate includes 0.05% Facilities Capital Cost of Money) based on the “Cognizant Review” from the Maryland Department of Transportation (MDOT). This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 704-6397** or via email [consultantrates@wsdot.wa.gov](mailto:consultantrates@wsdot.wa.gov).

Regards,

A handwritten signature in black ink that reads "Schatzie Harvey".

[Schatzie Harvey \(Aug 31, 2023 13:08 PDT\)](#)

SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:leg

## ***Exhibit E***

### ***Sub-consultant Cost Computations***

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If no sub-consultant participation listed at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

See Exhibit E, Fee Estimate for project SUBCONSULTANTS attached hereto commencing on the following page.



## EXHIBIT E

### Subcontracted Work

Project Name: Buffered Bike Lanes - Bel-Red (WLSP to 30th)  
Project Number: 2329-316  
Consultant: Toole Design

The City permits subcontracts for the following portions of work of the Agreement:

<b>Subconsultant</b>	<b>Work Description</b>	<b>Amount</b>
DEA	Survey, environmental, civil engineering	\$196,253
Concord	Traffic analyses and design	\$136,926
HWA	Geotechnical engineering	\$29,750
<b>Total:</b>		<b>\$362,929</b>

## Exhibit E

### Consultant Fee Determination

Project Name: Buffered Bike Lanes - Bel-Red (WLSP to 30th)  
 Project Number: 2329-316  
 Consultant: DEA

#### NEGOTIATED HOURLY RATES

Classification	Hours	DSC	Overhead 176%	Fee (Profit) 29%	Total Hourly Rate	Total
Project Manager V	38	\$ 99.00	\$174.48	\$28.61	\$302	\$11,479
Project Coordinator III	10	\$ 39.80	\$70.14	\$11.50	\$121	\$1,214
Project Accountant IV	10	\$ 49.50	\$87.24	\$14.31	\$151	\$1,510
Engineer V	23	\$ 71.94	\$126.79	\$20.79	\$220	\$5,049
Engineer III	240	\$ 54.56	\$96.16	\$15.77	\$166	\$39,956
Engineer Design I	430	\$ 37.70	\$66.44	\$10.90	\$115	\$49,466
Project Manager III	28	\$ 79.00	\$139.23	\$22.83	\$241	\$6,750
Scientist II	100	\$ 41.00	\$72.26	\$11.85	\$125.11	\$12,511
Scientist IV	28	\$ 49.60	\$87.42	\$14.33	\$151.35	\$4,238
GIS Analyst IV	14	\$ 53.00	\$93.41	\$15.32	\$161.72	\$2,264
Project Manager IV	57	\$ 70.00	\$123.37	\$20.23	\$213.60	\$12,175
Office Survey Technician V	143	\$ 47.50	\$83.71	\$13.73	\$144.94	\$20,727
Party Chief III	94	\$ 47.00	\$82.83	\$13.58	\$143.42	\$13,481
Party Chief I	94	\$ 35.50	\$62.57	\$10.26	\$108.32	\$10,183
<b>Total Hours</b>	<b>1,309</b>				<b>Subtotal:</b>	<b>\$191,003</b>

#### REIMBURSABLES

Mileage		\$250
Utility Locates		\$5,000
	<b>Subtotal:</b>	<b>\$5,250</b>

**Total:** \$196,253

**Contingency:**

**GRAND TOTAL:** \$196,253



**Development Division**  
Contract Services Office  
PO Box 47408  
Olympia, WA 98504-7408  
7345 Linderson Way SW  
Tumwater, WA 98501-6504

TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

April 30, 2024

David Evans and Associates, Inc.  
703 Douglas Fir Dr.  
Magnolia, TX 77354

Subject: Acceptance FYE 2023 ICR – Cognizant Review

Dear Marie Fuzzell:

We have accepted your firms FYE 2023 Indirect Cost Rate (ICR) of 176.24% of direct labor (rate includes 0.86% Facilities Capital Cost of Money) based on the “Cognizant Review” from Oregon Department of Transportation (ODOT) who accepted the audit performed by Moss Adams, LLP. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 704-6397** or via email [consultanrates@wsdot.wa.gov](mailto:consultanrates@wsdot.wa.gov).

Regards,

  
Schatzie Harvey  
Schatzie Harvey (Apr 30, 2024 12:20 PDT)

SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:sms

## Exhibit E

### Consultant Fee Determination

Project Name: Buffered Bike Lanes - Bel-Red (WLSP to 30th)  
 Project Number: 2329-316  
 Consultant: Concord

#### NEGOTIATED HOURLY RATES

Classification	Hours	DSC	Overhead 116%	Fee (Profit) 29%	Total Hourly Rate	Total
Senior Engineer 6	45	\$ 95.00	\$110.38	\$27.46	\$233	\$10,478
Project Manager 6	170	\$ 92.00	\$106.89	\$26.59	\$225	\$38,332
Senior Engineer 1	40	\$ 78.00	\$90.63	\$22.54	\$191	\$7,647
Associate Engineer 4	240	\$ 63.00	\$73.20	\$18.21	\$154	\$37,058
Associate Engineer 2	30	\$ 60.00	\$69.71	\$17.34	\$147	\$4,412
Assistant Engineer 4	80	\$ 47.00	\$54.61	\$13.58	\$115	\$9,215
Assistant Engineer 2	266	\$ 44.00	\$51.12	\$12.72	\$108	\$28,685
Project Coordinator 3	9	\$ 38.50	\$44.73	\$11.13	\$94.36	\$849
<b>Total Hours</b>						880
<b>Subtotal:</b>						\$136,676

#### REIMBURSABLES

Mileage						\$250
<b>Subtotal:</b>						\$250

**Total:** \$136,926

**Contingency:**

**GRAND TOTAL:** \$136,926



**Washington State  
Department of Transportation**

**Development Division**  
Contract Services Office  
PO Box 47408  
Olympia, WA 98504-7408  
7345 Linderson Way SW  
Tumwater, WA 98501-6504

TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

August 1, 2023

Concord Engineering, Inc.  
2285 116<sup>th</sup> Ave NE  
Bellevue, WA 98004

Subject: Acceptance FYE 2022 ICR – Audit Office Review

Dear Irene Yang:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2022 Indirect Cost Rate (ICR) of 116.19% of direct labor. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 704-6397** or via email [consultantrates@wsdot.wa.gov](mailto:consultantrates@wsdot.wa.gov).

Regards;

*Schatzie Harvey*  

---

Schatzie Harvey (Aug 2, 2023 06:48 PDT)  
SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:BJO

## Exhibit E

### Consultant Fee Determination

Project Name: Buffered Bike Lanes - Bel-Red (WLSP to 30th)  
 Project Number: 2329-316  
 Consultant: HWA Geosciences

#### NEGOTIATED HOURLY RATES

Classification	Hours	DSC	Overhead 190%	Fee (Profit) 29%	Total Hourly Rate	Total
Engineer VIII	34	\$ 92.00	\$174.86	\$26.59	\$293	\$9,977
Engineer II	32	\$ 43.50	\$82.68	\$12.57	\$139	\$4,440
Geologist IV	46	\$ 52.00	\$98.84	\$15.03	\$166	\$7,630
CAD	4	\$ 34.00	\$64.62	\$9.83	\$108	\$434
Contracts Administrator	2	\$ 50.00	\$95.04	\$14.45	\$159	\$319
Admin		\$ 35.00	\$66.52	\$10.12	\$112	
<b>Total Hours</b>						<b>118</b>
<b>Subtotal:</b>						<b>\$22,800</b>
<b>REIMBURSABLES</b>						
Subcontract Traffic Control Plans						\$1,000
Traffic Control for Pavement Coring (\$2,500/day)						\$5,000
Mileage						\$200
Coring						\$750
<b>Subtotal:</b>						<b>\$6,950</b>
<b>Total:</b>						<b>\$29,750</b>
<b>Contingency:</b>						<b></b>
<b>GRAND TOTAL:</b>						<b>\$29,750</b>



**Development Division**  
Contract Services Office  
PO Box 47408  
Olympia, WA 98504-7408  
7345 Linderson Way SW  
Tumwater, WA 98501-6504

TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

August 29, 2023

HWA GeoSciences, Inc.  
21312 30th Drive SE, Suite 110  
Bothell, WA 98021

Subject: Acceptance FYE 2022 ICR – CPA Report

Dear Vasilij P. Babko:

We have accepted your firms FYE 2022 Indirect Cost Rate (ICR) of 190.07% of direct labor (rate includes 0.60% Facilities Capital Cost of Money) based on the “Independent CPA Report,” prepared by T-Max CPA. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 704-6397** or via email [consultantrates@wsdot.wa.gov](mailto:consultantrates@wsdot.wa.gov).

Regards,

*Schatzie Harvey*

[Schatzie Harvey \(Aug 30, 2023 15:27 PDT\)](#)

SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:leg

# **Exhibit F - Title VI Assurances Appendix A & E**

## **APPENDIX A**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (*Federal Highway Administration*), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. *[Include Washington State Department of Transportation specific program requirements.]*
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. *[Include Washington State Department of Transportation specific program requirements.]*
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the (*Federal Highway Administration*) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the (*Federal Highway Administration*), as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non- discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the (*Federal Highway Administration*) may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the (*Federal Highway Administration*) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



# ***Exhibit F - Title VI Assurances Appendix A & E***

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## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

# **Exhibit G**

## **Certification Document**

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of \_\_\_\_\_
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of

\_\_\_\_\_

whose address is

\_\_\_\_\_

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the \_\_\_\_\_

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_

Consultant (Firm Name)

\_\_\_\_\_

Signature (Authorized Official of Consultant)

\_\_\_\_\_

Date

**Exhibit G-1(b) Certification of \_\_\_\_\_**

I hereby certify that I am the:

Mayor

Other

of the \_\_\_\_\_, and \_\_\_\_\_

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the \_\_\_\_\_

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

---

Consultant (Firm Name)

---

Signature (Authorized Official of Consultant)

---

Date

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the require certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

---

Consultant (Firm Name)

---

Signature (Authorized Official of Consultant)

---

Date

## Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of \_\_\_\_\_\* are accurate, complete, and current as of \_\_\_\_\_\*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Date of Execution \_\_\_\_\_\*\*\*.

\_\_\_\_\_  
\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

# **Exhibit H**

## **Liability Insurance Increase**

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### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ \_\_\_\_\_.

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ \_\_\_\_\_.

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ \_\_\_\_\_.

- Include all costs, fee increase, premiums.
  - This cost shall not be billed against an FHWA funded project.
  - For final contracts, include this exhibit
-



# **Exhibit I**

## **Alleged Consultant Design Error Procedures**

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The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

## **Step 5 Forward Documents to Local Programs**

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

# *Exhibit J*

## **Consultant Claim Procedures**

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit